

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 247 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 6-2.5-4-11 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]: Sec.
- 5 11. (a) A person is a retail merchant making a retail transaction when
- 6 ~~he the person~~ furnishes ~~local~~ cable television **or radio** service or
- 7 ~~intrastate cable satellite~~ television **or radio** service **that terminates in**
- 8 **Indiana.**
- 9 (b) Notwithstanding subsection (a), a person is not a retail merchant
- 10 making a retail transaction when the person provides, installs,
- 11 constructs, services, or removes tangible personal property which is
- 12 used in connection with the furnishing of ~~local~~ cable television **or radio**
- 13 service or ~~intrastate cable satellite or radio~~ television service.
- 14 SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
- 15 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this
- 17 article, the term "adjusted gross income" shall mean the following:
- 18 (a) In the case of all individuals, "adjusted gross income" (as defined
- 19 in Section 62 of the Internal Revenue Code), modified as follows:
- 20 (1) Subtract income that is exempt from taxation under this article
- 21 by the Constitution and statutes of the United States.
- 22 (2) Add an amount equal to any deduction or deductions allowed
- 23 or allowable pursuant to Section 62 of the Internal Revenue Code
- 24 for taxes based on or measured by income and levied at the state

- 1 level by any state of the United States.
- 2 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 3 joint return filed by a husband and wife, subtract for each spouse
- 4 one thousand dollars (\$1,000).
- 5 (4) Subtract one thousand dollars (\$1,000) for:
- 6 (A) each of the exemptions provided by Section 151(c) of the
- 7 Internal Revenue Code;
- 8 (B) each additional amount allowable under Section 63(f) of the
- 9 Internal Revenue Code; and
- 10 (C) the spouse of the taxpayer if a separate return is made by
- 11 the taxpayer and if the spouse, for the calendar year in which
- 12 the taxable year of the taxpayer begins, has no gross income
- 13 and is not the dependent of another taxpayer.
- 14 (5) Subtract:
- 15 (A) one thousand five hundred dollars (\$1,500) for each of the
- 16 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 17 Revenue Code for taxable years beginning after December 31,
- 18 1996; and
- 19 (B) five hundred dollars (\$500) for each additional amount
- 20 allowable under Section 63(f)(1) of the Internal Revenue Code
- 21 if the adjusted gross income of the taxpayer, or the taxpayer
- 22 and the taxpayer's spouse in the case of a joint return, is less
- 23 than forty thousand dollars (\$40,000).
- 24 This amount is in addition to the amount subtracted under
- 25 subdivision (4).
- 26 (6) Subtract an amount equal to the lesser of:
- 27 (A) that part of the individual's adjusted gross income (as
- 28 defined in Section 62 of the Internal Revenue Code) for that
- 29 taxable year that is subject to a tax that is imposed by a political
- 30 subdivision of another state and that is imposed on or measured
- 31 by income; or
- 32 (B) two thousand dollars (\$2,000).
- 33 (7) Add an amount equal to the total capital gain portion of a lump
- 34 sum distribution (as defined in Section 402(e)(4)(D) of the
- 35 Internal Revenue Code) if the lump sum distribution is received by
- 36 the individual during the taxable year and if the capital gain portion
- 37 of the distribution is taxed in the manner provided in Section 402
- 38 of the Internal Revenue Code.
- 39 (8) Subtract any amounts included in federal adjusted gross
- 40 income under Section 111 of the Internal Revenue Code as a
- 41 recovery of items previously deducted as an itemized deduction
- 42 from adjusted gross income.
- 43 (9) Subtract any amounts included in federal adjusted gross
- 44 income under the Internal Revenue Code which amounts were
- 45 received by the individual as supplemental railroad retirement
- 46 annuities under 45 U.S.C. 231 and which are not deductible under

