



February 17, 2006

**ENGROSSED  
SENATE BILL No. 258**

DIGEST OF SB 258 (Updated February 15, 2006 8:41 am - DI 92)

**Citations Affected:** IC 4-3; IC 4-12; IC 5-1; IC 6-2.5; IC 6-3; noncode.

**Synopsis:** Taxation and state and local finance. Specifies that the governor, with the assistance of the budget director, is responsible for establishing and maintaining internal controls on the collection, recording, and reporting of accounting and financial information in all state agencies in the executive department of state government. Requires the budget director and the governor to certify that: (1) certain statements with financial information fairly represent the financial condition and results of operation of the state; and (2) the state's accounting internal controls in the executive department of state government are effective. Changes the date for validation of all outstanding bonds issued or lease agreements executed by various governmental entities from March 15, 2000, to March 15, 2006. Specifies that tobacco products are not food and food ingredients. Defines the terms "direct mail" and "bundled transaction". Provides that a person is a retail merchant making a retail transaction when the person sells tangible personal property as part of a bundled transaction. Provides that a person who: (1) voluntarily registers as a seller under  
(Continued next page)

**Effective:** Upon passage; January 1, 2005 (retroactive); January 1, 2006 (retroactive); March 15, 2006 (retroactive); July 1, 2006.

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**Kenley, Hume**

(HOUSE SPONSORS — ESPICH, LEONARD)

January 9, 2006, read first time and referred to Committee on Tax and Fiscal Policy.  
January 19, 2006, reported favorably — Do Pass.  
January 23, 2006, read second time, amended, ordered engrossed.  
January 24, 2006, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Ways and Means.  
February 16, 2006, amended, reported — Do Pass.

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Digest Continued

the streamlined sales and use tax agreement; (2) is not a model 1, model 2, or model 3 seller (as defined under the streamlined sales and use tax agreement); and (3) had a liability for collection of state gross retail and use tax for the preceding calendar year that did not exceed \$1,000; is not required to file a monthly state gross retail and use tax return. Provides that a transaction in which a florist that takes a floral order from a purchaser and transmits the floral order to another florist for delivery is sourced to the location of the florist who originally took the floral order from the purchaser. Corrects an obsolete reference to the Internal Revenue Code related to a state income tax deduction for dependents. For taxable years beginning after December 31, 2005, expands the class of dependents that permit a taxpayer to take an additional \$1,500 dependent state income tax deduction from "son, stepson, daughter, or stepdaughter who is not more than 19 years of age or a student" to any "son, stepson, daughter, stepdaughter, or foster child of the taxpayer, descendant of a son, stepson, daughter, stepdaughter, or foster child of the taxpayer, brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative who is not more than 19 years of age, a student, or permanently and totally disabled". Provides that for taxable years beginning after December 31, 2005, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2006.

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February 17, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

# ENGROSSED SENATE BILL No. 258



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-3-1-7 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2006]: **Sec. 7. The governor, with the assistance of the budget**  
4 **director, is responsible for establishing and maintaining internal**  
5 **controls (as defined in IC 4-12-1-1.5) on the collection, recording,**  
6 **processing, summarizing, and reporting of accounting and**  
7 **financial information in all state agencies in the executive**  
8 **department of state government. The governor and the budget**  
9 **director shall work with the state board of accounts to formulate,**  
10 **prescribe, and install systems of accounting and reporting under**  
11 **IC 5-11-1-2, IC 5-11-1-21, and IC 5-11-1-26 to ensure sufficient**  
12 **internal control over accounting and financial information to**  
13 **enable the governor and budget director to make the certifications**  
14 **required by IC 4-12-1-19.**

15 SECTION 2. IC 4-12-1-1.5 IS ADDED TO THE INDIANA CODE  
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2006]: **Sec. 1.5. As used in this chapter, "internal control" means**

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1 a process, effected by the governor, the state board of accounts,  
2 and other personnel in the executive department of state  
3 government, designed to provide reasonable assurance regarding  
4 the achievement of the following objectives:

- 5 (1) Effectiveness and efficiency of operations, including the  
6 use of the resources at the disposal of the executive  
7 department of state government.
- 8 (2) The reliability of financial reporting, including the  
9 following:
  - 10 (A) Reports on budget execution.
  - 11 (B) Financial statements.
  - 12 (C) Other reports for internal and external use.
- 13 (3) Compliance with applicable laws and rules.
- 14 (4) Safeguarding assets.

15 SECTION 3. IC 4-12-1-19 IS ADDED TO THE INDIANA CODE  
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2006]: Sec. 19. (a) This section applies to the following  
18 statements:

- 19 (1) Year end closing statements that:
  - 20 (A) include financial information about the state cash or  
21 fund balances, revenues, or expenditures; and
  - 22 (B) are prepared by the budget agency, the budget  
23 committee, or another entity for the budget agency or the  
24 budget committee.
- 25 (2) Any other interim or biennial statement that:
  - 26 (A) concerns state cash or state fund balances, revenues, or  
27 expenditures;
  - 28 (B) is prepared by the budget agency, the budget  
29 committee, or another entity for the budget agency or the  
30 budget committee; and
  - 31 (C) is distributed outside the budget agency.
- 32 (3) A comprehensive annual financial report prepared by the  
33 auditor of state.
- 34 (4) To the extent provided in subsection (c), budget reports  
35 prepared under this chapter and surplus statements prepared  
36 by the budget agency, the budget committee, or another entity  
37 for the budget agency or the budget committee that:
  - 38 (A) forecast the effect of appropriations or expenditures on  
39 cash or fund balances in a future period; and
  - 40 (B) are distributed outside the budget agency.

