

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1447 be amended to read as follows:

1           Page 7, delete lines 9 through 42, begin a new paragraph and insert:  
2           "SECTION 10. IC 6-1.1-4-4.6 IS ADDED TO THE INDIANA  
3           CODE AS A NEW SECTION TO READ AS FOLLOWS  
4           [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) If a township assessor  
5           or county assessor fails to perform an action required in a rule  
6           adopted by the department of local government finance and  
7           applicable to the conduct of an annual adjustment of the assessed  
8           value of real property under section 4.5 of this chapter by the  
9           deadline for the action set forth in a law or rule, the department of  
10          local government finance shall develop annual adjustment factors  
11          under this section. In developing annual adjustment factors under  
12          this subsection, the department of local government finance shall  
13          use data in its possession that is obtained from:**  
14                **(1) the county assessor; or**  
15                **(2) any of the sources listed in the rule, including county or  
16                state sales data, government studies, ratio studies, cost and  
17                depreciation tables, and other market analyses.**  
18          **(b) Using the data described in subsection (a), the department  
19          of local government finance shall propose to establish annual  
20          adjustment factors for the affected tax districts for one (1) or more  
21          of the classes of real property. The proposal may include for the  
22          equalization of annual adjustment factors in the affected township  
23          or county and in adjacent areas. The department of local  
24          government finance shall issue notice and provide opportunity for  
25          hearing in accordance with IC 6-1.1-14-4 and IC 6-1.1-14-9, as  
26          applicable, before issuing final annual adjustment factors.**  
27          **(c) The annual adjustment factors finally determined by the  
28          department of local government finance after the hearing required  
29          under subsection (b) apply to the annual adjustment of real  
30          property under section 4.5 of this chapter for:**  
31                **(1) the assessment date; and**

1           **(2) the real property;**  
 2 **specified in the final determination of the department of local**  
 3 **government finance."**

4           Page 8, delete lines 1 through 38.

5           Page 23, line 24, delete "MARCH 1, 2009 (RETROACTIVE)]:" and  
 6 insert "JULY 1, 2009]:".

7           Page 23, line 25, delete "2009." and insert "**2010.**".

8           Page 126, between lines 17 and 18, begin a new paragraph and  
 9 insert:

10           "SECTION 105.IC 6-1.1-20-10, AS AMENDED BY P.L.146-2008,  
 11 SECTION 199, IS AMENDED TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) This section applies to a  
 13 political subdivision that adopts an ordinance or a resolution making  
 14 a preliminary determination to issue bonds or enter into a lease. During  
 15 the period commencing with the adoption of the ordinance or  
 16 resolution and, if a petition and remonstrance process is commenced  
 17 under section 3.2 of this chapter, continuing through the sixty (60) day  
 18 period commencing with the notice under section 3.2(b)(1) of this  
 19 chapter, the political subdivision seeking to issue bonds or enter into  
 20 a lease for the proposed controlled project may not promote a position  
 21 on the petition or remonstrance by doing any of the following:

22           (1) Allowing facilities or equipment, including mail and  
 23 messaging systems, owned by the political subdivision to be used  
 24 for public relations purposes to promote a position on the petition  
 25 or remonstrance, unless equal access to the facilities or equipment  
 26 is given to persons with a position opposite to that of the political  
 27 subdivision.

28           (2) Making an expenditure of money from a fund controlled by  
 29 the political subdivision to promote a position on the petition or  
 30 remonstrance or to pay for the gathering of signatures on a  
 31 petition or remonstrance. This subdivision does not prohibit a  
 32 political subdivision from making an expenditure of money to an  
 33 attorney, an architect, registered professional engineer, a  
 34 construction manager, or a financial adviser for professional  
 35 services provided with respect to a controlled project.

36           (3) Using an employee to promote a position on the petition or  
 37 remonstrance during the employee's normal working hours or paid  
 38 overtime, or otherwise compelling an employee to promote a  
 39 position on the petition or remonstrance at any time.

40           (4) In the case of a school corporation, promoting a position on a  
 41 petition or remonstrance by:

42           (A) using students to transport written materials to their  
 43 residences or in any way directly involving students in a  
 44 school organized promotion of a position; or

45           (B) including a statement within another communication sent  
 46 to the students' residences.

47           However, this section does not prohibit an employee of the political

1 subdivision from carrying out duties with respect to a petition or  
 2 remonstrance that are part of the normal and regular conduct of the  
 3 employee's office or agency.

4 (b) A person may not solicit or collect signatures for a petition or  
 5 remonstrance on property owned or controlled by the political  
 6 subdivision.

7 (c) The staff and employees of a school corporation may not  
 8 personally identify a student as the child of a parent or guardian who  
 9 supports or opposes a petition or remonstrance.

10 (d) A person or an organization that has a contract or arrangement  
 11 (whether formal or informal) with a school corporation for the use of  
 12 any of the school corporation's facilities may not spend any money to  
 13 promote a position on the petition or remonstrance. A person or an  
 14 organization that violates this subsection commits a Class A infraction.

15 (e) An attorney, an architect, registered professional engineer, a  
 16 construction manager, or a financial adviser for professional services  
 17 provided with respect to a controlled project may not spend any money  
 18 to promote a position on the petition or remonstrance. A person who  
 19 violates this subsection:

20 (1) commits a Class A infraction; and

21 (2) is barred from performing any services with respect to the  
 22 controlled project.

23 **(f) An elected or appointed public official of the political**  
 24 **subdivision may advocate for or against a position on the petition**  
 25 **or remonstrance so long as it is not done:**

26 **(1) during the officials's normal working hours or paid**  
 27 **overtime; or**

28 **(2) by using public funds.**

29 SECTION 106. IC 6-1.1-20-10.1, AS ADDED BY P.L.146-2008,  
 30 SECTION 200, IS AMENDED TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2009]: Sec. 10.1. (a) This section applies only  
 32 to a political subdivision that, after June 30, 2008, adopts an ordinance  
 33 or a resolution making a preliminary determination to issue bonds or  
 34 enter into a lease subject to sections 3.5 and 3.6 of this chapter.

35 (b) During the period beginning with the adoption of the ordinance  
 36 or resolution and continuing through the day on which a local public  
 37 question is submitted to the voters of the political subdivision under  
 38 section 3.6 of this chapter, the political subdivision seeking to issue  
 39 bonds or enter into a lease for the proposed controlled project may not  
 40 promote a position on the local public question by doing any of the  
 41 following:

42 (1) Allowing facilities or equipment, including mail and  
 43 messaging systems, owned by the political subdivision to be used  
 44 for public relations purposes to promote a position on the local  
 45 public question, unless equal access to the facilities or equipment  
 46 is given to persons with a position opposite to that of the political  
 47 subdivision.

1 (2) Making an expenditure of money from a fund controlled by  
 2 the political subdivision to promote a position on the local public  
 3 question. This subdivision does not prohibit a political  
 4 subdivision from making an expenditure of money to an attorney,  
 5 an architect, a registered professional engineer, a construction  
 6 manager, or a financial adviser for professional services provided  
 7 with respect to a controlled project.

8 (3) Using an employee to promote a position on the local public  
 9 question during the employee's normal working hours or paid  
 10 overtime, or otherwise compelling an employee to promote a  
 11 position on the local public question at any time.

12 (4) In the case of a school corporation, promoting a position on a  
 13 local public question by:

14 (A) using students to transport written materials to their  
 15 residences or in any way directly involving students in a  
 16 school organized promotion of a position; or

17 (B) including a statement within another communication sent  
 18 to the students' residences.

19 However, this section does not prohibit an employee of the political  
 20 subdivision from carrying out duties with respect to a local public  
 21 question that are part of the normal and regular conduct of the  
 22 employee's office or agency.

23 (c) The staff and employees of a school corporation may not  
 24 personally identify a student as the child of a parent or guardian who  
 25 supports or opposes a controlled project subject to a local public  
 26 question held under section 3.6 of this chapter.

27 (d) A person or an organization that has a contract or arrangement  
 28 (whether formal or informal) with a school corporation for the use of  
 29 any of the school corporation's facilities may not spend any money to  
 30 promote a position on a local public question. A person or an  
 31 organization that violates this subsection commits a Class A infraction.

32 (e) An attorney, an architect, a registered professional engineer, a  
 33 construction manager, or a financial adviser for professional services  
 34 provided with respect to a controlled project may not spend any money  
 35 to promote a position on a local public question. A person who violates  
 36 this subsection:

37 (1) commits a Class A infraction; and

38 (2) is barred from performing any services with respect to the  
 39 controlled project.

40 **(f) An elected or appointed public official of the political**  
 41 **subdivision may advocate for or against a position on the local**  
 42 **public question so long as it is not done:**

43 **(1) during the officials's normal working hours or paid**  
 44 **overtime; or**

45 **(2) by using public funds."**

46 Page 154, between lines 34 and 35, begin a new paragraph and  
 47 insert:

1           "SECTION 132. IC 6-2.5-1-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as  
3 provided in subsection (b), "gross retail income" means the total ~~gross~~  
4 ~~receipts, of any kind or character, received in a retail transaction;~~  
5 **amount of consideration**, including cash, credit, property, and  
6 services, for which tangible personal property is sold, leased, or rented,  
7 valued in money, whether received in money or otherwise, without any  
8 deduction for:

- 9           (1) the seller's cost of the property sold;  
10          (2) the cost of materials used, labor or service cost, interest,  
11 losses, all costs of transportation to the seller, all taxes imposed  
12 on the seller, and any other expense of the seller;  
13          (3) charges by the seller for any services necessary to complete  
14 the sale, other than delivery and installation charges;  
15          (4) delivery charges; or  
16          (5) ~~the value of exempt personal property given to the purchaser~~  
17 ~~where taxable and exempt personal property have been bundled~~  
18 ~~together and sold by the seller as a single product or piece of~~  
19 ~~merchandise.~~  
20          **(5) consideration received by the seller from a third party if:**  
21               **(A) the seller actually receives consideration from a party**  
22               **other than the purchaser and the consideration is directly**  
23               **related to a price reduction or discount on the sale;**  
24               **(B) the seller has an obligation to pass the price reduction**  
25               **or discount through to the purchaser;**  
26               **(C) the amount of the consideration attributable to the sale**  
27               **is fixed and determinable by the seller at the time of the**  
28               **sale of the item to the purchaser; and**  
29               **(D) the price reduction or discount is identified as a third**  
30               **party price reduction or discount on the invoice received**  
31               **by the purchaser or on a coupon, certificate, or other**  
32               **documentation presented by the purchaser.**

33 For purposes of subdivision (4), delivery charges are charges by the  
34 seller for preparation and delivery of the property to a location  
35 designated by the purchaser of property, including but not limited to  
36 transportation, shipping, postage, handling, crating, and packing.

37          (b) "Gross retail income" does not include that part of the gross  
38 receipts attributable to:

- 39          (1) the value of any tangible personal property received in a like  
40 kind exchange in the retail transaction, if the value of the property  
41 given in exchange is separately stated on the invoice, bill of sale,  
42 or similar document given to the purchaser;  
43          (2) the receipts received in a retail transaction which constitute  
44 interest, finance charges, or insurance premiums on either a  
45 promissory note or an installment sales contract;  
46          (3) discounts, including cash, terms, or coupons that are not  
47 reimbursed by a third party that are allowed by a seller and taken

- 1 by a purchaser on a sale;  
 2 (4) interest, financing, and carrying charges from credit extended  
 3 on the sale of personal property if the amount is separately stated  
 4 on the invoice, bill of sale, or similar document given to the  
 5 purchaser;  
 6 (5) any taxes legally imposed directly on the consumer that are  
 7 separately stated on the invoice, bill of sale, or similar document  
 8 given to the purchaser; or  
 9 (6) installation charges that are separately stated on the invoice,  
 10 bill of sale, or similar document given to the purchaser.

11 (c) A public utility's or a power subsidiary's gross retail income  
 12 includes all gross retail income received by the public utility or power  
 13 subsidiary, including any minimum charge, flat charge, membership  
 14 fee, or any other form of charge or billing.

15 SECTION 133. IC 6-2.5-3-6 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) For purposes of  
 17 this section, "person" includes an individual who is personally liable  
 18 for use tax under IC 6-2.5-9-3.

19 (b) The person who uses, stores, or consumes the tangible personal  
 20 property acquired in a retail transaction is personally liable for the use  
 21 tax.

22 (c) The person liable for the use tax shall pay the tax to the retail  
 23 merchant from whom the person acquired the property, and the retail  
 24 merchant shall collect the tax as an agent for the state, if the retail  
 25 merchant is engaged in business in Indiana or if the retail merchant has  
 26 departmental permission to collect the tax. In all other cases, the person  
 27 shall pay the use tax to the department.

28 (d) Notwithstanding subsection (c), a person liable for the use tax  
 29 imposed in respect to a vehicle, watercraft, or aircraft under section  
 30 2(b) of this chapter shall pay the tax:

31 (1) to the titling agency when the person applies for a title for the  
 32 vehicle or the watercraft; or

33 (2) to the registering agency when the person registers the  
 34 aircraft; or

35 **(3) to the registering agency when the person registers the**  
 36 **watercraft because it is a United States Coast Guard**  
 37 **documented vessel;**

38 unless the person presents proof to the agency that the use tax or state  
 39 gross retail tax has already been paid with respect to the purchase of  
 40 the vehicle, watercraft, or aircraft or proof that the taxes are  
 41 inapplicable because of an exemption under this article.

42 (e) At the time a person pays the use tax for the purchase of a  
 43 vehicle to a titling agency pursuant to subsection (d), the titling agency  
 44 shall compute the tax due based on the presumption that the sale price  
 45 was the average selling price for that vehicle, as determined under a  
 46 used vehicle buying guide to be chosen by the titling agency. However,  
 47 the titling agency shall compute the tax due based on the actual sale

1 price of the vehicle if the buyer, at the time the buyer pays the tax to the  
2 titling agency, presents documentation to the titling agency sufficient  
3 to rebut the presumption set forth in this subsection and to establish the  
4 actual selling price of the vehicle."

5 Page 155, line 11, delete "cable television or radio service or  
6 satellite" and insert "**video**".

7 Page 155, line 12, delete "television or radio".

8 Page 156, between lines 16 and 17, begin a new paragraph and  
9 insert:

10 "SECTION 137. IC 6-2.5-6-1, AS AMENDED BY P.L.131-2008,  
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JANUARY 1, 2010]: Sec. 1. (a) Except as otherwise provided in this  
13 section, each person liable for collecting the state gross retail or use tax  
14 shall file a return for each calendar month and pay the state gross retail  
15 and use taxes that the person collects during that month. A person shall  
16 file the person's return for a particular month with the department and  
17 make the person's tax payment for that month to the department not  
18 more than thirty (30) days after the end of that month, if that person's  
19 average monthly liability for collections of state gross retail and use  
20 taxes under this section as determined by the department for the  
21 preceding calendar year did not exceed one thousand dollars (\$1,000).  
22 If a person's average monthly liability for collections of state gross  
23 retail and use taxes under this section as determined by the department  
24 for the preceding calendar year exceeded one thousand dollars  
25 (\$1,000), that person shall file the person's return for a particular month  
26 and make the person's tax payment for that month to the department not  
27 more than twenty (20) days after the end of that month.

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

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

39 (d) Instead of the reporting periods required under subsection (a),  
40 the department may permit a retail merchant to report and pay the  
41 merchant's state gross retail and use taxes for a period covering a  
42 calendar year, if the retail merchant's state gross retail and use tax  
43 liability in the previous calendar year does not exceed one thousand  
44 dollars (\$1,000). A retail merchant using a reporting period allowed  
45 under this subsection must file the merchant's return and pay the  
46 merchant's tax for a reporting period not later than the last day of the  
47 month immediately following the close of that reporting period.

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 not corresponding to the calendar year, the  
 4 merchant may, without prior departmental approval, report and pay the  
 5 merchant's state gross retail and use taxes over the merchant's fiscal  
 6 year that corresponds to the calendar year the merchant is permitted to  
 7 use under subsection (d). However, the department may, at any time,  
 8 require the retail merchant to stop using the fiscal reporting period.

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

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

15 (g) If the department determines that a person's:

- 16 (1) estimated monthly gross retail and use tax liability for the  
 17 current year; or
- 18 (2) average monthly gross retail and use tax liability for the  
 19 preceding year;

20 exceeds five thousand dollars (\$5,000), the person shall pay the  
 21 monthly gross retail and use taxes due by electronic funds transfer (as  
 22 defined in IC 4-8.1-2-7) or by delivering in person or by overnight  
 23 courier a payment by cashier's check, certified check, or money order  
 24 to the department. The transfer or payment shall be made on or before  
 25 the date the tax is due.

26 **(h) A person that registers as a retail merchant after December**  
 27 **31, 2009, is required to report and remit state gross retail and use**  
 28 **taxes through the department's online tax filing program. This**  
 29 **subsection does not apply to a retail merchant that was a registered**  
 30 **retail merchant before January 1, 2010, but adds an additional**  
 31 **place of business in accordance with IC 6-2.5-8-1(e) after**  
 32 **December 31, 2009.**

33 ~~(i)~~ (i) A person:

- 34 (1) who has voluntarily registered as a seller under the  
 35 Streamlined Sales and Use Tax Agreement;
- 36 (2) who is not a Model 1, Model 2, or Model 3 seller (as defined  
 37 in the Streamlined Sales and Use Tax Agreement); 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.

43 SECTION 138. IC 6-2.5-7-10 IS AMENDED TO READ AS  
 44 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Each  
 45 refiner or terminal operator and each qualified distributor that has  
 46 received a prepayment of the state gross retail tax under this chapter  
 47 shall remit the tax received to the department semimonthly, **through**

1 **the department's online tax filing system**, according to the following  
2 schedule:

3 (1) On or before the tenth day of each month for prepayments  
4 received after the fifteenth day and before the end of the  
5 preceding month.

6 (2) On or before the twenty-fifth day of each month for  
7 prepayments received after the end of the preceding month and  
8 before the sixteenth day of the month in which the prepayments  
9 are made.

10 (b) Before the end of each month, each refiner or terminal operator  
11 and each qualified distributor shall file a report covering the prepaid  
12 taxes received and the gallons of gasoline sold or shipped during the  
13 preceding month. The report must include the following:

14 (1) The number of gallons of gasoline sold or shipped during the  
15 preceding month, identifying each purchaser or receiver as  
16 required by the department.

17 (2) The amount of tax prepaid by each purchaser or receiver.

18 (3) Any other information reasonably required by the department.

19 SECTION 139. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006,  
20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 APRIL 1, 2009 (RETROACTIVE)]: Sec. 14. (a) Before **March 10**,  
22 June 10, **September 10**, and December 10 of each year, the department  
23 shall determine and provide to:

24 (1) each refiner and terminal operator and each qualified  
25 distributor known to the department to be required to collect  
26 prepayments of the state gross retail tax under this chapter; and

27 (2) any other person that makes a request;

28 a notice of the prepayment rate to be used during the following ~~six (6)~~  
29 **three (3)** month period. ~~The department shall also have the prepayment~~  
30 ~~rate published in the June and December issues of the Indiana Register.~~  
31 **The department, after approval by the office of management and**  
32 **budget, may determine a new prepayment rate if the department**  
33 **finds that the statewide average retail price per gallon of gasoline,**  
34 **excluding the Indiana and federal gasoline taxes and the Indiana**  
35 **gross retail tax, has changed by at least twenty-five percent (25%)**  
36 **since the most recent determination.**

37 (b) In determining the prepayment rate under this section, the  
38 department shall use the most recent retail price of gasoline available  
39 to the department.

40 (c) The prepayment rate per gallon of gasoline determined by the  
41 department under this section is the amount per gallon of gasoline  
42 determined under STEP FOUR of the following formula:

43 STEP ONE: Determine the statewide average retail price per  
44 gallon of gasoline, excluding the Indiana and federal gasoline  
45 taxes and the Indiana gross retail tax.

46 STEP TWO: Determine the product of the following:

47 (A) The STEP ONE amount.

- 1 (B) The Indiana gross retail tax rate.
- 2 (C) **Ninety Eighty percent (90%): (80%).**
- 3 STEP THREE: Determine the lesser of:
- 4 (A) the STEP TWO result; or
- 5 (B) the product of:
  - 6 (i) the prepayment rate in effect on the day immediately
  - 7 preceding the day on which the prepayment rate is
  - 8 redetermined under this section; multiplied by
  - 9 (ii) one hundred twenty-five percent (125%).
- 10 STEP FOUR: Round the STEP THREE result to the nearest
- 11 one-tenth of one cent (\$0.001).
- 12 SECTION 140. IC 6-2.5-11-10, AS AMENDED BY P.L.145-2007,
- 13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2010]: Sec. 10. (a) A certified service provider is the agent of
- 15 a seller, with whom the certified service provider has contracted, for
- 16 the collection and remittance of sales and use taxes. As the seller's
- 17 agent, the certified service provider is liable for sales and use tax due
- 18 each member state on all sales transactions it processes for the seller
- 19 except as set out in this section. A seller that contracts with a certified
- 20 service provider is not liable to the state for sales or use tax due on
- 21 transactions processed by the certified service provider unless the seller
- 22 misrepresented the type of items it sells or committed fraud. In the
- 23 absence of probable cause to believe that the seller has committed
- 24 fraud or made a material misrepresentation, the seller is not subject to
- 25 audit on the transactions processed by the certified service provider. A
- 26 seller is subject to audit for transactions not processed by the certified
- 27 service provider. The member states acting jointly may perform a
- 28 system check of the seller and review the seller's procedures to
- 29 determine if the certified service provider's system is functioning
- 30 properly and the extent to which the seller's transactions are being
- 31 processed by the certified service provider.
- 32 (b) A person that provides a certified automated system is
- 33 responsible for the proper functioning of that system and is liable to the
- 34 state for underpayments of tax attributable to errors in the functioning
- 35 of the certified automated system. A seller that uses a certified
- 36 automated system remains responsible and is liable to the state for
- 37 reporting and remitting tax.
- 38 (c) A seller that has a proprietary system for determining the amount
- 39 of tax due on transactions and has signed an agreement establishing a
- 40 performance standard for that system is liable for the failure of the
- 41 system to meet the performance standard.
- 42 (d) A certified service provider or a seller using a certified
- 43 automated system that obtains a certification from the department is not
- 44 liable for sales or use tax collection errors that result from reliance on
- 45 the department's certification. If the department determines that an item
- 46 or transaction is incorrectly classified as to the taxability of the item or
- 47 transaction, the department shall notify the certified service provider

1 or the seller using a certified automated system of the incorrect  
 2 classification. The certified service provider or the seller using a  
 3 certified automated system must revise the incorrect classification  
 4 within ten (10) days after receiving notice of the determination from  
 5 the department. If the classification error is not corrected within ten  
 6 (10) days after receiving the department's notice, the certified service  
 7 provider or the seller using a certified automated system is liable for  
 8 failure to collect the correct amount of sales or use tax due and owing.

9 **(e) If at least thirty (30) days is not provided between the**  
 10 **enactment of a statute changing the rate set forth in IC 6-2.5-2-2**  
 11 **and the effective date of the rate change, the department shall**  
 12 **relieve the seller of liability for failing to collect tax at the new rate**  
 13 **if:**

14 **(1) the seller collected the tax at the immediately preceding**  
 15 **effective rate; and**

16 **(2) the seller's failure to collect at the current rate does not**  
 17 **extend beyond thirty (30) days after the effective date of the**  
 18 **rate change.**

19 **A seller is not eligible for the relief provided for in this subsection**  
 20 **if the seller fraudulently fails to collect at the current rate or**  
 21 **solicits purchases based on the immediately preceding effective**  
 22 **rate.**

23 ~~(e)~~ **(f)** The department shall allow any monetary allowances that are  
 24 provided by the member states to sellers or certified service providers  
 25 in exchange for collecting the sales and use taxes as provided in article  
 26 VI of the agreement.

27 SECTION 145. IC 6-2.5-12-15 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. Except for the  
 29 telecommunications services listed in section 16 of this chapter, a sale  
 30 of:

31 **(1) telecommunications services sold on a basis other than a call**  
 32 **by call basis;**

33 **(2) Internet access service; or**

34 **(3) an ancillary service;**

35 is sourced to the customer's place of primary use.