- 1 subdivision (1).
2 (10) Add an amount equal to the deduction allowed under Section
3 221 of the Internal Revenue Code for married couples filing joint
4 returns if the taxable year began before January 1, 1987.
5 (11) Add an amount equal to the interest excluded from federal
6 gross income by the individual for the taxable year under Section
7 128 of the Internal Revenue Code if the taxable year began before
8 January 1, 1985.
9 (12) Subtract an amount equal to the amount of federal Social
10 Security and Railroad Retirement benefits included in a taxpayer's
11 federal gross income by Section 86 of the Internal Revenue Code.
12 (13) In the case of a nonresident taxpayer or a resident taxpayer
13 residing in Indiana for a period of less than the taxpayer's entire
14 taxable year, the total amount of the deductions allowed pursuant
15 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
16 which bears the same ratio to the total as the taxpayer's income
17 taxable in Indiana bears to the taxpayer's total income.
18 (14) In the case of an individual who is a recipient of assistance
19 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
20 IC 12-15-7, subtract an amount equal to that portion of the
21 individual's adjusted gross income with respect to which the
22 individual is not allowed under federal law to retain an amount to
23 pay state and local income taxes.
24 (15) In the case of an eligible individual, subtract the amount of a
25 Holocaust victim's settlement payment included in the individual's
26 federal adjusted gross income.
27 (16) For taxable years beginning after December 31, 1999,
28 subtract an amount equal to the portion of any premiums paid
29 during the taxable year by the taxpayer for a qualified long term
30 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
31 taxpayer's spouse, or both.
32 (17) Subtract an amount equal to the lesser of:
33 (A) for a taxable year:
34 (i) including any part of 2004, the amount determined under
35 subsection (f); and
36 (ii) beginning after December 31, 2004, two thousand five
37 hundred dollars (\$2,500); or
38 (B) the amount of property taxes that are paid during the
39 taxable year in Indiana by the individual on the individual's
40 principal place of residence.
41 (18) Subtract an amount equal to the amount of a September 11
42 terrorist attack settlement payment included in the individual's
43 federal adjusted gross income.
44 (19) Add or subtract the amount necessary to make the adjusted
45 gross income of any taxpayer that owns property for which bonus
46 depreciation was allowed in the current taxable year or in an earlier

1 taxable year equal to the amount of adjusted gross income that
 2 would have been computed had an election not been made under
 3 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
 4 bonus depreciation to the property in the year that it was placed in
 5 service.

6 **(20) Add an amount equal to any deduction allowed under**
 7 **Section 172 of the Internal Revenue Code.**

8 (b) In the case of corporations, the same as "taxable income" (as
 9 defined in Section 63 of the Internal Revenue Code) adjusted as follows:

10 (1) Subtract income that is exempt from taxation under this article
 11 by the Constitution and statutes of the United States.

12 (2) Add an amount equal to any deduction or deductions allowed
 13 or allowable pursuant to Section 170 of the Internal Revenue
 14 Code.

15 (3) Add an amount equal to any deduction or deductions allowed
 16 or allowable pursuant to Section 63 of the Internal Revenue Code
 17 for taxes based on or measured by income and levied at the state
 18 level by any state of the United States.

19 (4) Subtract an amount equal to the amount included in the
 20 corporation's taxable income under Section 78 of the Internal
 21 Revenue Code.

22 (5) Add or subtract the amount necessary to make the adjusted
 23 gross income of any taxpayer that owns property for which bonus
 24 depreciation was allowed in the current taxable year or in an earlier
 25 taxable year equal to the amount of adjusted gross income that
 26 would have been computed had an election not been made under
 27 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
 28 bonus depreciation to the property in the year that it was placed in
 29 service.

30 **(6) Add an amount equal to any deduction allowed under**
 31 **Section 172 of the Internal Revenue Code.**

32 (c) In the case of life insurance companies (as defined in Section
 33 816(a) of the Internal Revenue Code) that are organized under Indiana
 34 law, the same as "life insurance company taxable income" (as defined
 35 in Section 801 of the Internal Revenue Code), adjusted as follows:

36 (1) Subtract income that is exempt from taxation under this article
 37 by the Constitution and statutes of the United States.

38 (2) Add an amount equal to any deduction allowed or allowable
 39 under Section 170 of the Internal Revenue Code.

40 (3) Add an amount equal to a deduction allowed or allowable
 41 under Section 805 or Section 831(c) of the Internal Revenue Code
 42 for taxes based on or measured by income and levied at the state
 43 level by any state.

44 (4) Subtract an amount equal to the amount included in the
 45 company's taxable income under Section 78 of the Internal

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Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim

1 of the September 11 terrorist attack.