41 (b) The budget director and the governor both shall certify in a  
42 statement described in subsection (a) that:

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- 1 (1) the signing officers have reviewed the statement;
- 2 (2) based on the signing officers' knowledge, the statement
- 3 does not:
- 4 (A) contain any untrue statement of a material fact; or
- 5 (B) omit a material fact necessary to make the statements
- 6 made, in light of the circumstances under which the
- 7 statements are made, not misleading;
- 8 (3) based on the signing officer's knowledge, the information
- 9 in the statement fairly presents in all material respects the
- 10 financial condition and results of operations of the state
- 11 covered by the statement as of and for the periods presented
- 12 in the statement;
- 13 (4) the signing officers:
- 14 (A) are responsible for establishing and maintaining
- 15 internal controls on the collection, recording, and
- 16 reporting of accounting and financial information in the
- 17 executive department of state government;
- 18 (B) have designed the internal controls to ensure that
- 19 material information relating to the executive department
- 20 of state government is made known to the signing officers
- 21 by others within those entities, particularly during the
- 22 period for which the statement is prepared;
- 23 (C) have evaluated the effectiveness of the state's internal
- 24 controls within ninety (90) days before the date of the
- 25 statement; and
- 26 (D) have presented in the statement their conclusions about
- 27 the effectiveness of the internal controls based on their
- 28 evaluation as of that date;
- 29 (5) the signing officers have disclosed to the auditor of state,
- 30 the members of the state board of finance, and the state board
- 31 of accounts:
- 32 (A) all significant deficiencies in the design or operation of
- 33 internal controls in the executive department of state
- 34 government and, to the extent known to the signing
- 35 officers, in any other agency or component unit covered by
- 36 the statement that could adversely affect the state's ability
- 37 to collect, record, process, summarize, and report
- 38 accounting and financial data, and have identified for the
- 39 auditor of state, the members of the state board of finance,
- 40 and the state board of accounts any material weaknesses in
- 41 internal controls; and
- 42 (B) any fraud, whether or not material, that involves

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1 officials or other employees who have a significant role in  
2 the state's internal controls of the executive department of  
3 state government and, to the extent known to the signing  
4 officers, in any other agency or component unit covered by  
5 the statement; and

6 (6) the signing officers have indicated in the statement  
7 whether or not there were significant changes in internal  
8 controls or in other factors that could significantly affect  
9 internal controls subsequent to the date of their evaluation,  
10 including any corrective actions with regard to significant  
11 deficiencies and material weaknesses.

12 (c) This subsection applies to a statement described in  
13 subsection (a)(3). The certifications described in subsection (b)(1)  
14 and (b)(2) must be included with the statement. The budget  
15 director and the governor also must include a certification that  
16 information in the statement is reported using the same accounting  
17 and reporting principles and methods that apply to the reporting  
18 of historical financial information. However, if there is a change in  
19 accounting principles and methods, the budget director and the  
20 governor shall indicate the change in accounting principles and  
21 methods as an exception and explain the effect of the change in  
22 accounting principles and methods on the financial information.

23 (d) The auditor of state shall include a statement prepared  
24 under this section for a comprehensive annual financial report as  
25 supplemental information.

26 SECTION 4. IC 5-1-1-1 IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE MARCH 15, 2006 (RETROACTIVE)]: Sec. 1. (a) The  
28 following definitions apply throughout this section:

29 (1) "Agreement" means any agreement that includes terms,  
30 representations, or provisions relating to:

31 (A) credit enhancement of, or rate covenants supporting,  
32 any bonds, notes, evidences of indebtedness, leases, swap  
33 agreements, or other written obligations described in  
34 subsection (b);

35 (B) any indenture or provision regarding any indenture  
36 relating to any bonds, notes, evidences of indebtedness,  
37 leases, swap agreements, or other written obligations  
38 described in subsection (b);

39 (C) payment of any bonds, notes, evidences of  
40 indebtedness, leases, swap agreements, or other written  
41 obligations described in subsection (b) in the event of a  
42 termination of the agreement; or

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**(D) public works, capital improvements, or economic development projects.**

**(2) "Leasing body"** means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building or buildings to an entity named in subsection (b) other than another leasing body.

**(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.**

(b) All bonds, notes, evidences of indebtedness, **swap agreements, agreements,** leases, or other written obligations issued **or executed by** or in the name of any:

**(1)** state agency, county, township, city, incorporated town, school corporation, state educational institution, state supported institution of higher learning, political subdivision, joint agency created under IC 8-1-2.2, leasing body, **separate body corporate and politic,** or any other political, municipal, public or quasi-public corporation; **or in the name of any**

**(2)** special assessment or taxing district; **or in the name of any**

**(3) board,** commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations have been executed before March 15, ~~2000~~: **2006.** All **governance, organizational, or other** proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations were issued **or executed** or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

**(1)** entered into by a joint agency created under IC 8-1-2.2; and

**(2)** its members used for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006.** All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility

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1 capacity or service were executed or entered into are hereby fully  
2 legalized and declared valid.

3 (d) All interlocal cooperation agreements entered into by political  
4 subdivisions or governmental entities under IC 36-1-7 are hereby  
5 legalized and declared valid if entered into before March 15, ~~2000~~  
6 **2006**. All proceedings held and actions taken under which interlocal  
7 cooperation agreements were executed or entered into are hereby fully  
8 legalized and validated.

9 SECTION 5. IC 6-2.5-1-11.5 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2006]: **Sec. 11.5. (a) This section applies to**  
12 **retail transactions occurring after December 31, 2007.**

13 (b) **"Bundled transaction" means a retail sale of two (2) or more**  
14 **products, except real property and services to real property, that**  
15 **are:**

- 16 (1) distinct;  
17 (2) identifiable; and  
18 (3) sold for one (1) non-itemized price.

19 (c) **The term does not include a retail sale in which the sales**  
20 **price of a product varies, or is negotiable, based on other products**  
21 **that the purchaser selects for inclusion in the transaction.**

22 (d) **The term does not include a retail sale that:**

23 (1) **is comprised of:**

- 24 (A) **a service that is the true object of the transaction; and**  
25 (B) **tangible personal property that:**

- 26 (i) **is essential to the use of the service; and**  
27 (ii) **is provided exclusively in connection with the service;**

28 (2) **includes both taxable and nontaxable products in which:**

- 29 (A) **the seller's purchase price; or**  
30 (B) **the sales price;**

31 **of the taxable products does not exceed ten percent (10%) of**  
32 **the total purchase price or the total sales price of the bundled**  
33 **products; or**

34 (3) **includes both exempt tangible personal property and**  
35 **taxable tangible personal property:**

36 (A) **any of which is classified as:**

- 37 (i) **food and food ingredients;**  
38 (ii) **drugs;**  
39 (iii) **durable medical equipment;**  
40 (iv) **mobility enhancing equipment;**  
41 (v) **over-the-counter drugs;**  
42 (vi) **prosthetic devices; or**

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1 (vii) medical supplies; and  
 2 (B) for which:  
 3 (i) the seller's purchase price; or  
 4 (ii) the sales price;  
 5 of the taxable tangible personal property is fifty percent  
 6 (50%) or less of the total purchase price or the total sales  
 7 price of the bundled tangible personal property.  
 8 The determination under clause (B) must be made on the  
 9 basis of either individual item purchase prices or individual  
 10 item sale prices.

