

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

**MR. SPEAKER:**

I move that Engrossed Senate Bill 382 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-12-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in
- 5 this chapter, "director" means the lieutenant governor, who is also the
- 6 director of the department of commerce.
- 7 (b) As used in this chapter, "eligible entity" means:
- 8 (1) a city;
- 9 (2) a town;
- 10 (3) a county;
- 11 (4) a special taxing district;
- 12 (5) an economic development commission established under
- 13 IC 36-7-12;
- 14 (6) a nonprofit corporation;
- 15 (7) a corporation established under IC 23-7-1.1 (before its repeal
- 16 on August 1, 1991) or IC 23-17 for the purpose of distributing
- 17 water for domestic and industrial use;
- 18 (8) a regional water, sewage, or solid waste district;
- 19 (9) a conservancy district that includes in its purpose the
- 20 distribution of domestic water or the collection and treatment of
- 21 waste; or

- 1 (10) the Indiana development finance authority established under  
 2 IC 4-4-11; **or**  
 3 **(11) the Indiana port commission established under**  
 4 **IC 8-10-1.**
- 5 (c) As used in this chapter, "industrial development program"  
 6 means any program designed to aid economic development in Indiana,  
 7 and includes:
- 8 (1) the construction of airports, airport facilities, and tourist  
 9 attractions;
- 10 (2) the construction, extension, or completion of:
- 11 (A) sanitary sewerlines, storm sewers, and other related  
 12 drainage facilities;
- 13 (B) waterlines;
- 14 (C) roads and streets;
- 15 (D) sidewalks; and
- 16 (E) rail spurs and sidings;
- 17 (3) the leasing, purchase, construction, repair, and rehabilitation  
 18 of property, both real and personal; and
- 19 (4) the preparation of surveys, plans, and specifications for the  
 20 construction of publicly owned and operated facilities, utilities,  
 21 and services."
- 22 Page 2, line 17, after "salesperson" insert ", **appraiser**".
- 23 Page 15, line 27, strike "fifty percent (50%)" and insert "**eighty**  
 24 **percent (80%)**".
- 25 Page 15, line 32, reset in italics "twenty".
- 26 Page 15, line 32, delete "sixty".
- 27 Page 15, line 32, reset in italics "\$20,000)".
- 28 Page 15, line 33, delete "\$60,000)".
- 29 Page 15, line 34, reset in italics "one hundred".
- 30 Page 15, line 34, delete "three hundred".
- 31 Page 15, line 35, reset in italics "\$100,000)".
- 32 Page 15, line 35, delete "\$300,000)".
- 33 Page 17, line 35, after "means" delete ":".
- 34 Page 50, delete lines 27 through 28, begin a new paragraph and  
 35 insert:
- 36 **"(e) A refund to a prevailing taxpayer shall be paid by the**  
 37 **county auditor. The county auditor shall charge the refund to the**  
 38 **various taxing units to which an overpayment has been paid. The**  
 39 **taxing units are then entitled to withdraw the property taxes held**  
 40 **in reserve under this section with respect to the prevailing**  
 41 **taxpayer.**
- 42 Page 37, line 29, delete "15" and insert "10".
- 43 Page 37, line 29, delete "August 1" and insert "**July 15**".
- 44 Page 39, line 17, after "deduction" insert ".".
- 45 Page 48, line 12, delete "from the best available means, including  
 46 the party's" and insert ".".

1 Page 48, line 13, delete "recollection."

2 Page 48, delete lines 17 through 21.

3 Page 50, line 4, delete "tax" and insert "**taxing**".

4 Page 50, delete lines 30 through 37, begin a new line block left  
5 and insert:

6 **"determination, the taxing unit shall deposit the property taxes and**  
7 **interest held in reserve under this section into the taxing unit's levy**  
8 **excess fund."**

9 Replace the effective date in SECTION 39 with "[EFFECTIVE  
10 JANUARY 1, 1999]".

11 Page 59, between lines 4 and 5, begin a new paragraph and insert:  
12 "SECTION 47. IC 6-2.1-3-24.5, AS AMENDED BY P.L.18-1994,  
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 24.5. (a) For purposes of  
15 this section, "small business corporation" has the same definition that  
16 term has in Section 1361(b) of the Internal Revenue Code. However,  
17 a corporation is a small business corporation for the purposes of this  
18 section even if one (1) of its shareholders is a qualified trust that forms  
19 a part of an employee stock ownership plan under Section 401(a) of the  
20 Internal Revenue Code.

21 (b) Except as provided in subsection (c), gross income received by  
22 a small business corporation is exempt from gross income tax.

23 (c) A small business corporation is not exempt from gross income  
24 tax under this section for a taxable year if for that taxable year  
25 twenty-five percent (25%) or more of the small business corporation's  
26 gross income consisted of passive investment income (as defined in  
27 Section ~~1362(d)(3)(D)~~ **1362(d)(3)(C)** of the Internal Revenue Code).

28 (d) Upon request of the department, a corporation that claims an  
29 exemption under this section shall provide the department with proof,  
30 on forms provided by the department, that the corporation was a small  
31 business corporation during the taxable year for which the exemption  
32 is claimed.

33 SECTION 48. IC 6-2.1-6-3.1 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:  
35 Sec. 3.1. (a) ~~Notwithstanding section 3 of this chapter, this section~~  
36 ~~applies to taxable years beginning after December 31, 1993, and ending~~  
37 ~~before January 1, 1998.~~

38 ~~(b)~~ A withholding agent who is required to withhold gross income  
39 tax under ~~section 1-1 or 2-1~~ **section 1 or 2** of this chapter shall file a  
40 return and pay the amount of tax withheld to the department on April  
41 20, June 20, September 20, and December 20 of each calendar year.  
42 The return shall reflect the amount withheld for each taxpayer from  
43 gross income paid to the taxpayer. The withholding agent is  
44 indemnified against the claims and demands of any individual or entity  
45 for the amount of any payment made in accordance with this section.

46 SECTION 49. IC 6-3-1-3.5, AS AMENDED BY P.L.57-1997,

1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 3.5. When used in  
3 IC 6-3, the term "adjusted gross income" shall mean the following:

4 (a) In the case of all individuals, "adjusted gross income" (as  
5 defined in Section 62 of the Internal Revenue Code), modified as  
6 follows:

7 (1) Subtract income that is exempt from taxation under IC 6-3 by  
8 the Constitution and statutes of the United States.

9 (2) Add an amount equal to any deduction or deductions allowed  
10 or allowable pursuant to Section 62 of the Internal Revenue Code  
11 for taxes based on or measured by income and levied at the state  
12 level by any state of the United States or for taxes on property  
13 levied by any subdivision of any state of the United States.

