

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1086 be amended to read as follows:

- 1 Page 23, between lines 26 and 27, begin a new paragraph and insert:
2 "SECTION 22. IC 6-2.5-1-5, AS AMENDED BY P.L.182-2009(ss),
3 SECTION 174, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Except as provided in
5 subsection (b), "gross retail income" means the total amount of
6 consideration, including cash, credit, property, and services, for which
7 tangible personal property is sold, leased, or rented, valued in money,
8 whether received in money or otherwise, without any 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) consideration received by the seller from a third party if:
17 (A) the seller actually receives consideration from a party
18 other than the purchaser and the consideration is directly
19 related to a price reduction or discount on the sale;
20 (B) the seller has an obligation to pass the price reduction or
21 discount through to the purchaser;
22 (C) the amount of the consideration attributable to the sale is
23 fixed and determinable by the seller at the time of the sale of
24 the item to the purchaser; and
25 (D) the price reduction or discount is identified as a third party
26 price reduction or discount on the invoice received by the
27 purchaser or on a coupon, certificate, or other documentation
28 presented by the purchaser.
29 For purposes of subdivision (4), delivery charges are charges by the
30 seller for preparation and delivery of the property to a location

1 designated by the purchaser of property, including but not limited to
2 transportation, shipping, postage, handling, crating, and packing.

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

5 (1) the value of any tangible personal property received in a like
6 kind exchange in the retail transaction, if the value of the property
7 given in exchange is separately stated on the invoice, bill of sale,
8 or similar document given to the purchaser;

9 (2) the receipts received in a retail transaction which constitute
10 interest, finance charges, or insurance premiums on either a
11 promissory note or an installment sales contract;

12 (3) discounts, including cash, terms, or coupons that are not
13 reimbursed by a third party that are allowed by a seller and taken
14 by a purchaser on a sale;

15 (4) interest, financing, and carrying charges from credit extended
16 on the sale of personal property if the amount is separately stated
17 on the invoice, bill of sale, or similar document given to the
18 purchaser;

19 (5) any taxes legally imposed directly on the consumer that are
20 separately stated on the invoice, bill of sale, or similar document
21 given to the purchaser; **or**

22 (6) installation charges that are separately stated on the invoice,
23 bill of sale, or similar document given to the purchaser; **or**

24 **(7) telecommunications nonrecurring charges.**

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

29 SECTION 23. IC 6-2.5-1-14.5 IS ADDED TO THE INDIANA
30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2010]: **Sec. 14.5. "Computer software**
32 **maintenance contract" means a contract that obligates a person to**
33 **provide a customer with future updates or upgrades of computer**
34 **software.**

35 SECTION 24. IC 6-2.5-1-27.2 IS ADDED TO THE INDIANA
36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2010]: **Sec. 27.2. "Telecommunications**
38 **nonrecurring charges" means an amount billed for installation,**
39 **connection, change, or initiation of a telecommunications service**
40 **received by a customer.**

41 SECTION 25. IC 6-2.5-1-28.5 IS ADDED TO THE INDIANA
42 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
43 [EFFECTIVE JULY 1, 2010]: **Sec. 28.5. "Transferred**
44 **electronically" means obtained by a purchaser by means other**
45 **than tangible storage media.**

46 SECTION 26. IC 6-2.5-2-2, AS AMENDED BY P.L.146-2008,

1 SECTION 310, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The state gross retail tax is
 3 measured by the gross retail income received by a retail merchant in a
 4 retail unitary transaction and is imposed at ~~the following rates:~~

5 STATE	6 GROSS RETAIL INCOME		
7 GROSS	8 FROM THE		
9 RETAIL	10 RETAIL UNITARY		
11 TAX	12 TRANSACTION		
13 \$ 0		less than	\$0.08
14 \$ 0.01	at least \$ 0.08	but less than	\$0.21
15 \$ 0.02	at least \$ 0.21	but less than	\$0.36
16 \$ 0.03	at least \$ 0.36	but less than	\$0.51
17 \$ 0.04	at least \$ 0.51	but less than	\$0.64
18 \$ 0.05	at least \$ 0.64	but less than	\$0.79
19 \$ 0.06	at least \$ 0.79	but less than	\$0.93
20 \$ 0.07	at least \$ 0.93	but less than	\$1.07

21 On a retail unitary transaction in which the gross retail income received
 22 by the retail merchant is one dollar and seven cents (\$1.07) or more,
 23 the state gross retail tax is seven percent (7%) of that gross retail
 24 income.