11 SECTION 6. IC 6-2.5-1-16.5 IS ADDED TO THE INDIANA  
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 13 [EFFECTIVE JULY 1, 2006]: **Sec. 16.5. (a) "Direct mail" means**  
 14 **printed material delivered by United States mail or another**  
 15 **delivery service to:**

- 16 (1) a mass audience; or
  - 17 (2) addresses on a mailing list:
    - 18 (A) provided by a purchaser; or
    - 19 (B) specified at the direction of a purchaser;
- 20 if the cost of the item is not billed directly to the recipient.

21 (b) The term includes tangible personal property that the  
 22 purchaser supplies directly or indirectly to the direct mail seller for  
 23 inclusion in the package containing the printed material.

24 (c) The term does not include multiple items of printed material  
 25 delivered to a single address.

26 SECTION 7. IC 6-2.5-1-20 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. "Food and food**  
 28 **ingredients" means substances, whether in liquid, concentrated, solid,**  
 29 **frozen, dried, or dehydrated form, that are sold for ingestion or chewing**  
 30 **by humans and that are consumed for their taste or nutritional value.**  
 31 **The term does not include alcoholic beverages, candy, dietary**  
 32 **supplements, tobacco products, or soft drinks.**

33 SECTION 8. IC 6-2.5-4-15 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 35 1, 2006]: **Sec. 15. (a) This section applies to retail transactions**  
 36 **occurring after December 31, 2007.**

37 (b) A person is a retail merchant making a retail transaction  
 38 when the person sells tangible personal property as part of a  
 39 bundled transaction.

40 SECTION 9. IC 6-2.5-6-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1. (a) Except as**  
 42 **otherwise provided in this section, each person liable for collecting**

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1 the state gross retail or use tax shall file a return for each calendar  
 2 month and pay the state gross retail and use taxes that the person  
 3 collects during that month. A person shall file the person's return for a  
 4 particular month with the department and make the person's tax  
 5 payment for that month to the department not more than thirty (30)  
 6 days after the end of that month, if that person's average monthly  
 7 liability for collections of state gross retail and use taxes under this  
 8 section as determined by the department for the preceding calendar  
 9 year did not exceed one thousand dollars (\$1,000). If a person's average  
 10 monthly liability for collections of state gross retail and use taxes under  
 11 this section as determined by the department for the preceding calendar  
 12 year exceeded one thousand dollars (\$1,000), that person shall file the  
 13 person's return for a particular month and make the person's tax  
 14 payment for that month to the department not more than twenty (20)  
 15 days after the end of that month.

16 (b) If a person files a combined sales and withholding tax report and  
 17 either this section or IC 6-3-4-8.1 requires sales or withholding tax  
 18 reports to be filed and remittances to be made within twenty (20) days  
 19 after the end of each month, then the person shall file the combined  
 20 report and remit the sales and withholding taxes due within twenty (20)  
 21 days after the end of each month.

22 (c) Instead of the twelve (12) monthly reporting periods required by  
 23 subsection (a), the department may permit a person to divide a year into  
 24 a different number of reporting periods. The return and payment for  
 25 each reporting period is due not more than twenty (20) days after the  
 26 end of the period.

27 (d) Instead of the reporting periods required under subsection (a),  
 28 the department may permit a retail merchant to report and pay the  
 29 merchant's state gross retail and use taxes for a period covering:

- 30 (1) a calendar year, if the retail merchant's average monthly state  
 31 gross retail and use tax liability in the previous calendar year does  
 32 not exceed ten dollars (\$10);
- 33 (2) a calendar half year, if the retail merchant's average monthly  
 34 state gross retail and use tax liability in the previous calendar year  
 35 does not exceed twenty-five dollars (\$25); or
- 36 (3) a calendar quarter, if the retail merchant's average monthly  
 37 state gross retail and use tax liability in the previous calendar year  
 38 does not exceed seventy-five dollars (\$75).

39 A retail merchant using a reporting period allowed under this  
 40 subsection must file the merchant's return and pay the merchant's tax  
 41 for a reporting period not later than the last day of the month  
 42 immediately following the close of that reporting period.

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1 (e) If a retail merchant reports the merchant's adjusted gross income  
2 tax, or the tax the merchant pays in place of the adjusted gross income  
3 tax, over a fiscal year or fiscal quarter not corresponding to the  
4 calendar year or calendar quarter, the merchant may, without prior  
5 departmental approval, report and pay the merchant's state gross retail  
6 and use taxes over the merchant's fiscal period that corresponds to the  
7 calendar period the merchant is permitted to use under subsection (d).  
8 However, the department may, at any time, require the retail merchant  
9 to stop using the fiscal reporting period.

10 (f) If a retail merchant files a combined sales and withholding tax  
11 report, the reporting period for the combined report is the shortest  
12 period required under:

- 13 (1) this section;
- 14 (2) IC 6-3-4-8; or
- 15 (3) IC 6-3-4-8.1.

16 (g) If the department determines that a person's:  
17 (1) estimated monthly gross retail and use tax liability for the  
18 current year; or  
19 (2) average monthly gross retail and use tax liability for the  
20 preceding year;

21 exceeds ten thousand dollars (\$10,000), the person shall pay the  
22 monthly gross retail and use taxes due by electronic funds transfer (as  
23 defined in IC 4-8.1-2-7) or by delivering in person or by overnight  
24 courier a payment by cashier's check, certified check, or money order  
25 to the department. The transfer or payment shall be made on or before  
26 the date the tax is due.