14 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
15 joint return filed by a husband and wife, subtract for each spouse  
16 one thousand dollars (\$1,000).

17 (4) Subtract one thousand dollars (\$1,000) for:

18 (A) each of the exemptions provided by Section 151(c) of the  
19 Internal Revenue Code;

20 (B) each additional amount allowable under Section 63(f) of  
21 the Internal Revenue Code; and

22 (C) the spouse of the taxpayer if a separate return is made by  
23 the taxpayer, and if the spouse, for the calendar year in which  
24 the taxable year of the taxpayer begins, has no gross income  
25 and is not the dependent of another taxpayer.

26 (5) Subtract five hundred dollars (\$500) for each of the  
27 exemptions allowed under Section 151(c)(1)(B) of the Internal  
28 Revenue Code for taxable years beginning after December 31,  
29 1996, and before January 1, 2001. This amount is in addition to  
30 the amount subtracted under subdivision (4).

31 (6) Subtract an amount equal to the lesser of:

32 (A) that part of the individual's adjusted gross income (as  
33 defined in Section 62 of the Internal Revenue Code) for that  
34 taxable year that is subject to a tax that is imposed by a  
35 political subdivision of another state and that is imposed on or  
36 measured by income; or

37 (B) two thousand dollars (\$2,000).

38 (7) Add an amount equal to the total **ordinary income capital gain**  
39 portion of a lump sum distribution (as defined in Section  
40 ~~402(e)(4)(A)~~ **402(e)(4)(D)** of the Internal Revenue Code), if the  
41 lump sum distribution is received by the individual during the  
42 taxable year and if the **ordinary income capital gain** portion of the  
43 distribution is taxed in the manner provided in Section ~~402(e)~~ **402**  
44 of the Internal Revenue Code.

45 (8) Subtract any amounts included in federal adjusted gross  
46 income under Internal Revenue Code Section 111 as a recovery

- 1 of items previously deducted as an itemized deduction from  
 2 adjusted gross income.
- 3 (9) Subtract any amounts included in federal adjusted gross  
 4 income under the Internal Revenue Code which amounts were  
 5 received by the individual as supplemental railroad retirement  
 6 annuities under 45 U.S.C. 231 and which are not deductible under  
 7 subdivision (1).
- 8 (10) Add an amount equal to the deduction allowed under Section  
 9 221 of the Internal Revenue Code for married couples filing joint  
 10 returns if the taxable year began before January 1, 1987.
- 11 (11) Add an amount equal to the interest excluded from federal  
 12 gross income by the individual for the taxable year under Section  
 13 128 of the Internal Revenue Code, if the taxable year began  
 14 before January 1, 1985.
- 15 (12) Subtract an amount equal to the amount of federal Social  
 16 Security and Railroad Retirement benefits included in a taxpayer's  
 17 federal gross income by Section 86 of the Internal Revenue Code.
- 18 (13) In the case of a nonresident taxpayer or a resident taxpayer  
 19 residing in Indiana for a period of less than the taxpayer's entire  
 20 taxable year, the total amount of the deductions allowed pursuant  
 21 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
 22 which bears the same ratio to the total as the taxpayer's income  
 23 taxable in Indiana bears to the taxpayer's total income.
- 24 (14) In the case of an individual who is a recipient of assistance  
 25 under IC 12-10-6-1, IC 12-10-6-2, IC 12-10-6-3, IC 12-15-2-2, or  
 26 IC 12-15-7, subtract an amount equal to that portion of the  
 27 individual's adjusted gross income with respect to which the  
 28 individual is not allowed under federal law to retain an amount to  
 29 pay state and local income taxes.
- 30 (b) In the case of corporations, the same as "taxable income" (as  
 31 defined in Section 63 of the Internal Revenue Code) adjusted as  
 32 follows:
- 33 (1) Subtract income that is exempt from taxation under IC 6-3 by  
 34 the Constitution and statutes of the United States.
- 35 (2) Add an amount equal to any deduction or deductions allowed  
 36 or allowable pursuant to Section 170 of the Internal Revenue  
 37 Code.
- 38 (3) Add an amount equal to any deduction or deductions allowed  
 39 or allowable pursuant to Section 63 of the Internal Revenue Code  
 40 for taxes based on or measured by income and levied at the state  
 41 level by any state of the United States or for taxes on property  
 42 levied by any subdivision of any state of the United States.
- 43 (4) Subtract an amount equal to the amount included in the  
 44 corporation's taxable income under Section 78 of the Internal  
 45 Revenue Code.
- 46 (c) In the case of trusts and estates, "taxable income" (as defined for

1 trusts and estates in Section 641(b) of the Internal Revenue Code)  
 2 reduced by income that is exempt from taxation under IC 6-3 by the  
 3 Constitution and statutes of the United States.

4 SECTION 50. IC 6-3-1-11, AS AMENDED BY P.L.60-1997,  
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 11. (a) The term "Internal  
 7 Revenue Code" means the Internal Revenue Code of 1986 of the  
 8 United States as amended and in effect on January 1, ~~1997~~. **1998**.

9 (b) Whenever the Internal Revenue Code is mentioned in this  
 10 article, the particular provisions that are referred to, together with all  
 11 the other provisions of the Internal Revenue Code in effect on January  
 12 1, ~~1997~~, **1998**, that pertain to the provisions specifically mentioned  
 13 shall be regarded as incorporated in this article by reference and have  
 14 the same force and effect as though fully set forth in this article. To the  
 15 extent the provisions apply to this article, regulations adopted under  
 16 Section 7805(a) of the Internal Revenue Code and in effect on January  
 17 1, ~~1997~~, **1998**, shall be regarded as rules adopted by the department  
 18 under this article, unless the department adopts specific rules that  
 19 supersede the regulation.

20 (c) An amendment to the Internal Revenue Code made by an act  
 21 passed by Congress before January 1, ~~1997~~, **1998**, that is effective for  
 22 any taxable year that began before January 1, ~~1997~~, **1998**, and that  
 23 affects:

- 24 (1) individual adjusted gross income (as defined in Section 62 of
- 25 the Internal Revenue Code);
- 26 (2) corporate taxable income (as defined in Section 63 of the
- 27 Internal Revenue Code);
- 28 (3) trust and estate taxable income (as defined in Section 641(b)
- 29 of the Internal Revenue Code);
- 30 (4) life insurance company taxable income (as defined in Section
- 31 801(b) of the Internal Revenue Code);
- 32 (5) mutual insurance company taxable income (as defined in
- 33 Section 821(b) of the Internal Revenue Code); or
- 34 (6) taxable income (as defined in Section 832 of the Internal
- 35 Revenue Code);

36 is also effective for that same taxable year for purposes of determining  
 37 adjusted gross income under IC 6-3-1-3.5 and net income under  
 38 IC 6-3-8-2(b).