2 (3) Add or subtract the amount necessary to make the adjusted
3 gross income of any taxpayer that owns property for which bonus
4 depreciation was allowed in the current taxable year or in an earlier
5 taxable year equal to the amount of adjusted gross income that
6 would have been computed had an election not been made under
7 Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply
8 bonus depreciation to the property in the year that it was placed in
9 service.

10 **(4) Add an amount equal to any deduction allowed under**
11 **Section 172 of the Internal Revenue Code.**

12 (f) This subsection applies only to the extent that an individual paid
13 property taxes in 2004 that were imposed for the March 1, 2002,
14 assessment date or the January 15, 2003, assessment date. The
15 maximum amount of the deduction under subsection (a)(17) is equal to
16 the amount determined under STEP FIVE of the following formula:

17 STEP ONE: Determine the amount of property taxes that the
18 taxpayer paid after December 31, 2003, in the taxable year for
19 property taxes imposed for the March 1, 2002, assessment date
20 and the January 15, 2003, assessment date.

21 STEP TWO: Determine the amount of property taxes that the
22 taxpayer paid in the taxable year for the March 1, 2003,
23 assessment date and the January 15, 2004, assessment date.

24 STEP THREE: Determine the result of the STEP ONE amount
25 divided by the STEP TWO amount.

26 STEP FOUR: Multiply the STEP THREE amount by two thousand
27 five hundred dollars (\$2,500).

28 STEP FIVE: Determine the sum of the STEP THREE amount and
29 two thousand five hundred dollars (\$2,500).

30 SECTION 3. IC 6-3-2-2.5 IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.5. (a) This
32 section applies to a resident person. ~~for a particular taxable year, if the~~
33 ~~taxpayer's adjusted gross income for that taxable year is reduced~~
34 ~~because of a deduction allowed under Section 172 of the Internal~~
35 ~~Revenue Code for a net operating loss. For purposes of section 1 of this~~
36 ~~chapter, the taxpayer's adjusted gross income, for the particular taxable~~
37 ~~year, is the remainder determined under STEP FOUR of the following~~
38 ~~formula:~~

39 ~~STEP ONE: Determine the taxpayer's adjusted gross income, for~~
40 ~~the taxable year, as calculated without the deduction for net~~
41 ~~operating losses provided by Section 172 of the Internal Revenue~~
42 ~~Code.~~

43 ~~STEP TWO: Determine, in the manner prescribed in subsection~~
44 ~~(b), the amount of the taxpayer's net operating losses that are~~
45 ~~deductible for the taxable year under Section 172 of the Internal~~
46 ~~Revenue Code, as adjusted to reflect the modifications required by~~

1 IC 6-3-1-3.5:

2 STEP THREE: Enter the larger of zero (0) or the amount
3 determined under STEP TWO:

4 STEP FOUR: Subtract the amount entered under STEP THREE
5 from the amount determined under STEP ONE:

6 (b) For purposes of STEP TWO of subsection (a), the modifications
7 that are to be applied are those modifications required under
8 IC 6-3-1-3.5 for the same taxable year during which each net operating
9 loss was incurred. In addition, for purposes of STEP TWO of
10 subsection (a), the following procedures apply:

11 (1) The taxpayer's net operating loss for a particular taxable year
12 shall be treated as a positive number:

13 (2) A modification that is to be added to federal adjusted gross
14 income or federal taxable income under IC 6-3-1-3.5 shall be
15 treated as a negative number:

16 (3) A modification that is to be subtracted from federal adjusted
17 gross income or federal taxable income under IC 6-3-1-3.5 shall
18 be treated as a positive number:

19 (b) Resident persons are entitled to a net operating loss
20 deduction. The amount of the deduction taken in a taxable year
21 may not exceed the taxpayer's unused Indiana net operating
22 losses carried back or carried over to that year.

23 (c) An Indiana net operating loss equals the taxpayer's federal
24 net operating loss for a taxable year as calculated under Section
25 172 of the Internal Revenue Code, adjusted for the modifications
26 required by IC 6-3-1-3.5.