36 SECTION 146. IC 6-2.5-13-1, AS AMENDED BY P.L.19-2008,  
 37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JANUARY 1, 2010]: Sec. 1. (a) As used in this section, the terms  
 39 "receive" and "receipt" mean:

40 (1) taking possession of tangible personal property;

41 (2) making first use of services; or

42 (3) taking possession or making first use of digital goods;

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

45 (b) This section:

46 (1) applies regardless of the characterization of a product as  
 47 tangible personal property, a digital good, or a service;

- 1 (2) applies only to the determination of a seller's obligation to pay
- 2 or collect and remit a sales or use tax with respect to the seller's
- 3 retail sale of a product; and
- 4 (3) does not affect the obligation of a purchaser or lessee to remit
- 5 tax on the use of the product to the taxing jurisdictions of that use.
- 6 (c) This section does not apply to sales or use taxes levied on the
- 7 following:
- 8 (1) The retail sale or transfer of watercraft, modular homes,
- 9 manufactured homes, or mobile homes. These items must be
- 10 sourced according to the requirements of this article.
- 11 (2) The retail sale, excluding lease or rental, of motor vehicles,
- 12 trailers, semitrailers, or aircraft that do not qualify as
- 13 transportation equipment, as defined in subsection (g). The retail
- 14 sale of these items shall be sourced according to the requirements
- 15 of this article, and the lease or rental of these items must be
- 16 sourced according to subsection (f).
- 17 (3) Telecommunications services, ancillary services, and Internet
- 18 access service shall be sourced in accordance with IC 6-2.5-12.
- 19 (d) The retail sale, excluding lease or rental, of a product shall be
- 20 sourced as follows:
- 21 (1) When the product is received by the purchaser at a business
- 22 location of the seller, the sale is sourced to that business location.
- 23 (2) When the product is not received by the purchaser at a
- 24 business location of the seller, the sale is sourced to the location
- 25 where receipt by the purchaser (or the purchaser's donee,
- 26 designated as such by the purchaser) occurs, including the
- 27 location indicated by instructions for delivery to the purchaser (or
- 28 donee), known to the seller.
- 29 (3) When subdivisions (1) and (2) do not apply, the sale is
- 30 sourced to the location indicated by an address for the purchaser
- 31 that is available from the business records of the seller that are
- 32 maintained in the ordinary course of the seller's business when
- 33 use of this address does not constitute bad faith.
- 34 (4) When subdivisions (1), (2), and (3) do not apply, the sale is
- 35 sourced to the location indicated by an address for the purchaser
- 36 obtained during the consummation of the sale, including the
- 37 address of a purchaser's payment instrument, if no other address
- 38 is available, when use of this address does not constitute bad
- 39 faith.
- 40 (5) When none of the previous rules of subdivision (1), (2), (3),
- 41 or (4) apply, including the circumstance in which the seller is
- 42 without sufficient information to apply the previous rules, then the
- 43 location will be determined by the address from which tangible
- 44 personal property was shipped, from which the digital good or the
- 45 computer software delivered electronically was first available for
- 46 transmission by the seller, or from which the service was provided
- 47 (disregarding for these purposes any location that merely provided

- 1           the digital transfer of the product sold).
- 2           (e) The lease or rental of tangible personal property, other than  
3 property identified in subsection (f) or (g), shall be sourced as follows:  
4           (1) For a lease or rental that requires recurring periodic payments,  
5 the first periodic payment is sourced the same as a retail sale in  
6 accordance with the provisions of subsection (d). Periodic  
7 payments made subsequent to the first payment are sourced to the  
8 primary property location for each period covered by the payment.  
9 The primary property location shall be as indicated by an address  
10 for the property provided by the lessee that is available to the  
11 lessor from its records maintained in the ordinary course of  
12 business, when use of this address does not constitute bad faith.  
13 The property location shall not be altered by intermittent use at  
14 different locations, such as use of business property that  
15 accompanies employees on business trips and service calls.  
16           (2) For a lease or rental that does not require recurring periodic  
17 payments, the payment is sourced the same as a retail sale in  
18 accordance with the provisions of subsection (d).
- 19 This subsection does not affect the imposition or computation of sales  
20 or use tax on leases or rentals based on a lump sum or an accelerated  
21 basis, or on the acquisition of property for lease.
- 22           (f) The lease or rental of motor vehicles, trailers, semitrailers, or  
23 aircraft that do not qualify as transportation equipment, as defined in  
24 subsection (g), shall be sourced as follows:  
25           (1) For a lease or rental that requires recurring periodic payments,  
26 each periodic payment is sourced to the primary property location.  
27 The primary property location shall be as indicated by an address  
28 for the property provided by the lessee that is available to the  
29 lessor from its records maintained in the ordinary course of  
30 business, when use of this address does not constitute bad faith.  
31 This location shall not be altered by intermittent use at different  
32 locations.  
33           (2) For a lease or rental that does not require recurring periodic  
34 payments, the payment is sourced the same as a retail sale in  
35 accordance with the provisions of subsection (d).
- 36 This subsection does not affect the imposition or computation of sales  
37 or use tax on leases or rentals based on a lump sum or accelerated  
38 basis, or on the acquisition of property for lease.
- 39           (g) The retail sale, including lease or rental, of transportation  
40 equipment shall be sourced the same as a retail sale in accordance with  
41 the provisions of subsection (d), notwithstanding the exclusion of lease  
42 or rental in subsection (d). As used in this subsection, "transportation  
43 equipment" means any of the following:  
44           (1) Locomotives and railcars that are used for the carriage of  
45 persons or property in interstate commerce.  
46           (2) Trucks and truck-tractors with a gross vehicle weight rating  
47 (GVWR) of ten thousand one (10,001) pounds or greater, trailers,

- 1 semitrailers, or passenger buses that are:
- 2 (A) registered through the International Registration Plan; and
- 3 (B) operated under authority of a carrier authorized and
- 4 certificated by the U.S. Department of Transportation or
- 5 another federal authority to engage in the carriage of persons
- 6 or property in interstate commerce.
- 7 (3) Aircraft that are operated by air carriers authorized and
- 8 certificated by the U.S. Department of Transportation or another
- 9 federal or a foreign authority to engage in the carriage of persons
- 10 or property in interstate or foreign commerce.
- 11 (4) Containers designed for use on and component parts attached
- 12 or secured on the items set forth in subdivisions (1) through (3).
- 13 (h) ~~This subsection applies to retail sales of floral products that~~
- 14 ~~occur before January 1, 2010.~~ Notwithstanding subsection (d), a retail
- 15 sale of floral products in which a florist or floral business:
- 16 (1) takes a floral order from a purchaser; and
- 17 (2) transmits the floral order by telegraph, telephone, or other
- 18 means of communication to another florist or floral business for
- 19 delivery;
- 20 is sourced to the location of the florist or floral business that originally
- 21 takes the floral order from the purchaser.
- 22 SECTION 147. IC 6-3-1-3.7 IS ADDED TO THE INDIANA CODE
- 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 24 JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 3.7. (a) This section**
- 25 **applies only to an individual who in 2009 paid property taxes that:**
- 26 **(1) were imposed on the individual's principal place of**
- 27 **residence for the March 1, 2007, assessment date or the**
- 28 **January 15, 2008, assessment date;**
- 29 **(2) are due after December 31, 2008; and**
- 30 **(3) are paid on or before the due date for the property taxes.**
- 31 **(b) An individual described in subsection (a) is entitled to a**
- 32 **deduction from adjusted gross income for a taxable year beginning**
- 33 **after December 31, 2008, and before January 1, 2010, in an amount**
- 34 **equal to the amount determined in the following STEPS:**
- 35 **STEP ONE: Determine the lesser of:**
- 36 **(A) two thousand five hundred dollars (\$2,500); or**
- 37 **(B) the total amount of property taxes imposed on the**
- 38 **individual's principal place of residence for the March 1,**
- 39 **2007, assessment date or the January 15, 2008, assessment**
- 40 **date and paid in 2008 or 2009.**
- 41 **STEP TWO: Determine the greater of zero (0) or the result**
- 42 **of:**
- 43 **(A) the STEP ONE result; minus**
- 44 **(B) the total amount of property taxes that:**
- 45 **(i) were imposed on the individual's principal place of**
- 46 **residence for the March 1, 2007, assessment date or the**
- 47 **January 15, 2008, assessment date;**

1                   (ii) were paid in 2008; and  
 2                   (iii) were deducted from adjusted gross income under  
 3                   section 3.5(a)(17) of this chapter by the individual on the  
 4                   individual's state income tax return for a taxable year  
 5                   beginning before January 1, 2009.

6                   (c) The deduction under this section is in addition to any  
 7                   deduction that an individual is otherwise entitled to claim under  
 8                   section 3.5(a)(17) of this chapter. However, an individual may not  
 9                   deduct under section 3.5(a)(17) of this chapter any property taxes  
 10                  deducted under this section.

11                  (d) This section expires January 1, 2014.

12                  SECTION 148. IC 6-3-1-34.5, AS ADDED BY P.L.211-2007,  
 13                  SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14                  JANUARY 1, 2008 (RETROACTIVE)]: Sec. 34.5. (a) Except as  
 15                  provided in subsection (b), "captive real estate investment trust" means  
 16                  a corporation, a trust, or an association:

17                   (1) that is considered a real estate investment trust for the taxable  
 18                   year under Section 856 of the Internal Revenue Code;

19                   (2) that is not regularly traded on an established securities market;  
 20                   and

21                   (3) in which more than fifty percent (50%) of the:

22                           (A) voting power;

23                           (B) beneficial interests; or

24                           (C) shares;

25                   are owned or controlled, directly or constructively, by a single  
 26                   entity that is subject to Subchapter C of Chapter 1 of the Internal  
 27                   Revenue Code.

28                   (b) The term does not include a corporation, a trust, or an  
 29                   association in which more than fifty percent (50%) of the entity's voting  
 30                   power, beneficial interests, or shares are owned by a single entity  
 31                   described in subsection (a)(3) that is owned or controlled, directly or  
 32                   constructively, by:

33                   (1) a corporation, a trust, or an association that is considered a  
 34                   real estate investment trust under Section 856 of the Internal  
 35                   Revenue Code;

36                   (2) a person exempt from taxation under Section 501 of the  
 37                   Internal Revenue Code;

38                   (3) a listed property trust or other foreign real estate  
 39                   investment trust that is organized in a country that has a tax  
 40                   treaty with the United States Treasury Department governing  
 41                   the tax treatment of these trusts; or

42                   (4) a real estate investment trust that:

43                           (A) is intended to become regularly traded on an established  
 44                           securities market; and

45                           (B) satisfies the requirements of Section 856(a)(5) and Section  
 46                           856(a)(6) of the Internal Revenue Code under Section 856(h)  
 47                           of the Internal Revenue Code.

1 (c) For purposes of this section, the constructive ownership rules of  
 2 Section 318 of the Internal Revenue Code, as modified by Section  
 3 856(d)(5) of the Internal Revenue Code, apply to the determination of  
 4 the ownership of stock, assets, or net profits of any person.

5 SECTION 149. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE  
 6 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE  
 7 JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 35. As used in this**  
 8 **article, "pass through entity" means:**

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

11 (2) **a partnership;**

12 (3) **a trust;**

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

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

15 SECTION 150. IC 6-3-2-2, AS AMENDED BY P.L.162-2006,  
 16 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) With regard to  
 18 corporations and nonresident persons, "adjusted gross income derived  
 19 from sources within Indiana", for the purposes of this article, shall  
 20 mean and include:

21 (1) income from real or tangible personal property located in this  
 22 state;

23 (2) income from doing business in this state;

24 (3) income from a trade or profession conducted in this state;

25 (4) compensation for labor or services rendered within this state;  
 26 and

27 (5) income from stocks, bonds, notes, bank deposits, patents,  
 28 copyrights, secret processes and formulas, good will, trademarks,  
 29 trade brands, franchises, and other intangible personal property if  
 30 the receipt from the intangible is attributable to Indiana under  
 31 section 2.2 of this chapter.

32 **Income from a pass through entity shall be characterized in a**  
 33 **manner consistent with the income's characterization for federal**  
 34 **income tax purposes and shall be considered Indiana source**  
 35 **income as if the person, corporation, or pass through entity that**  
 36 **received the income had directly engaged in the income producing**  
 37 **activity. Income that is derived from one (1) pass through entity**  
 38 **and is considered to pass through to another pass through entity**  
 39 **does not change these characteristics or attribution provisions. In**  
 40 **the case of nonbusiness income described in subsection (g), only so**  
 41 **much of such income as is allocated to this state under the provisions**  
 42 **of subsections (h) through (k) shall be deemed to be derived from**  
 43 **sources within Indiana. In the case of business income, only so much**  
 44 **of such income as is apportioned to this state under the provision of**  
 45 **subsection (b) shall be deemed to be derived from sources within the**  
 46 **state of Indiana. In the case of compensation of a team member (as**  
 47 **defined in section 2.7 of this chapter), only the portion of income**

1 determined to be Indiana income under section 2.7 of this chapter is  
 2 considered derived from sources within Indiana. In the case of a  
 3 corporation that is a life insurance company (as defined in Section  
 4 816(a) of the Internal Revenue Code) or an insurance company that is  
 5 subject to tax under Section 831 of the Internal Revenue Code, only so  
 6 much of the income as is apportioned to Indiana under subsection (r)  
 7 is considered derived from sources within Indiana.

8 (b) Except as provided in subsection (l), if business income of a  
 9 corporation or a nonresident person is derived from sources within the  
 10 state of Indiana and from sources without the state of Indiana, the  
 11 business income derived from sources within this state shall be  
 12 determined by multiplying the business income derived from sources  
 13 both within and without the state of Indiana by the following:

14 (1) For all taxable years that begin after December 31, 2006, and  
 15 before January 1, 2008, a fraction. The:

16 (A) numerator of the fraction is the sum of the property factor  
 17 plus the payroll factor plus the product of the sales factor  
 18 multiplied by three (3); and

19 (B) denominator of the fraction is five (5).

20 (2) For all taxable years that begin after December 31, 2007, and  
 21 before January 1, 2009, a fraction. The:

22 (A) numerator of the fraction is the property factor plus the  
 23 payroll factor plus the product of the sales factor multiplied by  
 24 four and sixty-seven hundredths (4.67); and

25 (B) denominator of the fraction is six and sixty-seven  
 26 hundredths (6.67).

27 (3) For all taxable years beginning after December 31, 2008, and  
 28 before January 1, 2010, a fraction. The:

29 (A) numerator of the fraction is the property factor plus the  
 30 payroll factor plus the product of the sales factor multiplied by  
 31 eight (8); and

32 (B) denominator of the fraction is ten (10).

33 (4) For all taxable years beginning after December 31, 2009, and  
 34 before January 1, 2011, a fraction. The:

35 (A) numerator of the fraction is the property factor plus the  
 36 payroll factor plus the product of the sales factor multiplied by  
 37 eighteen (18); and

38 (B) denominator of the fraction is twenty (20).

39 (5) For all taxable years beginning after December 31, 2010, the  
 40 sales factor.

41 (c) The property factor is a fraction, the numerator of which is the  
 42 average value of the taxpayer's real and tangible personal property  
 43 owned or rented and used in this state during the taxable year and the  
 44 denominator of which is the average value of all the taxpayer's real and  
 45 tangible personal property owned or rented and used during the taxable  
 46 year. However, with respect to a foreign corporation, the denominator  
 47 does not include the average value of real or tangible personal property

1 owned or rented and used in a place that is outside the United States.  
 2 Property owned by the taxpayer is valued at its original cost. Property  
 3 rented by the taxpayer is valued at eight (8) times the net annual rental  
 4 rate. Net annual rental rate is the annual rental rate paid by the taxpayer  
 5 less any annual rental rate received by the taxpayer from subrentals.  
 6 The average of property shall be determined by averaging the values at  
 7 the beginning and ending of the taxable year, but the department may  
 8 require the averaging of monthly values during the taxable year if  
 9 reasonably required to reflect properly the average value of the  
 10 taxpayer's property.

11 (d) The payroll factor is a fraction, the numerator of which is the  
 12 total amount paid in this state during the taxable year by the taxpayer  
 13 for compensation, and the denominator of which is the total  
 14 compensation paid everywhere during the taxable year. However, with  
 15 respect to a foreign corporation, the denominator does not include  
 16 compensation paid in a place that is outside the United States.  
 17 Compensation is paid in this state if:

- 18 (1) the individual's service is performed entirely within the state;  
 19 (2) the individual's service is performed both within and without  
 20 this state, but the service performed without this state is incidental  
 21 to the individual's service within this state; or  
 22 (3) some of the service is performed in this state and:  
 23 (A) the base of operations or, if there is no base of operations,  
 24 the place from which the service is directed or controlled is in  
 25 this state; or  
 26 (B) the base of operations or the place from which the service  
 27 is directed or controlled is not in any state in which some part  
 28 of the service is performed, but the individual is a resident of  
 29 this state.

30 (e) The sales factor is a fraction, the numerator of which is the total  
 31 sales of the taxpayer in this state during the taxable year, and the  
 32 denominator of which is the total sales of the taxpayer everywhere  
 33 during the taxable year. Sales include receipts from intangible property  
 34 and receipts from the sale or exchange of intangible property. However,  
 35 with respect to a foreign corporation, the denominator does not include  
 36 sales made in a place that is outside the United States. Receipts from  
 37 intangible personal property are derived from sources within Indiana  
 38 if the receipts from the intangible personal property are attributable to  
 39 Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point  
 40 or other conditions of the sale, sales of tangible personal property are  
 41 in this state if:

- 42 (1) the property is delivered or shipped to a purchaser that is  
 43 within Indiana, other than the United States government; or  
 44 (2) the property is shipped from an office, a store, a warehouse, a  
 45 factory, or other place of storage in this state and:  
 46 (A) the purchaser is the United States government; or  
 47 (B) the taxpayer is not taxable in the state of the purchaser.

1 Gross receipts derived from commercial printing as described in  
2 IC 6-2.5-1-10 shall be treated as sales of tangible personal property for  
3 purposes of this chapter.

4 (f) Sales, other than receipts from intangible property covered by  
5 subsection (e) and sales of tangible personal property, are in this state  
6 if:

- 7 (1) the income-producing activity is performed in this state; or  
8 (2) the income-producing activity is performed both within and  
9 without this state and a greater proportion of the  
10 income-producing activity is performed in this state than in any  
11 other state, based on costs of performance.

12 (g) Rents and royalties from real or tangible personal property,  
13 capital gains, interest, dividends, or patent or copyright royalties, to the  
14 extent that they constitute nonbusiness income, shall be allocated as  
15 provided in subsections (h) through (k).

16 (h)(1) Net rents and royalties from real property located in this state  
17 are allocable to this state.

18 (2) Net rents and royalties from tangible personal property are  
19 allocated to this state:

- 20 (i) if and to the extent that the property is utilized in this state; or  
21 (ii) in their entirety if the taxpayer's commercial domicile is in this  
22 state and the taxpayer is not organized under the laws of or  
23 taxable in the state in which the property is utilized.

24 (3) The extent of utilization of tangible personal property in a state  
25 is determined by multiplying the rents and royalties by a fraction, the  
26 numerator of which is the number of days of physical location of the  
27 property in the state during the rental or royalty period in the taxable  
28 year, and the denominator of which is the number of days of physical  
29 location of the property everywhere during all rental or royalty periods  
30 in the taxable year. If the physical location of the property during the  
31 rental or royalty period is unknown or unascertainable by the taxpayer,  
32 tangible personal property is utilized in the state in which the property  
33 was located at the time the rental or royalty payer obtained possession.

34 (i)(1) Capital gains and losses from sales of real property located in  
35 this state are allocable to this state.

36 (2) Capital gains and losses from sales of tangible personal property  
37 are allocable to this state if:

- 38 (i) the property had a situs in this state at the time of the sale; or  
39 (ii) the taxpayer's commercial domicile is in this state and the  
40 taxpayer is not taxable in the state in which the property had a  
41 situs.

42 (3) Capital gains and losses from sales of intangible personal  
43 property are allocable to this state if the taxpayer's commercial  
44 domicile is in this state.

45 (j) Interest and dividends are allocable to this state if the taxpayer's  
46 commercial domicile is in this state.

47 (k)(1) Patent and copyright royalties are allocable to this state:

- 1 (i) if and to the extent that the patent or copyright is utilized by  
 2 the taxpayer in this state; or  
 3 (ii) if and to the extent that the patent or copyright is utilized by  
 4 the taxpayer in a state in which the taxpayer is not taxable and the  
 5 taxpayer's commercial domicile is in this state.  
 6 (2) A patent is utilized in a state to the extent that it is employed  
 7 in production, fabrication, manufacturing, or other processing in  
 8 the state or to the extent that a patented product is produced in the  
 9 state. If the basis of receipts from patent royalties does not permit  
 10 allocation to states or if the accounting procedures do not reflect  
 11 states of utilization, the patent is utilized in the state in which the  
 12 taxpayer's commercial domicile is located.  
 13 (3) A copyright is utilized in a state to the extent that printing or  
 14 other publication originates in the state. If the basis of receipts  
 15 from copyright royalties does not permit allocation to states or if  
 16 the accounting procedures do not reflect states of utilization, the  
 17 copyright is utilized in the state in which the taxpayer's  
 18 commercial domicile is located.  
 19 (l) If the allocation and apportionment provisions of this article do  
 20 not fairly represent the taxpayer's income derived from sources within  
 21 the state of Indiana, the taxpayer may petition for or the department  
 22 may require, in respect to all or any part of the taxpayer's business  
 23 activity, if reasonable:  
 24 (1) separate accounting;  
 25 (2) for a taxable year beginning before January 1, 2011, the  
 26 exclusion of any one (1) or more of the factors, except the sales  
 27 factor;  
 28 (3) the inclusion of one (1) or more additional factors which will  
 29 fairly represent the taxpayer's income derived from sources within  
 30 the state of Indiana; or  
 31 (4) the employment of any other method to effectuate an equitable  
 32 allocation and apportionment of the taxpayer's income.  
 33 (m) In the case of two (2) or more organizations, trades, or  
 34 businesses owned or controlled directly or indirectly by the same  
 35 interests, the department shall distribute, apportion, or allocate the  
 36 income derived from sources within the state of Indiana between and  
 37 among those organizations, trades, or businesses in order to fairly  
 38 reflect and report the income derived from sources within the state of  
 39 Indiana by various taxpayers.  
 40 (n) For purposes of allocation and apportionment of income under  
 41 this article, a taxpayer is taxable in another state if:  
 42 (1) in that state the taxpayer is subject to a net income tax, a  
 43 franchise tax measured by net income, a franchise tax for the  
 44 privilege of doing business, or a corporate stock tax; or  
 45 (2) that state has jurisdiction to subject the taxpayer to a net  
 46 income tax regardless of whether, in fact, the state does or does  
 47 not.

1 (o) Notwithstanding subsections (l) and (m), the department may  
 2 not, under any circumstances, require that income, deductions, and  
 3 credits attributable to a taxpayer and another entity be reported in a  
 4 combined income tax return for any taxable year, if the other entity is:

5 (1) a foreign corporation; or

6 (2) a corporation that is classified as a foreign operating  
 7 corporation for the taxable year by section 2.4 of this chapter.

8 (p) Notwithstanding subsections (l) and (m), the department may not  
 9 require that income, deductions, and credits attributable to a taxpayer  
 10 and another entity not described in subsection (o)(1) or (o)(2) be  
 11 reported in a combined income tax return for any taxable year, unless  
 12 the department is unable to fairly reflect the taxpayer's adjusted gross  
 13 income for the taxable year through use of other powers granted to the  
 14 department by subsections (l) and (m).

15 (q) Notwithstanding subsections (o) and (p), one (1) or more  
 16 taxpayers may petition the department under subsection (l) for  
 17 permission to file a combined income tax return for a taxable year. The  
 18 petition to file a combined income tax return must be completed and  
 19 filed with the department not more than thirty (30) days after the end  
 20 of the taxpayer's taxable year. A taxpayer filing a combined income tax  
 21 return must petition the department within thirty (30) days after the end  
 22 of the taxpayer's taxable year to discontinue filing a combined income  
 23 tax return.

24 (r) This subsection applies to a corporation that is a life insurance  
 25 company (as defined in Section 816(a) of the Internal Revenue Code)  
 26 or an insurance company that is subject to tax under Section 831 of the  
 27 Internal Revenue Code. The corporation's adjusted gross income that  
 28 is derived from sources within Indiana is determined by multiplying the  
 29 corporation's adjusted gross income by a fraction:

30 (1) the numerator of which is the direct premiums and annuity  
 31 considerations received during the taxable year for insurance  
 32 upon property or risks in the state; and

33 (2) the denominator of which is the direct premiums and annuity  
 34 considerations received during the taxable year for insurance  
 35 upon property or risks everywhere.

36 The term "direct premiums and annuity considerations" means the  
 37 gross premiums received from direct business as reported in the  
 38 corporation's annual statement filed with the department of insurance."

