Reprinted
April 21, 2011

ENGROSSED
SENATE BILL No. 589

DIGEST OF SB 589 (Updated April 20, 2011 7:17 pm - DI 51)

Citations Affected: IC 2-5; IC 5-28; IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-3.5; IC 6-5.5; IC 6-7; IC 6-8.1; IC 20-19; IC 21-18; IC 22-4; IC 22-4.1; IC 36-7; IC 36-7.6; noncode.

Synopsis: Economic development and state tax matters. Makes the following changes to economic development programs and tax provisions: (1) Makes the economic development study committee a four year committee that expires December 31, 2014, and provides for certain studies. (2) Requires the Indiana economic development corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration. (3) Requires the state board of education, the commission for higher education, and the department of workforce development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force. (4) Requires the IEDC to conduct a statewide study to determine specific economic sectors that should be

(Continued next page)

Effective: Upon passage; January 1, 2011 (retroactive); July 1, 2011; January 1, 2012; January 1, 2013.

Hershman, Kenley, Charbonneau,
Alting, Kruse
(HOUSE SPONSORS — TURNER, CROUCH, ESPICH, WELCH)

January 20, 2011, read first time and referred to Committee on Tax and Fiscal Policy.
February 17, 2011, amended, reported favorably — Do Pass.
February 21, 2011, read second time, amended, ordered engrossed.
February 22, 2011, engrossed. Read third time, passed. Yeas 39, nays 10.

HOUSE ACTION
March 28, 2011, read first time and referred to Committee on Ways and Means.
April 13, 2011, amended, reported — Do Pass.
April 20, 2011, read second time, amended, ordered engrossed.

C o p y

emphasized by the state and by local economic development organizations within geographic regions in Indiana. (5) Provides that a claim for a sales tax refund must be filed within 18 months if the claim is based on the predominant use of electrical energy, natural or artificial gas, water, steam, and steam heat by certain businesses or based on the sales tax exemption for these services or commodities. (6) Decreases the corporate income tax rate from 8.5% to 6.5% over four years. (7) Provides that the adjusted gross income tax and financial institutions tax (for credit unions and investment companies) apply to interest on state and local bonds that are issued by a state other than Indiana or issued by a political subdivision of such a state. (8) Revises the attribution rules applicable to business income and sales receipts from certain intangibles under the adjusted gross income tax. (9) Eliminates the carry back of net operating losses under the adjusted gross income tax. (10) Extends the time in which a person must file an amended Indiana adjusted gross income tax return to reflect modifications made in a federal income tax return. (11) Prohibits the department of state revenue from taking an action to collect a protested listed tax until the later of the time to file a tax appeal has expired or a final decision is made in a tax appeal. (12) Requires higher education institutions to expand technology and innovation commercialization programs. (13) Provides that in the case of a county that becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the county may impose an additional county economic development income tax at a rate of 0.025% (rather than 0.05%, under current law). (14) Removes outdated individual income tax adjustments. (15) Requires a study of ways to reduce fraud and abuse of the Indiana earned income tax credit and all aspects of phasing out the state inheritance tax. (16) Allows counties that are more than two years behind on issuing tax bills to petition the department of local government finance to postpone the deadline for paying the first installment on a 2011 provisional property tax statement. (17) Provides that the tobacco products tax on moist snuff is based on the weight of the moist snuff and calculated at the rate of $0.38 per ounce. (18) Extends the time in which the city of Marion or a second class may establish a professional sports development area. (19) Permits a person who received an overpayment of unemployment compensation to repay the excess over 36 months. (20) Eliminates provisions requiring certain projects in a community revitalization enhancement district be approved by an advisory commission.

C o p y

Reprinted
April 21, 2011

First Regular Session 117th General Assembly (2011)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

C o p y

ENGROSSED
SENATE BILL No. 589

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

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

SECTION 1. IC 2-5-31.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 31.8. Interim Study Committee on Economic Development

Sec. 1. The interim study committee on economic development is established.

Sec. 2. (a) The committee consists of the following members:

(1) Two (2) members of the senate, who must be affiliated with different political parties, appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, who must be affiliated with different political parties, appointed by the speaker of the house of representatives.

(3) The chief executive officer of the Indiana economic

development corporation (or the chief executive officer's designee).

(4) The following twelve (12) members appointed as follows:

(A) The following four (4) members appointed by the governor, not more than two (2) of whom may be affiliated with the same political party and at least one (1) of whom must be a woman who is an owner of a women's business enterprise (as defined in IC 4-13-16.5-1.3) that is certified under IC 4-13-16.5 or a member of a minority group (as defined in IC 4-13-16.5-1) who is an owner of a minority business enterprise (as defined in IC 4-13-16.5-1) that is certified under IC 4-13-16.5:

(i) One (1) member to represent large businesses.

(ii) One (1) member to represent small businesses.

(iii) One (1) member to represent banking and finance.

(iv) One (1) member to represent labor interests.

(B) The following four (4) members appointed by the president pro tempore of the senate, not more than two (2) of whom may be affiliated with the same political party:

(i) One (1) member to represent higher education.

(ii) One (1) member to represent local economic development organizations and officials.

(iii) One (1) member to represent cities.

(iv) One (1) member to represent counties.

(C) The following four (4) members appointed by the speaker of the house of representatives, not more than two (2) of whom may be affiliated with the same political party:

(i) One (1) member to represent agricultural interests.

(ii) One (1) member to represent the public at large.

(iii) One (1) member to represent kindergarten through grade 12 education.

(iv) One (1) member to represent quality of life issues.

(b) The president pro tempore of the senate shall appoint one (1) of the members appointed by the president under subsection (a)(1) as a co-chair of the committee. The speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker under subsection (a)(2) as a co-chair of the committee.

(c) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

Sec. 3. The committee shall study the following during each

C o p y

interim:

(1) Best practices in state and local economic development policies and activities.