27 (d) The following provisions apply for purposes of subsection
28 (c):

29 (1) The modifications that are to be applied are those
30 modifications required under IC 6-3-1-3.5 for the same
31 taxable year in which each net operating loss was incurred.

32 (2) An Indiana net operating loss includes a net operating
33 loss that arises when the modifications required by
34 IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as
35 defined in Section 62 of the Internal Revenue Code) for the
36 taxable year in which the Indiana net operating loss is
37 determined.

38 (e) Subject to the limitations contained in subsection (g), an
39 Indiana net operating loss carryback or carryover shall be
40 available as a deduction from the taxpayer's adjusted gross income
41 (as defined in IC 6-3-1-3.5) in the carryback or carryover year
42 provided in subsection (f).

43 (f) Carrybacks and carryovers shall be determined under this
44 subsection as follows:

- 1 **(1) An Indiana net operating loss shall be an Indiana net**
 2 **operating loss carryback to each of the carryback years**
 3 **preceding the taxable year of the loss.**
 4 **(2) An Indiana net operating loss shall be an Indiana net**
 5 **operating loss carryover to each of the carryover years**
 6 **following the taxable year of the loss.**
 7 **(3) Carryback years shall be determined by reference to the**
 8 **number of years allowed for carrying back a net operating**
 9 **loss under Section 172(b) of the Internal Revenue Code.**
 10 **(4) Carryover years shall be determined by reference to the**
 11 **number of years allowed for carrying over net operating**
 12 **losses under Section 172(b) of the Internal Revenue Code.**
 13 **(5) A taxpayer who makes an election under Section**
 14 **172(b)(3) of the Internal Revenue Code to relinquish the**
 15 **carryback period with respect to a net operating loss for any**
 16 **taxable year shall be considered to have also relinquished the**
 17 **carryback of the Indiana net operating loss for purposes of**
 18 **this section.**

19 **(g) The entire amount of the Indiana net operating loss for any**
 20 **taxable year shall be carried to the earliest of the taxable years to**
 21 **which (as determined under subsection (f)) the loss may be**
 22 **carried. The amount of the Indiana net operating loss remaining**
 23 **after the deduction is taken under this section in a taxable year**
 24 **may be carried back or carried over as provided in subsection (f).**
 25 **The amount of the Indiana net operating loss carried back or**
 26 **carried over from year to year shall be reduced to the extent that**
 27 **the Indiana net operating loss carryback or carryover is used by**
 28 **the taxpayer to obtain a deduction in a taxable year until the**
 29 **occurrence of the earlier of the following:**

- 30 **(1) The entire amount of the Indiana net operating loss has**
 31 **been used as a deduction.**
 32 **(2) The Indiana net operating loss has been carried over to**
 33 **each of the carryover years provided by subsection (f).**

34 SECTION 4. IC 6-3-2-2.6, AS AMENDED BY P.L.192-2002(ss),
 35 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.6. (a) This section
 37 applies to a corporation or a nonresident person. ~~for a particular taxable~~
 38 ~~year, if the taxpayer's adjusted gross income for that taxable year is~~
 39 ~~reduced because of a deduction allowed under Section 172 of the~~
 40 ~~Internal Revenue Code for a net operating loss. For purposes of section~~
 41 ~~† of this chapter, the taxpayer's adjusted gross income, for the~~
 42 ~~particular taxable year, derived from sources within Indiana is the~~
 43 ~~remainder determined under STEP FOUR of the following formula:~~

44 ~~STEP ONE: Determine, in the manner prescribed in section 2 of~~

1 this chapter; the taxpayer's adjusted gross income; for the taxable
 2 year; derived from sources within Indiana; as calculated without
 3 the deduction for net operating losses provided by Section 172 of
 4 the Internal Revenue Code.

5 **STEP TWO:** Determine, in the manner prescribed in subsection
 6 (b); the amount of the taxpayer's net operating losses that are
 7 deductible for the taxable year under Section 172 of the Internal
 8 Revenue Code; as adjusted to reflect the modifications required by
 9 IC 6-3-1-3.5; and that are derived from sources within Indiana.

10 **STEP THREE:** Enter the larger of zero (0) or the amount
 11 determined under STEP TWO.

12 **STEP FOUR:** Subtract the amount entered under STEP THREE
 13 from the amount determined under STEP ONE.