39 SECTION 51. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS  
 40 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 8. (a) For  
 41 purposes of this section, "qualified employee" means an individual who  
 42 is employed by a taxpayer or by an employer exempt from adjusted  
 43 gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3),  
 44 ~~(4)~~, **IC 6-3-2-2.8(4)**, or ~~(5)~~ **IC 6-3-2-2.8(5)** and who:

- 45 (1) has the employee's principal place of residence in the
- 46 enterprise zone in which the employee is employed;

1 (2) performs services for the taxpayer or employer, ninety percent  
 2 (90%) of which are directly related to the conduct of the  
 3 taxpayer's or employer's trade or business that is located in an  
 4 enterprise zone; and

5 (3) performs at least fifty percent (50%) of the employee's service  
 6 for the taxpayer or employer during the taxable year in the  
 7 enterprise zone.

8 **(b) For purposes of this section, "pass through entity" means a:**

9 **(1) corporation that is exempt from the adjusted gross income**  
 10 **tax under IC 6-3-2-2.8(2);**

11 **(2) partnership;**

12 **(3) trust;**

13 **(4) limited liability company; or**

14 **(5) limited liability partnership.**

15 **(c) For purposes of this section, "taxpayer" includes a pass**  
 16 **through entity.**

17 ~~(b)~~ **(d)** Except as provided in subsection ~~(c)~~; **(e)**, a qualified  
 18 employee is entitled to deduction from his adjusted gross income in  
 19 each taxable year in the amount of the lesser of:

20 (1) one-half (1/2) of his adjusted gross income for the taxable year  
 21 that he earns as a qualified employee; or

22 (2) seven thousand five hundred dollars (\$7,500).

23 ~~(c)~~ **(e)** No qualified employee is entitled to a deduction under this  
 24 section for a taxable year that begins after the termination of the  
 25 enterprise zone in which he resides.

26 SECTION 52. IC 6-3-3-10 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:

28 Sec. 10. (a) As used in this section:

29 "Base period wages" means wages paid or payable by a taxpayer to  
 30 its employees during the year that ends on the last day of the month that  
 31 immediately precedes the month in which an enterprise zone is  
 32 established, to the extent that the wages would have been qualified  
 33 wages if the enterprise zone had been in effect for that year. If the  
 34 taxpayer did not engage in an active trade or business during that year  
 35 in the area that is later designated as an enterprise zone, then the base  
 36 period wages equal zero (0). If the taxpayer engaged in an active trade  
 37 or business during only part of that year in an area that is later  
 38 designated as an enterprise zone, then the department shall determine  
 39 the amount of base period wages.

40 "Enterprise zone" means an enterprise zone created under  
 41 IC 4-4-6.1.

42 "Enterprise zone adjusted gross income" means adjusted gross  
 43 income of a taxpayer that is derived from sources within an enterprise  
 44 zone. Sources of adjusted gross income shall be determined with  
 45 respect to an enterprise zone, to the extent possible, in the same manner  
 46 that sources of adjusted gross income are determined with respect to

1 the state of Indiana under IC 6-3-2-2.

2 "Enterprise zone gross income" means gross income of a taxpayer  
3 that is derived from sources within an enterprise zone.

4 "Enterprise zone insurance premiums" means insurance premiums  
5 derived from sources within an enterprise zone.

6 "Monthly base period wages" means base period wages divided by  
7 twelve (12).

8 **"Pass through entity" means:**

9 **(1) a corporation that is exempt from the adjusted gross**  
10 **income tax under IC 6-3-2-2.8(2);**

11 **(2) a partnership;**

12 **(3) a trust;**

13 **(4) a limited liability company; or**

14 **(5) a limited liability partnership.**

15 "Qualified employee" means an individual who is employed by a  
16 taxpayer and who:

17 (1) has his principal place of residence in the enterprise zone in  
18 which he is employed;

19 (2) performs services for the taxpayer, ninety percent (90%) of  
20 which are directly related to the conduct of the taxpayer's trade or  
21 business that is located in an enterprise zone; and

22 (3) performs at least fifty percent (50%) of his services for the  
23 taxpayer during the taxable year in the enterprise zone.

24 "Qualified increased employment expenditures" means the  
25 following:

26 (1) For a taxpayer's taxable year other than his taxable year in  
27 which the enterprise zone is established, the amount by which  
28 qualified wages paid or payable by the taxpayer during the taxable  
29 year to qualified employees exceeds the taxpayer's base period  
30 wages.

31 (2) For the taxpayer's taxable year in which the enterprise zone is  
32 established, the amount by which qualified wages paid or payable  
33 by the taxpayer during all of the full calendar months in the  
34 taxpayer's taxable year that succeed the date on which the  
35 enterprise zone was established exceed the taxpayer's monthly  
36 base period wages multiplied by that same number of full  
37 calendar months.

38 "Qualified state tax liability" means a taxpayer's total income tax  
39 liability incurred under:

40 (1) IC 6-2.1 (gross income tax) with respect to enterprise zone  
41 gross income;

42 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with  
43 respect to enterprise zone adjusted gross income;

44 (3) IC 27-1-18-2 (insurance premiums tax) with respect to  
45 enterprise zone insurance premiums; and

46 (4) IC 6-5.5 (the financial institutions tax);

1 as computed after the application of the credits that, under  
2 IC 6-3.1-1-2, are to be applied before the credit provided by this  
3 section.

4 "Qualified wages" means the wages paid or payable to qualified  
5 employees during a taxable year.

6 **"Taxpayer" includes a pass through entity.**

7 (b) A taxpayer is entitled to a credit against the taxpayer's qualified  
8 state tax liability for a taxable year in the amount of the lesser of:

9 (1) the product of ten percent (10%) multiplied by the qualified  
10 increased employment expenditures of the taxpayer for the  
11 taxable year; or

12 (2) one thousand five hundred dollars (\$1,500) multiplied by the  
13 number of qualified employees employed by the taxpayer during  
14 the taxable year.

15 (c) The amount of the credit provided by this section that a taxpayer  
16 uses during a particular taxable year may not exceed the taxpayer's  
17 qualified state tax liability for the taxable year. If the credit provided by  
18 this section exceeds the amount of that tax liability for the taxable year  
19 it is first claimed, then the excess may be carried back to preceding  
20 taxable years or carried over to succeeding taxable years and used as  
21 a credit against the taxpayer's qualified state tax liability for those  
22 taxable years. Each time that the credit is carried back to a preceding  
23 taxable year or carried over to a succeeding taxable year, the amount  
24 of the carryover is reduced by the amount used as a credit for that  
25 taxable year. Except as provided in subsection (e), the credit provided  
26 by this section may be carried forward and applied in the ten (10)  
27 taxable years that succeed the taxable year in which the credit accrues.  
28 The credit provided by this section may be carried back and applied in  
29 the three (3) taxable years that precede the taxable year in which the  
30 credit accrues.