(2) The use and effectiveness of tax credits and deductions.

(3) Whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states.

(4) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.

(5) The extent to which Indiana's education systems support economic development.

(6) The benefits of existing community revitalization enhancement districts and possible new community revitalization enhancement districts as an economic development tool.

(7) Methods for eliminating or reducing the personal property tax statewide and the appropriateness of allowing local government the option of eliminating or abating personal property tax for new investment and economic development purposes.

(8) Any other issue assigned to the committee by the legislative council or as directed by the committee's co-chairs.

Sec. 4. The committee shall issue a final report before November 1 each year to the legislative council containing any findings and recommendations of the committee. The report must be in an electronic format under IC 5-14-6.

Sec. 5. Except as otherwise provided in this chapter, the committee shall operate under the policies governing study committees adopted by the legislative council.

Sec. 6. This chapter expires December 31, 2014.

SECTION 2. IC 5-28-6-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The corporation shall do the following:

(1) Create and regularly update a strategic economic development plan **based on a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.**

(2) Establish strategic benchmarks and performance measures.

(3) Monitor and report on Indiana's economic performance.

(4) Market Indiana to businesses worldwide.

C o p y

(5) Assist Indiana businesses that want to grow.
(6) Solicit funding from the private sector for selected initiatives.
(7) Provide for the orderly economic development and growth of Indiana.
(8) Establish and coordinate the operation of programs commonly available to all citizens of Indiana to implement a strategic plan for the state's economic development and enhance the general welfare.
(9) Evaluate and analyze the state's economy to determine the direction of future public and private actions, and report and make recommendations to the general assembly in an electronic format under IC 5-14-6 with respect to the state's economy.

SECTION 3. IC 5-28-6-2, AS AMENDED BY P.L.120-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources, **based on a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.**
(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:
(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;
(B) shall administer these grants in accordance with the terms of the grants; and
(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.
(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may

C o p y

assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the secretary of agriculture and rural development in promoting and marketing of Indiana's agricultural products and provide assistance to the director of the Indiana state department of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the

C o p y

permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

SECTION 4. IC 5-28-11-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 10. The corporation shall collaborate with local economic development organizations throughout Indiana. Before August 1 each year through 2014, the corporation shall submit a written report to the interim study committee on economic development established by IC 2-5-31.8-1, indicating how the corporation has collaborated with local economic development organizations during the previous state fiscal year, including details and analysis of each collaboration.**

SECTION 5. IC 6-1.1-22.5-9, AS AMENDED BY P.L.89-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in **subsection (e) and** section 12(b) of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

C o p y

(b) The county treasurer may mail or transmit the provisional statement one (1) time each year at least fifteen (15) days before the date on which the first installment is due under subsection (a) in the manner provided in IC 6-1.1-22-8.1, regardless of whether the notice required under section 6(b) of this chapter has been published.

(c) This subsection applies to a provisional statement issued under section 6 of this chapter. Except when the second installment of a provisional statement is replaced by a final reconciling statement providing for taxes to be due on November 10, the amount of tax due for each installment of a provisional statement issued for a year after 2010 is fifty percent (50%) of the tax that was due for the immediately preceding year under IC 6-1.1-22 subject to any adjustments to the tax liability as prescribed by the department of local government finance. If no bill was issued in the prior year, the provisional bill shall be based on the amount that would have been due if a provisional tax statement had been issued for the immediately preceding year. The department of local government finance may prescribe standards to implement this subsection, including a method of calculating the taxes due when an abstract or other information is not complete.

(d) This subsection applies only if a provisional statement for payment of property taxes and special assessments by electronic mail is transmitted to a person under IC 6-1.1-22-8.1(h). If a response to the transmission of electronic mail to a person indicates that the electronic mail was not received, the county treasurer shall mail to the person a hard copy of the provisional statement in the manner required by this chapter for persons who do not opt to receive statements by electronic mail. The due date for the property taxes and special assessments under a provisional statement mailed to a person under this subsection is the due date indicated in the statement transmitted to the person by electronic mail.

(e) This subsection applies only to property taxes first due and payable in 2011. If a county is more than two (2) years behind in issuing property tax bills, the county treasurer of the county may petition the department in writing to extend the deadline for making the first installment payment on a provisional statement issued under this chapter. Upon receiving a petition under this subsection, the department may extend the payment deadline to a date that is not later than July 1, 2011.

SECTION 6. IC 6-2.5-5-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

C o p y

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

(c) A refund claim based on the exemption provided by this section for electrical energy, natural or artificial gas, water, steam, and steam heat may not cover transactions that occur more than eighteen (18) months before the date of the refund claim.

SECTION 7. IC 6-3-1-3.5, AS AMENDED BY P.L.182-2009(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

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

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

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

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

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

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

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

(5) Subtract:

(A) ~~for taxable years beginning after December 31, 2004,~~ one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

C o p y

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

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

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

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

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

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

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

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

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

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

~~(12)~~ **(10)** Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

~~(13)~~ **(11)** In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's

C o p y

entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

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

~~(15)~~ **(13)** In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

~~(16) For taxable years beginning after December 31, 1999,~~ **(14)** Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

~~(17)~~ **(15)** Subtract an amount equal to the lesser of:

(A) ~~for a taxable year:~~

~~(i) including any part of 2004, the amount determined under subsection (f), and~~

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

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

~~(18)~~ **(16)** Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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

~~(20)~~ **(18)** Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

~~(21)~~ **(19)** Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179

C o p y

property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

~~(22)~~ **(20)** Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

~~(23)~~ **(21)** Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

~~(24)~~ **(22)** Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

~~(25)~~ **(23)** Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.

~~(26)~~ **(24)** Add any amount of unemployment compensation excluded from federal gross income, as defined in Section 61 of the Internal Revenue Code, under Section 85(c) of the Internal Revenue Code.

