

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WITHDRAWN	Noes _____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

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

**MR. SPEAKER:**

I move that Engrossed Senate Bill 297 be amended to read as follows:

- 1           Page 3, between lines 37 and 38, begin a new paragraph and
- 2           insert:
- 3           "SECTION 2. IC 6-3-2.5-1.5 IS ADDED TO THE INDIANA
- 4           CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5           [EFFECTIVE JANUARY 1, 2000]: **Sec. 1.5. As used in this chapter,**
- 6           **"dependent" has the meaning set forth in Section 152 of the**
- 7           **Internal Revenue Code.**
- 8           SECTION 3. IC 6-3-2.5-6 IS AMENDED TO READ AS
- 9           FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. A taxpayer
- 10          who, in a taxable year, has:
- 11           (1) at least one (1) ~~qualifying child;~~ **dependent;**
- 12           (2) Indiana total income from all sources of not more than ~~twelve~~
- 13           **eighteen** thousand dollars ~~(\$12,000);~~ **(\$18,000);** and
- 14           (3) Indiana total income from earned income that is at least
- 15           eighty percent (80%) of the taxpayer's Indiana total income;
- 16          is entitled to the deduction described in section 7 of this chapter from
- 17          the taxpayer's Indiana total income.
- 18          SECTION 4. IC 6-3-2.5-7 IS AMENDED TO READ AS
- 19          FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. The deduction
- 20          authorized under section 6 of this chapter is equal to ~~twelve~~ **eighteen**
- 21          thousand dollars ~~(\$12,000)~~ **(\$18,000)** minus the amount of the
- 22          taxpayer's Indiana total income.
- 23          SECTION 5. IC 6-3-4-8 IS AMENDED TO READ AS FOLLOWS
- 24          [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) Except as provided in
- 25          subsection (d) **or (l)**, every employer making payments of wages
- 26          subject to tax under IC 6-3, regardless of the place where such payment

1 is made, who is required under the provisions of the Internal Revenue  
2 Code to withhold, collect, and pay over income tax on wages paid by  
3 such employer to such employee, shall, at the time of payment of such  
4 wages, deduct and retain therefrom the amount prescribed in  
5 withholding instructions issued by the department. The department  
6 shall base its withholding instructions on the adjusted gross income tax  
7 rate for persons, on the total rates of any income taxes that the taxpayer  
8 is subject to under IC 6-3.5, and on the total amount of exclusions the  
9 taxpayer is entitled to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4).  
10 Such employer making payments of any wages:

11 (1) shall be liable to the state of Indiana for the payment of the  
12 tax required to be deducted and withheld under this section and  
13 shall not be liable to any individual for the amount deducted  
14 from ~~his~~ **the individual's** wages and paid over in compliance or  
15 intended compliance with this section; and

16 (2) shall make return of and payment to the department monthly  
17 of the amount of tax which under IC 6-3 and IC 6-3.5 ~~he~~ **the**  
18 **employer** is required to withhold.

19 (b) An employer shall pay taxes withheld under subsection (a)  
20 during a particular month to the department no later than thirty (30)  
21 days after the end of that month. However, in place of monthly  
22 reporting periods, the department may permit an employer to report and  
23 pay the tax for:

24 (1) a calendar year reporting period, if the average monthly  
25 amount of all tax required to be withheld by the employer in the  
26 previous calendar year does not exceed ten dollars (\$10);

27 (2) a six (6) month reporting period, if the average monthly  
28 amount of all tax required to be withheld by the employer in the  
29 previous calendar year does not exceed twenty-five dollars  
30 (\$25); or

31 (3) a three (3) month reporting period, if the average monthly  
32 amount of all tax required to be withheld by the employer in the  
33 previous calendar year does not exceed seventy-five dollars  
34 (\$75).

35 An employer using a reporting period (other than a monthly reporting  
36 period) must file the employer's return and pay the tax for a reporting  
37 period no later than the last day of the month immediately following  
38 the close of the reporting period. If an employer files a combined sales  
39 and withholding tax report, the reporting period for the combined  
40 report is the shortest period required under this section, section 8.1 of  
41 this chapter, or IC 6-2.5-6-1.

42 (c) For purposes of determining whether an employee is subject to  
43 taxation under IC 6-3.5, an employer is entitled to rely on the statement  
44 of ~~his~~ **an** employee as to ~~his~~ **the employee's** county of residence as  
45 represented by the statement of address in forms claiming exemptions  
46 for purposes of withholding, regardless of when the employee supplied  
47 the forms. Every employee shall notify ~~his~~ **the employee's** employer  
48 within five (5) days after any change in ~~his~~ **the employee's** county of  
49 residence.

50 (d) A county that makes payments of wages subject to tax under  
51 IC 6-3:

1 (1) to a precinct election officer (as defined in IC 3-5-2-40.1);  
2 and

3 (2) for the performance of the duties of the precinct election  
4 officer imposed by IC 3 that are performed on election day;

5 is not required, at the time of payment of the wages, to deduct and  
6 retain from the wages the amount prescribed in withholding  
7 instructions issued by the department.