31 (d) A credit earned by a taxpayer in a particular taxable year shall  
32 be applied against the taxpayer's qualified state tax liability for that  
33 taxable year before any credit carryover or carryback is applied against  
34 that liability under subsection (c).

35 (e) Notwithstanding subsection (c), if a credit under this section  
36 results from wages paid in a particular enterprise zone, and if that  
37 enterprise zone terminates in a taxable year that succeeds the last  
38 taxable year in which a taxpayer is entitled to use the credit carryover  
39 that results from those wages under subsection (c), then the taxpayer  
40 may use the credit carryover for any taxable year up to and including  
41 the taxable year in which the enterprise zone terminates.

42 (f) A taxpayer is not entitled to a refund of any unused credit.

43 (g) A taxpayer that:

44 (1) does not own, rent, or lease real property outside of an  
45 enterprise zone that is an integral part of its trade or business; and

46 (2) is not owned or controlled directly or indirectly by a taxpayer

1 that owns, rents, or leases real property outside of an enterprise  
2 zone;  
3 is exempt from the allocation and apportionment provisions of this  
4 section.

5 **(h) If a pass through entity is entitled to a credit under**  
6 **subsection (b) but does not have state tax liability against which the**  
7 **tax credit may be applied, an individual who is a shareholder,**  
8 **partner, beneficiary, or member of the pass through entity is**  
9 **entitled to a tax credit equal to:**

- 10 (1) the tax credit determined for the pass through entity for
- 11 the taxable year; multiplied by
- 12 (2) the percentage of the pass through entity's distributive
- 13 income to which the shareholder, partner, beneficiary, or
- 14 member is entitled.

15 **The credit provided under this subsection is in addition to a tax**  
16 **credit to which a shareholder, partner, beneficiary, or member of**  
17 **a pass through entity is entitled. However, a pass through entity**  
18 **and an individual who is a shareholder, partner, beneficiary, or**  
19 **member of a pass through entity may not claim more than one (1)**  
20 **credit for the qualified expenditure.**

21 SECTION 53. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS  
22 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) Any  
23 taxpayer, upon request by the department, shall furnish to the  
24 department a true and correct copy of any tax return which he has filed  
25 with the United States Internal Revenue Service which copy shall be  
26 certified to by the taxpayer under penalties of perjury.

27 (b) Each taxpayer ~~except a resident individual~~, shall notify the  
28 department of any modification of:

- 29 (1) a federal income tax ~~returned~~ **return** filed by the taxpayer
- 30 after January 1, 1978; or
- 31 (2) the taxpayer's federal income tax liability for a taxable year
- 32 which begins after December 31, 1977.

33 The taxpayer shall file the notice, on the form prescribed by the  
34 department, within one hundred twenty (120) days after the  
35 modification is made.

36 SECTION 54. IC 6-3.1-10-4, AS AMENDED BY P.L.57-1996,  
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 4. (~~a~~) As used in this  
39 chapter, "taxpayer" means **the following:**

- 40 (1) Any individual that has any state tax liability.
- 41 (b) ~~Notwithstanding subsection (a); for a credit for a qualified~~
- 42 ~~investment in a business located in an enterprise zone in a county~~
- 43 ~~having a population of more than one hundred thousand (100,000) but~~
- 44 ~~less than one hundred seven thousand (107,000); "taxpayer" includes~~
- 45 ~~a pass through entity:~~

46 (2) **A corporation that has any state tax liability.**

1           **(3) A pass through entity (as defined in IC 6-3-3-10)."**  
 2           Page 61, between lines 1 and 2, begin a new paragraph and insert:  
 3           **"Sec. 7. (a) The total amount of credits allowed under this**  
 4 **chapter may not exceed one million dollars (\$1,000,000) in a state**  
 5 **fiscal year.**  
 6           **(b) The department shall record the time of filing of each claim**  
 7 **for allowance of a credit under section 6 of this chapter and shall**  
 8 **approve the claims, if they otherwise qualify for a tax credit under**  
 9 **this chapter, in the chronological order in which the claims are**  
 10 **filed in the state fiscal year.**  
 11           **(c) When the total credits approved under this section equal the**  
 12 **maximum amount allowable in a state fiscal year, no claim**  
 13 **thereafter filed for that same fiscal year shall be approved.**  
 14 **However, if a taxpayer for whom a credit has been approved fails**  
 15 **to file the information required under section 6 of this chapter, an**  
 16 **amount equal to the credit previously allowed or set aside for the**  
 17 **taxpayer may be allowed to any subsequent taxpayer in the year.**  
 18 **In addition, the department may, if the taxpayer so requests,**  
 19 **approve a credit claim, in whole or in part, with respect to the next**  
 20 **succeeding state fiscal year.**  
 21           **Sec. 8. This chapter expires January 1, 2014.**  
 22           SECTION 56. IC 6-3.5-7-6, AS AMENDED BY P.L.99-1995,  
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) The body imposing  
 25 the tax may decrease or increase the county economic development  
 26 income tax rate imposed upon the county taxpayers as long as the  
 27 resulting rate does not exceed the rates specified in section 5(b) and  
 28 5(c) or 5(g) of this chapter. **The rate imposed under this section must**  
 29 **be adopted at one (1) of the rates specified in section 5(b) of this**  
 30 **chapter.** To decrease or increase the rate, the appropriate body must,  
 31 after January 1 but before April 1 of a year, adopt an ordinance. The  
 32 ordinance must substantially state the following:  
 33           "The \_\_\_\_\_ County \_\_\_\_\_ increases (decreases) the  
 34 county economic development income tax rate imposed upon the  
 35 county taxpayers of the county from \_\_\_\_\_ percent (\_\_\_%) to  
 36 \_\_\_\_\_ percent (\_\_\_%). This tax rate increase (decrease) takes  
 37 effect July 1 of this year."  
 38           (b) Any ordinance adopted under this section takes effect July 1 of  
 39 the year the ordinance is adopted.  
 40           (c) The auditor of a county shall record all votes taken on  
 41 ordinances presented for a vote under the authority of this section and  
 42 immediately send a certified copy of the results to the department by  
 43 certified mail.  
 44           SECTION 57. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997,  
 45 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 46 JANUARY 1, 1997 (RETROACTIVE)]: Sec. 2. (a) Except as provided

1 in subsections (b) through (d), "adjusted gross income" means taxable  
2 income as defined in Section 63 of the Internal Revenue Code, adjusted  
3 as follows:

- 4 (1) Add the following amounts:
  - 5 (A) An amount equal to a deduction allowed or allowable
  - 6 under Section 166, Section 585, or Section 593 of the Internal
  - 7 Revenue Code.
  - 8 (B) An amount equal to a deduction allowed or allowable
  - 9 under Section 170 of the Internal Revenue Code.
  - 10 (C) An amount equal to a deduction or deductions allowed or
  - 11 allowable under Section 63 of the Internal Revenue Code for
  - 12 taxes based on or measured by income and levied at the state
  - 13 level by a state of the United States or levied at the local level
  - 14 by any subdivision of a state of the United States, or for taxes
  - 15 on property levied by a state or a subdivision of a state of the
  - 16 United States.
  - 17 (D) The amount of interest excluded under Section 103 of the
  - 18 Internal Revenue Code or under any other federal law, minus
  - 19 the associated expenses disallowed in the computation of
  - 20 taxable income under Section 265 of the Internal Revenue
  - 21 Code.
  - 22 (E) An amount equal to the deduction allowed under Section
  - 23 172 or 1212 of the Internal Revenue Code for net operating
  - 24 losses or net capital losses.
  - 25 (F) For a taxpayer that is not a large bank (as defined in
  - 26 Section 585(c)(2) of the Internal Revenue Code), an amount
  - 27 equal to the recovery of a debt, or part of a debt, that becomes
  - 28 worthless to the extent a deduction was allowed from gross
  - 29 income in a prior taxable year under Section 166(a) of the
  - 30 Internal Revenue Code.
- 31 (2) Subtract the following amounts:
  - 32 (A) Income that the United States Constitution or any statute
  - 33 of the United States prohibits from being used to measure the
  - 34 tax imposed by this chapter.
  - 35 (B) Income that is derived from sources outside the United
  - 36 States, as defined by the Internal Revenue Code.
  - 37 (C) An amount equal to a debt or part of a debt that becomes
  - 38 worthless, as permitted under Section 166(a) of the Internal
  - 39 Revenue Code.
  - 40 (D) An amount equal to any bad debt reserves that are
  - 41 included in federal income because of accounting method
  - 42 changes required by Section 585(c)(3)(A) or **Section 593** of
  - 43 the Internal Revenue Code.
  - 44 (b) In the case of a credit union, "adjusted gross income" for a
  - 45 taxable year means the total transfers to undivided earnings minus
  - 46 dividends for that taxable year after statutory reserves are set aside

1 under IC 28-7-1-24.

2 (c) In the case of an investment company, "adjusted gross income"  
3 means the company's federal taxable income multiplied by the quotient  
4 of:

5 (1) the aggregate of the gross payments collected by the company  
6 during the taxable year from old and new business upon  
7 investment contracts issued by the company and held by residents  
8 of Indiana; divided by

9 (2) the total amount of gross payments collected during the  
10 taxable year by the company from the business upon investment  
11 contracts issued by the company and held by persons residing  
12 within Indiana and elsewhere.

13 (d) As used in subsection (c), "investment company" means a  
14 person, copartnership, association, limited liability company, or  
15 corporation, whether domestic or foreign, that:

16 (1) is registered under the Investment Company Act of 1940 (15  
17 U.S.C. 80a-1 et seq.); and

18 (2) solicits or receives a payment to be made to itself and issues  
19 in exchange for the payment:

20 (A) a so-called bond;

21 (B) a share;

22 (C) a coupon;

23 (D) a certificate of membership;

24 (E) an agreement;

25 (F) a pretended agreement; or

26 (G) other evidences of obligation;

27 entitling the holder to anything of value at some future date, if the  
28 gross payments received by the company during the taxable year  
29 on outstanding investment contracts, plus interest and dividends  
30 earned on those contracts (by prorating the interest and dividends  
31 earned on investment contracts by the same proportion that  
32 certificate reserves (as defined by the Investment Company Act  
33 of 1940) is to the company's total assets) is at least fifty percent  
34 (50%) of the company's gross payments upon investment  
35 contracts plus gross income from all other sources except  
36 dividends from subsidiaries for the taxable year. The term  
37 "investment contract" means an instrument listed in clauses (A)  
38 through (G).

39 SECTION 58. IC 6-5.5-1-17 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:

41 Sec. 17. (a) "Taxpayer" means a corporation that is transacting the  
42 business of a financial institution in Indiana, including any of the  
43 following:

44 (1) A holding company.

45 (2) A regulated financial corporation.

46 (3) A subsidiary of a holding company or regulated financial

- 1 corporation.
- 2 (4) Any other corporation organized under the laws of the United
- 3 States, this state, another taxing jurisdiction, or a foreign
- 4 government that is carrying on the business of a financial
- 5 institution.
- 6 (b) As used in this section, "holding company" means a corporation
- 7 registered under the Bank Holding Company Act of 1956 (12 U.S.C.
- 8 1841 through 1849), as in effect on December 31, 1990, or registered
- 9 as a savings and loan holding company other than a diversified savings
- 10 and loan holding company (as defined in Section 10(a)(F) of the Home
- 11 Owners' Loan Act of 1933 (12 U.S.C. 1467a(1)(F)), as in effect on
- 12 December 31, 1990).
- 13 (c) As used in this section, "regulated financial corporation" means:
- 14 (1) an institution, the deposits, shares, or accounts of which are
- 15 insured under the Federal Deposit Insurance Act (12 U.S.C. 1811
- 16 through 1833e), as in effect on December 31, 1990;
- 17 (2) an institution that is a member of a Federal Home Loan Bank;
- 18 (3) any other bank or thrift institution incorporated or organized
- 19 under the laws of a state that is engaged in the business of
- 20 receiving deposits;
- 21 (4) a credit union incorporated and organized under the laws of
- 22 this state;
- 23 (5) a production credit association organized under 12 U.S.C.
- 24 2071, as in effect on December 31, 1990;
- 25 (6) a corporation organized under 12 U.S.C. 611 through 631 (an
- 26 Edge Act corporation), as in effect on December 31, 1990;
- 27 (7) a federal or state agency or branch of a foreign bank (as
- 28 defined in 12 U.S.C. 3101, as in effect on December 31, 1990); or
- 29 (8) a trust company formed under ~~IC 28-1-4~~ **IC 28-12**.
- 30 (d) For purposes of this section and when used in this article,
- 31 "business of a financial institution" means the following:
- 32 (1) For a holding company, a regulated financial corporation, or
- 33 a subsidiary of either, the activities that each is authorized to
- 34 perform under federal or state law, including the activities
- 35 authorized by regulation or order of the Federal Reserve Board for
- 36 such a subsidiary under Section 4(c)(8) of the Bank Holding
- 37 Company Act of 1956 (12 U.S.C. 1843(c)(8)), as in effect on
- 38 December 31, 1990.
- 39 (2) For any other corporation described in subsection (a)(4), all of
- 40 the corporation's business activities if eighty percent (80%) or
- 41 more of the corporation's gross income, excluding extraordinary
- 42 income, is derived from one (1) or more of the following
- 43 activities:
- 44 (A) Making, acquiring, selling, or servicing loans or
- 45 extensions of credit. For the purpose of this subdivision, loans
- 46 and extensions of credit include:

- 1 (i) secured or unsecured consumer loans;
- 2 (ii) installment obligations;
- 3 (iii) mortgage or other secured loans on real estate or
- 4 tangible personal property;
- 5 (iv) credit card loans;
- 6 (v) secured and unsecured commercial loans of any type;
- 7 (vi) letters of credit and acceptance of drafts;
- 8 (vii) loans arising in factoring; and
- 9 (viii) any other transactions with a comparable economic
- 10 effect.