~~(27)~~ **(25)** Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.

~~(28)~~ **(26)** Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December

C o p y

31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

~~(29)~~ **(27)** Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

~~(30)~~ **(28)** Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

~~(31)~~ **(29)** Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

~~(32)~~ **(30)** Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

~~(33)~~ **(31)** Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

~~(34)~~ **(32)** Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act

C o p y

(12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(33) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.

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

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

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

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

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

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

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

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to

C o p y

the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

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

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).

(11) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(13) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been

C o p y

computed had the classification not applied to the property in the year that it was placed in service.

(14) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(18) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(19) Add the amount excluded from federal gross income

C o p y

under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.

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

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

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

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

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

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

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

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

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

C o p y

(9) Subtract income that is:
(A) exempt from taxation under IC 6-3-2-21.7; and
(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(12) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal

C o p y

income tax purposes not been made for the year.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(17) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(18) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.

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

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

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

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

(4) Subtract an amount equal to the amount included in the

C o p y

company's taxable income under Section 78 of the Internal Revenue Code.

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

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

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

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

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section

C o p y

108(i) of the Internal Revenue Code.

(11) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(12) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

C o p y

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(17) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(18) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.

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

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

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

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

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand

C o p y

dollars ($25,000).

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

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(9) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(10) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(11) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

C o p y

(12) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(13) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(14) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(A) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(B) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(15) Add the amount excluded from gross income under Section 108(a)(1)(e) of the Internal Revenue Code for the discharge of debt on a qualified principal residence.

(16) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.

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

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

C o p y

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

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

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

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

SECTION 8. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Except as provided in section 1.5 of this chapter, each taxable year, a tax at the **following** rate ~~of eight and five-tenths percent (8.5%)~~ of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation:

(1) Before July 1, 2012, eight and five-tenths percent (8.5%).

(2) After June 30, 2012, and before July 1, 2013, eight percent (8.0%).

(3) After June 30, 2013, and before July 1, 2014, seven and five-tenths percent (7.5%).

(4) After June 30, 2014, and before July 1, 2015, seven percent (7.0%).

(5) After June 30, 2015, six and five-tenths percent (6.5%).

(c) If for any taxable year a taxpayer is subject to different tax rates under subsection (b), the taxpayer's tax rate for that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede the month the rate changed by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow the month before the rate changed by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

However, the rate determined under this subsection shall be rounded to the nearest one-hundredth of one percent (0.01%).

SECTION 9. IC 6-3-2-2, AS AMENDED BY P.L.182-2009(ss),

C o p y

SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

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

(2) income from doing business in this state;

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

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

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property ~~if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.~~ **to the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.**

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

C o p y

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property

C o p y

rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

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

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

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

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a

C o p y

factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

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

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

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

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

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

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

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

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

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

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

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the

Copy

taxpayer is not taxable in the state in which the property had a situs.

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

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

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

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same

C o p y

interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

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

(1) a foreign corporation; or

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

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

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

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

C o p y

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

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

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

SECTION 10. IC 6-3-2-2.5, AS AMENDED BY P.L.113-2010, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses ~~carried back or~~ carried over to that year. **A taxpayer is not entitled to carryback any net operating losses after December 31, 2012.**

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

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

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

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

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

(f) ~~Carrybacks and~~ Carryovers shall be determined under this subsection as follows:

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

~~(2)~~ **(1)** An Indiana net operating loss shall be an Indiana net

C o p y

operating loss carryover to each of the carryover years following the taxable year of the loss.

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

~~(A) for which a taxpayer made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or~~

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

~~(4)~~ **(2)** Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

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

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

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

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

SECTION 11. IC 6-3-2-2.6, AS AMENDED BY P.L.113-2010, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net

C o p y

operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses ~~carried back or~~ carried over to that year. **A taxpayer is not entitled to carryback any net operating losses after December 31, 2012.**

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

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

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

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

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

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

(f) ~~Carrybacks and~~ Carryovers shall be determined under this subsection as follows:

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

~~(2)~~ **(1)** An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

~~(3) Carryback years shall be determined by reference to the~~

C o p y

~~number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code. However, with respect to the carryback period for a net operating loss:~~

~~(A) for which a taxpayer made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or~~

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

~~(4)~~ **(2)** Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

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

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

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

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

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

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

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

C o p y

Internal Revenue Code.

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

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

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

~~(j) For purposes of an amended return filed to carry back an Indiana net operating loss:~~

~~(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and~~

~~(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.~~

SECTION 12. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which ~~he~~ **the taxpayer** has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification of:

(1) a federal income tax return filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice on the form prescribed by the department within one hundred twenty (120) days after the modification is made **if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.**

(c) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made **if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification**

C o p y

is made if the modification is made after December 31, 2010.

SECTION 13. IC 6-3.1-19-3, AS AMENDED BY P.L.113-2010, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 5 ~~or 5.5~~ of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

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

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

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

SECTION 14. IC 6-3.5-7-28, AS ADDED BY P.L.232-2007,

C o p y

SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 28. (a) This section applies only to a county that is a member of a regional development authority under IC 36-7.6.

(b) In addition to the rates permitted by section 5 of this chapter, the entity that imposed the county economic development income tax under section 5 of this chapter (or, in the case of a county that has not imposed the county economic development income tax, the entity that may impose the county economic development income tax under section 5(a)(3) of this chapter) may by ordinance impose an additional county economic development income tax at a rate of:

(1) in the case of a county described in IC 36-7.6-4-2(b)(2), twenty-five thousandths of one percent (0.025%); or

(2) in the case of any other county to which this section applies, five-hundredths of one percent (0.05%);

on the adjusted gross income of county taxpayers.