39 Page 156, between lines 38 and 39, begin a new paragraph and  
 40 insert:

41 "SECTION 152. IC 6-3-2-8 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:  
 43 Sec. 8. (a) For purposes of this section, "qualified employee" means an  
 44 individual who is employed by a taxpayer, a pass through entity, an  
 45 employer exempt from adjusted gross income tax (IC 6-3-1 through  
 46 IC 6-3-7) under IC 6-3-2-2.8(3), IC 6-3-2-2.8(4), or IC 6-3-2-2.8(5), a  
 47 nonprofit entity, the state, a political subdivision of the state, or the

- 1 United States government and who:
- 2 (1) has the employee's principal place of residence in the
- 3 enterprise zone in which the employee is employed;
- 4 (2) performs services for the taxpayer, the employer, the nonprofit
- 5 entity, the state, the political subdivision, or the United States
- 6 government, ninety percent (90%) of which are directly related to:
- 7 (A) the conduct of the taxpayer's or employer's trade or
- 8 business; or
- 9 (B) the activities of the nonprofit entity, the state, the political
- 10 subdivision, or the United States government;
- 11 that is located in an enterprise zone; and
- 12 (3) performs at least fifty percent (50%) of the employee's service
- 13 for the taxpayer or employer during the taxable year in the
- 14 enterprise zone.
- 15 ~~(b)~~ For purposes of this section, "pass through entity" means a:
- 16 ~~(1)~~ corporation that is exempt from the adjusted gross income tax
- 17 under IC 6-3-2-2.8(2);
- 18 ~~(2)~~ partnership;
- 19 ~~(3)~~ trust;
- 20 ~~(4)~~ limited liability company; or
- 21 ~~(5)~~ limited liability partnership.
- 22 ~~(c)~~ **(b)** Except as provided in subsection ~~(d)~~; **(c)**, a qualified
- 23 employee is entitled to a deduction from ~~his~~ **the employee's** adjusted
- 24 gross income in each taxable year in the amount of the lesser of:
- 25 (1) one-half (1/2) of ~~his~~ **the employee's** adjusted gross income for
- 26 the taxable year that ~~he~~ **the employee** earns as a qualified
- 27 employee; or
- 28 (2) seven thousand five hundred dollars (\$7,500).
- 29 ~~(d)~~ **(c)** No qualified employee is entitled to a deduction under this
- 30 section for a taxable year that begins after the termination of the
- 31 enterprise zone in which ~~he~~ **the employee** resides.
- 32 SECTION 153. IC 6-3-3-10, AS AMENDED BY P.L.4-2005,
- 33 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) As used in this
- 35 section:
- 36 "Base period wages" means the following:
- 37 (1) In the case of a taxpayer other than a pass through entity,
- 38 wages paid or payable by a taxpayer to its employees during the
- 39 year that ends on the last day of the month that immediately
- 40 precedes the month in which an enterprise zone is established, to
- 41 the extent that the wages would have been qualified wages if the
- 42 enterprise zone had been in effect for that year. If the taxpayer did
- 43 not engage in an active trade or business during that year in the
- 44 area that is later designated as an enterprise zone, then the base
- 45 period wages equal zero (0). If the taxpayer engaged in an active
- 46 trade or business during only part of that year in an area that is
- 47 later designated as an enterprise zone, then the department shall

- 1 determine the amount of base period wages.
- 2 (2) In the case of a taxpayer that is a pass through entity, base  
3 period wages equal zero (0).
- 4 "Enterprise zone" means an enterprise zone created under  
5 IC 5-28-15.
- 6 "Enterprise zone adjusted gross income" means adjusted gross  
7 income of a taxpayer that is derived from sources within an enterprise  
8 zone. Sources of adjusted gross income shall be determined with  
9 respect to an enterprise zone, to the extent possible, in the same manner  
10 that sources of adjusted gross income are determined with respect to  
11 the state of Indiana under IC 6-3-2-2.
- 12 "Enterprise zone gross income" means gross income of a taxpayer  
13 that is derived from sources within an enterprise zone.
- 14 "Enterprise zone insurance premiums" means insurance premiums  
15 derived from sources within an enterprise zone.
- 16 "Monthly base period wages" means base period wages divided by  
17 twelve (12).
- 18 "Pass through entity" means a:
- 19 (1) corporation that is exempt from the adjusted gross income tax  
20 under IC 6-3-2-2.8(2);
- 21 (2) partnership;
- 22 (3) trust;
- 23 (4) limited liability company; or
- 24 (5) limited liability partnership.
- 25 "Qualified employee" means an individual who is employed by a  
26 taxpayer and who:
- 27 (1) has the individual's principal place of residence in the  
28 enterprise zone in which the individual is employed;
- 29 (2) performs services for the taxpayer, ninety percent (90%) of  
30 which are directly related to the conduct of the taxpayer's trade or  
31 business that is located in an enterprise zone;
- 32 (3) performs at least fifty percent (50%) of the individual's  
33 services for the taxpayer during the taxable year in the enterprise  
34 zone; and
- 35 (4) in the case of an individual who is employed by a taxpayer  
36 that is a pass through entity, was first employed by the taxpayer  
37 after December 31, 1998.
- 38 "Qualified increased employment expenditures" means the  
39 following:
- 40 (1) For a taxpayer's taxable year other than the taxpayer's taxable  
41 year in which the enterprise zone is established, the amount by  
42 which qualified wages paid or payable by the taxpayer during the  
43 taxable year to qualified employees exceeds the taxpayer's base  
44 period wages.
- 45 (2) For the taxpayer's taxable year in which the enterprise zone is  
46 established, the amount by which qualified wages paid or payable  
47 by the taxpayer during all of the full calendar months in the

1 taxpayer's taxable year that succeed the date on which the  
 2 enterprise zone was established exceed the taxpayer's monthly  
 3 base period wages multiplied by that same number of full  
 4 calendar months.

5 "Qualified state tax liability" means a taxpayer's total income tax  
 6 liability incurred under:

- 7 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with
- 8 respect to enterprise zone adjusted gross income;
- 9 (2) IC 27-1-18-2 (insurance premiums tax) with respect to
- 10 enterprise zone insurance premiums; and
- 11 (3) IC 6-5.5 (the financial institutions tax);

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

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

17 "Taxpayer" includes a pass through entity.

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

- 20 (1) the product of ten percent (10%) multiplied by the qualified
- 21 increased employment expenditures of the taxpayer for the
- 22 taxable year; or
- 23 (2) one thousand five hundred dollars (\$1,500) multiplied by the
- 24 number of qualified employees employed by the taxpayer during
- 25 the taxable year.

26 (c) The amount of the credit provided by this section that a taxpayer  
 27 uses during a particular taxable year may not exceed the taxpayer's  
 28 qualified state tax liability for the taxable year. If the credit provided by  
 29 this section exceeds the amount of that tax liability for the taxable year  
 30 it is first claimed, then the excess may be carried back to preceding  
 31 taxable years or carried over to succeeding taxable years and used as  
 32 a credit against the taxpayer's qualified state tax liability for those  
 33 taxable years. Each time that the credit is carried back to a preceding  
 34 taxable year or carried over to a succeeding taxable year, the amount  
 35 of the carryover is reduced by the amount used as a credit for that  
 36 taxable year. Except as provided in subsection (e), the credit provided  
 37 by this section may be carried forward and applied in the ten (10)  
 38 taxable years that succeed the taxable year in which the credit accrues.  
 39 The credit provided by this section may be carried back and applied in  
 40 the three (3) taxable years that precede the taxable year in which the  
 41 credit accrues.

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

46 (e) Notwithstanding subsection (c), if a credit under this section  
 47 results from wages paid in a particular enterprise zone, and if that

1 enterprise zone terminates in a taxable year that succeeds the last  
 2 taxable year in which a taxpayer is entitled to use the credit carryover  
 3 that results from those wages under subsection (c), then the taxpayer  
 4 may use the credit carryover for any taxable year up to and including  
 5 the taxable year in which the enterprise zone terminates.

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

7 (g) A taxpayer that:

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

10 (2) is not owned or controlled directly or indirectly by a taxpayer  
 11 that owns, rents, or leases real property outside of an enterprise  
 12 zone;

13 is exempt from the allocation and apportionment provisions of this  
 14 section.

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

19 (1) the tax credit determined for the pass through entity for the  
 20 taxable year; multiplied by

21 (2) the percentage of the pass through entity's distributive income  
 22 to which the shareholder, partner, beneficiary, or member is  
 23 entitled.

24 The credit provided under this subsection is in addition to a tax credit  
 25 to which a shareholder, partner, beneficiary, or member of a pass  
 26 through entity is entitled. However, a pass through entity and an  
 27 individual who is a shareholder, partner, beneficiary, or member of a  
 28 pass through entity may not claim more than one (1) credit for the  
 29 qualified expenditure.

30 SECTION 154. IC 6-3-3-12, AS AMENDED BY P.L.131-2008,  
 31 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JANUARY 1, 2010]: Sec. 12. (a) As used in this section, "account" has  
 33 the meaning set forth in IC 21-9-2-2.

34 (b) As used in this section, "account beneficiary" has the meaning  
 35 set forth in IC 21-9-2-3.

36 (c) As used in this section, "account owner" has the meaning set  
 37 forth in IC 21-9-2-4.

38 (d) As used in this section, "college choice 529 education savings  
 39 plan" refers to a college choice 529 investment plan established under  
 40 IC 21-9.

41 **(e) As used in this section, "contribution" means the amount of**  
 42 **money directly provided to a college choice 529 education savings**  
 43 **plan account by a taxpayer. A contribution does not include any of**  
 44 **the following:**

45 **(1) Money credited to an account as a result of bonus points**  
 46 **or other forms of consideration earned by the taxpayer that**  
 47 **result in a transfer of money to the account.**

1           **(2) Money transferred from any other qualified tuition**  
 2           **program under Section 529 of the Internal Revenue Code or**  
 3           **from any other similar plan.**

4           ~~(e)~~ **(f)** As used in this section, "nonqualified withdrawal" means a  
 5 withdrawal or distribution from a college choice 529 education savings  
 6 plan that is not a qualified withdrawal.

7           ~~(f)~~ **(g)** As used in this section, "qualified higher education expenses"  
 8 has the meaning set forth in IC 21-9-2-19.5.

9           ~~(g)~~ **(h)** As used in this section, "qualified withdrawal" means a  
 10 withdrawal or distribution from a college choice 529 education savings  
 11 plan that is made:

12           (1) to pay for qualified higher education expenses, excluding any  
 13 withdrawals or distributions used to pay for qualified higher  
 14 education expenses if the withdrawals or distributions are made  
 15 from an account of a college choice 529 education savings plan  
 16 that is terminated within twelve (12) months after the account is  
 17 opened;

18           (2) as a result of the death or disability of an account beneficiary;

19           (3) because an account beneficiary received a scholarship that  
 20 paid for all or part of the qualified higher education expenses of  
 21 the account beneficiary, to the extent that the withdrawal or  
 22 distribution does not exceed the amount of the scholarship; or

23           (4) by a college choice 529 education savings plan as the result of  
 24 a transfer of funds by a college choice 529 education savings plan  
 25 from one (1) third party custodian to another.

26 A qualified withdrawal does not include a rollover distribution or  
 27 transfer of assets from a college choice 529 education savings plan to  
 28 any other qualified tuition program under Section 529 of the Internal  
 29 Revenue Code or to any other similar plan.

30           ~~(h)~~ **(i)** As used in this section, "taxpayer" means:

31           (1) an individual filing a single return; or

32           (2) a married couple filing a joint return.

33           ~~(i)~~ **(j)** A taxpayer is entitled to a credit against the taxpayer's  
 34 adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a  
 35 taxable year equal to the least of the following:

36           (1) Twenty percent (20%) of the amount of the total contributions  
 37 made by the taxpayer to an account or accounts of a college  
 38 choice 529 education savings plan during the taxable year.

39           (2) One thousand dollars (\$1,000).

40           (3) The amount of the taxpayer's adjusted gross income tax  
 41 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,  
 42 reduced by the sum of all credits (as determined without regard to  
 43 this section) allowed by IC 6-3-1 through IC 6-3-7.

44           ~~(j)~~ **(k)** A taxpayer is not entitled to a carryback, carryover, or refund  
 45 of an unused credit.

46           ~~(k)~~ **(l)** A taxpayer may not sell, assign, convey, or otherwise transfer  
 47 the tax credit provided by this section.

1           ~~(h)~~ **(m)** To receive the credit provided by this section, a taxpayer  
 2 must claim the credit on the taxpayer's annual state tax return or returns  
 3 in the manner prescribed by the department. The taxpayer shall submit  
 4 to the department all information that the department determines is  
 5 necessary for the calculation of the credit provided by this section.

6           ~~(m)~~ **(n)** An account owner of an account of a college choice 529  
 7 education savings plan must repay all or a part of the credit in a taxable  
 8 year in which any nonqualified withdrawal is made from the account.  
 9 The amount the taxpayer must repay is equal to the lesser of:

10           (1) twenty percent (20%) of the total amount of nonqualified  
 11 withdrawals made during the taxable year from the account; or

12           (2) the excess of:

13                   (A) the cumulative amount of all credits provided by this  
 14 section that are claimed by any taxpayer with respect to the  
 15 taxpayer's contributions to the account for all prior taxable  
 16 years beginning on or after January 1, 2007; over

17                   (B) the cumulative amount of repayments paid by the account  
 18 owner under this subsection for all prior taxable years  
 19 beginning on or after January 1, 2008.

20           ~~(n)~~ **(o)** Any required repayment under subsection ~~(m)~~ **(o)** shall be  
 21 reported by the account owner on the account owner's annual state  
 22 income tax return for any taxable year in which a nonqualified  
 23 withdrawal is made.

24           ~~(o)~~ **(p)** A nonresident account owner who is not required to file an  
 25 annual income tax return for a taxable year in which a nonqualified  
 26 withdrawal is made shall make any required repayment on the form  
 27 required under IC 6-3-4-1(2). If the nonresident account owner does  
 28 not make the required repayment, the department shall issue a demand  
 29 notice in accordance with IC 6-8.1-5-1.

30           ~~(p)~~ **(q)** The executive director of the Indiana education savings  
 31 authority shall submit or cause to be submitted to the department a  
 32 copy of all information returns or statements issued to account owners,  
 33 account beneficiaries, and other taxpayers for each taxable year with  
 34 respect to:

35           (1) nonqualified withdrawals made from accounts of a college  
 36 choice 529 education savings plan for the taxable year; or

37           (2) account closings for the taxable year.

38           **(r) The department may disallow a credit under this section**  
 39 **unless the taxpayer, at the request of the department, establishes**  
 40 **by a preponderance of the evidence that the taxpayer who made**  
 41 **the contribution giving rise to the credit did not have tax avoidance**  
 42 **as the principal purpose of the contribution.**

43           SECTION 155. IC 6-3-4-1.5, AS AMENDED BY P.L.131-2008,  
 44 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 45 JANUARY 1, 2010]: Sec. 1.5. (a) If a professional preparer files more  
 46 than one hundred (100) returns in a calendar year for persons described  
 47 in section 1(1) or 1(2) of this chapter, in the immediately following

1 calendar year the professional preparer shall file returns for persons  
2 described in section 1(1) or 1(2) of this chapter in an electronic format  
3 specified by the department.

4 (b) A professional preparer described in subsection (a) is not  
5 required to file a return in an electronic format if:

6 **(1) the taxpayer or the taxpayer's spouse:**

7 **(A) claims the additional exemption for the elderly under**  
8 **IC 6-3-1-3.5(a)(4)(B); or**

9 **(B) has elected because of religious beliefs not to**  
10 **participate in the federal Social Security program; and**

11 **(2) the taxpayer requests in writing that the return not be filed in**  
12 **an electronic format. Returns filed by a professional preparer**  
13 **under this subsection shall not be used in determining the**  
14 **professional preparer's requirement to file returns in an electronic**  
15 **format.**

16 (c) After December 31, 2010, a professional preparer who does not  
17 comply with subsection (a) is subject to a penalty of fifty dollars (\$50)  
18 for each return not filed in an electronic format, with a maximum  
19 penalty of twenty-five thousand dollars (\$25,000) per calendar year.

20 SECTION 156. IC 6-3-4-8.1, AS AMENDED BY P.L.211-2007,  
21 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JANUARY 1, 2010]: Sec. 8.1. (a) Any entity that is required to file a  
23 monthly return and make a monthly remittance of taxes under sections  
24 8, 12, 13, and 15 of this chapter shall file those returns and make those  
25 remittances twenty (20) days (rather than thirty (30) days) after the end  
26 of each month for which those returns and remittances are filed, if that  
27 entity's average monthly remittance for the immediately preceding  
28 calendar year exceeds one thousand dollars (\$1,000).

29 (b) The department may require any entity to make the entity's  
30 monthly remittance and file the entity's monthly return twenty (20) days  
31 (rather than thirty (30) days) after the end of each month for which a  
32 return and payment are made if the department estimates that the  
33 entity's average monthly payment for the current calendar year will  
34 exceed one thousand dollars (\$1,000).

35 (c) If the department determines that a withholding agent is not  
36 withholding, reporting, or remitting an amount of tax in accordance  
37 with this chapter, the department may require the withholding agent:

38 (1) to make periodic deposits during the reporting period; and

39 (2) to file an informational return with each periodic deposit.

40 (d) If a person files a combined sales and withholding tax report and  
41 either this section or IC 6-2.5-6-1 requires the sales or withholding tax  
42 report to be filed and remittances to be made within twenty (20) days  
43 after the end of each month, then the person shall file the combined  
44 report and remit the sales and withholding taxes due within twenty (20)  
45 days after the end of each month.

46 (e) If the department determines that an entity's:

47 (1) estimated monthly withholding tax remittance for the current

1           year; or  
 2           (2) average monthly withholding tax remittance for the preceding  
 3           year;  
 4           exceeds five thousand dollars (\$5,000), the entity shall remit the  
 5           monthly withholding taxes due by electronic fund transfer (as defined  
 6           in IC 4-8.1-2-7) or by delivering in person or by overnight courier a  
 7           payment by cashier's check, certified check, or money order to the  
 8           department. The transfer or payment shall be made on or before the  
 9           date the remittance is due.

10          ~~(f) If an entity's withholding tax remittance is made by electronic~~  
 11          ~~fund transfer, the entity is not required to file a monthly withholding~~  
 12          ~~tax return.~~

13          **(f) An entity that registers to withhold taxes after December 31,**  
 14          **2009, is required to file the withholding tax report and remit**  
 15          **withholding taxes electronically through the department's online**  
 16          **tax filing program.**

17          SECTION 157. IC 6-3-4-8.2, AS AMENDED BY P.L.91-2006,  
 18          SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19          JULY 1, 2009]: Sec. 8.2. (a) Each person in Indiana who is required  
 20          under the Internal Revenue Code to withhold federal tax from winnings  
 21          shall deduct and retain adjusted gross income tax at the time and in the  
 22          amount described in withholding instructions issued by the department.

23          (b) In addition to amounts withheld under subsection (a), every  
 24          person engaged in a gambling operation (as defined in IC 4-33-2-10)  
 25          **or a gambling game (as defined in IC 4-35-2-5)** and making a  
 26          payment in the course of the gambling operation (as defined in  
 27          IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** of:

- 28               (1) winnings (not reduced by the wager) valued at one thousand  
 29               two hundred dollars (\$1,200) or more from slot machine play; or  
 30               (2) winnings (reduced by the wager) valued at one thousand five  
 31               hundred dollars (\$1,500) or more from a keno game;

32          shall deduct and retain adjusted gross income tax at the time and in the  
 33          amount described in withholding instructions issued by the department.  
 34          The department's instructions must provide that amounts withheld shall  
 35          be paid to the department before the close of the business day following  
 36          the day the winnings are paid, actually or constructively. Slot machine  
 37          and keno winnings from a gambling operation (as defined in  
 38          IC 4-33-2-10) **or a gambling game (as defined in IC 4-35-2-5)** that  
 39          are reportable for federal income tax purposes shall be treated as  
 40          subject to withholding under this section, even if federal tax  
 41          withholding is not required.

42          (c) The adjusted gross income tax due on prize money or prizes:  
 43               (1) received from a winning lottery ticket purchased under  
 44               IC 4-30; and  
 45               (2) exceeding one thousand two hundred dollars (\$1,200) in  
 46               value;  
 47          shall be deducted and retained at the time and in the amount described

1 in withholding instructions issued by the department, even if federal  
2 withholding is not required.

3 (d) In addition to the amounts withheld under subsection (a), a  
4 qualified organization (as defined in IC 4-32.2-2-24(a)) that awards a  
5 prize under IC 4-32.2 exceeding one thousand two hundred dollars  
6 (\$1,200) in value shall deduct and retain adjusted gross income tax at  
7 the time and in the amount described in withholding instructions issued  
8 by the department. The department's instructions must provide that  
9 amounts withheld shall be paid to the department before the close of  
10 the business day following the day the winnings are paid, actually or  
11 constructively."

12 Page 157, between lines 36 and 37, begin a new paragraph and  
13 insert:

14 "SECTION 159. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007,  
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel"  
17 means:

- 18 (1) methanol, denatured ethanol, and other alcohols;
- 19 (2) mixtures containing eighty-five percent (85%) or more by  
20 volume of methanol, denatured ethanol, and other alcohols with  
21 gasoline or other fuel;
- 22 (3) natural gas;
- 23 (4) liquefied petroleum gas;
- 24 (5) hydrogen;
- 25 (6) coal-derived liquid fuels;
- 26 (7) non-alcohol fuels derived from biological material;
- 27 (8) P-Series fuels; ~~or~~
- 28 (9) electricity; ~~or~~
- 29 **(10) biodiesel or diesel fuel."**

30 Page 159, between lines 16 and 17, begin a new paragraph and  
31 insert:

32 "SECTION 161. IC 6-3.5-1.1-9, AS AMENDED BY P.L.146-2008,  
33 SECTION 327, IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE JANUARY 1, 2010]: Sec. 9. (a) Revenue derived from  
35 the imposition of the county adjusted gross income tax shall, in the  
36 manner prescribed by this section, be distributed to the county that  
37 imposed it. The amount to be distributed to a county during an ensuing  
38 calendar year equals the amount of county adjusted gross income tax  
39 revenue that the ~~department, after reviewing the recommendation of the~~  
40 budget agency determines has been:

- 41 (1) received from that county for a taxable year ending before the  
42 calendar year in which the determination is made; and
- 43 (2) reported on an annual return or amended return processed by  
44 the department in the state fiscal year ending before July 1 of the  
45 calendar year in which the determination is made;

46 as adjusted (~~as determined after review of the recommendation of the~~  
47 ~~budget agency~~) for refunds of county adjusted gross income tax made

1 in the state fiscal year.

2 (b) Before August 2 of each calendar year, the ~~department, after~~  
 3 ~~reviewing the recommendation of the~~ budget agency shall certify to the  
 4 county auditor of each adopting county the amount determined under  
 5 subsection (a) plus the amount of interest in the county's account that  
 6 has accrued and has not been included in a certification made in a  
 7 preceding year. The amount certified is the county's "certified  
 8 distribution" for the immediately succeeding calendar year. The amount  
 9 certified shall be adjusted under subsections (c), (d), (e), (f), (g), and  
 10 (h). The budget agency shall provide the county council with an  
 11 informative summary of the calculations used to determine the certified  
 12 distribution. The summary of calculations must include:

- 13 (1) the amount reported on individual income tax returns
- 14 processed by the department during the previous fiscal year;
- 15 (2) adjustments for over distributions in prior years;
- 16 (3) adjustments for clerical or mathematical errors in prior years;
- 17 (4) adjustments for tax rate changes; and
- 18 (5) the amount of excess account balances to be distributed under
- 19 IC 6-3.5-1.1-21.1.

20 The ~~department~~ **budget agency** shall also certify information  
 21 concerning the part of the certified distribution that is attributable to a  
 22 tax rate under section 24, 25, or 26 of this chapter. This information  
 23 must be certified to the county auditor, **the department**, and ~~to~~ the  
 24 department of local government finance not later than September 1 of  
 25 each calendar year. The part of the certified distribution that is  
 26 attributable to a tax rate under section 24, 25, or 26 of this chapter may  
 27 be used only as specified in those provisions.

28 (c) The ~~department~~ **budget agency** shall certify an amount less than  
 29 the amount determined under subsection (b) if the ~~department, after~~  
 30 ~~reviewing the recommendation of the~~ budget agency determines that  
 31 the reduced distribution is necessary to offset overpayments made in a  
 32 calendar year before the calendar year of the distribution. The  
 33 ~~department after reviewing the recommendation of the~~ budget agency  
 34 may reduce the amount of the certified distribution over several  
 35 calendar years so that any overpayments are offset over several years  
 36 rather than in one (1) lump sum.

37 (d) The ~~department, after reviewing the recommendation of the~~  
 38 budget agency shall adjust the certified distribution of a county to  
 39 correct for any clerical or mathematical errors made in any previous  
 40 certification under this section. The ~~department, after reviewing the~~  
 41 ~~recommendation of the~~ budget agency may reduce the amount of the  
 42 certified distribution over several calendar years so that any adjustment  
 43 under this subsection is offset over several years rather than in one (1)  
 44 lump sum.