11 (B) Leasing or acting as an agent, broker, or advisor in  
 12 connection with leasing real and personal property that is the  
 13 economic equivalent of the extension of credit if the  
 14 transaction is not treated as a lease for federal income tax  
 15 purposes.

16 (C) Operating a credit card, debit card, charge card, or similar  
 17 business.

18 As used in this subdivision, "gross income" includes income from  
 19 interest, fees, penalties, a market discount or other type of  
 20 discount, rental income, the gain on a sale of intangible or other  
 21 property evidencing a loan or extension of credit, and dividends  
 22 or other income received as a means of furthering the activities  
 23 set out in this subdivision."

24 Page 61, between lines 31 and 32, begin a new paragraph and insert:

25 "SECTION 60. IC 6-8.1-1-1, AS AMENDED BY P.L.61-1996,  
 26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 1998]: Sec. 1. "Listed taxes" or "taxes" includes only the  
 28 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat  
 29 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);  
 30 the gross income tax (IC 6-2.1); the state gross retail and use taxes (IC  
 31 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net  
 32 income tax (IC 6-3-8); the county adjusted gross income tax (IC  
 33 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county  
 34 economic development income tax (IC 6-3.5-7); the auto rental excise  
 35 tax (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan  
 36 association tax (IC 6-5-11); the production credit association tax (IC  
 37 6-5-12); the financial institutions tax (IC 6-5.5); the gasoline tax (IC  
 38 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax  
 39 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax  
 40 collected under a reciprocal agreement under IC 6-8.1-3; the motor  
 41 vehicle excise tax (IC 6-6-5); the hazardous waste disposal tax (IC  
 42 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2);  
 43 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); **the**  
 44 **hard cider excise tax (IC 7.1-4-4.5)**; the malt excise tax (IC 7.1-4-5);  
 45 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes  
 46 (IC 6-9); the various county food and beverage taxes (IC 6-9); the

1 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee  
 2 (IC 16-44-2); the emergency and hazardous chemical inventory form  
 3 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3  
 4 and IC 9-30); the fees and penalties assessed for overweight vehicles  
 5 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);  
 6 the solid waste management fee (IC 13-20-22); and any other tax or fee  
 7 that the department is required to collect or administer.

8 SECTION 61. IC 6-8.1-6-4.5 IS ADDED TO THE INDIANA  
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 4.5. A**  
 11 **taxpayer that is required under IC 6-3-4-1 to file a return may**  
 12 **round to the nearest whole dollar an amount or item reported on**  
 13 **the return. The following apply if an amount or item is rounded:**

14 (1) **An amount or item of at least fifty cents (\$0.50) must be**  
 15 **rounded up to the nearest whole dollar.**

16 (2) **An amount or item of less than fifty cents (\$0.50) must be**  
 17 **rounded down to the nearest whole dollar.**

18 SECTION 62. IC 6-8.1-7-1, AS AMENDED BY P.L.67-1996,  
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 1998]: Sec. 1. (a) This subsection does not apply to the  
 21 disclosure of information concerning a conviction on a tax evasion  
 22 charge. Unless in accordance with a judicial order or as otherwise  
 23 provided in this chapter, the department, its employees, former  
 24 employees, counsel, agents, or any other person may not divulge the  
 25 amount of tax paid by any taxpayer, terms of a settlement agreement  
 26 executed between a taxpayer and the department, investigation records,  
 27 investigation reports, or any other information disclosed by the reports  
 28 filed under the provisions of the law relating to any of the listed taxes,  
 29 including required information derived from a federal return, except to:

30 (1) members and employees of the department;

31 (2) the governor;

32 (3) the attorney general or any other legal representative of the  
 33 state in any action in respect to the amount of tax due under the  
 34 provisions of the law relating to any of the listed taxes; or

35 (4) any authorized officers of the United States;

36 when it is agreed that the information is to be confidential and to be  
 37 used solely for official purposes.

38 (b) The information described in subsection (a) may be revealed  
 39 upon the receipt of a certified request of any designated officer of the  
 40 state tax department of any other state, district, territory, or possession  
 41 of the United States when:

42 (1) the state, district, territory, or possession permits the exchange  
 43 of like information with the taxing officials of the state; and

44 (2) it is agreed that the information is to be confidential and to be  
 45 used solely for tax collection purposes.

46 (c) The information described in subsection (a) relating to a person

1 on public welfare or a person who has made application for public  
2 welfare may be revealed to the director of the division of family and  
3 children, and to any county director of family and children located in  
4 Indiana, upon receipt of a written request from either director for the  
5 information. The information shall be treated as confidential by the  
6 directors. In addition, the information described in subsection (a)  
7 relating to a person who has been designated as an absent parent by the  
8 state Title IV-D agency shall be made available to the state Title IV-D  
9 agency upon request. The information shall be subject to the  
10 information safeguarding provisions of the state and federal Title IV-D  
11 programs.

12 (d) The name, address, Social Security number, and place of  
13 employment relating to any individual who is delinquent in paying  
14 educational loans owed to an institution of higher education may be  
15 revealed to that institution if it provides proof to the department that the  
16 individual is delinquent in paying for educational loans. This  
17 information shall be provided free of charge to approved institutions of  
18 higher learning (as defined by IC 20-12-21-3(2)). The department shall  
19 establish fees that all other institutions must pay to the department to  
20 obtain information under this subsection. However, these fees may not  
21 exceed the department's administrative costs in providing the  
22 information to the institution.

23 (e) The information described in subsection (a) relating to reports  
24 submitted under IC 6-6-1.1-502 concerning the number of gallons of  
25 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of  
26 gallons of special fuel sold by a supplier and the number of gallons of  
27 special fuel exported by a licensed exporter or imported by a licensed  
28 transporter may be released by the commissioner upon receipt of a  
29 written request for the information.