(c) If an additional county economic development income tax is imposed under this section, the county treasurer shall establish a county regional development authority fund. Notwithstanding any other provision of this chapter, the county economic development income tax revenues derived from the additional county economic development income tax imposed under this section must be deposited in the county regional development authority fund before any certified distributions are made under section 12 of this chapter.

(d) County economic development income tax revenues derived from the additional county economic development income tax imposed under this section and deposited in the county regional development authority fund:

(1) shall, not more than thirty (30) days after being deposited in the county regional development authority fund, be transferred as provided in IC 36-7.6-4-2 to the development fund of the regional development authority for which the county is a member; and

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

(e) Notwithstanding sections 5 and 6 of this chapter, if a county becomes a member of a regional development authority under IC 36-7.6 and imposes an additional county economic development income tax under this section, then, notwithstanding section 11 or any other provision of this chapter, the initial certified distribution of the tax revenue that results from the additional tax shall be distributed to the county treasurer from the account established for the county under this chapter according to the following schedule during the eighteen

C o p y

(18) month period beginning on July 1 of the year in which the county adopts the ordinance to impose the additional tax:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance to impose the additional tax is adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance to impose the additional tax is adopted.

SECTION 15. IC 6-5.5-1-2, AS AMENDED BY P.L.182-2009(ss), SECTION 233, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross

C o p y

income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

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

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

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

(J) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(K) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of

C o p y

the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(L) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.

(M) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

(N) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(O) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

(P) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that treated a loss from the sale or exchange of preferred stock in:

(i) the Federal National Mortgage Association, established under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); or

(ii) the Federal Home Loan Mortgage Corporation, established under the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.);

as an ordinary loss under Section 301 of the Emergency

C o p y

Economic Stabilization Act of 2008 in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had the loss not been treated as an ordinary loss.

(Q) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code for active financing income under Subpart F, Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

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

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars ($25,000).

(G) Income that is:

(i) exempt from taxation under IC 6-3-2-21.7; and

(ii) included in the taxpayer's taxable income under the Internal Revenue Code.

C o p y

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings **plus the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state** minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income **plus the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state** multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent

C o p y

(50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 16. IC 6-7-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 2.1. As used in this chapter, "moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be:**

(1) smoked; or

(2) placed in the nasal cavity.

SECTION 17. IC 6-7-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 5. As used in this chapter, "tobacco product" means:

(1) any product made from tobacco, other than a cigarette (as defined in IC 6-7-1-2), that is made for smoking, chewing, or both; or

(2) snuff, **including moist snuff.**

SECTION 18. IC 6-7-2-7, AS AMENDED BY P.L.234-2007, SECTION 201, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 7. **(a)** A tax is imposed on the distribution of tobacco products in Indiana at the rate of:

(1) twenty-four percent (24%) of the wholesale price of ~~the~~ tobacco products **other than moist snuff; or**

(2) for moist snuff, thirty-eight cents ($0.38) per ounce, and a proportionate tax at the same rate on all fractional parts of an ounce. If the tax calculated for a fractional part of an ounce carried to the third decimal place results in the numeral in the third decimal place being greater than four (4), the amount of the tax shall be rounded to the next additional cent.

(b) The distributor of the tobacco products is liable for the tax **imposed under subsection (a).** The tax is imposed at the time the distributor:

(1) brings or causes tobacco products to be brought into Indiana for distribution;

(2) manufactures tobacco products in Indiana for distribution; or

(3) transports tobacco products to retail dealers in Indiana for resale by those retail dealers.

SECTION 19. IC 6-7-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 12. ~~(a)~~ Before the fifteenth day of each month, each distributor liable for the tax imposed

C o p y

by this chapter shall:

(1) file a return with the department that includes all information required by the department including, but not limited to:

(A) name of distributor;

(B) address of distributor;

(C) license number of distributor;

(D) invoice date;

(E) invoice number;

(F) name and address of person from whom tobacco products were purchased or name and address of person to whom tobacco products were sold; ~~and~~

(G) **the** wholesale price **for tobacco products other than moist snuff; and**

(H) for moist snuff, the weight of the moist snuff; and

(2) pay the tax for which it is liable under this chapter for the preceding month minus the amount specified in section 13 of this chapter.

SECTION 20. IC 6-8.1-5-1, AS AMENDED BY P.L.1-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 1. (a) As used in this section, "letter of findings" includes a supplemental letter of findings.

(b) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(c) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(d) The notice shall state that the person has forty-five (45) days from the date the notice is mailed, **if the notice was mailed before January 1, 2011, and sixty (60) days from the date the notice is mailed, if the notice was mailed after December 31, 2010,** to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

C o p y

(1) set the hearing at the department's earliest convenient time; and

(2) notify the person by United States mail of the time, date, and location of the hearing.

(e) The department may hold the hearing at the location of its choice within Indiana if that location complies with IC 6-8.1-3-8.5.

(f) No later than sixty (60) days after conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (b). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(g) A person that disagrees with a decision in a letter of findings may request a rehearing not more than thirty (30) days after the date on which the letter of findings is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(h) If a person disagrees with a decision in a letter of findings, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than sixty (60) days after the date on which:

(1) the letter of findings is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of findings; or

(2) the department issues a denial of the person's timely request for a rehearing under subsection (g) on the letter of findings.

(i) The tax court shall hear an appeal under subsection (h) de novo and without a jury. The tax court may do the following:

(1) Uphold or deny any part of the assessment that is appealed.

(2) Assess the court costs in a manner that the court believes to be equitable.

(3) Enjoin the collection of a listed tax under IC 33-26-6-2.

(j) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

(1) the person failed to properly respond within the forty-five (45) day period;

(2) the person requested a hearing but failed to appear at that

C o p y

hearing; or

(3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(k) The department shall make the demand for payment in the manner provided in IC 6-8.1-8-2.

(l) Subsection (b) does not apply to a motor carrier fuel tax return.