25 (b) If the tax computed under subsection (a) **carried to the third**
 26 **decimal place** results in a fraction of one-half cent (\$0.005) or more,
 27 **the numeral in the third decimal place being greater than four (4),**
 28 the amount of the tax shall be rounded to the next additional cent.

29 SECTION 27. IC 6-2.5-4-16.4, AS ADDED BY P.L.1-2009,
 30 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2010]: Sec. 16.4. (a) As used in this section, "end user" does
 32 not include a person who receives by contract a product transferred
 33 electronically for further commercial broadcast, rebroadcast,
 34 transmission, retransmission, licensing, relicensing, distribution,
 35 redistribution, or exhibition of the product, in whole or in part, to
 36 another person or persons.

37 (b) A person is a retail merchant making a retail transaction when
 38 the person:

- 39 (1) electronically transfers specified digital products to an end
 40 user; and
- 41 (2) grants to the end user the right of permanent use of the
 42 specified digital products that is not conditioned upon continued
 43 payment by the purchaser.

44 (c) **The sale of a digital code that may be used to obtain a**
 45 **product transferred electronically shall be taxed in the same**
 46 **manner as the product transferred electronically. As used in this**
 47 **subsection, a digital code means a method that permits a purchaser**
 48 **to obtain at a later date a product transferred electronically.**

49 SECTION 28. IC 6-2.5-4-17 IS ADDED TO THE INDIANA CODE
 50 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2010]: **Sec. 17. A person is a retail merchant making a retail transaction when the person enters into a computer software maintenance contract to provide future updates or upgrades to computer software.**

SECTION 29. IC 6-2.5-5-18, AS AMENDED BY P.L.182-2009(ss), SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) Sales of durable medical equipment, **mobility enhancing equipment**, prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

(b) Rentals of durable medical equipment, **mobility enhancing equipment**, and other medical supplies and devices are exempt from the state gross retail tax, if the rentals are prescribed by a person licensed to issue the prescription.

(c) Sales of hearing aids are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax. For purposes of this subsection, a hearing aid is a device which is worn on the body and which is designed to aid, improve, or correct defective human hearing.

(d) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.

(e) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.

(f) Sales of equipment and devices used to monitor blood glucose level, including blood glucose meters and measuring strips, lancets, and other similar diabetic supplies, are exempt from the state gross retail tax, regardless of whether the equipment and devices are prescribed.

SECTION 30. IC 6-2.5-5-20, AS AMENDED BY P.L.195-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

- (1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).
- (2) Food sold in an unheated state by weight or volume as a single item.
- (3) Bakery items, including bread, rolls, buns, biscuits, bagels,

1 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
2 muffins, bars, cookies, and tortillas.

3 (c) Except as otherwise provided by subsection (b), for purposes of
4 this section, the term "food and food ingredients for human
5 consumption" does not include:

- 6 (1) candy;
- 7 (2) alcoholic beverages;
- 8 (3) soft drinks;
- 9 (4) food sold through a vending machine;
- 10 (5) food sold in a heated state or heated by the seller;
- 11 (6) two (2) or more food ingredients mixed or combined by the
12 seller for sale as a single item (other than food that is only cut,
13 repackaged, or pasteurized by the seller, and eggs, fish, meat,
14 poultry, and foods containing these raw animal foods requiring
15 cooking by the consumer as recommended by the federal Food
16 and Drug Administration in chapter 3, subpart 3-401.11 of its
17 Food Code so as to prevent food borne illnesses);
- 18 (7) food sold with eating utensils provided by the seller, including
19 plates, knives, forks, spoons, glasses, cups, napkins, or straws (for
20 purposes of this subdivision, a plate does not include a container
21 or packaging used to transport the food); or
- 22 (8) tobacco; or