45 (e) The ~~department, after reviewing the recommendation of the~~  
 46 budget agency shall adjust the certified distribution of a county to  
 47 provide the county with the distribution required under section 10(b)

1 of this chapter.

2 (f) This subsection applies to a county that:

3 (1) initially imposes the county adjusted gross income tax; or

4 (2) increases the county adjusted income tax rate;

5 under this chapter in the same calendar year in which the ~~department~~  
6 **budget agency** makes a certification under this section. The  
7 ~~department, after reviewing the recommendation of the~~ budget agency  
8 shall adjust the certified distribution of a county to provide for a  
9 distribution in the immediately following calendar year and in each  
10 calendar year thereafter. The ~~department~~ **budget agency** shall provide  
11 for a full transition to certification of distributions as provided in  
12 subsection (a)(1) through (a)(2) in the manner provided in subsection  
13 (c).

14 (g) The ~~department, after reviewing the recommendation of the~~  
15 budget agency shall adjust the certified distribution of a county to  
16 provide the county with the distribution required under section 3.3 of  
17 this chapter beginning not later than the tenth month after the month in  
18 which additional revenue from the tax authorized under section 3.3 of  
19 this chapter is initially collected.

20 (h) This subsection applies in the year in which a county initially  
21 imposes a tax rate under section 24 of this chapter. Notwithstanding  
22 any other provision, the ~~department~~ **budget agency** shall adjust the part  
23 of the county's certified distribution that is attributable to the tax rate  
24 under section 24 of this chapter to provide for a distribution in the  
25 immediately following calendar year equal to the result of:

26 (1) the sum of the amounts determined under STEP ONE through  
27 STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county  
28 initially imposes a tax rate under section 24 of this chapter;  
29 multiplied by

30 (2) two (2)."

31 Page 161, between lines 21 and 22, begin a new paragraph and  
32 insert:

33 "SECTION 164. IC 6-3.5-1.1-21 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21. Before  
35 October 2 of each year, the ~~department~~ **budget agency** shall submit a  
36 report to each county auditor indicating the balance in the county's  
37 adjusted gross income tax account as of the cutoff date specified by the  
38 budget agency.

39 SECTION 165. IC 6-3.5-1.1-21.1 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 21.1. (a) If ~~after~~  
41 ~~receiving a recommendation from~~ the budget agency the ~~department~~  
42 determines that a sufficient balance exists in a county account in excess  
43 of the amount necessary, when added to other money that will be  
44 deposited in the account after the date of the ~~recommendation;~~  
45 **determination**, to make certified distributions to the county in the  
46 ensuing year, the ~~department~~ **budget agency** shall make a  
47 supplemental distribution to a county from the county's adjusted gross

1 income tax account.

2 (b) A supplemental distribution described in subsection (a) must be:

3 (1) made in January of the ensuing calendar year; and

4 (2) allocated and, subject to subsection (d), used in the same  
5 manner as certified distributions.

6 (c) A determination under this section must be made before October  
7 2.

8 (d) This subsection applies to that part of a distribution made under  
9 this section that is allocated and available for use in the same manner  
10 as certified shares. The civil taxing unit receiving the money shall  
11 deposit the money in the civil taxing unit's rainy day fund established  
12 under IC 36-1-8-5.1."

13 Page 165, delete lines 8 through 42, begin a new paragraph and  
14 insert:

15 "SECTION 167. IC 6-3.5-1.5-1, AS AMENDED BY P.L.146-2008,  
16 SECTION 334, IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. (a) The  
18 department of local government finance and the department of state  
19 revenue **(before January 1, 2010) or the budget agency (after**  
20 **December 31, 2009)** shall, before July 1 of each year, jointly calculate  
21 the county adjusted income tax rate or county option income tax rate  
22 (as applicable) that must be imposed in a county to raise income tax  
23 revenue in the following year equal to the sum of the following STEPS:

24 STEP ONE: Determine the greater of zero (0) or the result of:

25 (1) the department of local government finance's estimate of  
26 the sum of the maximum permissible ad valorem property tax  
27 levies calculated under IC 6-1.1-18.5 for all civil taxing units  
28 in the county for the ensuing calendar year (before any  
29 adjustment under IC 6-1.1-18.5-3(g) or IC 6-1.1-18.5-3(h) for  
30 the ensuing calendar year); minus

31 (2) the sum of the maximum permissible ad valorem property  
32 tax levies calculated under IC 6-1.1-18.5 for all civil taxing  
33 units in the county for the current calendar year.

34 In the case of a civil taxing unit that is located in more than one  
35 (1) county, the department of local government finance shall, for  
36 purposes of making the determination under this subdivision,  
37 apportion the civil taxing unit's maximum permissible ad valorem  
38 property tax levy among the counties in which the civil taxing unit  
39 is located.

40 STEP TWO: This STEP applies only to property taxes first due  
41 and payable before January 1, 2009. Determine the greater of zero  
42 (0) or the result of:

43 (1) the department of local government finance's estimate of  
44 the family and children property tax levy that will be imposed  
45 by the county under IC 12-19-7-4 for the ensuing calendar year  
46 (before any adjustment under IC 12-19-7-4(b) for the ensuing  
47 calendar year); minus

- 1           (2) the county's family and children property tax levy imposed  
 2           by the county under IC 12-19-7-4 for the current calendar year.  
 3       STEP THREE: This STEP applies only to property taxes first due  
 4       and payable before January 1, 2009. Determine the greater of zero  
 5       (0) or the result of:  
 6           (1) the department of local government finance's estimate of  
 7           the children's psychiatric residential treatment services  
 8           property tax levy that will be imposed by the county under  
 9           IC 12-19-7.5-6 for the ensuing calendar year (before any  
 10          adjustment under IC 12-19-7.5-6(b) for the ensuing calendar  
 11          year); minus  
 12          (2) the children's psychiatric residential treatment services  
 13          property tax imposed by the county under IC 12-19-7.5-6 for  
 14          the current calendar year.  
 15       STEP FOUR: Determine the greater of zero (0) or the result of:  
 16          (1) the department of local government finance's estimate of  
 17          the county's maximum community mental health centers  
 18          property tax levy under IC 12-29-2-2 for the ensuing calendar  
 19          year (before any adjustment under IC 12-29-2-2(c) for the  
 20          ensuing calendar year); minus  
 21          (2) the county's maximum community mental health centers  
 22          property tax levy under IC 12-29-2-2 for the current calendar  
 23          year.  
 24       (b) In the case of a county that wishes to impose a tax rate under  
 25       IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the  
 26       department of local government finance and the department of state  
 27       revenue **(before January 1, 2010) or the budget agency (after**  
 28       **December 31, 2009)** shall jointly estimate the amount that will be  
 29       calculated under subsection (a) in the second year after the tax rate is  
 30       first imposed. The department of local government finance and the  
 31       department of state revenue **(before January 1, 2010) or the budget**  
 32       **agency (after December 31, 2009)** shall calculate the tax rate under  
 33       IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) that must be imposed  
 34       in the county in the second year after the tax rate is first imposed to  
 35       raise income tax revenue equal to the estimate under this subsection.  
 36       (c) The department **(before January 1, 2010) or the budget**  
 37       **agency (after December 31, 2009)** and the department of local  
 38       government finance shall make the calculations under subsections (a)  
 39       and (b) based on the best information available at the time the  
 40       calculation is made.  
 41       (d) Notwithstanding IC 6-3.5-1.1-24(h) and IC 6-3.5-6-30(h), if a  
 42       county has adopted an income tax rate under IC 6-3.5-1.1-24 or  
 43       IC 6-3.5-6-30 to replace property tax levy growth, the part of the tax  
 44       rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 that was used before  
 45       January 1, 2009, to reduce levy growth in the county family and  
 46       children's fund property tax levy and the children's psychiatric  
 47       residential treatment services property tax levy shall instead be used for

1 property tax relief in the same manner that a tax rate under  
 2 IC 6-3.5-1.1-26 or ~~IC 6-3.5-6-30~~ **IC 6-3.5-6-32** is used for property tax  
 3 relief.

4 SECTION 168. IC 6-3.5-1.5-3, AS ADDED BY P.L.224-2007,  
 5 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JANUARY 1, 2010]: Sec. 3. The department of local government  
 7 finance and the ~~department of state revenue~~ **budget agency** may take  
 8 any actions necessary to carry out the purposes of this chapter."

9 Delete page 166.

10 Page 167, delete line 1.

11 Page 169, between lines 14 and 15, begin a new paragraph and  
 12 insert:

13 "SECTION 172. IC 6-3.5-6-17, AS AMENDED BY P.L.146-2008,  
 14 SECTION 338, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JANUARY 1, 2010]: Sec. 17. (a) Revenue derived from  
 16 the imposition of the county option income tax shall, in the manner  
 17 prescribed by this section, be distributed to the county that imposed it.  
 18 The amount that is to be distributed to a county during an ensuing  
 19 calendar year equals the amount of county option income tax revenue  
 20 that the ~~department, after reviewing the recommendation of the~~ budget  
 21 agency determines has been:

22 (1) received from that county for a taxable year ending in a  
 23 calendar year preceding the calendar year in which the  
 24 determination is made; and

25 (2) reported on an annual return or amended return processed by  
 26 the department in the state fiscal year ending before July 1 of the  
 27 calendar year in which the determination is made;

28 as adjusted (as determined after review of the recommendation of the  
 29 budget agency) for refunds of county option income tax made in the  
 30 state fiscal year.

31 (b) Before August 2 of each calendar year, the ~~department, after~~  
 32 ~~reviewing the recommendation of the~~ budget agency shall certify to the  
 33 county auditor of each adopting county the amount determined under  
 34 subsection (a) plus the amount of interest in the county's account that  
 35 has accrued and has not been included in a certification made in a  
 36 preceding year. The amount certified is the county's "certified  
 37 distribution" for the immediately succeeding calendar year. The amount  
 38 certified shall be adjusted, as necessary, under subsections (c), (d), (e),  
 39 and (f). The budget agency shall provide the county council with an  
 40 informative summary of the calculations used to determine the certified  
 41 distribution. The summary of calculations must include:

42 (1) the amount reported on individual income tax returns  
 43 processed by the department during the previous fiscal year;

44 (2) adjustments for over distributions in prior years;

45 (3) adjustments for clerical or mathematical errors in prior years;

46 (4) adjustments for tax rate changes; and

47 (5) the amount of excess account balances to be distributed under

1 IC 6-3.5-6-17.3.

2 The ~~department~~ **budget agency** shall also certify information  
3 concerning the part of the certified distribution that is attributable to a  
4 tax rate under section 30, 31, or 32 of this chapter. This information  
5 must be certified to the county auditor and to the department of local  
6 government finance not later than September 1 of each calendar year.  
7 The part of the certified distribution that is attributable to a tax rate  
8 under section 30, 31, or 32 of this chapter may be used only as  
9 specified in those provisions.

10 (c) The ~~department~~ **budget agency** shall certify an amount less than  
11 the amount determined under subsection (b) if the ~~department, after~~  
12 ~~reviewing the recommendation of the~~ budget agency determines that  
13 the reduced distribution is necessary to offset overpayments made in a  
14 calendar year before the calendar year of the distribution. The  
15 ~~department, after reviewing the recommendation of the~~ budget agency  
16 may reduce the amount of the certified distribution over several  
17 calendar years so that any overpayments are offset over several years  
18 rather than in one (1) lump sum.

19 (d) The ~~department, after reviewing the recommendation of the~~  
20 budget agency shall adjust the certified distribution of a county to  
21 correct for any clerical or mathematical errors made in any previous  
22 certification under this section. The ~~department, after reviewing the~~  
23 ~~recommendation of the~~ budget agency may reduce the amount of the  
24 certified distribution over several calendar years so that any adjustment  
25 under this subsection is offset over several years rather than in one (1)  
26 lump sum.

27 (e) This subsection applies to a county that:

- 28 (1) initially imposed the county option income tax; or  
29 (2) increases the county option income tax rate;

30 under this chapter in the same calendar year in which the ~~department~~  
31 **budget agency** makes a certification under this section. The  
32 ~~department, after reviewing the recommendation of the~~ budget agency  
33 shall adjust the certified distribution of a county to provide for a  
34 distribution in the immediately following calendar year and in each  
35 calendar year thereafter. The ~~department~~ **budget agency** shall provide  
36 for a full transition to certification of distributions as provided in  
37 subsection (a)(1) through (a)(2) in the manner provided in subsection  
38 (c).

39 (f) This subsection applies in the year a county initially imposes a  
40 tax rate under section 30 of this chapter. Notwithstanding any other  
41 provision, the ~~department~~ **budget agency** shall adjust the part of the  
42 county's certified distribution that is attributable to the tax rate under  
43 section 30 of this chapter to provide for a distribution in the  
44 immediately following calendar year equal to the result of:

- 45 (1) the sum of the amounts determined under STEP ONE through  
46 STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county  
47 initially imposes a tax rate under section 30 of this chapter;

- 1 multiplied by  
 2 (2) the following:  
 3 (A) In a county containing a consolidated city, one and  
 4 five-tenths (1.5).  
 5 (B) In a county other than a county containing a consolidated  
 6 city, two (2).

7 (g) One-twelfth (1/12) of each adopting county's certified  
 8 distribution for a calendar year shall be distributed from its account  
 9 established under section 16 of this chapter to the appropriate county  
 10 treasurer on the first day of each month of that calendar year.

11 (h) Upon receipt, each monthly payment of a county's certified  
 12 distribution shall be allocated among, distributed to, and used by the  
 13 civil taxing units of the county as provided in sections 18 and 19 of this  
 14 chapter.

15 (i) All distributions from an account established under section 16 of  
 16 this chapter shall be made by warrants issued by the auditor of state to  
 17 the treasurer of state ordering the appropriate payments.

18 SECTION 173. IC 6-3.5-6-17.2 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.2. Before  
 20 October 2 of each year, the **department budget agency** shall submit a  
 21 report to each county auditor indicating the balance in the county's  
 22 special account as of the cutoff date set by the budget agency.

23 SECTION 174. IC 6-3.5-6-17.3 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after~~  
 25 ~~receiving a recommendation from~~ the budget agency ~~the department~~  
 26 determines that a sufficient balance exists in a county account in excess  
 27 of the amount necessary, when added to other money that will be  
 28 deposited in the account after the date of the ~~recommendation,~~  
 29 **determination**, to make certified distributions to the county in the  
 30 ensuing year, the **department budget agency** shall make a  
 31 supplemental distribution to a county from the county's special account.

32 (b) A supplemental distribution described in subsection (a) must be:  
 33 (1) made in January of the ensuing calendar year; and  
 34 (2) allocated in the same manner as certified distributions for  
 35 deposit in a civil unit's rainy day fund established under  
 36 IC 36-1-8-5.1.

37 (c) A determination under this section must be made before October  
 38 2."

39 Page 171, between lines 13 and 14, begin a new paragraph and  
 40 insert:

41 "SECTION 176. IC 6-3.5-6-27, AS ADDED BY P.L.214-2005,  
 42 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 43 JANUARY 1, 2010]: Sec. 27. (a) This section applies only to Miami  
 44 County. Miami County possesses unique economic development  
 45 challenges due to:

- 46 (1) underemployment in relation to similarly situated counties;  
 47 and

1 (2) the presence of a United States government military base or  
 2 other military installation that is completely or partially inactive  
 3 or closed.

4 Maintaining low property tax rates is essential to economic  
 5 development, and the use of county option income tax revenues as  
 6 provided in this chapter to pay any bonds issued or leases entered into  
 7 to finance the construction, acquisition, improvement, renovation, and  
 8 equipping described under subsection (c), rather than use of property  
 9 taxes, promotes that purpose.

10 (b) In addition to the rates permitted by sections 8 and 9 of this  
 11 chapter, the county council may impose the county option income tax  
 12 at a rate of twenty-five hundredths percent (0.25%) on the adjusted  
 13 gross income of resident county taxpayers if the county council makes  
 14 the finding and determination set forth in subsection (c). Section 8(e)  
 15 of this chapter applies to the application of the additional rate to  
 16 nonresident taxpayers.

17 (c) In order to impose the county option income tax as provided in  
 18 this section, the county council must adopt an ordinance finding and  
 19 determining that revenues from the county option income tax are  
 20 needed to pay the costs of financing, constructing, acquiring,  
 21 renovating, and equipping a county jail, including the repayment of  
 22 bonds issued, or leases entered into, for financing, constructing,  
 23 acquiring, renovating, and equipping a county jail.

24 (d) If the county council makes a determination under subsection  
 25 (c), the county council may adopt a tax rate under subsection (b). The  
 26 tax rate may not be imposed at a rate or for a time greater than is  
 27 necessary to pay the costs of financing, constructing, acquiring,  
 28 renovating, and equipping a county jail.

29 (e) The county treasurer shall establish a county jail revenue fund  
 30 to be used only for the purposes described in this section. County  
 31 option income tax revenues derived from the tax rate imposed under  
 32 this section shall be deposited in the county jail revenue fund before  
 33 making a certified distribution under section 18 of this chapter.

34 (f) County option income tax revenues derived from the tax rate  
 35 imposed under this section:

- 36 (1) may only be used for the purposes described in this section;
- 37 (2) may not be considered by the department of local government  
 38 finance in determining the county's maximum permissible  
 39 property tax levy limit under IC 6-1.1-18.5; and
- 40 (3) may be pledged to the repayment of bonds issued, or leases  
 41 entered into, for the purposes described in subsection (c).

42 (g) ~~The department, after reviewing the recommendation of the~~  
 43 ~~budget agency shall adjust the certified distribution of a county to~~  
 44 ~~provide for an increased distribution of taxes in the immediately~~  
 45 ~~following calendar year after the county adopts an increased tax rate~~  
 46 ~~under this section and in each calendar year thereafter. The department~~  
 47 **budget agency** shall provide for a full transition to certification of

1 distributions as provided in section 17(a)(1) through 17(a)(2) of this  
2 chapter in the manner provided in section 17(c) of this chapter.

3 SECTION 177. IC 6-3.5-6-28, AS AMENDED BY P.L.224-2007,  
4 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JANUARY 1, 2010]: Sec. 28. (a) This section applies only to Howard  
6 County.

7 (b) Maintaining low property tax rates is essential to economic  
8 development, and the use of county option income tax revenues as  
9 provided in this section and as needed in the county to fund the  
10 operation and maintenance of a jail and juvenile detention center,  
11 rather than the use of property taxes, promotes that purpose.

12 (c) In addition to the rates permitted by sections 8 and 9 of this  
13 chapter, the county fiscal body may impose a county option income tax  
14 at a rate that does not exceed twenty-five hundredths percent (0.25%)  
15 on the adjusted gross income of resident county taxpayers. The tax rate  
16 may be adopted in any increment of one hundredth percent (0.01%).  
17 Before the county fiscal body may adopt a tax rate under this section,  
18 the county fiscal body must make the finding and determination set  
19 forth in subsection (d). Section 8(e) of this chapter applies to the  
20 application of the additional tax rate to nonresident taxpayers.

21 (d) In order to impose the county option income tax as provided in  
22 this section, the county fiscal body must adopt an ordinance:

23 (1) finding and determining that revenues from the county option  
24 income tax are needed in the county to fund the operation and  
25 maintenance of a jail, a juvenile detention center, or both; and

26 (2) agreeing to freeze the part of any property tax levy imposed in  
27 the county for the operation of the jail or juvenile detention  
28 center, or both, covered by the ordinance at the rate imposed in  
29 the year preceding the year in which a full year of additional  
30 county option income tax is certified for distribution to the county  
31 under this section for the term in which an ordinance is in effect  
32 under this section.

33 (e) If the county fiscal body makes a determination under subsection  
34 (d), the county fiscal body may adopt a tax rate under subsection (c).  
35 Subject to the limitations in subsection (c), the county fiscal body may  
36 amend an ordinance adopted under this section to increase, decrease,  
37 or rescind the additional tax rate imposed under this section. As soon  
38 as practicable after the adoption of an ordinance under this section, the  
39 county fiscal body shall send a certified copy of the ordinance to the  
40 county auditor, the department of local government finance, and the  
41 department of state revenue. An ordinance adopted under this section  
42 before April 1 in a year applies to the imposition of county income  
43 taxes after June 30 in that year. An ordinance adopted under this  
44 section after March 31 of a year initially applies to the imposition of  
45 county option income taxes after June 30 of the immediately following  
46 year.

47 (f) The county treasurer shall establish a county jail revenue fund to

1 be used only for the purposes described in this section. County option  
 2 income tax revenues derived from the tax rate imposed under this  
 3 section shall be deposited in the county jail revenue fund before  
 4 making a certified distribution under section 18 of this chapter.

5 (g) County option income tax revenues derived from the tax rate  
 6 imposed under this section:

7 (1) may only be used for the purposes described in this section;  
 8 and

9 (2) may not be considered by the department of local government  
 10 finance in determining the county's maximum permissible  
 11 property tax levy limit under IC 6-1.1-18.5.

12 (h) The department of local government finance shall enforce an  
 13 agreement under subsection (d)(2).

14 (i) ~~The department, after reviewing the recommendation of the~~  
 15 budget agency shall adjust the certified distribution of a county to  
 16 provide for an increased distribution of taxes in the immediately  
 17 following calendar year after the county adopts an increased tax rate  
 18 under this section and in each calendar year thereafter. ~~The department~~  
 19 **budget agency** shall provide for a full transition to certification of  
 20 distributions as provided in section 17(a)(1) through 17(a)(2) of this  
 21 chapter in the manner provided in section 17(c) of this chapter.

22 (j) The department shall separately designate a tax rate imposed  
 23 under this section in any tax form as the Howard County jail operating  
 24 and maintenance income tax.

25 SECTION 178. IC 6-3.5-6-29, AS AMENDED BY P.L.224-2007,  
 26 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JANUARY 1, 2010]: Sec. 29. (a) This section applies only to Scott  
 28 County. Scott County is a county in which:

29 (1) maintaining low property tax rates is essential to economic  
 30 development; and

31 (2) the use of additional county option income tax revenues as  
 32 provided in this section, rather than the use of property taxes, to  
 33 fund:

34 (A) the financing, construction, acquisition, improvement,  
 35 renovation, equipping, operation, or maintenance of jail  
 36 facilities; and

37 (B) the repayment of bonds issued or leases entered into for  
 38 the purposes described in clause (A), except operation or  
 39 maintenance;

40 promotes the purpose of maintaining low property tax rates.

41 (b) The county fiscal body may impose the county option income tax  
 42 on the adjusted gross income of resident county taxpayers at a rate, in  
 43 addition to the rates permitted by sections 8 and 9 of this chapter, not  
 44 to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this  
 45 chapter applies to the application of the additional rate to nonresident  
 46 taxpayers.

47 (c) To impose the county option income tax as provided in this

1 section, the county fiscal body must adopt an ordinance finding and  
 2 determining that additional revenues from the county option income tax  
 3 are needed in the county to fund:

4 (1) the financing, construction, acquisition, improvement,  
 5 renovation, equipping, operation, or maintenance of jail facilities;  
 6 and

7 (2) the repayment of bonds issued or leases entered into for the  
 8 purposes described in subdivision (1), except operation or  
 9 maintenance.

10 (d) If the county fiscal body makes a determination under subsection  
 11 (c), the county fiscal body may adopt an additional tax rate under  
 12 subsection (b). Subject to the limitations in subsection (b), the county  
 13 fiscal body may amend an ordinance adopted under this section to  
 14 increase, decrease, or rescind the additional tax rate imposed under this  
 15 section. As soon as practicable after the adoption of an ordinance under  
 16 this section, the county fiscal body shall send a certified copy of the  
 17 ordinance to the county auditor, the department of local government  
 18 finance, and the department. An ordinance adopted under this section  
 19 before June 1, 2006, or August 1 in a subsequent year applies to the  
 20 imposition of county income taxes after June 30 (in the case of an  
 21 ordinance adopted before June 1, 2006) or September 30 (in the case  
 22 of an ordinance adopted in 2007 or thereafter) in that year. An  
 23 ordinance adopted under this section after May 31, 2006, or July 31 of  
 24 a subsequent year initially applies to the imposition of county option  
 25 income taxes after June 30 (in the case of an ordinance adopted before  
 26 June 1, 2006) or September 30 (in the case of an ordinance adopted in  
 27 2007 or thereafter) of the immediately following year.

28 (e) If the county imposes an additional tax rate under this section,  
 29 the county treasurer shall establish a county jail revenue fund to be  
 30 used only for the purposes described in this section. County option  
 31 income tax revenues derived from the tax rate imposed under this  
 32 section shall be deposited in the county jail revenue fund before  
 33 making a certified distribution under section 18 of this chapter.

34 (f) County option income tax revenues derived from an additional  
 35 tax rate imposed under this section:

36 (1) may be used only for the purposes described in this section;

37 (2) may not be considered by the department of local government  
 38 finance in determining the county's maximum permissible  
 39 property tax levy limit under IC 6-1.1-18.5; and

40 (3) may be pledged for the repayment of bonds issued or leases  
 41 entered into to fund the purposes described in subsection (c)(1),  
 42 except operation or maintenance.