SECTION 21. IC 6-8.1-8-2, AS AMENDED BY P.L.111-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 **and section 16 of this chapter,** the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

(1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.

(2) The statutory authority of the department for the issuance of a tax warrant.

(3) The earliest date on which a tax warrant may be filed and recorded.

(4) The statutory authority for the department to levy against a person's property that is held by a financial institution.

(5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

If the department files a tax warrant in more than one (1) county, the department is not required to issue more than one (1) demand notice.

(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the ten (10) day period, the department may issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable. When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

(c) When the department issues a tax warrant, it may not file the warrant with the circuit court clerk of any county in which the person owns property until at least twenty (20) days after the date the demand notice was mailed to the taxpayer. The department may also send the warrant to the sheriff of any county in which the person owns property and direct the sheriff to file the warrant with the circuit court clerk:

(1) at least twenty (20) days after the date the demand notice was

C o p y

mailed to the taxpayer; and

(2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

(1) The name of the person owing the tax.

(2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.

(3) The date the warrant was filed with the clerk.

(e) When the entry is made, the total amount of the tax warrant becomes a judgment against the person owing the tax. The judgment creates a lien in favor of the state that attaches to all the person's interest in any:

(1) chose in action in the county; and

(2) real or personal property in the county;

excepting only negotiable instruments not yet due.

(f) A judgment obtained under this section is valid for ten (10) years from the date the judgment is filed. The department may renew the judgment for additional ten (10) year periods by filing an alias tax warrant with the circuit court clerk of the county in which the judgment previously existed.

(g) A judgment arising from a tax warrant in a county may be released by the department:

(1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or

(2) if the department determines that the tax assessment or the issuance of the tax warrant was in error.

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. **The circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record.** The department shall mail the release **and the order for the warrant to be expunged** as soon as possible but no later than seven (7) days after:

(1) the determination by the department that the filing of the warrant was in error; and

(2) the receipt of information by the department that the judgment has been recorded under subsection (d).

C o p y

(i) If the department determines that a judgment described in subsection (h) is obstructing a lawful transaction, the department shall **immediately upon making the determination** mail a release of the judgment to the taxpayer and **an order requiring** the circuit court clerk of each county where the judgment was filed ~~immediately upon making the determination.~~ **to expunge the warrant.**

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer, the department shall mail a copy of a release **and the order for the warrant to be expunged** issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

(k) The commissioner shall notify each state agency or officer supplied with a tax warrant list of the issuance of a release under subsection (h) or (i).

(l) If the sheriff collects the full amount of a tax warrant, the sheriff shall disburse the money collected in the manner provided in section 3(c) of this chapter. If a judgment has been partially or fully satisfied by a person's surety, the surety becomes subrogated to the department's rights under the judgment. If a sheriff releases a judgment:

(1) before the judgment is fully satisfied;

(2) before the sheriff has properly disbursed the amount collected; or

(3) after the sheriff has returned the tax warrant to the department;

the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department.

SECTION 22. IC 6-8.1-8-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies without an injunction from the tax court to any assessment that is made or pending after April 30, 2011.**

(b) Except as provided in IC 6-8.1-5-3, no demand notice, warrant, levy, or proceeding in court for the collection of a protested listed tax or any penalties and interest on a listed tax may be issued, commenced, or conducted against a taxpayer and no lien on the taxpayer's property may be imposed until after the later of the following:

(1) The expiration of the period in which the taxpayer may appeal the listed tax to the tax court.

(2) A decision of the tax court concerning the listed tax becomes final, if the taxpayer filed a timely appeal.

SECTION 23. IC 6-8.1-9-1, AS AMENDED BY P.L.182-2009(ss),

C o p y

SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f), ~~and~~ (g), **and (h),** in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) ~~When the department receives a claim for refund, the department shall consider the claim for refund and shall, if the taxpayer requests, hold a hearing on the claim for refund to obtain and consider additional evidence.~~ After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. **If the person disagrees with a part of the decision, the person may file a protest and request a hearing with the department. The department shall mail a copy of the decision to the person who filed the protest.** If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after **the later of** the date the department mails:

(A) the decision of denial **of the claim** to the person; or

(B) the decision made on the protest filed under subsection

C o p y

(b); or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is ~~six (6) months~~ **one hundred eighty (180) days** after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(h), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

(h) If a taxpayer's claim for a refund of gross retail or use tax is based on:

(1) IC 6-2.5-4-5(c)(3); or

(2) the exemption provided by IC 6-2.5-5-5.1 for electrical energy, natural or artificial gas, water, steam, and steam heat;

the person must file the claim with the department within eighteen (18) months after the date of payment.

SECTION 24. IC 20-19-2-14, AS ADDED BY P.L.1-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. The state board shall do the following:

(1) Establish the educational goals of the state, developing standards and objectives for local school corporations.

(2) Assess the attainment of the established goals.

(3) Assure compliance with established standards and objectives.

(4) Coordinate with the commission for higher education

C o p y

(IC 21-18-1) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.

~~(4)~~ **(5)** Make recommendations to the governor and general assembly concerning the educational needs of the state, including financial needs.

SECTION 25. IC 21-18-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5. (a) The commission shall coordinate with the Indiana state board of education (IC 20-19-2) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.**

(b) The commission shall require each state educational institution to expand technology and innovation commercialization programs.

SECTION 26. IC 22-4-13-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4. (a) This section applies to an individual:**

(1) for whom the department has established an overpayment by a final written determination under section 1(a) or 1(b) of this chapter; and

(2) whose overpayment amount that is due and payable equals or exceeds:

(A) the individual's weekly benefit amount; multiplied by

(B) four (4).

(b) Notwithstanding any other law and subject to subsection (c), an individual is entitled to repay the established amount of an overpayment over a period:

(1) beginning on the date the determination of the amount of the overpayment is final; and

(2) ending on a date not later than the date occurring thirty-six (36) months after the date specified in subdivision (1).