27 (h) If a person's gross retail and use tax payment is made by  
28 electronic funds transfer, the taxpayer is not required to file a monthly  
29 gross retail and use tax return. However, the person shall file a  
30 quarterly gross retail and use tax return before the twentieth day after  
31 the end of each calendar quarter.

32 (i) **A person:**  
33 (1) **who has voluntarily registered as a seller under the**  
34 **Streamlined Sales and Use Tax Agreement;**  
35 (2) **who is not a Model 1, Model 2, or Model 3 seller (as**  
36 **defined in the Streamlined Sales and Use Tax Agreement);**  
37 **and**  
38 (3) **whose liability for collections of state gross retail and use**  
39 **taxes under this section for the preceding calendar year as**  
40 **determined by the department does not exceed one thousand**  
41 **dollars (\$1,000);**  
42 **is not required to file a monthly gross retail and use tax return.**

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1 SECTION 10. IC 6-2.5-13-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in  
3 this section, the terms "receive" and "receipt" mean:

- 4 (1) taking possession of tangible personal property;
- 5 (2) making first use of services; or
- 6 (3) taking possession or making first use of digital goods;

7 whichever comes first. The terms "receive" and "receipt" do not include  
8 possession by a shipping company on behalf of the purchaser.

9 (b) This section:

- 10 (1) applies regardless of the characterization of a product as
- 11 tangible personal property, a digital good, or a service;
- 12 (2) applies only to the determination of a seller's obligation to pay
- 13 or collect and remit a sales or use tax with respect to the seller's
- 14 retail sale of a product; and
- 15 (3) does not affect the obligation of a purchaser or lessee to remit
- 16 tax on the use of the product to the taxing jurisdictions of that use.

17 (c) This section does not apply to sales or use taxes levied on the  
18 following:

- 19 (1) The retail sale or transfer of watercraft, modular homes,
- 20 manufactured homes, or mobile homes. These items must be
- 21 sourced according to the requirements of this article.
- 22 (2) The retail sale, excluding lease or rental, of motor vehicles,
- 23 trailers, semitrailers, or aircraft that do not qualify as
- 24 transportation equipment, as defined in subsection (g). The retail
- 25 sale of these items shall be sourced according to the requirements
- 26 of this article, and the lease or rental of these items must be
- 27 sourced according to subsection (f).
- 28 (3) Telecommunications services, as set forth in IC 6-2.5-12, shall
- 29 be sourced in accordance with IC 6-2.5-12.

30 (d) The retail sale, excluding lease or rental, of a product shall be  
31 sourced as follows:

- 32 (1) When the product is received by the purchaser at a business
- 33 location of the seller, the sale is sourced to that business location.
- 34 (2) When the product is not received by the purchaser at a
- 35 business location of the seller, the sale is sourced to the location
- 36 where receipt by the purchaser (or the purchaser's donee,
- 37 designated as such by the purchaser) occurs, including the
- 38 location indicated by instructions for delivery to the purchaser (or
- 39 donee), known to the seller.
- 40 (3) When subdivisions (1) and (2) do not apply, the sale is
- 41 sourced to the location indicated by an address for the purchaser
- 42 that is available from the business records of the seller that are

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1 maintained in the ordinary course of the seller's business when  
 2 use of this address does not constitute bad faith.  
 3 (4) When subdivisions (1), (2), and (3) do not apply, the sale is  
 4 sourced to the location indicated by an address for the purchaser  
 5 obtained during the consummation of the sale, including the  
 6 address of a purchaser's payment instrument, if no other address  
 7 is available, when use of this address does not constitute bad  
 8 faith.  
 9 (5) When none of the previous rules of subdivision (1), (2), (3),  
 10 or (4) apply, including the circumstance in which the seller is  
 11 without sufficient information to apply the previous rules, then the  
 12 location will be determined by the address from which tangible  
 13 personal property was shipped, from which the digital good or the  
 14 computer software delivered electronically was first available for  
 15 transmission by the seller, or from which the service was provided  
 16 (disregarding for these purposes any location that merely provided  
 17 the digital transfer of the product sold).  
 18 (e) The lease or rental of tangible personal property, other than  
 19 property identified in subsection (f) or (g), shall be sourced as follows:  
 20 (1) For a lease or rental that requires recurring periodic payments,  
 21 the first periodic payment is sourced the same as a retail sale in  
 22 accordance with the provisions of subsection (d). Periodic  
 23 payments made subsequent to the first payment are sourced to the  
 24 primary property location for each period covered by the payment.  
 25 The primary property location shall be as indicated by an address  
 26 for the property provided by the lessee that is available to the  
 27 lessor from its records maintained in the ordinary course of  
 28 business, when use of this address does not constitute bad faith.  
 29 The property location shall not be altered by intermittent use at  
 30 different locations, such as use of business property that  
 31 accompanies employees on business trips and service calls.  
 32 (2) For a lease or rental that does not require recurring periodic  
 33 payments, the payment is sourced the same as a retail sale in  
 34 accordance with the provisions of subsection (d).  
 35 This subsection does not affect the imposition or computation of sales  
 36 or use tax on leases or rentals based on a lump sum or an accelerated  
 37 basis, or on the acquisition of property for lease.  
 38 (f) The lease or rental of motor vehicles, trailers, semitrailers, or  
 39 aircraft that do not qualify as transportation equipment, as defined in  
 40 subsection (g), shall be sourced as follows:  
 41 (1) For a lease or rental that requires recurring periodic payments,  
 42 each periodic payment is sourced to the primary property location.

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1 The primary property location shall be as indicated by an address  
2 for the property provided by the lessee that is available to the  
3 lessor from its records maintained in the ordinary course of  
4 business, when use of this address does not constitute bad faith.  
5 This location shall not be altered by intermittent use at different  
6 locations.

7 (2) For a lease or rental that does not require recurring periodic  
8 payments, the payment is sourced the same as a retail sale in  
9 accordance with the provisions of subsection (d).

10 This subsection does not affect the imposition or computation of sales  
11 or use tax on leases or rentals based on a lump sum or accelerated  
12 basis, or on the acquisition of property for lease.