43 (g) If the county imposes an additional tax rate under this section,  
 44 the ~~department, after reviewing the recommendation of the~~ budget  
 45 agency shall adjust the certified distribution of the county to provide  
 46 for an increased distribution of taxes in the immediately following  
 47 calendar year after the county adopts the increased tax rate and in each

1 calendar year thereafter. The ~~department~~ **budget agency** shall provide  
 2 for a full transition to certification of distributions as provided in  
 3 section 17(a)(1) through 17(a)(2) of this chapter in the manner  
 4 provided in section 17(c) of this chapter."

5 Page 179, between lines 3 and 4, begin a new paragraph and insert:

6 "SECTION 181. IC 6-3.5-6-33, AS ADDED BY P.L.224-2007,  
 7 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JANUARY 1, 2010]: Sec. 33. (a) This section applies only to Monroe  
 9 County.

10 (b) Maintaining low property tax rates is essential to economic  
 11 development, and the use of county option income tax revenues as  
 12 provided in this chapter and as needed in the county to fund the  
 13 operation and maintenance of a juvenile detention center and other  
 14 facilities to provide juvenile services, rather than the use of property  
 15 taxes, promotes that purpose.

16 (c) In addition to the rates permitted by sections 8 and 9 of this  
 17 chapter, the county fiscal body may impose an additional county option  
 18 income tax at a rate of not more than twenty-five hundredths percent  
 19 (0.25%) on the adjusted gross income of resident county taxpayers if  
 20 the county fiscal body makes the finding and determination set forth in  
 21 subsection (d). Section 8(e) of this chapter applies to the application of  
 22 the additional rate to nonresident taxpayers.

23 (d) In order to impose the county option income tax as provided in  
 24 this section, the county fiscal body must adopt an ordinance:

25 (1) finding and determining that revenues from the county option  
 26 income tax are needed in the county to fund the operation and  
 27 maintenance of a juvenile detention center and other facilities  
 28 necessary to provide juvenile services; and

29 (2) agreeing to freeze for the term in which an ordinance is in  
 30 effect under this section the part of any property tax levy imposed  
 31 in the county for the operation of the juvenile detention center and  
 32 other facilities covered by the ordinance at the rate imposed in the  
 33 year preceding the year in which a full year of additional county  
 34 option income tax is certified for distribution to the county under  
 35 this section.

36 (e) If the county fiscal body makes a determination under subsection  
 37 (d), the county fiscal body may adopt a tax rate under subsection (c).  
 38 Subject to the limitations in subsection (c), the county fiscal body may  
 39 amend an ordinance adopted under this section to increase, decrease,  
 40 or rescind the additional tax rate imposed under this section. As soon  
 41 as practicable after the adoption of an ordinance under this section, the  
 42 county fiscal body shall send a certified copy of the ordinance to the  
 43 county auditor, the department of local government finance, and the  
 44 department of state revenue. An ordinance adopted under this section  
 45 before August 1 in a year applies to the imposition of county income  
 46 taxes after September 30 in that year. An ordinance adopted under this  
 47 section after July 31 of a year initially applies to the imposition of

1 county option income taxes after September 30 of the immediately  
2 following year.

3 (f) The county treasurer shall establish a county juvenile detention  
4 center revenue fund to be used only for the purposes described in this  
5 section. County option income tax revenues derived from the tax rate  
6 imposed under this section shall be deposited in the county juvenile  
7 detention center revenue fund before a certified distribution is made  
8 under section 18 of this chapter.

9 (g) County option income tax revenues derived from the tax rate  
10 imposed under this section:

11 (1) may be used only for the purposes described in this section;  
12 and

13 (2) may not be considered by the department of local government  
14 finance in determining the county's maximum permissible  
15 property tax levy limit under IC 6-1.1-18.5.

16 (h) The department of local government finance shall enforce an  
17 agreement made under subsection (d)(2).

18 (i) The ~~department, after reviewing the recommendation of the~~  
19 budget agency shall adjust the certified distribution of a county to  
20 provide for an increased distribution of taxes in the immediately  
21 following calendar year after the county adopts an increased tax rate  
22 under this section and in each calendar year thereafter. The ~~department~~  
23 **budget agency** shall provide for a full transition to certification of  
24 distributions as provided in section 17(a)(1) through 17(a)(2) of this  
25 chapter in the manner provided in section 17(c) of this chapter.

26 SECTION 182. IC 6-3.5-7-11, AS AMENDED BY HEA  
27 1198-2009, SECTION 54, IS AMENDED TO READ AS FOLLOWS  
28 [EFFECTIVE JANUARY 1, 2010]: Sec. 11. (a) Revenue derived from  
29 the imposition of the county economic development income tax shall,  
30 in the manner prescribed by this section, be distributed to the county  
31 that imposed it.

32 (b) Before August 2 of each calendar year, the ~~department, after~~  
33 ~~reviewing the recommendation of the~~ budget agency shall certify to the  
34 county auditor of each adopting county the sum of the amount of  
35 county economic development income tax revenue that the ~~department~~  
36 **budget agency** determines has been:

37 (1) received from that county for a taxable year ending before the  
38 calendar year in which the determination is made; and

39 (2) reported on an annual return or amended return processed by  
40 the department in the state fiscal year ending before July 1 of the  
41 calendar year in which the determination is made;

42 as adjusted (~~as determined after review of the recommendation of the~~  
43 ~~budget agency~~) for refunds of county economic development income  
44 tax made in the state fiscal year plus the amount of interest in the  
45 county's account that has been accrued and has not been included in a  
46 certification made in a preceding year. The amount certified is the  
47 county's certified distribution, which shall be distributed on the dates

1 specified in section 16 of this chapter for the following calendar year.

2 (c) The amount certified under subsection (b) shall be adjusted  
3 under subsections (d), (e), (f), (g), and (h). The budget agency shall  
4 provide the county council with an informative summary of the  
5 calculations used to determine the certified distribution. The summary  
6 of calculations must include:

- 7 (1) the amount reported on individual income tax returns  
8 processed by the department during the previous fiscal year;  
9 (2) adjustments for over distributions in prior years;  
10 (3) adjustments for clerical or mathematical errors in prior years;  
11 (4) adjustments for tax rate changes; and  
12 (5) the amount of excess account balances to be distributed under  
13 IC 6-3.5-7-17.3.

14 (d) The ~~department~~ **budget agency** shall certify an amount less than  
15 the amount determined under subsection (b) if the ~~department, after~~  
16 ~~reviewing the recommendation of the~~ budget agency determines that  
17 the reduced distribution is necessary to offset overpayments made in a  
18 calendar year before the calendar year of the distribution. The  
19 ~~department, after reviewing the recommendation of the~~ budget agency  
20 may reduce the amount of the certified distribution over several  
21 calendar years so that any overpayments are offset over several years  
22 rather than in one (1) lump sum.

23 (e) ~~After reviewing the recommendation of~~ The budget agency the  
24 ~~department~~ shall adjust the certified distribution of a county to correct  
25 for any clerical or mathematical errors made in any previous  
26 certification under this section. The ~~department, after reviewing the~~  
27 ~~recommendation of the~~ budget agency may reduce the amount of the  
28 certified distribution over several calendar years so that any adjustment  
29 under this subsection is offset over several years rather than in (1)  
30 lump sum.

31 (f) The ~~department, after reviewing the recommendation of the~~  
32 budget agency shall adjust the certified distribution of a county to  
33 provide the county with the distribution required under section 16(b)  
34 of this chapter.

35 (g) The ~~department, after reviewing the recommendation of the~~  
36 budget agency shall adjust the certified distribution of a county to  
37 provide the county with the amount of any tax increase imposed under  
38 section 25 or 26 of this chapter to provide additional homestead credits  
39 as provided in those provisions.

40 (h) This subsection applies to a county that:

- 41 (1) initially imposed the county economic development income  
42 tax; or  
43 (2) increases the county economic development income rate;  
44 under this chapter in the same calendar year in which the ~~department~~  
45 **budget agency** makes a certification under this section. The  
46 ~~department, after reviewing the recommendation of the~~ budget agency  
47 shall adjust the certified distribution of a county to provide for a

1 distribution in the immediately following calendar year and in each  
 2 calendar year thereafter. The ~~department~~ **budget agency** shall provide  
 3 for a full transition to certification of distributions as provided in  
 4 subsection (b)(1) through (b)(2) in the manner provided in subsection  
 5 (d).".

6 Page 180, between lines 38 and 39, begin a new paragraph and  
 7 insert:

8 "SECTION 184. IC 6-3.5-7-17.3 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 17.3. (a) If ~~after~~  
 10 ~~receiving a recommendation from~~ the budget agency the ~~department~~  
 11 determines that a sufficient balance exists in a county account in excess  
 12 of the amount necessary, when added to other money that will be  
 13 deposited in the account after the date of the ~~recommendation;~~  
 14 **determination**, to make certified distributions to the county in the  
 15 ensuing year, the ~~department~~ **budget agency** shall make a  
 16 supplemental distribution to a county from the county's special account.

17 (b) A supplemental distribution described in subsection (a) must be:

18 (1) made in January of the ensuing calendar year; and

19 (2) allocated in the same manner as certified distributions for  
 20 deposit in a civil unit's rainy day fund established under  
 21 IC 36-1-8-5.1.

22 (c) A determination under this section must be made before October  
 23 2.

24 SECTION 185. IC 6-4.1-8-1 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The inheritance tax  
 26 imposed as a result of a decedent's death is a lien on the property  
 27 transferred by the decedent. Except as otherwise provided in  
 28 IC 6-4.1-6-6(b), the inheritance tax accrues and the lien attaches at the  
 29 time of the decedent's death. The lien terminates when the inheritance  
 30 tax is paid, when IC 6-4.1-4-0.5 provides for the termination of the lien,  
 31 or ~~five (5)~~ **ten (10)** years after the date of the decedent's death,  
 32 whichever occurs first. In addition to the lien, the transferee of the  
 33 property and any personal representative or trustee who has possession  
 34 of or control over the property are personally liable for the inheritance  
 35 tax.

36 SECTION 186. IC 6-4.1-10-1, AS AMENDED BY P.L.211-2007,  
 37 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2009]: Sec. 1. (a) A person may file with the department of  
 39 state revenue a claim for the refund of inheritance or Indiana estate tax  
 40 which has been erroneously or illegally collected. Except as provided  
 41 in section 2 of this chapter, the person must file the claim within three  
 42 (3) years after the tax is paid or within one (1) year after the tax is  
 43 finally determined, whichever is later.

44 (b) The amount of the refund that a person is entitled to receive  
 45 under this chapter equals the amount of the erroneously or illegally  
 46 collected tax, plus interest calculated as specified in subsection (c).

47 (c) If a tax payment that has been erroneously or illegally collected

1 is not refunded within ninety (90) days after **the later of** the date on  
2 which:

3 (1) the refund claim is filed with the department of state revenue;

4 **or**

5 **(2) the inheritance tax return is received by the department of**  
6 **state revenue;**

7 interest accrues at the rate of six percent (6%) per annum computed  
8 from the date ~~the refund claim is filed~~ **under subdivision (1) or (2),**  
9 **whichever applies,** until the tax payment is refunded.

10 SECTION 187. IC 6-6-1.1-606.5 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 606.5. (a) Every person  
12 included within the terms of section 606(a) and 606(c) of this chapter  
13 shall register with the administrator before engaging in those activities.  
14 The administrator shall issue a transportation license to a person who  
15 registers with the administrator under this section.

16 (b) Every person included within the terms of section 606(a) of this  
17 chapter who transports gasoline in a vehicle on the highways in Indiana  
18 for purposes other than use and consumption by that person may not  
19 make a delivery of that gasoline to any person in Indiana other than a  
20 licensed distributor except:

21 (1) when the tax imposed by this chapter on the receipt of the  
22 transported gasoline was charged and collected by the parties; and

23 (2) under the circumstances described in section 205 of this  
24 chapter.

25 (c) Every person included within the terms of section 606(c) of this  
26 chapter who transports gasoline in a vehicle upon the highways of  
27 Indiana for purposes other than use and consumption by that person  
28 may not, on the journey carrying that gasoline to points outside Indiana,  
29 make delivery of that fuel to any person in Indiana.

30 (d) Every transporter of gasoline included within the terms of  
31 section 606(a) and ~~section~~ 606(c) of this chapter who transports  
32 gasoline upon the highways of Indiana for purposes other than use and  
33 consumption by that person shall at the time of registration and on an  
34 annual basis list with the administrator a description of all vehicles,  
35 including the vehicles' license numbers, to be used on the highways of  
36 Indiana in transporting gasoline from:

37 (1) points outside Indiana to points inside Indiana; and

38 (2) points inside Indiana to points outside Indiana.

39 (e) The description that subsection (d) requires shall contain the  
40 information that is reasonably required by the administrator including  
41 the carrying capacity of the vehicle. When the vehicle is a  
42 tractor-trailer type, the trailer is the vehicle to be described. When  
43 additional vehicles are placed in service or when a vehicle previously  
44 listed is retired from service during the year, the administrator shall be  
45 notified within ten (10) days of the change so that the listing of the  
46 vehicles may be kept accurate.

47 (f) A distributor's or an Indiana transportation license is required for

1 a person or the person's agent acting in the person's behalf to operate  
 2 a vehicle for the purpose of delivering gasoline within the boundaries  
 3 of Indiana when the vehicle has a total tank capacity of at least eight  
 4 hundred fifty (850) gallons.

5 (g) The operator of a vehicle to which this section applies shall at all  
 6 times when engaged in the transporting of gasoline on the highways  
 7 have with the vehicle an invoice or manifest showing the origin,  
 8 quantity, nature, and destination of the gasoline that is being  
 9 transported.

10 **(h) The department shall provide for relief if a shipment of**  
 11 **gasoline is legitimately diverted from the represented destination**  
 12 **state after the shipping paper has been issued by a terminal**  
 13 **operator or if a terminal operator failed to cause proper**  
 14 **information to be printed on the shipping paper. Provisions for**  
 15 **relief under this subsection:**

16 (1) must require that the shipper or its agent provide  
 17 notification to the department before a diversion or correction  
 18 if an intended diversion or correction is to occur; and

19 (2) must be consistent with the refund provisions of this  
 20 chapter.

21 SECTION 188. IC 6-6-2.5-35 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) The tax on  
 23 special fuel received by a licensed supplier in Indiana that is imposed  
 24 by section 28 of this chapter shall be collected and remitted to the state  
 25 by the supplier who receives taxable gallons in accordance with  
 26 subsection (b).

27 (b) On or before the fifteenth day of each month, licensed suppliers  
 28 and licensed permissive suppliers shall make an estimated payment of  
 29 all taxes imposed on transactions that occurred during the previous  
 30 calendar month equal to:

31 (1) one hundred percent (100%) of the amount remitted by the  
 32 licensed supplier or licensed permissive supplier for the month  
 33 preceding the previous calendar month; or

34 (2) ninety-five percent (95%) of the amount actually due and  
 35 payable by the licensed supplier or licensed permissive supplier  
 36 for the previous month.

37 Any remaining tax imposed on transactions occurring during a calendar  
 38 month shall be due and payable on or before the twentieth day of the  
 39 following month, except as provided in subsection (i). Underpayments  
 40 of estimated taxes due and owing the department are not subject to a  
 41 penalty under section 63(a) of this chapter.

42 (c) A supplier who sells special fuel shall collect from the purchaser  
 43 the special fuel tax imposed under section 28 of this chapter. At the  
 44 election of an eligible purchaser, the seller shall not require a payment  
 45 of special fuel tax from the purchaser at a time that is earlier than the  
 46 date on which the tax is required to be remitted by the supplier under  
 47 subsection (b). This election shall be subject to a condition that the

1 eligible purchaser's remittances of all amounts of tax due the seller  
2 shall be paid by electronic funds transfer on or before the due date of  
3 the remittance by the supplier to the department, and the eligible  
4 purchaser's election under this subsection may be terminated by the  
5 seller if the eligible purchaser does not make timely payments to the  
6 seller as required by this subsection.

7 (d) As used in this section, "eligible purchaser" means a person who  
8 has authority from the department to make the election under  
9 subsection (c) and includes every person who is licensed and in good  
10 standing as a special fuel dealer or special fuel user, as determined by  
11 the department, as of July 1, 1993, who has purchased a minimum of  
12 two hundred forty thousand (240,000) taxable gallons of special fuel  
13 each year in the preceding two (2) years, or who otherwise meets the  
14 financial responsibility and bonding requirements of subsection (e).

15 (e) Each purchaser that desires to make an election under subsection  
16 (c) shall present evidence of the purchaser's eligible purchaser status  
17 to the purchaser's seller. The department shall determine whether the  
18 purchaser is an eligible purchaser. The department may require a  
19 purchaser that pays the tax to a supplier to file with the department a  
20 surety bond payable to the state, upon which the purchaser is the  
21 obligor or other financial security, in an amount satisfactory to the  
22 department. The department may require that the bond indemnify the  
23 department against bad debt deductions claimed by the supplier under  
24 subsection (g).

25 (f) The department shall have the authority to rescind a purchaser's  
26 eligibility and election to defer special fuel tax remittances upon a  
27 showing of good cause, including failure to make timely payment under  
28 subsection (c), by sending written notice to all suppliers and eligible  
29 purchasers. The department may require further assurance of the  
30 purchaser's financial responsibility, or may increase the bond  
31 requirement for that purchaser, or any other action that the department  
32 may require to ensure remittance of the special fuel tax.

33 (g) In computing the amount of special fuel tax due, the supplier and  
34 permissive supplier shall be entitled to a deduction from the tax  
35 payable the amount of tax paid by the supplier that has become  
36 uncollectible from a purchaser. The department shall adopt rules  
37 establishing the evidence a supplier must provide to receive the  
38 deduction. The deduction shall be claimed on the first return following  
39 the date of the failure of the purchaser if the payment remains unpaid  
40 as of the filing date of that return or the deduction shall be disallowed.  
41 The claim shall identify the defaulting purchaser and any tax liability  
42 that remains unpaid. If a purchaser fails to make a timely payment of  
43 the amount of tax due, the supplier's deduction shall be limited to the  
44 amount due from the purchaser, plus any tax that accrues from that  
45 purchaser for a period of ten (10) days following the date of failure to  
46 pay. No additional deduction shall be allowed until the department has  
47 authorized the purchaser to make a new election under subsection (e).

1 The department may require the deduction to be reported in the same  
2 manner as prescribed in Section 166 of the Internal Revenue Code.

3 (h) The supplier and each reseller of special fuel is considered to be  
4 a collection agent for this state with respect to that special fuel tax,  
5 which shall be set out on all invoices and billings as a separate line  
6 item.

7 (i) Except as provided in subsection (e), the tax imposed by section  
8 28 of this chapter on special fuel imported from another state shall be  
9 paid by the licensed importer who has imported the nonexempt special  
10 fuel not later than three (3) business days after ~~the earlier of:~~

11 ~~(1) the time that the nonexempt special fuel entered into Indiana.~~

12 ~~or~~

13 ~~(2) the time that a valid import verification number was assigned~~  
14 ~~by the department under rules and procedures adopted by the~~  
15 ~~department.~~

16 However, if the importer and the importer's reseller have previously  
17 entered into a tax precollection agreement as described in subsection  
18 (j), and the agreement remains in effect, the supplier with whom the  
19 agreement has been made shall become jointly liable with the importer  
20 for the tax and shall remit the tax to the department on behalf of the  
21 importer. This subsection does not apply to an importer with respect to  
22 imports in vehicles with a capacity of not more than five thousand four  
23 hundred (5,400) gallons.

24 (j) The department, a licensed importer, the reseller to a licensed  
25 importer, and a licensed supplier or permissive supplier may jointly  
26 enter into an agreement for the licensed supplier or permissive supplier  
27 to precollect and remit the tax imposed by this chapter with respect to  
28 special fuel imported from a terminal outside of Indiana in the same  
29 manner and at the same time as the tax would arise and be paid under  
30 this chapter if the special fuel had been received by the licensed  
31 supplier or permissive supplier at a terminal in Indiana. If the supplier  
32 is also the importer, the agreement shall be entered into between the  
33 supplier and the department. However, any licensed supplier or  
34 permissive supplier may make an election with the department to treat  
35 all out-of-state terminal removals with an Indiana destination as shown  
36 on the terminal-issued shipping paper as if the removals were received  
37 by the supplier in Indiana pursuant to section 28 of this chapter and  
38 subsection (a), for all purposes. In this case, the election and notice of  
39 the election to a supplier's customers shall operate instead of a three (3)  
40 party precollection agreement. The department may impose  
41 requirements reasonably necessary for the enforcement of this  
42 subsection.

43 (k) Each licensed importer who is liable for the tax imposed by this  
44 chapter on nonexempt special fuel imported by a fuel transport truck  
45 having less than five thousand four hundred (5,400) gallons capacity,  
46 for which tax has not previously been paid to a supplier, shall remit the  
47 special fuel tax for the preceding month's import activities with the

1 importer's monthly report of activities. A licensed importer shall be  
2 allowed to retain two-thirds (2/3) of the collection allowance provided  
3 for in section 37(a) of this chapter for the tax timely remitted by the  
4 importer directly to the state, subject to the same pass through provided  
5 for in section 37(a) of this chapter.

6 (l) A licensed importer shall be allowed to retain two-thirds (2/3) of  
7 the amount allowed in section 37(a) of this chapter of the tax timely  
8 remitted by the licensed importer directly to the state, subject to the  
9 same pass through provided for in section 37(a) of this chapter.

10 SECTION 189. IC 6-6-2.5-41 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) Each supplier  
12 engaged in business in Indiana as a supplier shall first obtain a  
13 supplier's license. The fee for a supplier's license shall be five hundred  
14 dollars (\$500).

15 (b) Any person who desires to collect the tax imposed by this  
16 chapter as a supplier and who meets the definition of a permissive  
17 supplier may obtain a permissive supplier's license. Application for or  
18 possession of a permissive supplier's license shall not in itself subject  
19 the applicant or licensee to the jurisdiction of Indiana for any other  
20 purpose than administration and enforcement of this chapter. The fee  
21 for a permissive supplier's license is fifty dollars (\$50).

22 (c) Each terminal operator other than a supplier licensed under  
23 subsection (a) engaged in business in Indiana as a terminal operator  
24 shall first obtain a terminal operator's license for each terminal site.  
25 The fee for a terminal operator's license is three hundred dollars  
26 (\$300).

27 (d) Each exporter engaged in business in Indiana as an exporter  
28 shall first obtain an exporter's license. However, in order to obtain a  
29 license to export special fuel from Indiana to another specified state, a  
30 person shall be licensed either to collect and remit special fuel taxes or  
31 be licensed to deal in tax free special fuel in that other specified state  
32 of destination. The fee for an exporter's license is two hundred dollars  
33 (\$200).

34 (e) Each person who is not licensed as a supplier shall obtain a  
35 transporter's license before transporting special fuel by whatever  
36 manner from a point outside Indiana to a point inside Indiana, or from  
37 a point inside Indiana to a point outside Indiana, regardless of whether  
38 the person is engaged for hire in interstate commerce or for hire in  
39 intrastate commerce. The registration fee for a transporter's license is  
40 fifty dollars (\$50).

41 (f) Each person who wishes to cause special fuel to be delivered into  
42 Indiana on the person's own behalf, for the person's own account, or for  
43 resale to an Indiana purchaser, from another state in a fuel transport  
44 vehicle having a capacity of more than five thousand four hundred  
45 (5,400) gallons, or in a pipeline or barge shipment into storage facilities  
46 other than a qualified terminal, shall first make an application for and  
47 obtain an importer's license. The fee for an importer's license is two

1 hundred dollars (\$200). This subsection does not apply to a person who  
 2 imports special fuel that is exempt because the special fuel has been  
 3 dyed or marked, or both, in accordance with section 31 of this chapter.  
 4 This subsection does not apply to a person who imports nonexempt  
 5 special fuels meeting the following conditions:

6 (1) The special fuel is subject to one (1) or more tax precollection  
 7 agreements with suppliers as provided in section 35 of this  
 8 chapter.

9 (2) The special fuel tax precollection by the supplier is expressly  
 10 evidenced on the terminal-issued shipping paper as specifically  
 11 provided in section 62(e)(2) of this chapter.