(c) An individual to whom this section applies may repay an overpayment over time as provided in subsection (b) not more than once during the individual's lifetime.

SECTION 27. IC 22-4.1-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5. The department shall coordinate with the**

C o p y

commission for higher education (IC 21-18-1) and the Indiana state board of education (IC 20-19-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.

SECTION 28. IC 36-7-13-14, AS AMENDED BY P.L.113-2010, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

~~(c)~~ **(b)** Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

~~(d)~~ **(c)** Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 29. IC 36-7-13-15, AS AMENDED BY P.L.113-2010, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

~~(c)~~ **(b)** Subject to subsection ~~(d),~~ **(c),** the following amounts shall be deposited during each state fiscal year in the incremental tax financing

C o p y

fund established for the district under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.

(2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.

~~(d)~~ **(c)** The aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district;

may not exceed one million dollars ($1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars ($750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

~~(c)~~ **(d)** On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.

SECTION 30. IC 36-7-31.3-9, AS AMENDED BY P.L.214-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, ~~2005,~~ **2013,** in the case of:

(A) a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. Before May 15, 2005, a tax area **established before January 1, 2005,** may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. After May 14, 2005, a tax area **established before January 1, 2005,** may not be changed and the terms governing a tax area may not be revised. Only one (1) tax area may be created in each county.

C o p y

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 31. IC 36-7.6-4-2, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under

C o p y

subsection (b) to the development authority for deposit in the development authority fund.

(b) The amount of the transfer required each year by subsection (a) from each county and each municipality is equal to **the following:**

(1) Except as provided in subdivision (2), the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.

(2) In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013, the amount that would be distributed to the county or municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of twenty-five thousandths of one percent (0.025%) in the county.

(c) Notwithstanding subsection (b), if the additional county economic development income tax under IC 6-3.5-7-28 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the transfer to the development fund of all county economic development income tax revenue derived from the additional tax and deposited in the county regional development authority fund.

(d) The following apply to the transfers required by this section:

(1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.

(2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.

(3) County economic development income tax revenue derived from the additional county economic development income tax under IC 6-3.5-7-28 must be transferred to the development fund not more than thirty (30) days after being deposited in the county regional development fund.

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax

C o p y

revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

SECTION 32. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-3.1-19-5.5; IC 36-7-13-23.

SECTION 33. [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)] **(a) IC 6-3-2-2, as amended by this act, applies to taxable years beginning after December 31, 2010.**

(b) This SECTION expires January 1, 2014.

SECTION 34. [EFFECTIVE UPON PASSAGE] **(a) The department of state revenue shall conduct a study of the ways to detect and eliminate fraud and abuse of earned income tax credits provided under IC 6-3.1-21. The department of state revenue shall prepare a report containing its findings and recommendations and submit the report to the legislative council in an electronic format under IC 5-14-6 before October 1, 2011.**

(b) The commission on state tax and financing policy shall study all aspects, including the advantages and disadvantages of phasing out the state inheritance tax. The commission on state tax and financing policy shall prepare a report containing its findings and recommendations and submit the report to the legislative council in an electronic format under IC 5-14-6 before November 1, 2011.

(c) This SECTION expires January 1, 2012.

SECTION 35. [EFFECTIVE JULY 1, 2011] **(a) IC 6-7-2-2.1, as added by this act, and IC 6-7-2-5, IC 6-7-2-7, and IC 6-7-2-12, all as amended by this act, apply to a tobacco product:**

(1) brought into Indiana for distribution;

(2) manufactured in Indiana for distribution; or

(3) transported to a retail dealer in Indiana for resale by the retail dealer;

by a distributor after December 31, 2011.

(b) This SECTION expires January 1, 2012.

SECTION 36. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 589, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 5. IC 6-2.5-5-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

(c) A refund claim based on the exemption provided by this section for electrical energy, natural or artificial gas, water, steam, and steam heat may not cover transactions that occur more than twelve (12) months before the date of the refund claim.

SECTION 6. IC 6-2.5-11-10, AS AMENDED BY P.L.113-2010, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

C o p y

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

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

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

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

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

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

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

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

(g) After June 30, 2011, the department may negotiate with a certified service provider or seller to provide a monetary allowance

C o p y

that is greater than the allowance provided in IC 6-2.5-6-10 for the collection of gross retail tax or use tax on sales, leases, and rentals of goods or services made in a member state or a jurisdiction that is not a member state. A monetary allowance permitted under this subsection may not exceed ten percent (10%) of the gross retail tax or use tax collected from a sale, lease, or rental. The department may adopt emergency rules under IC 4-22-2-37.1 and shall adopt rules under IC 4-22-2 to establish standards for granting monetary allowances under this subsection. The rules must provide that the permitted monetary allowance is a negotiated rate based on:

(1) the collection costs of the certified service provider or seller;

(2) the volume and value to the state of sales, leases, or rentals processed by a certified service provider or seller;

(3) the administrative and legal costs that the state would otherwise incur to collect gross retail taxes or use taxes for these sales, leases, or rentals absent a negotiated monetary allowance; and

(4) the likelihood of collecting gross retail taxes or use taxes on these sales, leases, or rentals absent a negotiated monetary allowance.".

Page 22, line 34, delete "[EFFECTIVE JANUARY 1, 2012]" and insert "[EFFECTIVE JULY 1, 2012]".

Page 22, line 40, delete "five" and insert "**six and five-tenths**".

Page 22, line 41, delete "(5%)" and insert "**(6.5%)**".