30 (f) The information described in subsection (a) may be revealed  
31 upon the receipt of a written request from the administrative head of a  
32 state agency of Indiana when:

- 33 (1) the state agency shows an official need for the information;  
34 and  
35 (2) the administrative head of the state agency agrees that any  
36 information released will be kept confidential and will be used  
37 solely for official purposes.

38 (g) The name and address of retail merchants, including township,  
39 as specified in IC 6-2.5-8-1(h) may be released solely for tax collection  
40 purposes to township assessors.

41 (h) The department shall notify the appropriate innkeepers' tax  
42 board, bureau, or commission that a taxpayer is delinquent in remitting  
43 innkeepers' taxes under IC 6-9.

44 (i) All information relating to the delinquency or evasion of the  
45 motor vehicle excise tax shall be disclosed to the bureau of motor  
46 vehicles in Indiana and may be disclosed to another state, if the

1 information is disclosed for the purpose of the enforcement and  
2 collection of the taxes imposed by IC 6-6-5.

3 (j) This section does not apply to:

- 4 (1) the beer excise tax (IC 7.1-4-2);
- 5 (2) the liquor excise tax (IC 7.1-4-3);
- 6 (3) the wine excise tax (IC 7.1-4-4);
- 7 (4) **the hard cider excise tax (IC 7.1-4-4.5);**
- 8 (5) the malt excise tax (IC 7.1-4-5);
- 9 ~~(5)~~ (6) the motor vehicle excise tax (IC 6-6-5); and
- 10 ~~(6)~~ (7) the fees under IC 13-23.

11 SECTION 63. IC 6-8.1-9-1 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 1. (a) If a person  
13 has paid more tax than the person determines is legally due for a  
14 particular taxable period, the person may file a claim for a refund with  
15 the department. **Except as provided in subsections (f) and (g),** in  
16 order to obtain the refund, the person must file the claim with the  
17 department within three (3) years after the latter of the following:

- 18 (1) The due date of the return.
- 19 (2) The date of payment.

20 For purposes of this section, the due date for a return filed for the state  
21 gross retail or use tax, the gasoline tax, the special fuel tax, the motor  
22 carrier fuel tax, the oil inspection fee, or the petroleum severance tax  
23 is the end of the calendar year which contains the taxable period for  
24 which the return is filed. The claim must set forth the amount of the  
25 refund to which the person is entitled and the reasons that the person  
26 is entitled to the refund.

27 (b) When the department receives a claim for refund, the  
28 department shall consider the claim for refund and may hold a hearing  
29 on the claim for refund to obtain and consider additional evidence.  
30 After considering the claim and all evidence relevant to the claim, the  
31 department shall issue a decision on the claim, stating the part, if any,  
32 of the refund allowed and containing a statement of the reasons for any  
33 part of the refund that is denied. The department shall mail a copy of  
34 the decision to the person who filed the claim. If the department allows  
35 the full amount of the refund claim, a warrant for the payment of the  
36 claim is sufficient notice of the decision.

37 (c) If the person disagrees with any part of the department's  
38 decision, he may appeal the decision, regardless of whether or not he  
39 protested the tax payment or whether or not the person has accepted a  
40 refund. The person must file the appeal with the tax court. The tax  
41 court does not have jurisdiction to hear a refund appeal suit, if:

- 42 (1) the appeal is filed more than three (3) years after the date the  
43 claim for refund was filed with the department;
- 44 (2) the appeal is filed more than ninety (90) days after the date the  
45 department mails the decision of denial to the person; or
- 46 (3) the appeal is filed both before the decision is issued and

1 before the one hundred eighty-first day after the date the person  
2 files the claim for refund with the department.

3 (d) The tax court shall hear the appeal de novo and without a jury,  
4 and after the hearing may order or deny any part of the appealed  
5 refund. The court may assess the court costs in any manner that it feels  
6 is equitable. The court may enjoin the collection of any of the listed  
7 taxes under IC 33-3-5-11. The court may also allow a refund of taxes,  
8 interest, and penalties that have been paid to and collected by the  
9 department.

10 (e) With respect to the motor vehicle excise tax, this section applies  
11 only to penalties and interest paid on assessments of the motor vehicle  
12 excise tax. Any other overpayment of the motor vehicle excise tax is  
13 subject to IC 6-6-5.

14 **(f) If a taxpayer's federal income tax liability for a taxable year**  
15 **is modified by the Internal Revenue Service, and the modification**  
16 **would result in a reduction of the tax legally due, the due date by**  
17 **which the taxpayer must file a claim for refund with the**  
18 **department is the later of:**

- 19 (1) the date determined under subsection (a); or
- 20 (2) the date that is six (6) months after the date on which the
- 21 taxpayer is notified of the modification by the Internal
- 22 Revenue Service.

23 (g) **If an agreement to extend the assessment time period is**  
24 **entered into under IC 6-8.1-5-2(e), the period during which a**  
25 **person may file a claim for a refund under subsection (a) is**  
26 **extended to the same date to which the assessment time period is**  
27 **extended.**

28 SECTION 64. IC 6-9-29-1.5 IS ADDED TO THE INDIANA CODE  
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
30 1, 1998]: **Sec. 1.5. (a) Unless otherwise provided in this article, a**  
31 **county fiscal body that adopts an ordinance to impose, rescind, or**  
32 **increase or decrease the rate of a county innkeeper's tax must**  
33 **specify the effective date of the ordinance to provide that the**  
34 **ordinance takes effect:**

- 35 (1) at least thirty (30) days after the adoption of the
- 36 ordinance; and
- 37 (2) on the first day of a month.

38 (b) **If a county fiscal body adopts an ordinance described in**  
39 **subsection (a), it must immediately send a certified copy of the**  
40 **ordinance to the commissioner of the department of state revenue.**

41 SECTION 65. IC 7.1-1-3-9.5 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS  
43 [EFFECTIVE JULY 1, 1998]: **Sec. 9.5. The term "hard cider" means**  
44 **an alcoholic beverage that:**

- 45 (1) is made from the normal alcoholic fermentation of the
- 46 juice of sound, ripe apples; and

1           **(2) contains at least one-half of one percent (0.5%) of alcohol**  
 2           **by volume and not more than seven percent (7%) of alcohol**  
 3           **by volume.**

4           **The term includes flavored, sparkling, or carbonated cider and**  
 5           **cider made from condensed apple.**

6           SECTION 66. IC 7.1-1-3-49 IS AMENDED TO READ AS  
 7           FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 49. ~~Wine~~. The term  
 8           "wine" means an alcoholic beverage obtained by the fermentation of  
 9           the natural sugar content of fruit, fruit juice, or other agricultural  
 10          products containing sugar, including necessary additions to correct  
 11          defects due to climatic, saccharine, and seasonal conditions, and also  
 12          the alcoholic fortification of the beverage. **The term includes hard**  
 13          **cider, except for alcoholic beverage tax purposes.** The term does not  
 14          mean an alcoholic beverage that contains twenty-one percent (21%), or  
 15          more, of absolute alcohol reckoned by volume.