12 (g) A person desiring to import special fuel to an Indiana destination  
 13 who does not enter into an agreement to prepay Indiana special fuel tax  
 14 to a supplier or permissive supplier under section 35 of this chapter on  
 15 the imports must ~~do the following:~~

16 ~~(1) obtain a valid license under subsection (f).~~

17 ~~(2) Obtain an import verification number from the department not~~  
 18 ~~earlier than twenty-four (24) hours before entering the state with~~  
 19 ~~each import; if importing in a vehicle with a capacity of more than~~  
 20 ~~five thousand four hundred (5,400) gallons.~~

21 ~~(3) Display a proper import verification number on the shipping~~  
 22 ~~document; if importing in a vehicle with a capacity of more than~~  
 23 ~~five thousand four hundred (5,400) gallons.~~

24 (h) The department may require a person that wants to blend special  
 25 fuel to first obtain a license from the department. The department may  
 26 establish reasonable requirements for the proper enforcement of this  
 27 subsection, including the following:

28 (1) Guidelines under which a person may be required to obtain a  
 29 license.

30 (2) A requirement that a licensee file reports in the form and  
 31 manner required by the department.

32 (3) A requirement that a licensee meet the bonding requirements  
 33 specified by the department.

34 (i) The department may require a person that:

35 (1) is subject to the special fuel tax under this chapter;

36 (2) qualifies for a federal diesel fuel tax exemption under Section  
 37 4082 of the Internal Revenue Code; and

38 (3) is purchasing red dyed low sulfur diesel fuel;

39 to register with the department as a dyed fuel user. The department may  
 40 establish reasonable requirements for the proper enforcement of this  
 41 subsection, including guidelines under which a person may be required  
 42 to register and the form and manner of reports a registrant is required  
 43 to file.

44 SECTION 190. IC 6-6-2.5-62 IS AMENDED TO READ AS  
 45 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 62. (a) No person shall  
 46 import, sell, use, deliver, or store in Indiana special fuel in bulk as to  
 47 which dye or a marker, or both, has not been added in accordance with

1 section 31 of this chapter, or as to which the tax imposed by this  
 2 chapter has not been paid to or accrued by a licensed supplier or  
 3 licensed permissive supplier as shown by a notation on a  
 4 terminal-issued shipping paper subject to the following exceptions:

5 (1) A supplier shall be exempt from this provision with respect to  
 6 special fuel manufactured in Indiana or imported by pipeline or  
 7 waterborne barge and stored within a terminal in Indiana.

8 (2) An end user shall be exempt from this provision with respect  
 9 to special fuel in a vehicle supply tank when the fuel was placed  
 10 in the vehicle supply tank outside of Indiana.

11 (3) A licensed importer, and transporter operating on the  
 12 importer's behalf, that transports in vehicles with a capacity of  
 13 more than five thousand four hundred (5,400) gallons, shall be  
 14 exempt from this prohibition if the importer or the transporter has  
 15 met all of the following conditions:

16 ~~(A) The importer or the transporter before entering onto the~~  
 17 ~~highways of Indiana has obtained an import verification~~  
 18 ~~number from the department not earlier than twenty-four (24)~~  
 19 ~~hours before entering Indiana.~~

20 ~~(B) The import verification number must be set out~~  
 21 ~~prominently and indelibly on the face of each copy of the~~  
 22 ~~terminal-issued shipping paper carried on board the transport~~  
 23 ~~truck.~~

24 ~~(C) (A) The terminal origin and the importer's name and~~  
 25 ~~address must be set out prominently on the face of each copy~~  
 26 ~~of the terminal-issued shipping paper.~~

27 ~~(D) (B) The terminal-issued shipping paper data otherwise~~  
 28 ~~required by this chapter is present.~~

29 ~~(E) (C) All tax imposed by this chapter with respect to~~  
 30 ~~previously requested import verification number activity~~  
 31 ~~**(before the repeal of requirements related to import**~~  
 32 ~~**verification numbers)** on the account of the importer or the~~  
 33 ~~transporter has been timely remitted.~~

34 In every case, a transporter acting in good faith is entitled to rely upon  
 35 representations made to the transporter by the fuel supplier or importer  
 36 and when acting in good faith is not liable for the negligence or  
 37 malfeasance of another person. A person who knowingly violates or  
 38 knowingly aids and abets another person in violating this subsection  
 39 commits a Class D felony.

40 (b) No person shall export special fuel from Indiana unless that  
 41 person has obtained an exporter's license or a supplier's license or has  
 42 paid the destination state special fuel tax to the supplier and can  
 43 demonstrate proof of export in the form of a destination state bill of  
 44 lading. A person who knowingly violates or knowingly aids and abets  
 45 another person in violating this subsection commits a Class D felony.

46 (c) No person shall operate or maintain a motor vehicle on any  
 47 public highway in Indiana with special fuel contained in the fuel supply

1 tank for the motor vehicle that contains dye or a marker, or both, as  
 2 provided under section 31 of this chapter. This provision does not  
 3 apply to persons operating motor vehicles that have received fuel into  
 4 their fuel tanks outside of Indiana in a jurisdiction that permits  
 5 introduction of dyed or marked, or both, special fuel of that color and  
 6 type into the motor fuel tank of highway vehicles or to a person that  
 7 qualifies for the federal fuel tax exemption under Section 4082 of the  
 8 Internal Revenue Code and that is registered with the department as a  
 9 dyed fuel user. A person who knowingly:

10 (1) violates; or

11 (2) aids and abets another person in violating;

12 this subsection commits a Class A infraction. However, the violation  
 13 is a Class A misdemeanor if the person has committed one (1) prior  
 14 unrelated violation of this subsection, and a Class D felony if the  
 15 person has committed more than one (1) prior unrelated violation of  
 16 this subsection.

17 (d) No person shall engage in any business activity in Indiana as to  
 18 which a license is required by section 41 of this chapter unless the  
 19 person shall have first obtained the license. A person who knowingly  
 20 violates or knowingly aids and abets another person in violating this  
 21 subsection commits a Class D felony.

22 (e) No person shall operate a motor vehicle with a capacity of more  
 23 than five thousand four hundred (5,400) gallons that is engaged in the  
 24 shipment of special fuel on the public highways of Indiana and that is  
 25 destined for a delivery point in Indiana, as shown on the  
 26 terminal-issued shipping papers, without having on board a  
 27 terminal-issued shipping paper indicating with respect to any special  
 28 fuel purchased:

29 (1) under claim of exempt use, a notation describing the load or  
 30 the appropriate portion of the load as Indiana tax exempt special  
 31 fuel;

32 (2) if not purchased under a claim of exempt use, a notation  
 33 describing the load or the appropriate portion thereof as Indiana  
 34 taxed or pretaxed special fuel; or

35 (3) if imported by or on behalf of a licensed importer instead of  
 36 the pretaxed notation, a valid verification number provided before  
 37 entry into Indiana by the department or the department's designee  
 38 or appointee, and the valid verification number may be  
 39 handwritten on the shipping paper by the transporter or importer.

40 A person is in violation of subdivision (1) or (2) (whichever applies) if  
 41 the person boards the vehicle with a shipping paper that does not meet  
 42 the requirements described in the applicable subdivision (1) or (2). A  
 43 person in violation of this subsection commits a Class A infraction (as  
 44 defined in IC 34-28-5-4).

45 (f) A person may not sell or purchase any product for use in the  
 46 supply tank of a motor vehicle for general highway use that does not  
 47 meet ASTM standards as published in the annual Book of Standards

1 and its supplements unless amended or modified by rules adopted by  
 2 the department under IC 4-22-2. The transporter and the transporter's  
 3 agent and customer have the exclusive duty to dispose of any product  
 4 in violation of this section in the manner provided by federal and state  
 5 law. A person who knowingly:

- 6 (1) violates; or
- 7 (2) aids and abets another in violating;

8 this subsection commits a Class D felony.

9 (g) This subsection does not apply to the following:

10 (1) A person that:

- 11 (A) inadvertently manipulates the dye or marker concentration
- 12 of special fuel or coloration of special fuel; and
- 13 (B) contacts the department within one (1) business day after
- 14 the date on which the contamination occurs.

15 (2) A person that affects the dye or marker concentration of  
 16 special fuel by engaging in the blending of the fuel, if the blender:

- 17 (A) collects or remits, or both, all tax due as provided in
- 18 section 28(g) of this chapter;
- 19 (B) maintains adequate records as required by the department
- 20 to account for the fuel that is blended and its status as a
- 21 taxable or exempt sale or use; and
- 22 (C) is otherwise in compliance with this subsection.

23 A person may not manipulate the dye or marker concentration of a  
 24 special fuel or the coloration of special fuel after the special fuel is  
 25 removed from a terminal or refinery rack for sale or use in Indiana. A  
 26 person who knowingly violates or aids and abets another person to  
 27 violate this subsection commits a Class D felony.

28 (h) This subsection does not apply to a person that receives blended  
 29 fuel from a person in compliance with subsection (g)(2). A person may  
 30 not sell or consume special fuel if the special fuel dye or marker  
 31 concentration or coloration has been manipulated, inadvertently or  
 32 otherwise, after the special fuel has been removed from a terminal or  
 33 refinery rack for sale or use in Indiana. A person who knowingly:

- 34 (1) violates; or
- 35 (2) aids and abets another to violate;

36 this subsection commits a Class D felony.

37 (i) A person may not engage in blending fuel for taxable use in  
 38 Indiana without collecting and remitting the tax due on the untaxed  
 39 portion of the fuel that is blended. A person who knowingly:

- 40 (1) violates; or
- 41 (2) aids and abets another to violate;

42 this subsection commits a Class D felony.

43 SECTION 191. IC 6-6-2.5-64 IS AMENDED TO READ AS  
 44 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 64. (a) If any person  
 45 liable for the tax files a false or fraudulent return, there shall be added  
 46 to the tax an amount equal to the tax the person evaded or attempted to  
 47 evade.

1 (b) The department shall impose a civil penalty of one thousand  
 2 dollars (\$1,000) for a person's first occurrence of transporting special  
 3 fuel without adequate shipping papers as required under sections 40,  
 4 41(g), and 62(e) of this chapter, unless the person shall have complied  
 5 with rules adopted under IC 4-22-2. Each subsequent occurrence  
 6 described in this subsection is subject to a civil penalty of five thousand  
 7 dollars (\$5,000).

8 (c) The department shall impose a civil penalty on the operator of  
 9 a vehicle of two hundred dollars (\$200) for the initial occurrence, two  
 10 thousand five hundred dollars (\$2,500) for the second occurrence, and  
 11 five thousand dollars (\$5,000) for the third and each subsequent  
 12 occurrence of a violation of either:

13 (1) the prohibition of use of dyed or marked special fuel, or both,  
 14 on the Indiana public highways, except for a person that qualifies  
 15 for the federal fuel tax exemption under Section 4082 of the  
 16 Internal Revenue Code and that is registered with the department  
 17 as a dyed fuel user; or

18 (2) the use of special fuel in violation of section 28(i) of this  
 19 chapter.

20 (d) A supplier that makes sales for export to a person:

21 (1) who does not have an appropriate export license; or

22 (2) without collection of the destination state tax on special fuel  
 23 nonexempt in the destination state;

24 shall be subject to a civil penalty equal to the amount of Indiana's  
 25 special fuel tax in addition to the tax due.

26 (e) The department may impose a civil penalty of one thousand  
 27 dollars (\$1,000) for each occurrence against every terminal operator  
 28 that fails to meet shipping paper issuance requirements under section  
 29 40 of this chapter.

30 (f) Each importer or transporter who knowingly imports undyed or  
 31 unmarked special fuel, or both, in a transport truck without:

32 (1) a valid importer license;

33 (2) a supplier license;

34 ~~(3) an import verification number, if transporting in a vehicle with~~  
 35 ~~a capacity of more than five thousand four hundred (5,400)~~  
 36 ~~gallons; or~~

37 ~~(4) (3) a shipping paper showing on the paper's face as required~~  
 38 ~~under this chapter that Indiana special fuel tax is not due;~~

39 is subject to a civil penalty of ten thousand dollars (\$10,000) for each  
 40 occurrence described in this subsection.

41 (g) This subsection does not apply to a person if section 62(g) of this  
 42 chapter does not apply to the person. A:

43 (1) person that manipulates the dye or marker concentration of  
 44 special fuel or the coloration of special fuel after the special fuel  
 45 is removed from a terminal or refinery rack for sale or use in  
 46 Indiana; and

47 (2) person that receives the special fuel;

1 are jointly and severally liable for the special fuel tax due on the  
 2 portion of untaxed fuel plus a penalty equal to the greater of one  
 3 hundred percent (100%) of the tax due or one thousand dollars  
 4 (\$1,000).

5 (h) A person that engages in blending fuel for taxable sale or use in  
 6 Indiana and does not collect and remit all tax due on untaxed fuel that  
 7 is blended is liable for the tax due plus a penalty that is equal to the  
 8 greater of one hundred percent (100%) of the tax due or one thousand  
 9 dollars (\$1,000).

10 SECTION 192. IC 6-6-2.5-65 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 65. (a) If a person is  
 12 found operating a motor vehicle in violation of section 40(b), 40(c), or  
 13 62(e) of this chapter, the vehicle and its cargo is subject to  
 14 impoundment, seizure, and subsequent sale, in accordance with  
 15 IC 6-8.1. The failure of the operator of a motor vehicle to have  
 16 on-board when loaded a terminal-issued bill of lading with a  
 17 destination state machine printed on its face or which fails to meet the  
 18 descriptive annotation requirements in section 40(b) ~~41(g)(2); 41(g)(3);~~  
 19 or 62(e) of this chapter, whichever may apply, shall be presumptive  
 20 evidence of a violation sufficient to warrant impoundment and seizure  
 21 of the vehicle and its cargo.

22 (b) After a person:

23 (1) is found in violation of section 62(c) of this chapter; and

24 (2) pays the tax due to the state;

25 the department shall issue a release to the person. The release must  
 26 permit the dyed or marked special fuel, or both, that is the subject of  
 27 the violation to be consumed on Indiana public highways within a  
 28 grace period of twenty-four (24) hours after the time that the release is  
 29 issued. After the grace period expires, the person shall be considered  
 30 in violation of section 62(c) of this chapter if the person or the person's  
 31 agent operates or maintains the same motor vehicle on an Indiana  
 32 public highway with special fuel containing dye or a marker, or both.

33 SECTION 193. IC 6-6-4.1-12 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as  
 35 authorized under section 13 of this chapter, a carrier may operate a  
 36 commercial motor vehicle upon the highways in Indiana only if the  
 37 carrier has been issued an annual permit, cab card, and emblem under  
 38 this section.

39 (b) The department shall issue:

40 (1) an annual permit; and

41 (2) a cab card and an emblem for each commercial motor vehicle  
 42 that will be operated by the carrier upon the highways in Indiana;  
 43 to a carrier who applies for an annual permit and pays to the  
 44 department an annual permit fee of twenty-five dollars (\$25) **not later**  
 45 **than September 1 of the year before the annual permit is effective**  
 46 **under subsection (c).**

47 (c) The annual permit, cab card, and emblem are effective from

1 January 1 of each year through December 31 of the same year. The  
2 department may extend the expiration date of the annual permit, cab  
3 card, and emblem for no more than sixty (60) days. The annual permit,  
4 each cab card, and each emblem issued to a carrier remain the property  
5 of this state and may be suspended or revoked by the department for  
6 any violation of this chapter or of the rules concerning this chapter  
7 adopted by the department under IC 4-22-2.

8 (d) As evidence of compliance with this section, and for the purpose  
9 of enforcement, a carrier shall display on each commercial motor  
10 vehicle an emblem when the vehicle is being operated by the carrier in  
11 Indiana. The carrier shall affix the emblem to the vehicle in the  
12 location designated by the department. The carrier shall display in each  
13 vehicle the cab card issued by the department. The carrier shall retain  
14 the original annual permit at the address shown on the annual permit.  
15 During the month of December, the carrier shall display the cab card  
16 and emblem that are valid through December 31 or a full year cab card  
17 and emblem issued to the carrier for the ensuing twelve (12) months.  
18 If the department grants an extension of the expiration date, the carrier  
19 shall continue to display the cab card and emblem upon which the  
20 extension was granted.

21 (e) If a commercial motor vehicle is operated by more than one (1)  
22 carrier, as evidence of compliance with this section and for purposes  
23 of enforcement each carrier shall display in the commercial motor  
24 vehicle a reproduced copy of the carrier's annual permit when the  
25 vehicle is being operated by the carrier in Indiana.

26 (f) A person who fails to display an emblem required by this section  
27 on a commercial motor vehicle, does not have proof in the vehicle that  
28 the annual permit has been obtained, and operates that vehicle on an  
29 Indiana highway commits a Class C infraction. Each day of operation  
30 without an emblem constitutes a separate infraction. Notwithstanding  
31 IC 34-28-5-4, a judgment of not less than one hundred dollars (\$100)  
32 shall be entered for each Class C infraction under this subsection.

33 (g) A person who displays an altered, false, or fictitious cab card  
34 required by this section in a commercial motor vehicle, does not have  
35 proof in the vehicle that the annual permit has been obtained, and  
36 operates that vehicle on an Indiana highway commits a Class C  
37 infraction. Each day of operation with an altered, false, or fictitious cab  
38 card constitutes a separate infraction.

39 SECTION 194. IC 6-6-4.1-13 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A carrier may,  
41 in lieu of paying the tax imposed under this chapter that would  
42 otherwise result from the operation of a particular commercial motor  
43 vehicle, obtain from the department a trip permit authorizing the carrier  
44 to operate the commercial motor vehicle for a period of five (5)  
45 consecutive days. The department shall specify the beginning and  
46 ending days on the face of the permit. The fee for a trip permit for each  
47 commercial motor vehicle is fifty dollars (\$50). The report otherwise

1 required under section 10 of this chapter is not required with respect to  
2 a vehicle for which a trip permit has been issued under this subsection.

3 (b) The department may issue a temporary written authorization if  
4 unforeseen or uncertain circumstances require operations by a carrier  
5 of a commercial motor vehicle for which neither a trip permit described  
6 in subsection (a) nor an annual permit described in section 12 of this  
7 chapter has been obtained. A temporary authorization may be issued  
8 only if the department finds that undue hardship would result if  
9 operation under a temporary authorization were prohibited. A carrier  
10 who receives a temporary authorization shall:

11 (1) pay the trip permit fee at the time the temporary authorization  
12 is issued; or

13 (2) subsequently apply for and obtain an annual permit.

14 (c) A carrier may obtain an International Fuel Tax Agreement  
15 (IFTA) repair and maintenance permit to:

16 (1) travel from another state into Indiana to repair or maintain any  
17 of the carrier's motor vehicles, semitrailers (as defined in  
18 IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

19 (2) return to the same state after the repair or maintenance is  
20 completed.

21 The permit allows the travel described in this section. In addition to any  
22 other fee established in this chapter, and instead of paying the quarterly  
23 motor fuel tax imposed under this chapter, a carrier may pay an annual  
24 IFTA repair and maintenance fee of forty dollars (\$40) and receive an  
25 IFTA annual repair and maintenance permit. The IFTA annual repair  
26 and maintenance permit and fee applies to all of the motor vehicles  
27 operated by a carrier. The IFTA annual repair and maintenance permit  
28 is not transferable to another carrier. A carrier may not carry cargo or  
29 passengers under the IFTA annual repair and maintenance permit. All  
30 fees collected under this subsection shall be deposited in the motor  
31 carrier regulation fund (IC 8-2.1-23). The report otherwise required  
32 under section 10 of this chapter is not required with respect to a motor  
33 vehicle that is operated under an IFTA annual repair and maintenance  
34 permit.

35 (d) A carrier may obtain an International Registration Plan (IRP)  
36 repair and maintenance permit to:

37 (1) travel from another state into Indiana to repair or maintain any  
38 of the carrier's motor vehicles, semitrailers (as defined in  
39 IC 9-13-2-164), or trailers (as defined in IC 9-13-2-184); and

40 (2) return to the same state after the repair or maintenance is  
41 completed.

42 The permit allows the travel described in this section. In addition to any  
43 other fee established in this chapter, and instead of paying apportioned  
44 or temporary IRP fees under IC 9-18-2 or IC 9-18-7, a carrier may pay  
45 an annual IRP repair and maintenance fee of forty dollars (\$40) and  
46 receive an IRP annual repair and maintenance permit. The IRP annual  
47 repair and maintenance permit and fee applies to all of the motor

1 vehicles operated by a carrier. The IRP annual repair and maintenance  
 2 permit is not transferable to another carrier. A carrier may not carry  
 3 cargo or passengers under the IRP annual repair and maintenance  
 4 permit. All fees collected under this subsection shall be deposited in  
 5 the motor carrier regulation fund (IC 8-2.1-23).

6 **(e) A person may obtain a repair and maintenance permit to:**

7 **(1) move an unregistered off-road vehicle from a quarry or**  
 8 **mine to a maintenance or repair facility; and**

9 **(2) return the unregistered off-road vehicle to its place of**  
 10 **origin.**

11 **The fee for the permit is forty dollars (\$40). The permit is an**  
 12 **annual permit and applies to all unregistered off-road vehicles**  
 13 **from the same quarry or mine.**

14 ~~(e)~~ **(f)** A carrier may obtain a repair, maintenance, and relocation  
 15 permit to:

16 (1) move a yard tractor from a terminal or loading or spotting  
 17 facility to:

18 (A) a maintenance or repair facility; or

19 (B) another terminal or loading or spotting facility; and

20 (2) return the yard tractor to its place of origin.

21 The fee for the permit is forty dollars (\$40). The permit is an annual  
 22 permit and applies to all yard tractors operated by the carrier. The  
 23 permit is not transferable to another carrier. A carrier may not carry  
 24 cargo or transport or draw a semitrailer or other vehicle under the  
 25 permit. A carrier may operate a yard tractor under the permit instead of  
 26 paying the tax imposed under this chapter. A yard tractor that is being  
 27 operated on a public highway under this subsection must display a  
 28 license plate issued under IC 9-18-32. As used in this section, "yard  
 29 tractor" has the meaning set forth under IC 9-13-2-201.

30 ~~(f)~~ **(g)** The department shall establish procedures, by rules adopted  
 31 under IC 4-22-2, for:

32 (1) the issuance and use of trip permits, temporary authorizations,  
 33 and repair and maintenance permits; and

34 (2) the display in commercial motor vehicles of evidence of  
 35 compliance with this chapter."

36 Page 183, delete lines 24 through 42, begin a new paragraph and  
 37 insert:

38 "SECTION 196. IC 6-6-5.5-1 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) Unless  
 40 defined in this section, terms used in this chapter have the meaning set  
 41 forth in the International Registration Plan or in IC 6-6-5 (motor  
 42 vehicle excise tax). Definitions set forth in the International  
 43 Registration Plan, as applicable, prevail unless given a different  
 44 meaning in this section or in rules adopted under authority of this  
 45 chapter. The definitions in this section apply throughout this chapter.

46 (b) As used in this chapter, "base revenue" means the minimum  
 47 amount of commercial vehicle excise tax revenue that a taxing unit will

- 1 receive in a year.
- 2 (c) As used in this chapter, "commercial vehicle" means any of the  
3 following:
- 4 (1) An Indiana-based vehicle subject to apportioned registration  
5 under the International Registration Plan.
- 6 (2) A vehicle subject to apportioned registration under the  
7 International Registration Plan and based and titled in a state  
8 other than Indiana subject to the conditions of the International  
9 Registration Plan.
- 10 (3) A truck, **road tractor**, tractor, trailer, semitrailer, or  
11 truck-tractor subject to registration under IC 9-18.
- 12 (d) As used in this chapter, "declared gross weight" means the  
13 weight at which a vehicle is registered with:
- 14 (1) the bureau; or  
15 (2) the International Registration Plan.
- 16 (e) As used in this chapter, "department" means the department of  
17 state revenue.
- 18 (f) As used in this chapter, "fleet" means one (1) or more  
19 apportionable vehicles.
- 20 (g) As used in this chapter, "gross weight" means the total weight of  
21 a vehicle or combination of vehicles without load, plus the weight of  
22 any load on the vehicle or combination of vehicles.
- 23 (h) As used in this chapter, "Indiana-based" means a vehicle or fleet  
24 of vehicles that is base-registered in Indiana under the terms of the  
25 International Registration Plan.
- 26 (i) As used in this chapter, "in-state miles" means the total number  
27 of miles operated by a commercial vehicle or fleet of commercial  
28 vehicles in Indiana during the preceding year.
- 29 (j) As used in this chapter, "motor vehicle" has the meaning set forth  
30 in IC 9-13-2-105(a).
- 31 (k) As used in this chapter, "owner" means the person in whose  
32 name the commercial vehicle is registered under IC 9-18 or the  
33 International Registration Plan.
- 34 (l) As used in this chapter, "preceding year" means a period of  
35 twelve (12) consecutive months fixed by the department which shall be  
36 within the eighteen (18) months immediately preceding the  
37 commencement of the registration year for which proportional  
38 registration is sought.
- 39 **(m) As used in this chapter, "road tractor" has the meaning set  
40 forth in IC 9-13-2-156.**
- 41 ~~(m)~~ **(n)** As used in this chapter, "semitrailer" has the meaning set  
42 forth in IC 9-13-2-164(a).
- 43 ~~(n)~~ **(o)** As used in this chapter, "tractor" has the meaning set forth  
44 in IC 9-13-2-180.
- 45 ~~(o)~~ **(p)** As used in this chapter, "trailer" has the meaning set forth in  
46 IC 9-13-2-184(a).
- 47 ~~(p)~~ **(q)** As used in this chapter, "truck" has the meaning set forth in

1 IC 9-13-2-188(a).

2 (¶) (r) As used in this chapter, "truck-tractor" has the meaning set  
3 forth in IC 9-13-2-189(a).