Page 23, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 9. IC 6-3-2-2, AS AMENDED BY P.L.182-2009(ss), SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

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

(2) income from doing business in this state;

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

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

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property ~~if the receipt from the intangible is attributable to Indiana under~~

C o p y

~~section 2.2 of this chapter.~~ **to the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.**

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

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

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

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

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

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

(A) numerator of the fraction is the property factor plus the

C o p y

payroll factor plus the product of the sales factor multiplied by four and sixty-seven hundredths (4.67); and

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

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

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

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

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

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

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

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

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

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

C o p y

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana ~~if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter.~~ **to the extent that the income from the receipts would be apportioned to Indiana under this section or if the income from the receipts would be allocated to Indiana or considered to be derived from sources within Indiana under this section.** Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

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

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

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the

C o p y

income-producing activity is performed in this state than in any other state, based on costs of performance.

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

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

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

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

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

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

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

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

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

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

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

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the

C o p y

taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers, **considering the recommendations made under IC 6-8.1-3-10.**

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net

C o p y

income tax regardless of whether, in fact, the state does or does not.

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

(1) a foreign corporation; or

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

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

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

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

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

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

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

SECTION 10. IC 6-3-2-2.5, AS AMENDED BY P.L.113-2010, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

JANUARY 1, 2012]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses ~~carried back or~~ carried over to that year. **A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.**

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

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

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

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

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

(f) ~~Carrybacks and~~ Carryovers shall be determined under this subsection as follows:

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

~~(2)~~ **(1)** An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

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

~~(A) for which a taxpayer made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or~~

~~(B) that is a qualified disaster loss for which the taxpayer~~

C o p y

~~elected to have the net operating loss carryback period with respect to the loss year determined without regard to Section 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall be used.~~

~~(4)~~ **(2)** Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

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

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

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

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

SECTION 11. IC 6-3-2-2.6, AS AMENDED BY P.L.113-2010, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses ~~carried back or~~ carried over to that year. **A taxpayer is not entitled to carryback any net operating losses after December 31, 2011.**

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

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

(1) The modifications that are to be applied are those

C o p y

modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

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

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

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

(f) ~~Carrybacks and~~ Carryovers shall be determined under this subsection as follows:

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

~~(2)~~ **(1)** An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

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

~~(A) for which a taxpayer made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or~~

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

C o p y

~~be used.~~

~~(4)~~ **(2)** Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

C o p y

~~(j) For purposes of an amended return filed to carry back an Indiana net operating loss:~~

~~(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and~~

~~(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.~~".

Page 28, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 13. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which ~~he~~ **the taxpayer** has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification of:

(1) a federal income tax return filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice on the form prescribed by the department within one hundred twenty (120) days after the modification is made **if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.**

(c) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made **if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.**".

Page 28, delete lines 28 through 32.

Page 28, line 33, delete "(c)" and insert "**(b)**".

Page 28, delete lines 34 through 42.

Page 29, delete lines 1 through 23.

Page 35, delete lines 17 through 42.

Page 36, delete lines 1 through 27.

Page 37, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 24. IC 6-8.1-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The department

C o p y

may enter into contracts with persons outside the department to provide services that the department feels are necessary to properly administer and collect the listed taxes.

(b) A contract entered into under this section must require the person providing the service to comply with the requirements governing the administration and collection of taxes by the department.

(c) The department shall enter into a contract with persons outside the department to recommend to the department the proper distribution, apportionment, or allocation of income and deductions between and among two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests in the manner provided in IC 6-3-2-2(m).

SECTION 25. IC 6-8.1-5-1, AS AMENDED BY P.L.1-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 1. (a) As used in this section, "letter of findings" includes a supplemental letter of findings.

(b) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(c) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(d) The notice shall state that the person has forty-five (45) days from the date the notice is mailed, **if the notice was mailed before January 1, 2011, and sixty (60) days from the date the notice is mailed, if the notice was mailed after December 31, 2010,** to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

(1) set the hearing at the department's earliest convenient time; and

(2) notify the person by United States mail of the time, date, and location of the hearing.

(e) The department may hold the hearing at the location of its choice

C o p y

within Indiana if that location complies with IC 6-8.1-3-8.5.

(f) No later than sixty (60) days after conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (b). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(g) A person that disagrees with a decision in a letter of findings may request a rehearing not more than thirty (30) days after the date on which the letter of findings is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(h) If a person disagrees with a decision in a letter of findings, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than sixty (60) days after the date on which:

(1) the letter of findings is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of findings; or

(2) the department issues a denial of the person's timely request for a rehearing under subsection (g) on the letter of findings.

(i) The tax court shall hear an appeal under subsection (h) de novo and without a jury. The tax court may do the following:

(1) Uphold or deny any part of the assessment that is appealed.

(2) Assess the court costs in a manner that the court believes to be equitable.

~~(3) Enjoin the collection of a listed tax under IC 33-26-6-2.~~

(3) Take any other action permitted by law.

(j) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

(1) the person failed to properly respond within the forty-five (45) day period;

(2) the person requested a hearing but failed to appear at that hearing; or

(3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(k) The department shall make the demand for payment in the

C o p y

manner provided in IC 6-8.1-8-2.

(l) Subsection (b) does not apply to a motor carrier fuel tax return.

SECTION 26. IC 6-8.1-8-2, AS AMENDED BY P.L.111-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 **and section 16 of this chapter,** the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

(1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.

(2) The statutory authority of the department for the issuance of a tax warrant.

(3) The earliest date on which a tax warrant may be filed and recorded.

(4) The statutory authority for the department to levy against a person's property that is held by a financial institution.

(5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

If the department files a tax warrant in more than one (1) county, the department is not required to issue more than one (1) demand notice.

(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the ten (10) day period, the department may issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable. When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

(c) When the department issues a tax warrant, it may not file the warrant with the circuit court clerk of any county in which the person owns property until at least twenty (20) days after the date the demand notice was mailed to the taxpayer. The department may also send the warrant to the sheriff of any county in which the person owns property and direct the sheriff to file the warrant with the circuit court clerk:

(1) at least twenty (20) days after the date the demand notice was mailed to the taxpayer; and

(2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the

C o p y

department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

(1) The name of the person owing the tax.