13 (g) The retail sale, including lease or rental, of transportation  
14 equipment shall be sourced the same as a retail sale in accordance with  
15 the provisions of subsection (d), notwithstanding the exclusion of lease  
16 or rental in subsection (d). As used in this subsection, "transportation  
17 equipment" means any of the following:

18 (1) Locomotives and railcars that are used for the carriage of  
19 persons or property in interstate commerce.

20 (2) Trucks and truck-tractors with a gross vehicle weight rating  
21 (GVWR) of ten thousand one (10,001) pounds or greater, trailers,  
22 semitrailers, or passenger buses that are:

23 (A) registered through the International Registration Plan; and

24 (B) operated under authority of a carrier authorized and  
25 certificated by the U.S. Department of Transportation or  
26 another federal authority to engage in the carriage of persons  
27 or property in interstate commerce.

28 (3) Aircraft that are operated by air carriers authorized and  
29 certificated by the U.S. Department of Transportation or another  
30 federal or a foreign authority to engage in the carriage of persons  
31 or property in interstate or foreign commerce.

32 (4) Containers designed for use on and component parts attached  
33 or secured on the items set forth in subdivisions (1) through (3).

34 **(h) This subsection applies to retail sales of floral products that  
35 occur before January 1, 2008. Notwithstanding subsection (d), a  
36 retail sale of floral products in which a florist or floral business:**

37 **(1) takes a floral order from a purchaser; and**

38 **(2) transmits the floral order by telegraph, telephone, or other  
39 means of communication to another florist or floral business  
40 for delivery;**

41 **is sourced to the location of the florist or floral business that  
42 originally takes the floral order from the purchaser.**

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1 SECTION 11. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005,  
2 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this  
4 article, the term "adjusted gross income" shall mean the following:

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

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

10 (2) Add an amount equal to any deduction or deductions allowed  
11 or allowable pursuant to Section 62 of the Internal Revenue Code  
12 for taxes based on or measured by income and levied at the state  
13 level by 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:  
27 (A) **for taxable years beginning after December 31, 2004,**  
28 **and before January 1, 2006,** one thousand five hundred  
29 dollars (\$1,500) for each of the exemptions allowed under  
30 Section 151(c)(1)(B) of the Internal Revenue Code ~~for taxable~~  
31 ~~years beginning after December 31, 1996; (as effective~~  
32 **January 1, 2004) and for taxable years beginning after**  
33 **December 31, 2005, one thousand five hundred dollars**  
34 **(\$1,500) for each of the exemptions allowed under Section**  
35 **151(c) of the Internal Revenue Code for a dependent that**  
36 **qualifies as a qualified child (as defined in Section 152 of**  
37 **the Internal Revenue Code); and**

38 (B) five hundred dollars (\$500) for each additional amount  
39 allowable under Section 63(f)(1) of the Internal Revenue Code  
40 if the adjusted gross income of the taxpayer, or the taxpayer  
41 and the taxpayer's spouse in the case of a joint return, is less  
42 than forty thousand dollars (\$40,000).

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- 1 This amount is in addition to the amount subtracted under
- 2 subdivision (4).
- 3 (6) Subtract an amount equal to the lesser of:
- 4 (A) that part of the individual's adjusted gross income (as
- 5 defined in Section 62 of the Internal Revenue Code) for that
- 6 taxable year that is subject to a tax that is imposed by a
- 7 political subdivision of another state and that is imposed on or
- 8 measured by income; or
- 9 (B) two thousand dollars (\$2,000).
- 10 (7) Add an amount equal to the total capital gain portion of a
- 11 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 12 Internal Revenue Code) if the lump sum distribution is received
- 13 by the individual during the taxable year and if the capital gain
- 14 portion of the distribution is taxed in the manner provided in
- 15 Section 402 of the Internal Revenue Code.
- 16 (8) Subtract any amounts included in federal adjusted gross
- 17 income under Section 111 of the Internal Revenue Code as a
- 18 recovery of items previously deducted as an itemized deduction
- 19 from adjusted gross income.
- 20 (9) Subtract any amounts included in federal adjusted gross
- 21 income under the Internal Revenue Code which amounts were
- 22 received by the individual as supplemental railroad retirement
- 23 annuities under 45 U.S.C. 231 and which are not deductible under
- 24 subdivision (1).
- 25 (10) Add an amount equal to the deduction allowed under Section
- 26 221 of the Internal Revenue Code for married couples filing joint
- 27 returns if the taxable year began before January 1, 1987.
- 28 (11) Add an amount equal to the interest excluded from federal
- 29 gross income by the individual for the taxable year under Section
- 30 128 of the Internal Revenue Code if the taxable year began before
- 31 January 1, 1985.
- 32 (12) Subtract an amount equal to the amount of federal Social
- 33 Security and Railroad Retirement benefits included in a taxpayer's
- 34 federal gross income by Section 86 of the Internal Revenue Code.
- 35 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 36 residing in Indiana for a period of less than the taxpayer's entire
- 37 taxable year, the total amount of the deductions allowed pursuant
- 38 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 39 which bears the same ratio to the total as the taxpayer's income
- 40 taxable in Indiana bears to the taxpayer's total income.
- 41 (14) In the case of an individual who is a recipient of assistance
- 42 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,