4 (¶) (s) As used in this chapter, "vehicle" means a motor vehicle,  
5 trailer, or semitrailer subject to registration under IC 9-18 as a  
6 condition of its operation on the public highways pursuant to the motor  
7 vehicle registration laws of the state.

8 SECTION 197. IC 6-6-5.5-7 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:  
10 Sec. 7. (a) For calendar years that begin after December 31, 2000, the  
11 annual excise tax for a commercial vehicle will be determined by the  
12 motor carrier services division on or before October 1 of each year in  
13 accordance with the following formula:

14 STEP ONE: Determine the total amount of base revenue to be  
15 distributed from the commercial vehicle excise tax fund to all  
16 taxing units in Indiana during the calendar year for which the tax  
17 is first due and payable. For calendar year 2001, the total amount  
18 of base revenue for all taxing units shall be determined as  
19 provided in section 19 of this chapter. For calendar years that  
20 begin after December 31, 2001, **and before January 1, 2009**, the  
21 total amount of base revenue for all taxing units shall be  
22 determined by multiplying the previous year's base revenue for all  
23 taxing units by one hundred five percent (105%). **For calendar**  
24 **years that begin after December 31, 2008, the total amount of**  
25 **base revenue for all taxing units shall be determined as**  
26 **provided in section 19 of this chapter.**

27 STEP TWO: Determine the sum of fees paid to register the  
28 following commercial vehicles in Indiana under the following  
29 statutes during the fiscal year that ends June 30 immediately  
30 preceding the calendar year for which the tax is first due and  
31 payable:

32 (A) Total registration fees collected under IC 9-29-5-3 for  
33 commercial vehicles with a declared gross weight in excess of  
34 eleven thousand (11,000) pounds, including trucks, tractors  
35 not used with semitrailers, traction engines, and other similar  
36 vehicles used for hauling purposes;

37 (B) Total registration fees collected under IC 9-29-5-5 for  
38 tractors used with semitrailers;

39 (C) Total registration fees collected under IC 9-29-5-6 for  
40 semitrailers used with tractors;

41 (D) Total registration fees collected under IC 9-29-5-4 for  
42 trailers having a declared gross weight in excess of three  
43 thousand (3,000) pounds; and

44 (E) Total registration fees collected under IC 9-29-5-13 for  
45 trucks, tractors and semitrailers used in connection with  
46 agricultural pursuits usual and normal to the user's farming  
47 operation, multiplied by two hundred percent (200%);

1           STEP THREE: Determine the tax factor by dividing the STEP  
2           ONE result by the STEP TWO result.

3           (b) Except as otherwise provided in this chapter, the annual excise  
4 tax for commercial vehicles with a declared gross weight in excess of  
5 eleven thousand (11,000) pounds, including trucks, tractors not used  
6 with semitrailers, traction engines, and other similar vehicles used for  
7 hauling purposes, shall be determined by multiplying the registration  
8 fee under IC 9-29-5-3 by the tax factor determined in subsection (a).

9           (c) Except as otherwise provided in this chapter, the annual excise  
10 tax for tractors used with semitrailers shall be determined by  
11 multiplying the registration fee under IC 9-29-5-5 by the tax factor  
12 determined in subsection (a).

13           (d) Except as otherwise provided in this chapter, the annual excise  
14 tax for trailers having a declared gross weight in excess of three  
15 thousand (3,000) pounds shall be determined by multiplying the  
16 registration fee under IC 9-29-5-4 by the tax factor determined in  
17 subsection (a).

18           (e) The annual excise tax for a semitrailer shall be determined by  
19 multiplying the average annual registration fee under IC 9-29-5-6 by  
20 the tax factor determined in subsection (a). The average annual  
21 registration fee for a semitrailer under IC 9-29-5-6 is sixteen dollars  
22 and seventy-five cents (\$16.75).

23           (f) The annual excise tax determined under this section shall be  
24 rounded upward to the next full dollar amount.

25           SECTION 198. IC 6-6-5.5-19 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:  
27 Sec. 19. (a) As used in this section, "assessed value" means an amount  
28 equal to the true tax value of commercial vehicles that:

29           (1) are subject to the commercial vehicle excise tax under this  
30 chapter; and

31           (2) would have been subject to assessment as personal property  
32 on March 1, 2000, under the law in effect before January 1, 2000.

33           (b) For calendar year 2001, a taxing unit's base revenue shall be  
34 determined as provided in subsection (f). For calendar years that begin  
35 after December 31, 2001, **and before January 1, 2009**, a taxing unit's  
36 base revenue shall be determined by multiplying the previous year's  
37 base revenue by one hundred five percent (105%). **For calendar years**  
38 **that begin after December 31, 2008, a taxing unit's base revenue is**  
39 **equal to:**

40           **(1) the amount of commercial vehicle excise tax collected**  
41 **during the previous state fiscal year; multiplied by**

42           **(2) the taxing unit's percentage as determined in subsection (f)**  
43 **for calendar year 2001.**

44           (c) The amount of commercial vehicle excise tax distributed to the  
45 taxing units of Indiana from the commercial vehicle excise tax fund  
46 shall be determined in the manner provided in this section. ~~On or~~  
47 ~~before June 1, 2000, each township assessor of a county shall deliver~~

1 to the county assessor a list that states by taxing district the total  
2 assessed value as shown on the information returns filed with the  
3 assessor on or before May 15, 2000.

4 (d) On or before July 1, 2000, each county assessor shall certify to  
5 the county auditor the assessed value of commercial vehicles in every  
6 taxing district.

7 (e) On or before August 1, 2000, the county auditor shall certify the  
8 following to the department of local government finance:

9 (1) The total assessed value of commercial vehicles in the county.

10 (2) The total assessed value of commercial vehicles in each taxing  
11 district of the county.

12 (f) The department of local government finance shall determine  
13 each taxing unit's base revenue by applying the current tax rate for each  
14 taxing district to the certified assessed value from each taxing district.  
15 The department of local government finance shall also determine the  
16 following:

17 (1) The total amount of base revenue to be distributed from the  
18 commercial vehicle excise tax fund in 2001 to all taxing units in  
19 Indiana.

20 (2) The total amount of base revenue to be distributed from the  
21 commercial vehicle excise tax fund in 2001 to all taxing units in  
22 each county.

23 (3) Each county's total distribution percentage. A county's total  
24 distribution percentage shall be determined by dividing the total  
25 amount of base revenue to be distributed in 2001 to all taxing  
26 units in the county by the total base revenue to be distributed  
27 statewide.

28 (4) Each taxing unit's distribution percentage. A taxing unit's  
29 distribution percentage shall be determined by dividing each  
30 taxing unit's base revenue by the total amount of base revenue to  
31 be distributed in 2001 to all taxing units in the county.

32 (g) The department of local government finance shall certify each  
33 taxing unit's base revenue and distribution percentage for calendar year  
34 2001 to the auditor of state on or before September 1, 2000.

35 (h) The auditor of state shall keep permanent records of each taxing  
36 unit's base revenue and distribution percentage for calendar year 2001  
37 for purposes of determining the amount of money each taxing unit in  
38 Indiana is entitled to receive in calendar years that begin after  
39 December 31, 2001.

40 SECTION 199. IC 6-6-5.5-20, AS AMENDED BY P.L.146-2008,  
41 SECTION 354, IS AMENDED TO READ AS FOLLOWS  
42 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 20. (a) On  
43 or before May 1, subject to subsections (c) and (d), the auditor of state  
44 shall distribute to each county auditor an amount equal to fifty percent  
45 (50%) of the total base revenue to be distributed to all taxing units in  
46 the county for that year. **product of:**

47 **(1) the county's distribution percentage; multiplied by**

1           **(2) the total commercial vehicle excise tax deposited in the**  
 2           **commercial vehicle excise tax fund in the preceding calendar**  
 3           **year.**

4           (b) On or before December 1, subject to subsections (c) and (d), the  
 5           auditor of state shall distribute to each county auditor an amount equal  
 6           to the greater of the following:

7           (1) Fifty percent (50%) of the total base revenue to be distributed  
 8           to all taxing units in the county for that year.

9           (2) The product of the county's distribution percentage multiplied  
 10          by the total commercial vehicle excise tax revenue deposited in  
 11          the commercial vehicle excise tax fund: **fifty percent (50%) of**  
 12          **the product of:**

13          **(1) the county's distribution percentage; multiplied by**  
 14          **(2) the total commercial vehicle excise tax deposited in the**  
 15          **commercial vehicle excise tax fund in the preceding calendar**  
 16          **year.**

17          (c) Before distributing the amounts under subsections (a) and (b),  
 18          the auditor of state shall deduct for a county unit an amount for deposit  
 19          in a state fund, as directed by the budget agency, equal to the result  
 20          determined under STEP FIVE of the following formula:

21          STEP ONE: Separately for 2006, 2007, and 2008, determine the  
 22          result of:

23                  (A) the tax rate imposed by the county in the year for the  
 24                  county's county medical assistance to wards fund, family and  
 25                  children's fund, children's psychiatric residential treatment  
 26                  services fund, county hospital care for the indigent fund,  
 27                  children with special health care needs county fund, plus, in  
 28                  the case of Marion County, the tax rate imposed by the health  
 29                  and hospital corporation that was necessary to raise thirty-five  
 30                  million dollars (\$35,000,000) from all taxing districts in the  
 31                  county; divided by

32                  (B) the aggregate tax rate imposed by the county unit and, in  
 33                  the case of Marion County, the health and hospital corporation  
 34                  in the year.

35          STEP TWO: Determine the sum of the STEP ONE amounts.

36          STEP THREE: Divide the STEP TWO result by three (3).

37          STEP FOUR: Determine the amount that would otherwise be  
 38          distributed to the county under subsection (a) or (b), as  
 39          appropriate, without regard to this subsection.

40          STEP FIVE: Determine the result of:

41                  (A) the STEP THREE amount; multiplied by

42                  (B) the STEP FOUR result.

43          (d) Before distributing the amounts under subsections (a) and (b),  
 44          the auditor of state shall deduct for a school corporation an amount for  
 45          deposit in a state fund, as directed by the budget agency, equal to the  
 46          result determined under STEP FIVE of the following formula:

47          STEP ONE: Separately for 2006, 2007, and 2008, determine the

- 1 result of:
- 2 (A) the tax rate imposed by the school corporation in the year
- 3 for the tuition support levy under IC 6-1.1-19-1.5 (repealed) or
- 4 IC 20-45-3-11 (repealed) for the school corporation's general
- 5 fund plus the tax rate imposed by the school corporation for
- 6 the school corporation's special education preschool fund;
- 7 divided by
- 8 (B) the aggregate tax rate imposed by the school corporation
- 9 in the year.
- 10 STEP TWO: Determine the sum of the results determined under
- 11 STEP ONE.
- 12 STEP THREE: Divide the STEP TWO result by three (3).
- 13 STEP FOUR: Determine the amount of commercial vehicle
- 14 excise tax that would otherwise be distributed to the school
- 15 corporation under subsection (a) or (b), as appropriate, without
- 16 regard to this subsection.
- 17 STEP FIVE: Determine the result of:
- 18 (A) the STEP FOUR amount; multiplied by
- 19 (B) the STEP THREE result.
- 20 (e) Upon receipt, the county auditor shall distribute to the taxing
- 21 units an amount equal to the product of the taxing unit's distribution
- 22 percentage multiplied by the total distributed to the county under this
- 23 section. The amount determined shall be apportioned and distributed
- 24 among the respective funds of each taxing unit in the same manner and
- 25 at the same time as property taxes are apportioned and distributed
- 26 **(subject to adjustment as provided in IC 36-8-19-7.5 after**
- 27 **December 31, 2009).**
- 28 (f) In the event that sufficient funds are not available in the
- 29 commercial vehicle excise tax fund for the distributions required by
- 30 subsection (a) and subsection (b)(1), the auditor of state shall transfer
- 31 funds from the commercial vehicle excise tax reserve fund.
- 32 (g) The auditor of state shall, not later than July 1 of each year,
- 33 furnish to each county auditor an estimate of the amounts to be
- 34 distributed to the counties under this section during the next calendar
- 35 year. Before August 1, each county auditor shall furnish to the proper
- 36 officer of each taxing unit of the county an estimate of the amounts to
- 37 be distributed to the taxing units under this section during the next
- 38 calendar year and the budget of each taxing unit shall show the
- 39 estimated amounts to be received for each fund for which a property
- 40 tax is proposed to be levied."
- 41 Delete page 184.
- 42 Page 185, delete lines 1 through 23.
- 43 Page 188, between lines 5 and 6, begin a new paragraph and insert:
- 44 "SECTION 201. IC 6-6-6.5-23 IS AMENDED TO READ AS
- 45 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. **(a)** The department
- 46 **may shall** require the owner of an airport or any person or persons
- 47 leasing or subleasing space from an airport owner for the purpose of

1 storing, renting, or selling aircraft to submit reports to the department  
 2 listing the aircraft based at that airport. The reports shall identify the  
 3 aircraft by Federal Aviation Administration number.

4 **(b) An airport owner or any other person required to submit a**  
 5 **report under subsection (a) is subject to a civil penalty of one**  
 6 **hundred dollars (\$100) for each aircraft that should have been and**  
 7 **was not properly included on the report."**

8 Page 189, between lines 37 and 38, begin a new paragraph and  
 9 insert:

10 "SECTION 203. IC 6-8.1-3-4 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department has  
 12 the sole authority to furnish forms used in the administration and  
 13 collection of the listed taxes, **including reporting of information in**  
 14 **an electronic format.**

15 SECTION 204. IC 6-8.1-3-12 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The department  
 17 may audit any returns filed in respect to the listed taxes, may appraise  
 18 property if the property's value relates to the administration or  
 19 enforcement of the listed taxes, may audit gasoline distributors for  
 20 financial responsibility, and may investigate any matters relating to the  
 21 listed taxes.

22 **(b) The department may audit any returns with respect to the**  
 23 **listed taxes using statistical sampling. If the taxpayer and the**  
 24 **department agree to a sampling method to be used, the sampling**  
 25 **method is binding on the taxpayer and the department in**  
 26 **determining the total amount of additional tax due or amounts to**  
 27 **be refunded.**

28 ~~(b)~~ **(c)** For purposes of conducting its audit or investigative  
 29 functions, the department may:

- 30 (1) subpoena the production of evidence;
- 31 (2) subpoena witnesses; and
- 32 (3) question witnesses under oath.

33 The department may serve its subpoenas, or it may order the sheriff of  
 34 the county in which the witness or evidence is located to serve the  
 35 subpoenas.

36 ~~(c)~~ **(d)** The department may enforce its audit and investigatory  
 37 powers by petitioning for a court order in any court of competent  
 38 jurisdiction located in the county where the tax is due or in the county  
 39 in which the evidence or witness is located. If the evidence or witness  
 40 is not located in Indiana or if the department does not know the  
 41 location of the evidence or witness, the department may file the petition  
 42 in a court of competent jurisdiction in Marion County. The petition to  
 43 the court must state the evidence or testimony subpoenaed and must  
 44 allege that the subpoena was served but that the person did not comply  
 45 with the terms of that subpoena.

46 ~~(d)~~ **(e)** Upon receiving a proper petition under subsection ~~(c)~~; **(d)**,  
 47 the court shall promptly issue an order which:

1 (1) sets a hearing on the petition on a date not more than ten (10)  
2 days after the date of the order; and

3 (2) orders the person to appear at the hearing prepared to produce  
4 the subpoenaed evidence and give the subpoenaed testimony.

5 If the defendant is unable to show good cause for not producing the  
6 evidence or giving the testimony, the court shall order the defendant to  
7 comply with the subpoena.

8 ~~(e)~~ **(f)** If the defendant fails to obey the court order, the court may  
9 punish the defendant for contempt.

10 ~~(f)~~ **(g)** Officers serving subpoenas or court orders and witnesses  
11 appearing in court are entitled to the normal compensation provided by  
12 law in civil cases. The department shall pay the compensation costs  
13 from the money appropriated for the administration of the listed taxes.

14 ~~(g)~~ **(h)** County treasurers investigating tax matters under IC 6-9  
15 have:

- 16 (1) concurrent jurisdiction with the department;  
17 (2) the audit, investigatory, appraisal, and enforcement powers  
18 described in this section; and  
19 (3) authority to recover court costs, fees, and other expenses  
20 related to an audit, investigatory, appraisal, or enforcement action  
21 under this section.

22 SECTION 205. IC 6-8.1-3-16, AS AMENDED BY P.L.177-2005,  
23 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JANUARY 1, 2010]: Sec. 16. (a) The department shall prepare a list  
25 of all outstanding tax warrants for listed taxes each month. The list  
26 shall identify each taxpayer liable for a warrant by name, address,  
27 amount of tax, and either Social Security number or employer  
28 identification number. Unless the department renews the warrant, the  
29 department shall exclude from the list a warrant issued more than ten  
30 (10) years before the date of the list. The department shall certify a  
31 copy of the list to the bureau of motor vehicles.

32 (b) The department shall prescribe and furnish tax release forms for  
33 use by tax collecting officials. A tax collecting official who collects  
34 taxes in satisfaction of an outstanding warrant shall issue to the  
35 taxpayers named on the warrant a tax release stating that the tax has  
36 been paid. The department may also issue a tax release:

- 37 (1) to a taxpayer who has made arrangements satisfactory to the  
38 department for the payment of the tax; or  
39 (2) by action of the commissioner under IC 6-8.1-8-2(k).

40 (c) The department may not issue or renew:

- 41 (1) a certificate under IC 6-2.5-8;  
42 (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or  
43 (3) a permit under IC 6-6-4.1;

44 to a taxpayer whose name appears on the most recent monthly warrant  
45 list, unless that taxpayer pays the tax, makes arrangements satisfactory  
46 to the department for the payment of the tax, or a release is issued  
47 under IC 6-8.1-8-2(k).

1 (d) The bureau of motor vehicles shall, before issuing the title to a  
 2 motor vehicle under IC 9-17, determine whether the purchaser's or  
 3 assignee's name is on the most recent monthly warrant list. If the  
 4 purchaser's or assignee's name is on the list, the bureau shall enter as  
 5 a lien on the title the name of the state as the lienholder unless the  
 6 bureau has received notice from the commissioner under  
 7 IC 6-8.1-8-2(k). The tax lien on the title:

8 (1) is subordinate to a perfected security interest (as defined and  
 9 perfected in accordance with IC 26-1-9.1); and

10 (2) shall otherwise be treated in the same manner as other title  
 11 liens.

12 (e) The commissioner is the custodian of all titles for which the state  
 13 is the sole lienholder under this section. Upon receipt of the title by the  
 14 department, the commissioner shall notify the owner of the  
 15 department's receipt of the title.

16 (f) The department shall reimburse the bureau of motor vehicles for  
 17 all costs incurred in carrying out this section.

18 (g) Notwithstanding IC 6-8.1-8, a person who is authorized to  
 19 collect taxes, interest, or penalties on behalf of the department under  
 20 IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i),  
 21 receive a fee for collecting the taxes, interest, or penalties if:

22 (1) the taxpayer pays the taxes, interest, or penalties as  
 23 consideration for the release of a lien placed under subsection (d)  
 24 on a motor vehicle title; or

25 (2) the taxpayer has been denied a certificate or license under  
 26 subsection (c) within sixty (60) days before the date the taxes,  
 27 interest, or penalties are collected.

28 (h) In the case of a sheriff, subsection (g) does not apply if:

29 (1) the sheriff collects the taxes, interest, or penalties within sixty  
 30 (60) days after the date the sheriff receives the tax warrant; or

31 (2) the sheriff collects the taxes, interest, or penalties through the  
 32 sale or redemption, in a court proceeding, of a motor vehicle that  
 33 has a lien placed on its title under subsection (d).

34 (i) In the case of a person other than a sheriff:

35 (1) subsection (g)(2) does not apply if the person collects the  
 36 taxes, interests, or penalties within sixty (60) days after the date  
 37 the commissioner employs the person to make the collection; and

38 (2) subsection (g)(1) does not apply if the person collects the  
 39 taxes, interest, or penalties through the sale or redemption, in a  
 40 court proceeding, of a motor vehicle that has a lien placed on its  
 41 title under subsection (d).

42 (j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting  
 43 information from disclosure by the department ~~does do~~ not apply to this  
 44 subsection. ~~From the list prepared under subsection (a);~~ The  
 45 department shall ~~compile each month prepare~~ a list of the taxpayers  
 46 ~~subject to tax warrants that:~~

47 ~~(+) were issued at least twenty-four (24) months before the date~~

1 of the list; and  
 2 (2) are for amounts that exceed one thousand dollars (\$1,000);  
 3 **retail merchants whose registered retail merchant certificate has**  
 4 **not been renewed under IC 6-2.5-8-1(g) or whose registered retail**  
 5 **merchant certificate has been revoked under IC 6-2.5-8-7.** The list  
 6 compiled under this subsection must identify each taxpayer liable for  
 7 a warrant retail merchant by name (including any name under  
 8 which the retail merchant is doing business), address, and amount of  
 9 tax. county. The department shall publish the list compiled under this  
 10 subsection on ~~accessIndiana~~ the department's Internet web site (as  
 11 operated under IC 4-13.1-2) and make the list available for public  
 12 inspection and copying under IC 5-14-3. The department or an agent,  
 13 employee, or officer of the department is immune from liability for the  
 14 publication of information under this subsection.

15 (k) The department may not publish a list under subsection (j) that  
 16 identifies a particular taxpayer unless at least two (2) weeks before the  
 17 publication of the list the department sends notice to the taxpayer  
 18 stating that the taxpayer:

19 (1) is subject to a tax warrant that:  
 20 (A) was issued at least twenty-four (24) months before the date  
 21 of the notice; and  
 22 (B) is for an amount that exceeds one thousand dollars  
 23 (\$1,000); and  
 24 (2) will be identified on a list to be published on ~~accessIndiana~~  
 25 unless a tax release is issued to the taxpayer under subsection (b):

26 (l) The department may not publish a list under subsection (j) after  
 27 June 30, 2006.

28 SECTION 206. IC 6-8.1-5-2, AS AMENDED BY P.L.131-2008,  
 29 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section,  
 31 the department may not issue a proposed assessment under section 1 of  
 32 this chapter more than three (3) years after the latest of the date the  
 33 return is filed, or any either of the following:

34 (1) The due date of the return. or  
 35 (2) In the case of a return filed for the state gross retail or use tax,  
 36 the gasoline tax, the special fuel tax, the motor carrier fuel tax, the  
 37 oil inspection fee, or the petroleum severance tax, the end of the  
 38 calendar year which contains the taxable period for which the  
 39 return is filed.

40 (b) If a person files a utility receipts tax return (IC 6-2.3), an  
 41 adjusted gross income tax (IC 6-3), supplemental net income tax  
 42 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1),  
 43 county option income tax (IC 6-3.5-6), or financial institutions tax  
 44 (IC 6-5.5) return that understates the person's income, as that term is  
 45 defined in the particular income tax law, by at least twenty-five percent  
 46 (25%), the proposed assessment limitation is six (6) years instead of the  
 47 three (3) years provided in subsection (a).

1 (c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax  
 2 shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall  
 3 include the penalties and interest due on all listed taxes not paid by the  
 4 due date. A person that fails to properly register a vehicle as required  
 5 by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have  
 6 failed to file a return for purposes of this article.

7 (d) In the case of the commercial vehicle excise tax imposed under  
 8 IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall  
 9 include the penalties and interest due on all listed taxes not paid by the  
 10 due date. A person that fails to properly register a commercial vehicle  
 11 as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is  
 12 considered to have failed to file a return for purposes of this article.

13 (e) In the case of the excise tax imposed on recreational vehicles  
 14 and truck campers under IC 6-6-5.1, the tax shall be assessed as  
 15 provided in IC 6-6-5.1 and must include the penalties and interest due  
 16 on all listed taxes not paid by the due date. A person who fails to  
 17 properly register a recreational vehicle as required by IC 9-18 and pay  
 18 the tax due under IC 6-6-5.1 is considered to have failed to file a return  
 19 for purposes of this article. A person who fails to pay the tax due under  
 20 IC 6-6-5.1 on a truck camper is considered to have failed to file a return  
 21 for purposes of this article.

22 (f) If a person files a fraudulent, unsigned, or substantially blank  
 23 return, or if a person does not file a return, there is no time limit within  
 24 which the department must issue its proposed assessment.