23 **(9) dietary supplements.**

24 SECTION 31. IC 6-2.5-11-10, AS AMENDED BY
25 P.L.182-2009(ss), SECTION 183, IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A certified
27 service provider is the agent of a seller, with whom the certified service
28 provider has contracted, for the collection and remittance of sales and
29 use taxes. As the seller's agent, the certified service provider is liable
30 for sales and use tax due each member state on all sales transactions it
31 processes for the seller except as set out in this section. A seller that
32 contracts with a certified service provider is not liable to the state for
33 sales or use tax due on transactions processed by the certified service
34 provider unless the seller misrepresented the type of items it sells or
35 committed fraud. In the absence of probable cause to believe that the
36 seller has committed fraud or made a material misrepresentation, the
37 seller is not subject to audit on the transactions processed by the
38 certified service provider. A seller is subject to audit for transactions
39 not processed by the certified service provider. The member states
40 acting jointly may perform a system check of the seller and review the
41 seller's procedures to determine if the certified service provider's
42 system is functioning properly and the extent to which the seller's
43 transactions are being processed by the certified service provider.

44 (b) A person that provides a certified automated system is
45 responsible for the proper functioning of that system and is liable to the
46 state for underpayments of tax attributable to errors in the functioning

1 of the certified automated system. A seller that uses a certified
2 automated system remains responsible and is liable to the state for
3 reporting and remitting tax.

4 (c) A seller that has a proprietary system for determining the amount
5 of tax due on transactions and has signed an agreement establishing a
6 performance standard for that system is liable for the failure of the
7 system to meet the performance standard.

8 (d) A certified service provider or a seller using a certified
9 automated system that obtains a certification **or taxability matrix** from
10 the department is not liable for sales or use tax collection errors that
11 result from reliance on the department's certification **or taxability**
12 **matrix**. If the department determines that an item or transaction is
13 incorrectly classified as to the taxability of the item or transaction, the
14 department shall notify the certified service provider or the seller using
15 a certified automated system of the incorrect classification. The
16 certified service provider or the seller using a certified automated
17 system must revise the incorrect classification within ten (10) days
18 after receiving notice of the determination from the department. If the
19 classification error is not corrected within ten (10) days after receiving
20 the department's notice, the certified service provider or the seller using
21 a certified automated system is liable for failure to collect the correct
22 amount of sales or use tax due and owing.

23 (e) If at least thirty (30) days are not provided between the
24 enactment of a statute changing the rate set forth in IC 6-2.5-2-2 and
25 the effective date of the rate change, the department shall relieve the
26 seller of liability for failing to collect tax at the new rate if:

27 (1) the seller collected the tax at the immediately preceding
28 effective rate; and

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

31 A seller is not eligible for the relief provided for in this subsection if
32 the seller fraudulently fails to collect at the current rate or solicits
33 purchases based on the immediately preceding effective rate.

34 (f) The department shall allow any monetary allowances that are
35 provided by the member states to sellers or certified service providers
36 in exchange for collecting the sales and use taxes as provided in article
37 VI of the agreement.

38 SECTION 32. IC 6-3-1-11, AS AMENDED BY P.L.182-2009(ss),
39 SECTION 188, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]; Sec. 11. (a) The
41 term "Internal Revenue Code" means the Internal Revenue Code of
42 1986 of the United States as amended and in effect on ~~February 17,~~
43 ~~2009.~~ **January 1, 2010.**

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

1 ~~17, 2009~~, **January 1, 2010**, that pertain to the provisions specifically
 2 mentioned, shall be regarded as incorporated in this article by reference
 3 and have the same force and effect as though fully set forth in this
 4 article. To the extent the provisions apply to this article, regulations
 5 adopted under Section 7805(a) of the Internal Revenue Code and in
 6 effect on ~~February 17, 2009~~, **January 1, 2010**, shall be regarded as
 7 rules adopted by the department under this article, unless the
 8 department adopts specific rules that supersede the regulation.