8 (e) Every employer shall, at the time of each payment made by ~~him~~  
9 **the employer** to the department, deliver to the department a return  
10 upon the form prescribed by the department showing:

11 (1) the total amount of wages paid to ~~his~~ **the employer's**  
12 employees;

13 (2) the amount deducted therefrom in accordance with the  
14 provisions of the Internal Revenue Code;

15 (3) the amount of adjusted gross income tax deducted therefrom  
16 in accordance with the provisions of this section;

17 (4) the amount of income tax, if any, imposed under IC 6-3.5 and  
18 deducted therefrom in accordance with this section; and

19 (5) any other information the department may require.

20 Every employer making a declaration of withholding as provided in this  
21 section shall furnish ~~his~~ **the employer's** employees annually, but not  
22 later than thirty (30) days after the end of the calendar year, a record of  
23 the total amount of adjusted gross income tax and the amount of each  
24 income tax, if any, imposed under IC 6-3.5, withheld from the  
25 employees, on the forms prescribed by the department.

26 (f) All money deducted and withheld by an employer shall  
27 immediately upon such deduction be the money of the state, and every  
28 employer who deducts and retains any amount of money under the  
29 provisions of IC 6-3 shall hold the same in trust for the state of Indiana  
30 and for payment thereof to the department in the manner and at the  
31 times provided in IC 6-3. Any employer may be required to post a  
32 surety bond in the sum the department determines to be appropriate to  
33 protect the state with respect to money withheld pursuant to this  
34 section.

35 (g) The provisions of IC 6-8.1 relating to additions to tax in case  
36 of delinquency and penalties shall apply to employers subject to the  
37 provisions of this section, and for these purposes any amount deducted  
38 or required to be deducted and remitted to the department under this  
39 section shall be considered to be the tax of the employer, and with  
40 respect to such amount the employer shall be considered the taxpayer.  
41 In the case of a corporate or partnership employer, every officer,  
42 employee, or member of such employer, who, as such officer,  
43 employee, or member is under a duty to deduct and remit such taxes  
44 shall be personally liable for such taxes, penalties, and interest.

45 (h) Amounts deducted from wages of an employee during any  
46 calendar year in accordance with the provisions of this section shall be  
47 considered to be in part payment of the tax imposed on such employee  
48 for ~~his~~ **the employee's** taxable year which begins in such calendar year,  
49 and a return made by the employer under subsection (b) shall be

1 accepted by the department as evidence in favor of the employee of the  
 2 amount so deducted from **his the employee's** wages. Where the total  
 3 amount so deducted exceeds the amount of tax on the employee as  
 4 computed under IC 6-3 and IC 6-3.5, the department shall, after  
 5 examining the return or returns filed by the employee in accordance  
 6 with IC 6-3 and IC 6-3.5, refund the amount of the excess deduction.  
 7 However, under rules promulgated by the department, the excess or any  
 8 part thereof may be applied to any taxes or other claim due from the  
 9 taxpayer to the state of Indiana or any subdivision thereof. No refund  
 10 shall be made to an employee who fails to file **his the employee's**  
 11 return or returns as required under IC 6-3 and IC 6-3.5 within two (2)  
 12 years from the due date of the return or returns. In the event that the  
 13 excess tax deducted is less than one dollar (\$1), no refund shall be  
 14 made.

15 (i) This section shall in no way relieve any taxpayer from **his the**  
 16 **taxpayer's** obligation of filing a return or returns at the time required  
 17 under IC 6-3 and IC 6-3.5, and, should the amount withheld under the  
 18 provisions of this section be insufficient to pay the total tax of such  
 19 taxpayer, such unpaid tax shall be paid at the time prescribed by  
 20 section 5 of this chapter.

21 (j) Notwithstanding subsection (b), an employer of a domestic  
 22 service employee that enters into an agreement with the domestic  
 23 service employee to withhold federal income tax under Section 3402  
 24 of the Internal Revenue Code may withhold Indiana income tax on the  
 25 domestic service employee's wages on the employer's Indiana  
 26 individual income tax return in the same manner as allowed by Section  
 27 3510 of the Internal Revenue Code.

28 (k) To the extent allowed by Section 1137 of the Social Security  
 29 Act, an employer of a domestic service employee may report and remit  
 30 state unemployment insurance contributions on the employee's wages  
 31 on the employer's Indiana individual income tax return in the same  
 32 manner as allowed by Section 3510 of the Internal Revenue Code.

33 (l) **An employer is exempt from the withholding requirements**  
 34 **of this section for an individual if the individual certifies to the**  
 35 **employer, on forms prescribed by the department, that the**  
 36 **individual's wages for the calendar year from the employer will:**

37 (1) **comprise more than eighty percent (80%) of the**  
 38 **individual's Indiana total income (as defined in IC 6-3-2.5-3);**  
 39 **and**

40 (2) **not exceed fifteen thousand dollars (\$15,000).**

41 (m) A person who knowingly fails to remit trust fund money as set  
 42 forth in this section commits a Class D felony.

43 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 44 JANUARY 1, 2000]: IC 6-3-2.5-1; IC 6-3-2.5-4; IC 6-3-2.5-10.

45 SECTION 7. [EFFECTIVE JANUARY 1, 2000] **IC 6-3-2.5, as**  
 46 **amended by this act, applies to taxable years beginning after**  
 47 **December 31, 1999."**

48 Page 3, line 39, delete "This" and insert "SECTION 1 of this".

49 Renumber all SECTIONS consecutively.

(Reference is to ESB 297 as printed April 6, 1999.)

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Representative MURPHY