14 (b) For purposes of STEP TWO of subsection (a); the modifications
 15 that are to be applied are those modifications required under
 16 IC 6-3-1-3.5 for the same taxable year during which each net operating
 17 loss was incurred. In addition; for purposes of STEP TWO of
 18 subsection (a); the amount of a taxpayer's net operating losses that are
 19 derived from sources within Indiana shall be determined in the same
 20 manner that the amount of the taxpayer's income derived from sources
 21 within Indiana is determined; under section 2 of this chapter; for the
 22 same taxable year during which each loss was incurred. Also; for
 23 purposes of STEP TWO of subsection (a); the following procedures
 24 apply:

25 (1) The taxpayer's net operating loss for a particular taxable year
 26 shall be treated as a positive number.

27 (2) A modification that is to be added to federal adjusted gross
 28 income or federal taxable income under IC 6-3-1-3.5 shall be
 29 treated as a negative number.

30 (3) A modification that is to be subtracted from federal adjusted
 31 gross income or federal taxable income under IC 6-3-1-3.5 shall
 32 be treated as a positive number.

33 (4) A net operating loss under this section shall be considered even
 34 though in the year the taxpayer incurred the loss the taxpayer was
 35 not subject to the tax imposed under section 1 of this chapter
 36 because the taxpayer was:

37 (A) a life insurance company (as defined in Section 816(a) of
 38 the Internal Revenue Code); or

39 (B) an insurance company subject to tax under Section 831 of
 40 the Internal Revenue Code.

41 (b) Corporations and nonresident persons are entitled to a net
 42 operating loss deduction. The amount of the deduction taken in a
 43 taxable year may not exceed the taxpayer's unused Indiana net
 44 operating losses carried back or carried over to that year.

45 (c) An Indiana net operating loss equals the taxpayer's federal

1 net operating loss for a taxable year as calculated under Section
2 172 of the Internal Revenue Code, derived from sources within
3 Indiana and adjusted for the modifications required by
4 IC 6-3-1-3.5.

5 (d) The following provisions apply for purposes of subsection
6 (c):

7 (1) The modifications that are to be applied are those
8 modifications required under IC 6-3-1-3.5 for the same
9 taxable year in which each net operating loss was incurred.

10 (2) The amount of the taxpayer's net operating loss that is
11 derived from sources within Indiana shall be determined in
12 the same manner that the amount of the taxpayer's adjusted
13 income derived from sources within Indiana is determined
14 under section 2 of this chapter for the same taxable year
15 during which each loss was incurred.

16 (3) An Indiana net operating loss includes a net operating
17 loss that arises when the modifications required by
18 IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as
19 defined in Section 63 of the Internal Revenue Code), if the
20 taxpayer is a corporation, or when the modifications required
21 by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross
22 income (as defined by Section 62 of the Internal Revenue
23 Code), if the taxpayer is a nonresident person, for the
24 taxable year in which the Indiana net operating loss is
25 determined.

26 (e) Subject to the limitations contained in subsection (g), an
27 Indiana net operating loss carryback or carryover shall be
28 available as a deduction from the taxpayer's adjusted gross income
29 derived from sources within Indiana (as defined in section 2 of
30 this chapter) in the carryback or carryover year provided in
31 subsection (f).

32 (f) Carrybacks and carryovers shall be determined under this
33 subsection as follows:

34 (1) An Indiana net operating loss shall be an Indiana net
35 operating loss carryback to each of the carryback years
36 preceding the taxable year of the loss.

37 (2) An Indiana net operating loss shall be an Indiana net
38 operating loss carryover to each of the carryover years
39 following the taxable year of the loss.

40 (3) Carryback years shall be determined by reference to the
41 number of years allowed for carrying back a net operating
42 loss under Section 172(b) of the Internal Revenue Code.

43 (4) Carryover years shall be determined by reference to the

1 number of years allowed for carrying over net operating
2 losses under Section 172(b) of the Internal Revenue Code.

3 (5) A taxpayer who makes an election under Section
4 172(b)(3) of the Internal Revenue Code to relinquish the
5 carryback period with respect to a net operating loss for any
6 taxable year shall be considered to have also relinquished the
7 carryback of the Indiana net operating loss for purposes of
8 this section.