9 (c) An amendment to the Internal Revenue Code made by an act
 10 passed by Congress before ~~February 17, 2009~~, **January 1, 2010**, that
 11 is effective for any taxable year that began before January 1, ~~2009~~;
 12 **2010**, and that affects:

- 13 (1) individual adjusted gross income (as defined in Section 62 of
- 14 the Internal Revenue Code);
- 15 (2) corporate taxable income (as defined in Section 63 of the
- 16 Internal Revenue Code);
- 17 (3) trust and estate taxable income (as defined in Section 641(b)
- 18 of the Internal Revenue Code);
- 19 (4) life insurance company taxable income (as defined in Section
- 20 801(b) of the Internal Revenue Code);
- 21 (5) mutual insurance company taxable income (as defined in
- 22 Section 821(b) of the Internal Revenue Code); or
- 23 (6) taxable income (as defined in Section 832 of the Internal
- 24 Revenue Code);

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

27 SECTION 33. IC 6-3-2-2.5, AS AMENDED BY P.L.182-2009(ss),
 28 SECTION 192, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE NOVEMBER 6, 2009 (RETROACTIVE)]: Sec. 2.5. (a)
 30 This section applies to a resident person.

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

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

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

- 40 (1) The modifications that are to be applied are those
- 41 modifications required under IC 6-3-1-3.5 for the same taxable
- 42 year in which each net operating loss was incurred.
- 43 (2) An Indiana net operating loss includes a net operating loss that
- 44 arises when the modifications required by IC 6-3-1-3.5 exceed the
- 45 taxpayer's federal adjusted gross income (as defined in Section 62
- 46 of the Internal Revenue Code) for the taxable year in which the

1 Indiana net operating loss is determined.

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

7 (f) Carrybacks and carryovers shall be determined under this
8 subsection as follows:

9 (1) An Indiana net operating loss shall be an Indiana net operating
10 loss carryback to each of the carryback years preceding the
11 taxable year of the loss.

12 (2) An Indiana net operating loss shall be an Indiana net operating
13 loss carryover to each of the carryover years following the taxable
14 year of the loss.

15 (3) Carryback years shall be determined by reference to the
16 number of years allowed for carrying back a net operating loss
17 under Section 172(b) of the Internal Revenue Code. However,
18 with respect to the carryback period for a net operating loss:

19 (A) for which ~~an eligible small business, as defined in Section~~
20 ~~172(b)(1)(H)(iv) of the Internal Revenue Code; a taxpayer~~
21 made an election to use five (5) years instead of two (2) years
22 under Section 172(b)(1)(H) of the Internal Revenue Code, two
23 (2) years shall be used instead of five (5) years; or

24 (B) that is a qualified disaster loss for which the taxpayer
25 elected to have the net operating loss carryback period with
26 respect to the loss year determined without regard to Section
27 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall
28 be used.

29 (4) Carryover years shall be determined by reference to the
30 number of years allowed for carrying over net operating losses
31 under Section 172(b) of the Internal Revenue Code.

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

37 (g) The entire amount of the Indiana net operating loss for any
38 taxable year shall be carried to the earliest of the taxable years to which
39 (as determined under subsection (f)) the loss may be carried. The
40 amount of the Indiana net operating loss remaining after the deduction
41 is taken under this section in a taxable year may be carried back or
42 carried over as provided in subsection (f). The amount of the Indiana
43 net operating loss carried back or carried over from year to year shall
44 be reduced to the extent that the Indiana net operating loss carryback
45 or carryover is used by the taxpayer to obtain a deduction in a taxable
46 year until the occurrence of the earlier of the following:

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

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

5 SECTION 34. IC 6-3-2-2.6, AS AMENDED BY P.L.182-2009(ss),
6 SECTION 193, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE NOVEMBER 6, 2009 (RETROACTIVE)]: Sec. 2.6. (a)
8 This section applies to a corporation or a nonresident person.

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

13 (c) An Indiana net operating loss equals the taxpayer's federal net
14 operating loss for a taxable year as calculated under Section 172 of the
15 Internal Revenue Code, derived from sources within Indiana and
16 adjusted for the modifications required by IC 6-3-1-3.5.

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

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

21 (2) The amount of the taxpayer's net operating loss that is derived
22 from sources within Indiana shall be determined in the same
23 manner that the amount of the taxpayer's adjusted income derived
24 from sources within Indiana is determined under section 2 of this
25 chapter for the same taxable year during which each loss was
26 incurred.