16          SECTION 67. IC 7.1-4-4-1 IS AMENDED TO READ AS  
 17          FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. An excise tax at the  
 18          rate of forty-seven cents (\$0.47) a gallon is imposed upon the  
 19          manufacture and sale or gift, or withdrawal for sale or gift, of wine,  
 20          **except hard cider**, within this state.

21          SECTION 68. IC 7.1-4-4.5 IS ADDED TO THE INDIANA CODE  
 22          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 23          JULY 1, 1998]:

24                 **Chapter 4.5. Hard Cider Excise Tax**

25                 **Sec. 1. An excise tax at the rate of eleven and one-half cents**  
 26                 **(\$0.115) a gallon is imposed upon the manufacture and sale or gift,**  
 27                 **or withdrawal for sale or gift, of hard cider within Indiana.**

28                 **Sec. 2. The hard cider excise tax applies only to hard cider. An**  
 29                 **alcoholic beverage that is subject to the hard cider excise tax is not**  
 30                 **subject to the liquor excise tax or the wine excise tax.**

31                 **Sec. 3. The hard cider excise tax shall be paid by the holder of**  
 32                 **a vintner's permit, a small winery permit, a wine wholesaler's**  
 33                 **permit, a dining car wine permit, or a boat wine permit on the**  
 34                 **hard cider to which the tax is applicable and that is manufactured**  
 35                 **or imported by the person into this state. However, an item may**  
 36                 **only be taxed once for hard cider excise tax purposes.**

37                 **Sec. 4. The commission and the department may adopt rules and**  
 38                 **maintain gauges in a winery, small winery, or a wholesaler's**  
 39                 **premises for the proper gauging of the alcoholic beverages to**  
 40                 **which the hard cider excise tax is applicable and the assessment of**  
 41                 **that tax.**

42                 **Sec. 5. (a) All sales of hard cider made by a primary source of**  
 43                 **supply to a wine wholesaler must at the time of the sale be**  
 44                 **accompanied by an invoice that shows the following:**

45                         **(1) The name and address of seller and purchaser.**

46                         **(2) The date of disposition.**

- 1           **(3) The name or names of each brand sold.**
- 2           **(4) The number of packages, if any.**
- 3           **(5) The number of cases by size of bottle.**
- 4           **(6) The quantity of each kind of alcoholic beverage sold.**
- 5           **(b) The primary source of supply shall send a copy of the invoice**
- 6           **to the department of revenue and the commission at the time of the**
- 7           **sale.**

8           SECTION 69. IC 7.1-4-7-5, AS AMENDED BY P.L.72-1996,  
 9           SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10          JULY 1, 1998]: Sec. 5. The department shall deposit:

- 11           (1) four cents (\$0.04) of the beer excise tax rate collected on each
- 12           gallon of beer or flavored malt beverage;
- 13           (2) one dollar (\$1) of the liquor excise tax rate collected on each
- 14           gallon of liquor;
- 15           (3) twenty cents (\$0.20) of the wine excise tax rate collected on
- 16           each gallon of wine; ~~and~~
- 17           (4) the entire amount of malt excise tax collected; **and**

18           **(5) the entire amount of hard cider excise tax collected;**  
 19          daily with the treasurer of state and not later than the fifth day of the  
 20          following month shall cover them into the general fund of the state for  
 21          distribution as provided in this chapter."

22          Page 68, line 1, delete "; or" and insert "**that is vacant or to be**  
 23          **vacated as a result of the relocation of a single employer to a**  
 24          **location outside of Indiana; and"**.

25          Page 68, line 28, delete "department of state".

26          Page 68, delete line 29, begin a new line block left and insert:  
 27          **"budget committee for review and recommendation to the budget**  
 28          **agency. The advisory commission shall include with the resolution**  
 29          **a complete list of employers in the district and street names and the**  
 30          **range of street numbers of each street in the district. The advisory**  
 31          **commission shall update the list before July 1 of each year.**

32          **(b) The budget committee shall meet not later than sixty (60)**  
 33          **days after receipt of a resolution under subsection (a) and shall**  
 34          **make a recommendation on the resolution to the budget agency.**

35          **(c) The budget agency must approve the resolution before**  
 36          **money may be distributed under section 15(b) of this chapter to the**  
 37          **industrial development fund of the unit containing the district.**

38          **(d) A tax credit may not be granted under IC 6-3.1-19 until the**  
 39          **budget agency approves the resolution.**

40          **(e) If the budget agency approves the resolution, the budget**  
 41          **agency shall give notice of the approval to the department of state**  
 42          **revenue."**

43          Page 68, line 30, delete "(b)" and insert "(f)".

44          Page 68, line 30, delete "a copy of the"

45          Page 68, line 31, delete "resolution designating a district," and insert  
 46          **"the notice of the budget agency's approval of a resolution under**

1 **this section,".**

2 Page 69, line 3, delete "an incremental tax financing" and insert "**a**  
3 **community revitalization**".

4 Page 69, delete lines 7 through 35, begin a new paragraph and  
5 insert:

6 "**(b) The income tax incremental amount and the gross retail**  
7 **incremental amount collected from the district shall be deposited**  
8 **in the community revitalization fund established for the county**  
9 **under subsection (a). On or before the twentieth day of each**  
10 **month, all amounts held in the community revitalization fund for**  
11 **the county shall be distributed to the county's industrial**  
12 **development fund. The department of revenue shall notify the**  
13 **fiscal body of the unit establishing the district of the amount of**  
14 **taxes to be distributed to the unit's industrial development fund.**  
15 **The total amount of state revenue captured by a district may not**  
16 **exceed one million dollars (\$1,000,000) per year for twenty (20)**  
17 **consecutive years."**

18 Page 71, between lines 3 and 4, begin a new paragraph and insert:  
19 "SECTION 86. IC 6-2.1-6-3 IS REPEALED [EFFECTIVE  
20 JANUARY 1, 1998 (RETROACTIVE)].

21 SECTION 87. [EFFECTIVE JANUARY 1, 1997  
22 (RETROACTIVE)] **(a) IC 6-5.5-1-2, as amended by this act, applies**  
23 **to taxable years beginning after December 31, 1996.**

24 **(b) SECTIONS of this act that become effective January 1, 1998,**  
25 **apply to taxable years beginning after December 31, 1997."**

26 Page 71, line 8, after "(RETROACTIVE)]" delete ":".

27 Page 72, line 3, after "(RETROACTIVE)]" delete ":".

28 Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed February 16, 1998.)

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Representative Bauer