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- 1 subtract an amount equal to that portion of the individual's  
 2 adjusted gross income with respect to which the individual is not  
 3 allowed under federal law to retain an amount to pay state and  
 4 local income taxes.
- 5 (15) In the case of an eligible individual, subtract the amount of  
 6 a Holocaust victim's settlement payment included in the  
 7 individual's federal adjusted gross income.
- 8 (16) For taxable years beginning after December 31, 1999,  
 9 subtract an amount equal to the portion of any premiums paid  
 10 during the taxable year by the taxpayer for a qualified long term  
 11 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
 12 taxpayer's spouse, or both.
- 13 (17) Subtract an amount equal to the lesser of:  
 14 (A) for a taxable year:  
 15 (i) including any part of 2004, the amount determined under  
 16 subsection (f); and  
 17 (ii) beginning after December 31, 2004, two thousand five  
 18 hundred dollars (\$2,500); or  
 19 (B) the amount of property taxes that are paid during the  
 20 taxable year in Indiana by the individual on the individual's  
 21 principal place of residence.
- 22 (18) Subtract an amount equal to the amount of a September 11  
 23 terrorist attack settlement payment included in the individual's  
 24 federal adjusted gross income.
- 25 (19) Add or subtract the amount necessary to make the adjusted  
 26 gross income of any taxpayer that owns property for which bonus  
 27 depreciation was allowed in the current taxable year or in an  
 28 earlier taxable year equal to the amount of adjusted gross income  
 29 that would have been computed had an election not been made  
 30 under Section 168(k) of the Internal Revenue Code to apply bonus  
 31 depreciation to the property in the year that it was placed in  
 32 service.
- 33 (20) Add an amount equal to any deduction allowed under  
 34 Section 172 of the Internal Revenue Code.
- 35 (21) Add or subtract the amount necessary to make the adjusted  
 36 gross income of any taxpayer that placed Section 179 property (as  
 37 defined in Section 179 of the Internal Revenue Code) in service  
 38 in the current taxable year or in an earlier taxable year equal to  
 39 the amount of adjusted gross income that would have been  
 40 computed had an election for federal income tax purposes not  
 41 been made for the year in which the property was placed in  
 42 service to take deductions under Section 179 of the Internal

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- 1 Revenue Code in a total amount exceeding twenty-five thousand
- 2 dollars (\$25,000).
- 3 (22) Add an amount equal to the amount that a taxpayer claimed
- 4 as a deduction for domestic production activities for the taxable
- 5 year under Section 199 of the Internal Revenue Code for federal
- 6 income tax purposes.
- 7 (b) In the case of corporations, the same as "taxable income" (as
- 8 defined in Section 63 of the Internal Revenue Code) adjusted as
- 9 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
- 25 earlier taxable year equal to the amount of adjusted gross income
- 26 that would have been computed had an election not been made
- 27 under Section 168(k) of the Internal Revenue Code to apply bonus
- 28 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 Section
- 31 172 of the Internal Revenue Code.
- 32 (7) Add or subtract the amount necessary to make the adjusted
- 33 gross income of any taxpayer that placed Section 179 property (as
- 34 defined in Section 179 of the Internal Revenue Code) in service
- 35 in the current taxable year or in an earlier taxable year equal to
- 36 the amount of adjusted gross income that would have been
- 37 computed had an election for federal income tax purposes not
- 38 been made for the year in which the property was placed in
- 39 service to take deductions under Section 179 of the Internal
- 40 Revenue Code in a total amount exceeding twenty-five thousand
- 41 dollars (\$25,000).
- 42 (8) Add an amount equal to the amount that a taxpayer claimed as

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- 1 a deduction for domestic production activities for the taxable year  
 2 under Section 199 of the Internal Revenue Code for federal  
 3 income tax purposes.
- 4 (c) In the case of life insurance companies (as defined in Section  
 5 816(a) of the Internal Revenue Code) that are organized under Indiana  
 6 law, the same as "life insurance company taxable income" (as defined  
 7 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 8 (1) Subtract income that is exempt from taxation under this article  
 9 by the Constitution and statutes of the United States.
  - 10 (2) Add an amount equal to any deduction allowed or allowable  
 11 under Section 170 of the Internal Revenue Code.
  - 12 (3) Add an amount equal to a deduction allowed or allowable  
 13 under Section 805 or Section 831(c) of the Internal Revenue Code  
 14 for taxes based on or measured by income and levied at the state  
 15 level by any state.
  - 16 (4) Subtract an amount equal to the amount included in the  
 17 company's taxable income under Section 78 of the Internal  
 18 Revenue Code.
  - 19 (5) Add or subtract the amount necessary to make the adjusted  
 20 gross income of any taxpayer that owns property for which bonus  
 21 depreciation was allowed in the current taxable year or in an  
 22 earlier taxable year equal to the amount of adjusted gross income  
 23 that would have been computed had an election not been made  
 24 under Section 168(k) of the Internal Revenue Code to apply bonus  
 25 depreciation to the property in the year that it was placed in  
 26 service.
  - 27 (6) Add an amount equal to any deduction allowed under Section  
 28 172 or Section 810 of the Internal Revenue Code.
  - 29 (7) Add or subtract the amount necessary to make the adjusted  
 30 gross income of any taxpayer that placed Section 179 property (as  
 31 defined in Section 179 of the Internal Revenue Code) in service  
 32 in the current taxable year or in an earlier taxable year equal to  
 33 the amount of adjusted gross income that would have been  
 34 computed had an election for federal income tax purposes not  
 35 been made for the year in which the property was placed in  
 36 service to take deductions under Section 179 of the Internal  
 37 Revenue Code in a total amount exceeding twenty-five thousand  
 38 dollars (\$25,000).
  - 39 (8) Add an amount equal to the amount that a taxpayer claimed as  
 40 a deduction for domestic production activities for the taxable year  
 41 under Section 199 of the Internal Revenue Code for federal  
 42 income tax purposes.

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1 (d) In the case of insurance companies subject to tax under Section  
2 831 of the Internal Revenue Code and organized under Indiana law, the  
3 same as "taxable income" (as defined in Section 832 of the Internal  
4 Revenue Code), adjusted as follows:

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

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

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

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

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

24 (6) Add an amount equal to any deduction allowed under Section  
25 172 of the Internal Revenue Code.

26 (7) Add or subtract the amount necessary to make the adjusted  
27 gross income of any taxpayer that placed Section 179 property (as  
28 defined in Section 179 of the Internal Revenue Code) in service  
29 in the current taxable year or in an earlier taxable year equal to  
30 the amount of adjusted gross income that would have been  
31 computed had an election for federal income tax purposes not  
32 been made for the year in which the property was placed in  
33 service to take deductions under Section 179 of the Internal  
34 Revenue Code in a total amount exceeding twenty-five thousand  
35 dollars (\$25,000).

36 (8) Add an amount equal to the amount that a taxpayer claimed as  
37 a deduction for domestic production activities for the taxable year  
38 under Section 199 of the Internal Revenue Code for federal  
39 income tax purposes.