27 (3) An Indiana net operating loss includes a net operating loss that
28 arises when the modifications required by IC 6-3-1-3.5 exceed the
29 taxpayer's federal taxable income (as defined in Section 63 of the
30 Internal Revenue Code), if the taxpayer is a corporation, or when
31 the modifications required by IC 6-3-1-3.5 exceed the taxpayer's
32 federal adjusted gross income (as defined by Section 62 of the
33 Internal Revenue Code), if the taxpayer is a nonresident person,
34 for the taxable year in which the Indiana net operating loss is
35 determined.

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

41 (f) Carrybacks and carryovers shall be determined under this
42 subsection as follows:

43 (1) An Indiana net operating loss shall be an Indiana net operating
44 loss carryback to each of the carryback years preceding the
45 taxable year of the loss.

46 (2) An Indiana net operating loss shall be an Indiana net operating

1 loss carryover to each of the carryover years following the taxable
2 year of the loss.

3 (3) Carryback years shall be determined by reference to the
4 number of years allowed for carrying back a net operating loss
5 under Section 172(b) of the Internal Revenue Code. However,
6 with respect to the carryback period for a net operating loss:

7 (A) for which ~~an eligible small business, as defined in Section~~
8 ~~172(b)(1)(H)(iv) of the Internal Revenue Code; a taxpayer~~
9 made an election to use five (5) years instead of two (2) years
10 under Section 172(b)(1)(H) of the Internal Revenue Code, two
11 (2) years shall be used instead of five (5) years; or

12 (B) that is a qualified disaster loss for which the taxpayer
13 elected to have the net operating loss carryback period with
14 respect to the loss year determined without regard to Section
15 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall
16 be used.

17 (4) Carryover years shall be determined by reference to the
18 number of years allowed for carrying over net operating losses
19 under Section 172(b) of the Internal Revenue Code.

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

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

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

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

39 (h) An Indiana net operating loss deduction determined under this
40 section shall be allowed notwithstanding the fact that in the year the
41 taxpayer incurred the net operating loss the taxpayer was not subject to
42 the tax imposed under section 1 of this chapter because the taxpayer
43 was:

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

46 (2) an insurance company subject to tax under Section 831 of the

- 1 Internal Revenue Code.
- 2 (i) In the case of a life insurance company that claims an operations
3 loss deduction under Section 810 of the Internal Revenue Code, this
4 section shall be applied by:
- 5 (1) substituting the corresponding provisions of Section 810 of the
6 Internal Revenue Code in place of references to Section 172 of
7 the Internal Revenue Code; and
- 8 (2) substituting life insurance company taxable income (as
9 defined in Section 801 the Internal Revenue Code) in place of
10 references to taxable income (as defined in Section 63 of the
11 Internal Revenue Code).
- 12 (j) For purposes of an amended return filed to carry back an Indiana
13 net operating loss:
- 14 (1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1),
15 means the due date of the return for the taxable year in which the
16 net operating loss was incurred; and
- 17 (2) the term "date the payment was due", as used in
18 IC 6-8.1-9-2(c), means the due date of the return for the taxable
19 year in which the net operating loss was incurred.
- 20 SECTION 35. IC 6-3-4-16.5 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2010]: **Sec. 16.5. (a) This section applies to:**
- 23 (1) **Form W-2 federal income tax withholding statements; and**
24 (2) **Form WH-3 annual withholding tax reports;**
25 **filed with the department after December 31, 2010.**
- 26 (b) **If an employer or any person or entity acting on behalf of an**
27 **employer files more than twenty-five (25) Form W-2 federal**
28 **income tax withholding statements with the department in a**
29 **calendar year, all Form W-2 federal income tax withholding**
30 **statements and Form WH-3 annual withholding tax reports filed**
31 **with the department in that calendar year by the employer or the**
32 **person or entity acting on behalf of the employer must be filed in**
33 **an electronic format specified by the department."**
- 34 Renumber all SECTIONS consecutively.
(Reference is to EHB 1086 as printed February 19, 2010.)

Senator KENLEY