25 **(g) If any portion of a listed tax has been erroneously refunded**  
 26 **by the department, the erroneous refund may be recovered**  
 27 **through the assessment procedures established in this chapter. An**  
 28 **assessment issued for an erroneous refund must be issued:**

- 29 (1) within two (2) years after making the refund; or  
 30 (2) within five (5) years after making the refund if the refund  
 31 was induced by fraud or misrepresentation.

32 ~~(g)~~ (h) If, before the end of the time within which the department  
 33 may make an assessment, the department and the person agree to  
 34 extend that assessment time period, the period may be extended  
 35 according to the terms of a written agreement signed by both the  
 36 department and the person. The agreement must contain:

- 37 (1) the date to which the extension is made; and  
 38 (2) a statement that the person agrees to preserve the person's  
 39 records until the extension terminates.

40 The department and a person may agree to more than one (1) extension  
 41 under this subsection.

42 ~~(h)~~ (i) If a taxpayer's federal income tax liability for a taxable year  
 43 is modified due to the assessment of a federal deficiency or the filing  
 44 of an amended federal income tax return, then the date by which the  
 45 department must issue a proposed assessment under section 1 of this  
 46 chapter for tax imposed under IC 6-3 is extended to six (6) months after  
 47 the date on which the notice of modification is filed with the

1 department by the taxpayer.

2 SECTION 207. IC 6-8.1-6-4.5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. A taxpayer that is  
4 required under IC 6-3-4-1 to file a return ~~may~~ **shall** round to the nearest  
5 whole dollar an amount or item reported on the return. The following  
6 apply if an amount or item is rounded:

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

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

11 SECTION 208. IC 6-8.1-7-1, AS AMENDED BY SEA 344-2009,  
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2009]: Sec. 1. (a) This subsection does not apply to the  
14 disclosure of information concerning a conviction on a tax evasion  
15 charge. Unless in accordance with a judicial order or as otherwise  
16 provided in this chapter, the department, its employees, former  
17 employees, counsel, agents, or any other person may not divulge the  
18 amount of tax paid by any taxpayer, terms of a settlement agreement  
19 executed between a taxpayer and the department, investigation records,  
20 investigation reports, or any other information disclosed by the reports  
21 filed under the provisions of the law relating to any of the listed taxes,  
22 including required information derived from a federal return, except to:

23 (1) members and employees of the department;

24 (2) the governor;

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

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

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

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

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

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

39 (c) The information described in subsection (a) relating to a person  
40 on public welfare or a person who has made application for public  
41 welfare may be revealed to the director of the division of family  
42 resources, and to any director of a county office of the division of  
43 family resources located in Indiana, upon receipt of a written request  
44 from either director for the information. The information shall be  
45 treated as confidential by the directors. In addition, the information  
46 described in subsection (a) relating to a person who has been  
47 designated as an absent parent by the state Title IV-D agency shall be

1 made available to the state Title IV-D agency upon request. The  
2 information shall be subject to the information safeguarding provisions  
3 of the state and federal Title IV-D programs.

4 (d) The name, address, Social Security number, and place of  
5 employment relating to any individual who is delinquent in paying  
6 educational loans owed to a postsecondary educational institution may  
7 be revealed to that institution if it provides proof to the department that  
8 the individual is delinquent in paying for educational loans. This  
9 information shall be provided free of charge to approved postsecondary  
10 educational institutions (as defined by IC 21-7-13-6(a)). The  
11 department shall establish fees that all other institutions must pay to the  
12 department to obtain information under this subsection. However, these  
13 fees may not exceed the department's administrative costs in providing  
14 the information to the institution.

15 (e) The information described in subsection (a) relating to reports  
16 submitted under IC 6-6-1.1-502 concerning the number of gallons of  
17 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of  
18 gallons of special fuel sold by a supplier and the number of gallons of  
19 special fuel exported by a licensed exporter or imported by a licensed  
20 transporter may be released by the commissioner upon receipt of a  
21 written request for the information.

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

25 (1) the state agency shows an official need for the information;  
26 and

27 (2) the administrative head of the state agency agrees that any  
28 information released will be kept confidential and will be used  
29 solely for official purposes.

30 (g) The information described in subsection (a) may be revealed  
31 upon the receipt of a written request from the chief law enforcement  
32 officer of a state or local law enforcement agency in Indiana, when it  
33 is agreed that the information is to be confidential and to be used solely  
34 for official purposes.

35 (h) The name and address of retail merchants, including township,  
36 as specified in IC 6-2.5-8-1(j) may be released solely for tax collection  
37 purposes to township assessors and county assessors.

38 (i) The department shall notify the appropriate innkeepers' tax  
39 board, bureau, or commission that a taxpayer is delinquent in remitting  
40 innkeepers' taxes under IC 6-9.

41 (j) All information relating to the delinquency or evasion of the  
42 motor vehicle excise tax may be disclosed to the bureau of motor  
43 vehicles in Indiana and may be disclosed to another state, if the  
44 information is disclosed for the purpose of the enforcement and  
45 collection of the taxes imposed by IC 6-6-5.

46 (k) All information relating to the delinquency or evasion of  
47 commercial vehicle excise taxes payable to the bureau of motor

1 vehicles in Indiana may be disclosed to the bureau and may be  
 2 disclosed to another state, if the information is disclosed for the  
 3 purpose of the enforcement and collection of the taxes imposed by  
 4 IC 6-6-5.5.

5 (l) All information relating to the delinquency or evasion of  
 6 commercial vehicle excise taxes payable under the International  
 7 Registration Plan may be disclosed to another state, if the information  
 8 is disclosed for the purpose of the enforcement and collection of the  
 9 taxes imposed by IC 6-6-5.5.

10 (m) All information relating to the delinquency or evasion of the  
 11 excise taxes imposed on recreational vehicles and truck campers that  
 12 are payable to the bureau of motor vehicles in Indiana may be disclosed  
 13 to the bureau and may be disclosed to another state if the information  
 14 is disclosed for the purpose of the enforcement and collection of the  
 15 taxes imposed by IC 6-6-5.1.

16 (n) This section does not apply to:

- 17 (1) the beer excise tax, **including brand and packaged type**  
 18 (IC 7.1-4-2);
- 19 (2) the liquor excise tax (IC 7.1-4-3);
- 20 (3) the wine excise tax (IC 7.1-4-4);
- 21 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 22 (5) the malt excise tax (IC 7.1-4-5);
- 23 (6) the motor vehicle excise tax (IC 6-6-5);
- 24 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 25 (8) the fees under IC 13-23.

26 (o) The name and business address of retail merchants within each  
 27 county that sell tobacco products may be released to the division of  
 28 mental health and addiction and the alcohol and tobacco commission  
 29 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

30 SECTION 209. IC 6-8.1-8-1.7 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JANUARY 1, 2010]: **Sec. 1.7. The department may**  
 33 **require a person who is paying the person's outstanding gross**  
 34 **retail tax or withholding tax liability using periodic payments to**  
 35 **make the periodic payment by electronic funds transfer through an**  
 36 **automatic withdrawal from the person's account at a financial**  
 37 **institution.**

38 SECTION 210. IC 6-8.1-10-2.1, AS AMENDED BY P.L.211-2007,  
 39 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JANUARY 1, 2010]: Sec. 2.1. (a) If a person:

- 41 (1) fails to file a return for any of the listed taxes;
- 42 (2) fails to pay the full amount of tax shown on the person's return  
 43 on or before the due date for the return or payment;
- 44 (3) incurs, upon examination by the department, a deficiency that  
 45 is due to negligence;
- 46 (4) fails to timely remit any tax held in trust for the state; or
- 47 (5) is required to make a payment by electronic funds transfer (as

1 defined in IC 4-8.1-2-7), overnight courier, or personal delivery  
 2 and the payment is not received by the department by the due date  
 3 in funds acceptable to the department;  
 4 the person is subject to a penalty.

5 (b) Except as provided in subsection (g), the penalty described in  
 6 subsection (a) is ten percent (10%) of:

7 (1) the full amount of the tax due if the person failed to file the  
 8 return;

9 (2) the amount of the tax not paid, if the person filed the return  
 10 but failed to pay the full amount of the tax shown on the return;

11 (3) the amount of the tax held in trust that is not timely remitted;

12 (4) the amount of deficiency as finally determined by the  
 13 department; or

14 (5) the amount of tax due if a person failed to make payment by  
 15 electronic funds transfer, overnight courier, or personal delivery  
 16 by the due date.

17 (c) For purposes of this section, the filing of a substantially blank or  
 18 unsigned return does not constitute a return.

19 (d) If a person subject to the penalty imposed under this section can  
 20 show that the failure to file a return, pay the full amount of tax shown  
 21 on the person's return, timely remit tax held in trust, or pay the  
 22 deficiency determined by the department was due to reasonable cause  
 23 and not due to willful neglect, the department shall waive the penalty.

24 (e) A person who wishes to avoid the penalty imposed under this  
 25 section must make an affirmative showing of all facts alleged as a  
 26 reasonable cause for the person's failure to file the return, pay the  
 27 amount of tax shown on the person's return, pay the deficiency, or  
 28 timely remit tax held in trust, in a written statement containing a  
 29 declaration that the statement is made under penalty of perjury. The  
 30 statement must be filed with the return or payment within the time  
 31 prescribed for protesting departmental assessments. A taxpayer may  
 32 also avoid the penalty imposed under this section by obtaining a ruling  
 33 from the department before the end of a particular tax period on the  
 34 amount of tax due for that tax period.

35 (f) The department shall adopt rules under IC 4-22-2 to prescribe the  
 36 circumstances that constitute reasonable cause and negligence for  
 37 purposes of this section.

38 (g) A person who fails to file a return for a listed tax that shows no  
 39 tax liability for a taxable year, other than an information return (as  
 40 defined in section 6 of this chapter), on or before the due date of the  
 41 return shall pay a penalty of ten dollars (\$10) for each day that the  
 42 return is past due, up to a maximum of two hundred fifty dollars  
 43 (\$250).

44 (h) A corporation which otherwise qualifies under IC 6-3-2-2.8(2),  
 45 **but partnership, or trust that** fails to withhold and pay any amount of  
 46 tax required to be withheld under **IC 6-3-4-12**, IC 6-3-4-13, **or**  
 47 **IC 6-3-4-15** shall pay a penalty equal to twenty percent (20%) of the

1 amount of tax required to be withheld under **IC 6-3-4-12**, IC 6-3-4-13,  
 2 **or IC 6-3-4-15**. This penalty shall be in addition to any penalty  
 3 imposed by section 6 of this chapter.

4 (i) Subsections (a) through (c) do not apply to a motor carrier fuel  
 5 tax return.

6 (j) If a partnership or an S corporation fails to include all  
 7 nonresidential individual partners or nonresidential individual  
 8 shareholders in a composite return as required by IC 6-3-4-12(h) or  
 9 IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership  
 10 or S corporation is imposed on the partnership or S corporation.

11 SECTION 211. IC 6-8.1-10-5, AS AMENDED BY P.L.131-2008,  
 12 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2009]: Sec. 5. (a) If a person makes a tax payment with a  
 14 check, credit card, debit card, or electronic funds transfer, and the  
 15 department is unable to obtain payment on the check, credit card, debit  
 16 card, or electronic funds transfer for its full face amount when the  
 17 check, credit card, debit card, or electronic funds transfer is presented  
 18 for payment through normal banking channels, a penalty of ten percent  
 19 (10%) of the unpaid tax or the value of the check, credit card, debit  
 20 card, or electronic funds transfer, whichever is smaller, is imposed.

21 (b) When a penalty is imposed under subsection (a), the department  
 22 shall notify the person by mail that the check, credit card, debit card,  
 23 or electronic funds transfer was not honored and that the person has ten  
 24 (10) days after the date the notice is mailed to pay the tax and the  
 25 penalty either in cash, by certified check, or other guaranteed payment.  
 26 If the person fails to make the payment within the ten (10) day period,  
 27 the penalty is increased to one hundred percent (100%) multiplied by  
 28 the value of the check, credit card, debit card, or electronic funds  
 29 transfer, or the unpaid tax, whichever is smaller.

30 **(c) If a person has been assessed a penalty under subsection (a)  
 31 more than one (1) time, the department may require all future  
 32 payments for all listed taxes to be remitted with guaranteed funds.**

33 ~~(c)~~ (d) If the person subject to the penalty under this section can  
 34 show that there is reasonable cause for the check, credit card, debit  
 35 card, or electronic funds transfer not being honored, the department  
 36 may waive the penalty imposed under this section."

37 Page 209, between lines 12 and 13, begin a new paragraph and  
 38 insert:

39 "SECTION 244. IC 22-4-19-6, AS AMENDED BY P.L.108-2006,  
 40 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and  
 42 accurate records containing information the department considers  
 43 necessary. These records are:

- 44 (1) open to inspection; and
- 45 (2) subject to being copied;

46 by an authorized representative of the department at any reasonable  
 47 time and as often as may be necessary. The department, the review

1 board, or an administrative law judge may require from any employing  
 2 unit any verified or unverified report, with respect to persons employed  
 3 by it, which is considered necessary for the effective administration of  
 4 this article.

5 (b) Except as provided in subsections (d) and (f), information  
 6 obtained or obtained from any person in the administration of this  
 7 article and the records of the department relating to the unemployment  
 8 tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment  
 9 of benefits is confidential and may not be published or be open to  
 10 public inspection in any manner revealing the individual's or the  
 11 employing unit's identity, except in obedience to an order of a court or  
 12 as provided in this section.

13 (c) A claimant at a hearing before an administrative law judge or the  
 14 review board shall be supplied with information from the records  
 15 referred to in this section to the extent necessary for the proper  
 16 presentation of the subject matter of the appearance. The department  
 17 may make the information necessary for a proper presentation of a  
 18 subject matter before an administrative law judge or the review board  
 19 available to an agency of the United States or an Indiana state agency.

20 (d) The department may release the following information:

21 (1) Summary statistical data may be released to the public.

22 (2) Employer specific information known as ES 202 data and data  
 23 resulting from enhancements made through the business  
 24 establishment list improvement project may be released to the  
 25 Indiana economic development corporation only for the following  
 26 purposes:

27 (A) The purpose of conducting a survey.

28 (B) The purpose of aiding the officers or employees of the  
 29 Indiana economic development corporation in providing  
 30 economic development assistance through program  
 31 development, research, or other methods.

32 (C) Other purposes consistent with the goals of the Indiana  
 33 economic development corporation and not inconsistent with  
 34 those of the department.

35 (3) Employer specific information known as ES 202 data and data  
 36 resulting from enhancements made through the business  
 37 establishment list improvement project may be released to the  
 38 budget agency **and the legislative services agency** only for  
 39 aiding the employees of the budget agency **or the legislative**  
 40 **services agency** in forecasting tax revenues.

41 (4) Information obtained from any person in the administration of  
 42 this article and the records of the department relating to the  
 43 unemployment tax or the payment of benefits for use by the  
 44 following governmental entities:

45 (A) department of state revenue; or

46 (B) state or local law enforcement agencies;

47 only if there is an agreement that the information will be kept

- 1 confidential and used for legitimate governmental purposes.
- 2 (e) The department may make information available under  
3 subsection (d)(1), (d)(2), or (d)(3) only:
- 4 (1) if:
- 5 (A) data provided in summary form cannot be used to identify  
6 information relating to a specific employer or specific  
7 employee; or
- 8 (B) there is an agreement that the employer specific  
9 information released to the Indiana economic development  
10 corporation, ~~or~~ the budget agency, **or the legislative services**  
11 **agency** will be treated as confidential and will be released  
12 only in summary form that cannot be used to identify  
13 information relating to a specific employer or a specific  
14 employee; and
- 15 (2) after the cost of making the information available to the  
16 person requesting the information is paid under IC 5-14-3.
- 17 (f) In addition to the confidentiality provisions of subsection (b), the  
18 fact that a claim has been made under IC 22-4-15-1(c)(8) and any  
19 information furnished by the claimant or an agent to the department to  
20 verify a claim of domestic or family violence are confidential.  
21 Information concerning the claimant's current address or physical  
22 location shall not be disclosed to the employer or any other person.  
23 Disclosure is subject to the following additional restrictions:
- 24 (1) The claimant must be notified before any release of  
25 information.
- 26 (2) Any disclosure is subject to redaction of unnecessary  
27 identifying information, including the claimant's address.
- 28 (g) An employee:
- 29 (1) of the department who recklessly violates subsection (a), (c),  
30 (d), (e), or (f); or
- 31 (2) of any governmental entity listed in subsection (d)(4) who  
32 recklessly violates subsection (d)(4);  
33 commits a Class B misdemeanor.
- 34 (h) An employee of the Indiana economic development corporation,  
35 ~~or~~ the budget agency, **or the legislative services agency** who violates  
36 subsection (d) or (e) commits a Class B misdemeanor.
- 37 (i) An employer or agent of an employer that becomes aware that a  
38 claim has been made under IC 22-4-15-1(c)(8) shall maintain that  
39 information as confidential.
- 40 SECTION 244. IC 31-40-1-3, AS AMENDED BY P.L.146-2008,  
41 SECTION 667, IS AMENDED TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A parent or guardian of the  
43 estate of:
- 44 (1) a child adjudicated a delinquent child or a child in need of  
45 services; or
- 46 (2) a participant in a program of informal adjustment approved by  
47 a juvenile court under IC 31-34-8 or IC 31-37-9;

1 is financially responsible as provided in this chapter (or  
2 IC 31-6-4-18(e) before its repeal) for any services provided by or  
3 through the department.

4 (b) Each person described in subsection (a) shall, before a hearing  
5 under subsection (c) concerning payment or reimbursement of costs,  
6 furnish the court and the department with an accurately completed and  
7 current child support obligation worksheet on the same form that is  
8 prescribed by the Indiana supreme court for child support orders.

9 (c) At:

10 (1) a detention hearing;

11 (2) a hearing that is held after the payment of costs by the  
12 department under section 2 of this chapter (or IC 31-6-4-18(b)  
13 before its repeal);

14 (3) the dispositional hearing; or

15 (4) any other hearing to consider modification of a dispositional  
16 decree;

17 the juvenile court shall order the child's parents or the guardian of the  
18 child's estate to pay for, or reimburse the department for the cost of  
19 services provided to the child or the parent or guardian unless the court  
20 makes a specific finding that the parent or guardian is unable to pay or  
21 that justice would not be served by ordering payment from the parent  
22 or guardian.

23 **(d) Any parental reimbursement obligation under this section**  
24 **shall be paid directly to the department and not to the local court**  
25 **clerk so long as the child in need of services case, juvenile**  
26 **delinquency case, or juvenile status offense case is open. The**  
27 **department shall keep track of all payments made by each parent**  
28 **and shall provide a receipt for each payment received. At the**  
29 **conclusion of the child in need of services, juvenile delinquency, or**  
30 **juvenile status action, the department shall provide an accounting**  
31 **of payments received and the court may consider additional**  
32 **evidence of payment activity and determine the amount of parental**  
33 **reimbursement obligation that remains unpaid. The court shall**  
34 **reduce the unpaid balance to a final judgment that may be**  
35 **enforced in any court having jurisdiction over such matters.**

36 **(e) After a judgment for unpaid parental reimbursement**  
37 **obligation is rendered, payments made toward satisfaction of the**  
38 **judgment shall be made to the clerk of the court in the county**  
39 **where the enforcement action is filed and shall be promptly**  
40 **forwarded to the department in the same manner as any other**  
41 **judgment payment.**

42 SECTION 255. IC 31-40-1-6, AS AMENDED BY P.L.146-2008,  
43 SECTION 670, IS AMENDED TO READ AS FOLLOWS  
44 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The department may contract  
45 with any of the following, on terms and conditions with respect to  
46 compensation and payment or reimbursement of expenses as the  
47 department may determine, for the enforcement and collection of any

1 parental reimbursement obligation established by order entered by the  
2 court under section 3 or 5(g) of this chapter:

3 (1) The prosecuting attorney of the county in which the juvenile  
4 court that ordered or approved the services is located or in which  
5 the obligor resides.

6 (2) An attorney licensed to practice law in Indiana, if the attorney  
7 is not an employee of the department.

8 **(3) A private collection agency licensed under IC 25-11.**

9 (b) A contract entered into under this section is subject to approval  
10 under IC 4-13-2-14.1.

11 (c) Any fee payable to a prosecuting attorney under a contract under  
12 subsection (a)(1) shall be deposited in the county general fund and  
13 credited to a separate account identified as the prosecuting attorney's  
14 child services collections account. The prosecuting attorney may  
15 expend funds credited to the prosecuting attorney's child services  
16 collections account, without appropriation, only for the purpose of  
17 supporting and enhancing the functions of the prosecuting attorney in  
18 enforcement and collection of parental obligations to reimburse the  
19 department.

20 **(d) Contracts between a prosecuting attorney, a private**  
21 **attorney, or a collection agency licensed under IC 25-11 and the**  
22 **department:**

23 **(1) must:**

24 **(A) be in writing;**

25 **(B) include:**

26 **(i) all fees, charges, and costs, including administrative**  
27 **and application fees; and**

28 **(ii) the right of the department to cancel the contract at**  
29 **any time;**

30 **(C) require the prosecuting attorney, private attorney, or**  
31 **collection agency, upon the request of the department, to**  
32 **provide the:**

33 **(i) source of each payment received for a parental**  
34 **reimbursement order;**

35 **(ii) form of each payment received for a parental**  
36 **reimbursement order;**

37 **(iii) amount and percentage that is deducted as a fee or**  
38 **a charge from each payment on the parental**  
39 **reimbursement order; and**

40 **(D) have a term of not more than four (4) years; and**

41 **(2) may be negotiable contingency contracts in which a**  
42 **prosecuting attorney, private attorney, or collection agency**  
43 **may not collect a fee that exceeds fifteen percent (15%) of the**  
44 **parental reimbursement collected per case.**

45 **(e) A prosecuting attorney, private attorney, or collection**  
46 **agency that contracts with the department under this section may,**  
47 **in addition to the collection of the parental reimbursement order,**

1 **assess and collect from an obligor all fees, charges, costs, and other**  
 2 **expenses as provided under the terms of the contract described in**  
 3 **subsection (d)."**

4 Page 279, between lines 7 and 8, begin a new paragraph and insert:  
 5 "SECTION 291. IC 6-6-2.5-13.1 IS REPEALED [EFFECTIVE  
 6 JULY 1, 2009].

7 SECTION 292. [EFFECTIVE JANUARY 1, 2008  
 8 (RETROACTIVE)]: **IC 6-3-1-34.5, as amended by this act, applies**  
 9 **to taxable years beginning after December 31, 2007.**

10 SECTION 293. [EFFECTIVE JANUARY 1, 2009  
 11 (RETROACTIVE)]: **IC 6-3-1-35, as added by this act, and**  
 12 **IC 6-3-2-8 and IC 6-3-3-10, both as amended by this act, apply to**  
 13 **taxable years beginning after December 31, 2008.**

14 SECTION 294. [EFFECTIVE JANUARY 1, 2009  
 15 (RETROACTIVE)]: **IC 6-3-2-2 and IC 6-3-3-12, both as amended by**  
 16 **this act, apply to taxable years beginning after December 31, 2008.**

17 SECTION 295. [EFFECTIVE JULY 1, 2009] (a) **This SECTION**  
 18 **applies to towns (as defined in IC 36-1-2-21).**

19 (b) **The definitions set forth in IC 6-2.3-1 apply to this**  
 20 **SECTION.**

21 (c) **This SECTION applies only to a taxable year ending in 2003**  
 22 **or 2004.**

23 (d) **A town may claim a refund for gross income taxes**  
 24 **erroneously paid under IC 6-2.1 (before its repeal), if the town paid**  
 25 **both:**

26 (1) **the gross income tax imposed by IC 6-2.1 (before its**  
 27 **repeal); and**

28 (2) **the utilities receipts tax imposed by IC 6-2.3;**  
 29 **for the same taxable year.**

30 (e) **The department shall prescribe the form and procedure that**  
 31 **a town must use to claim its refund.**

32 (f) **This SECTION expires December 31, 2009.**

33 SECTION 296. [EFFECTIVE JANUARY 1, 2009  
 34 (RETROACTIVE)]: (a) **A prepayment rate determined by the**  
 35 **department under IC 6-2.5-7-14, as amended by this act, that took**  
 36 **effect after December 31, 2008, is legalized and validated.**

37 (b) **This SECTION expires December 31, 2009.**

38 SECTION 297. [EFFECTIVE UPON PASSAGE] (a) **For purposes**  
 39 **of IC 1-1-3.5, the population of the town of Fairland in Shelby**  
 40 **County is considered to be 325.**

- 1 **(b) This SECTION expires April 1, 2011."**
- 2 Renumber all SECTIONS consecutively.  
(Reference is to EHB 1447 as printed February 10, 2009.)

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Senator HERSHMAN