9 (g) The entire amount of the Indiana net operating loss for any
10 taxable year shall be carried to the earliest of the taxable years to
11 which (as determined under subsection (f)) the loss may be
12 carried. The amount of the Indiana net operating loss remaining
13 after the deduction is taken under this section in a taxable year
14 may be carried back or carried over as provided in subsection (f).
15 The amount of the Indiana net operating loss carried back or
16 carried over from year to year shall be reduced to the extent that
17 the Indiana net operating loss carryback or carryover is used by
18 the taxpayer to obtain a deduction in a taxable year until the
19 occurrence of the earlier of the following:

20 (1) The entire amount of the Indiana net operating loss has
21 been used as a deduction.

22 (2) The Indiana net operating loss has been carried over to
23 each of the carryover years provided by subsection (f).

24 (h) An Indiana net operating loss deduction determined under
25 this section shall be allowed notwithstanding the fact that in the
26 year the taxpayer incurred the net operating loss the taxpayer was
27 not subject to the tax imposed under section 1 of this chapter
28 because the taxpayer was:

29 (1) a life insurance company (as defined in Section 816(a) of
30 the Internal Revenue Code); or

31 (2) an insurance company subject to tax under Section 831 of
32 the Internal Revenue Code.

33 (i) In the case of a life insurance company that claims an
34 operations loss deduction under Section 810 of the Internal
35 Revenue Code, this section shall be applied by:

36 (1) substituting the corresponding provisions of Section 810
37 of the Internal Revenue Code in place of references to
38 Section 172 of the Internal Revenue; and

39 (2) substituting life insurance company taxable income (as
40 defined in Section 801 of the Internal Revenue Code) in
41 place of references to taxable income (as defined in Section
42 63 of the Internal Revenue Code).

43 (j) For purposes of an amended return filed to carry back an

- 1 **Indiana net operating loss:**
 2 (1) the term "due date of the return" as used in
 3 IC 6-8.1-9-1(a)(1) means the due date of the return for the
 4 taxable year in which the net operating loss was incurred;
 5 and
 6 (2) the term "date the payment was due" as used in
 7 IC 6-8.1-9-2(c) means the due date of the return for the
 8 taxable year in which the net operating loss was incurred."

9 Page 3, after line 41, begin a new paragraph and insert:

10 "SECTION 6. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]
 11 (a) IC 6-2.5-4-11, as amended by this act, applies only to
 12 transactions occurring after February 29, 2004. A retail
 13 transaction to which IC 6-2.5-4-11, as amended by this act, applies
 14 shall be considered as having occurred after February 29, 2004, if
 15 charges are collected for the retail transactions upon original
 16 statements and billings dated after March 31, 2004.

17 (b) The following provisions apply to deductions for net
 18 operating losses that are claimed after December 31, 2003:

19 (1) Deductions for net operating losses that are incurred in
 20 taxable years beginning after December 31, 2003, and are
 21 carried back or carried forward and deducted in taxable years
 22 ending before January 1, 2004, must be calculated under
 23 IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

24 (2) Deductions for net operating losses that were incurred in
 25 taxable years ending before January 1, 2004, and that are
 26 carried forward and deducted in taxable years ending after
 27 December 31, 2003, must be calculated under IC 6-3-2-2.5
 28 and IC 6-3-2-2.6, both as amended by this act.

29 (3) Deductions for net operating losses that were incurred in
 30 taxable years ending before January 1, 2004, and are carried
 31 back or carried forward and deducted in taxable years ending
 32 before January 1, 2004, must be calculated under the
 33 versions of IC 6-3-2-2.5 and IC 6-3-2-2.6 that were in effect
 34 in the year the net operating loss was incurred.

35 (4) Regardless of the applicable method of calculation in the
 36 year in which the net operating loss is deducted, any net
 37 operating loss available for carry forward shall be reduced by
 38 the amount of the net operating loss previously deducted in
 39 an earlier taxable year.

40 SECTION 7. An emergency is declared for this act."

41 Renumber all SECTIONS consecutively.

(Reference is to ESB 247 as printed February 17, 2004.)

Representative Cochran