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

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- 1 (1) Subtract income that is exempt from taxation under this article
- 2 by the Constitution and statutes of the United States.
- 3 (2) Subtract an amount equal to the amount of a September 11
- 4 terrorist attack settlement payment included in the federal
- 5 adjusted gross income of the estate of a victim of the September
- 6 11 terrorist attack or a trust to the extent the trust benefits a victim
- 7 of the September 11 terrorist attack.
- 8 (3) Add or subtract the amount necessary to make the adjusted
- 9 gross income of any taxpayer that owns property for which bonus
- 10 depreciation was allowed in the current taxable year or in an
- 11 earlier taxable year equal to the amount of adjusted gross income
- 12 that would have been computed had an election not been made
- 13 under Section 168(k) of the Internal Revenue Code to apply bonus
- 14 depreciation to the property in the year that it was placed in
- 15 service.
- 16 (4) Add an amount equal to any deduction allowed under Section
- 17 172 of the Internal Revenue Code.
- 18 (5) Add or subtract the amount necessary to make the adjusted
- 19 gross income of any taxpayer that placed Section 179 property (as
- 20 defined in Section 179 of the Internal Revenue Code) in service
- 21 in the current taxable year or in an earlier taxable year equal to
- 22 the amount of adjusted gross income that would have been
- 23 computed had an election for federal income tax purposes not
- 24 been made for the year in which the property was placed in
- 25 service to take deductions under Section 179 of the Internal
- 26 Revenue Code in a total amount exceeding twenty-five thousand
- 27 dollars (\$25,000).
- 28 (6) Add an amount equal to the amount that a taxpayer claimed as
- 29 a deduction for domestic production activities for the taxable year
- 30 under Section 199 of the Internal Revenue Code for federal
- 31 income tax purposes.
- 32 (f) This subsection applies only to the extent that an individual paid
- 33 property taxes in 2004 that were imposed for the March 1, 2002,
- 34 assessment date or the January 15, 2003, assessment date. The
- 35 maximum amount of the deduction under subsection (a)(17) is equal
- 36 to the amount determined under STEP FIVE of the following formula:
- 37 STEP ONE: Determine the amount of property taxes that the
- 38 taxpayer paid after December 31, 2003, in the taxable year for
- 39 property taxes imposed for the March 1, 2002, assessment date
- 40 and the January 15, 2003, assessment date.
- 41 STEP TWO: Determine the amount of property taxes that the
- 42 taxpayer paid in the taxable year for the March 1, 2003,

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1 assessment date and the January 15, 2004, assessment date.  
 2 STEP THREE: Determine the result of the STEP ONE amount  
 3 divided by the STEP TWO amount.  
 4 STEP FOUR: Multiply the STEP THREE amount by two  
 5 thousand five hundred dollars (\$2,500).  
 6 STEP FIVE: Determine the sum of the STEP FOUR amount and  
 7 two thousand five hundred dollars (\$2,500).

8 SECTION 12. IC 6-3-1-11, AS AMENDED BY P.L.246-2005,  
 9 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. (a) The term "Internal  
 11 Revenue Code" means the Internal Revenue Code of 1986 of the  
 12 United States as amended and in effect on January 1, ~~2005~~ **2006**.

13 (b) Whenever the Internal Revenue Code is mentioned in this  
 14 article, the particular provisions that are referred to, together with all  
 15 the other provisions of the Internal Revenue Code in effect on January  
 16 1, ~~2005~~ **2006**, that pertain to the provisions specifically mentioned,  
 17 shall be regarded as incorporated in this article by reference and have  
 18 the same force and effect as though fully set forth in this article. To the  
 19 extent the provisions apply to this article, regulations adopted under  
 20 Section 7805(a) of the Internal Revenue Code and in effect on January  
 21 1, ~~2005~~ **2006**, shall be regarded as rules adopted by the department  
 22 under this article, unless the department adopts specific rules that  
 23 supersede the regulation.

24 (c) An amendment to the Internal Revenue Code made by an act  
 25 passed by Congress before January 1, ~~2005~~ **2006**, that is effective for  
 26 any taxable year that began before January 1, ~~2005~~ **2006**, and that  
 27 affects:

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

40 is also effective for that same taxable year for purposes of determining  
 41 adjusted gross income under section 3.5 of this chapter.

42 SECTION 13. [EFFECTIVE JULY 1, 2006] **IC 4-12-1-19, as**

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1 **added by this act, applies to statements prepared for fiscal years**  
2 **beginning after June 30, 2007, regardless of the accounting periods**  
3 **that are covered in the statement.**

4 **SECTION 14. An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Hume be added as second author of Senate Bill 258.

KENLEY

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 258, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 258 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 258 be amended to read as follows:

Page 1, line 10, delete "a single itemized" and insert "**one (1) non-itemized**".

(Reference is to SB 258 as printed January 20, 2006.)

KENLEY

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and taxation.

Page 1, between the enacting clause and line 1, begin a new



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paragraph and insert:

"SECTION 1. IC 4-3-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7. The governor, with the assistance of the budget director, is responsible for establishing and maintaining internal controls (as defined in IC 4-12-1-1.5) on the collection, recording, processing, summarizing, and reporting of accounting and financial information in all state agencies in the executive department of state government. The governor and the budget director shall work with the state board of accounts to formulate, prescribe, and install systems of accounting and reporting under IC 5-11-1-2, IC 5-11-1-21, and IC 5-11-1-26 to ensure sufficient internal control over accounting and financial information to enable the governor and budget director to make the certifications required by IC 4-12-1-19.**

SECTION 2. IC 4-12-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. As used in this chapter, "internal control" means a process, effected by the governor, the state board of accounts, and other personnel in the executive department of state government, designed to provide reasonable assurance regarding the achievement of the following objectives:**

- (1) Effectiveness and efficiency of operations, including the use of the resources at the disposal of the executive department of state government.
- (2) The reliability of financial reporting, including the following:
  - (A) Reports on budget execution.
  - (B) Financial statements.
  - (C) Other reports for internal and external use.
- (3) Compliance with applicable laws and rules.
- (4) Safeguarding assets.

SECTION 3. IC 4-12-1-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 19. (a) This section applies to the following statements:**

- (1) Year end closing statements that:
  - (A) include financial information about the state cash or fund balances, revenues, or expenditures; and
  - (B) are prepared by the budget agency, the budget committee, or another entity for the budget agency or the budget committee.

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- (2) Any other interim or biennial statement that:**
    - (A) concerns state cash or state fund balances, revenues, or expenditures;**
    - (B) is prepared by the budget agency, the budget committee, or another entity for the budget agency or the budget committee; and**
    - (C) is distributed outside the budget agency.**
  - (3) A comprehensive annual financial report prepared by the auditor of state.**
  - (4) To the extent provided in subsection (c), budget reports prepared under this chapter and surplus statements prepared by the budget agency, the budget committee, or another entity for the budget agency or the budget committee that:**
    - (A) forecast the effect of appropriations or expenditures on cash or fund balances in a future period; and**
    - (B) are distributed outside the budget agency.**
- (b) The budget director and the governor both shall certify in a statement described in subsection (a) that:**
- (1) the signing officers have reviewed the statement;**
  - (2) based on the signing officers' knowledge, the statement does not:**
    - (A) contain any untrue statement of a material fact; or**
    - (B) omit a material fact necessary to make the statements made, in light of the circumstances under which the statements are made, not misleading;**
  - (3) based on the signing officer's knowledge, the information in the statement fairly presents in all material respects the financial condition and results of operations of the state covered by the statement as of and for the periods presented in the statement;**
  - (4) the signing officers:**
    - (A) are responsible for establishing and maintaining internal controls on the collection, recording, and reporting of accounting and financial information in the executive department of state government;**
    - (B) have designed the internal controls to ensure that material information relating to the executive department of state government is made known to the signing officers by others within those entities, particularly during the period for which the statement is prepared;**
    - (C) have evaluated the effectiveness of the state's internal controls within ninety (90) days before the date of the**

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statement; and

(D) have presented in the statement their conclusions about the effectiveness of the internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the auditor of state, the members of the state board of finance, and the state board of accounts:

(A) all significant deficiencies in the design or operation of internal controls in the executive department of state government and, to the extent known to the signing officers, in any other agency or component unit covered by the statement that could adversely affect the state's ability to collect, record, process, summarize, and report accounting and financial data, and have identified for the auditor of state, the members of the state board of finance, and the state board of accounts any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves officials or other employees who have a significant role in the state's internal controls of the executive department of state government and, to the extent known to the signing officers, in any other agency or component unit covered by the statement; and

(6) the signing officers have indicated in the statement whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(c) This subsection applies to a statement described in subsection (a)(3). The certifications described in subsection (b)(1) and (b)(2) must be included with the statement. The budget director and the governor also must include a certification that information in the statement is reported using the same accounting and reporting principles and methods that apply to the reporting of historical financial information. However, if there is a change in accounting principles and methods, the budget director and the governor shall indicate the change in accounting principles and methods as an exception and explain the effect of the change in accounting principles and methods on the financial information.

(d) The auditor of state shall include a statement prepared under this section for a comprehensive annual financial report as

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**supplemental information.**

SECTION 4. IC 5-1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2006 (RETROACTIVE)]: Sec. 1. (a) **The following definitions apply throughout this section:**

**(1) "Agreement" means any agreement that includes terms, representations, or provisions relating to:**

**(A) credit enhancement of, or rate covenants supporting, any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);**

**(B) any indenture or provision regarding any indenture relating to any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);**

**(C) payment of any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b) in the event of a termination of the agreement; or**

**(D) public works, capital improvements, or economic development projects.**

**(2) "Leasing body" means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building or buildings to an entity named in subsection (b) other than another leasing body.**

**(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.**

**(b) All bonds, notes, evidences of indebtedness, swap agreements, agreements, leases, or other written obligations issued or executed by or in the name of any:**

**(1) state agency, county, township, city, incorporated town, school corporation, state educational institution, state supported institution of higher learning, political subdivision, joint agency created under IC 8-1-2.2, leasing body, separate body corporate and politic, or any other political, municipal, public or quasi-public corporation; or in the name of any**

**(2) special assessment or taxing district; or in the name of any**

**(3) board, commission, authority, or authorized body of any such entity; and**

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of

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indebtedness, leases, **swap agreements, agreements**, or other written obligations have been executed before March 15, ~~2000~~: **2006**. All **governance, organizational, or other** proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements**, or other written obligations were issued **or executed** or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

- (1) entered into by a joint agency created under IC 8-1-2.2; and
- (2) its members used for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006**. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006**. All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated."

Page 8, between lines 17 and 18, begin a new paragraph and insert: "SECTION 11. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified 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 or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse

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one thousand dollars (\$1,000).

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

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

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

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

(5) Subtract:

(A) **for taxable years beginning after December 31, 2004, and before January 1, 2006**, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code ~~for taxable years beginning after December 31, 1996; (as effective January 1, 2004) and for taxable years beginning after December 31, 2005~~, **one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c) of the Internal Revenue Code for a dependent that qualifies as a qualified child (as defined in Section 152 of the Internal Revenue Code);** and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

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

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

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

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

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(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under

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subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) 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) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service 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 for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 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 or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed

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or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation'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) 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.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service 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 for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

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

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(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) 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.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service 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 for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(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.

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(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) 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.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service 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 for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(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 of the September 11 terrorist attack.

(3) 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) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service 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 for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

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

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

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

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

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

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

SECTION 12. IC 6-3-1-11, AS AMENDED BY P.L.246-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2005~~ 2006.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January

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1, ~~2005~~, **2006**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2005~~, **2006**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2005~~, **2006**, that is effective for any taxable year that began before January 1, ~~2005~~, **2006**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

**SECTION 13. [EFFECTIVE JULY 1, 2006] IC 4-12-1-19, as added by this act, applies to statements prepared for fiscal years beginning after June 30, 2007, regardless of the accounting periods that are covered in the statement."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 258 as reprinted January 24, 2006.)

ESPICH, Chair

Committee Vote: yeas 23, nays 0.

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