(2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.

(3) The date the warrant was filed with the clerk.

(e) When the entry is made, the total amount of the tax warrant becomes a judgment against the person owing the tax. The judgment creates a lien in favor of the state that attaches to all the person's interest in any:

(1) chose in action in the county; and

(2) real or personal property in the county;

excepting only negotiable instruments not yet due.

(f) A judgment obtained under this section is valid for ten (10) years from the date the judgment is filed. The department may renew the judgment for additional ten (10) year periods by filing an alias tax warrant with the circuit court clerk of the county in which the judgment previously existed.

(g) A judgment arising from a tax warrant in a county may be released by the department:

(1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or

(2) if the department determines that the tax assessment or the issuance of the tax warrant was in error.

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The department shall mail the release as soon as possible but no later than seven (7) days after:

(1) the determination by the department that the filing of the warrant was in error; and

(2) the receipt of information by the department that the judgment has been recorded under subsection (d).

(i) If the department determines that a judgment described in subsection (h) is obstructing a lawful transaction, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the judgment was filed immediately upon making the determination.

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer,

C o p y

the department shall mail a copy of a release issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

(k) The commissioner shall notify each state agency or officer supplied with a tax warrant list of the issuance of a release under subsection (h) or (i).

(l) If the sheriff collects the full amount of a tax warrant, the sheriff shall disburse the money collected in the manner provided in section 3(c) of this chapter. If a judgment has been partially or fully satisfied by a person's surety, the surety becomes subrogated to the department's rights under the judgment. If a sheriff releases a judgment:

(1) before the judgment is fully satisfied;

(2) before the sheriff has properly disbursed the amount collected; or

(3) after the sheriff has returned the tax warrant to the department;

the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department.

SECTION 27. IC 6-8.1-8-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies without an injunction from the tax court to any assessment that is made or pending after April 30, 2011.**

(b) Except as provided in IC 6-8.1-5-3, no demand notice, warrant, levy, or proceeding in court for the collection of a listed tax or any penalties and interest on a listed tax may be issued, commenced, or conducted against a taxpayer and no lien on the taxpayer's property may be imposed until after the later of the following:

(1) The expiration of the period in which the taxpayer may appeal the listed tax to the tax court.

(2) A decision of the tax court concerning the listed tax becomes final, if the taxpayer filed a timely appeal.

SECTION 28. IC 6-8.1-9-1, AS AMENDED BY P.L.182-2009(ss), SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f), ~~and~~ (g), **and (h),** in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

C o p y

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and shall, if the taxpayer requests, hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. ~~The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2.~~ The court may ~~also~~ allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is

C o p y

modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is ~~six (6) months~~ **one hundred eighty (180) days** after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(h), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

(h) If a taxpayer's claim for a refund of gross retail or use tax is based on:

(1) IC 6-2.5-4-5(c)(3); or

(2) the exemption provided by IC 6-2.5-5-5.1 for electrical energy, natural or artificial gas, water, steam, and steam heat;

the person must file the claim with the department within one (1) year after the date of payment.

SECTION 29. IC 6-8.1-9-2, AS AMENDED BY P.L.182-2009(ss), SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. Subject to subsection (c), if any excess remains after the department has applied the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

(b) Subject to subsection (c), if a court determines that a person has paid more tax for a taxable year than is legally due, the department shall refund the excess amount to the person.

(c) As used in this subsection, "pass through entity"means a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited liability partnership and "pass through income" means a person's distributive share of adjusted gross income for a taxable year attributable to the person's interest in a pass through entity. This subsection applies to a person's overpayment of adjusted gross income tax for a taxable year if:

C o p y

(1) the person has filed a timely claim for refund with respect to the overpayment under IC 6-8.1-9-1;

(2) the overpayment:

(A) is with respect to a taxable year beginning before January 1, 2009;

(B) is attributable to amounts paid to the department by:

(i) a nonresident shareholder, partner, or member of a pass through entity;

(ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of the pass through entity; or

(iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of another pass through entity; and

(3) the overpayment arises from a determination by the department or a court that the person's pass through income is not includible in the person's adjusted gross income derived from sources within Indiana as a result of the application of IC 6-3-2-2(a)(5). ~~and IC 6-3-2-2.2(g).~~

The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or a court to meet the conditions of subdivision (3) by the due date of the person's return for a listed tax for a taxable year beginning after December 31, 2008, the department shall refund to the person that part of the overpayment that should have been applied as a credit for such taxable year within ninety (90) days of the date that the department or a court makes the determination that the overpayment meets the conditions of subdivision (3). However, the department may establish a program to refund small overpayment amounts that do not exceed the

C o p y

threshold dollar value established by the department rather than crediting the amounts against tax liability accruing for a taxable year after December 31, 2008. A person that receives a refund or credit under this subsection shall file a report with the department in the form and in the schedule specified by the department that identifies under penalties of perjury the home state or other jurisdiction where the income subject to the refund or credit was reported as income attributable to that state or jurisdiction.

(d) An excess tax payment that is not refunded or credited against a current or future tax liability within ninety (90) days after the date the refund claim is filed, the date the tax payment was due, or the date the tax was paid, whichever is latest, accrues interest from the date the refund claim is filed at the rate established under IC 6-8.1-10-1 until a date, determined by the department, that does not precede by more than thirty (30) days, the date on which the refund or credit is made. As used in this subsection, "refund claim" includes an amended return that indicates an overpayment of tax.".

Page 38, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 33. IC 33-26-6-2, AS AMENDED BY P.L.91-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) **If** a taxpayer ~~who~~ wishes to enjoin the collection of a tax pending the original tax appeal **and the collection action is not prohibited under IC 6-8.1-8-16, the taxpayer** must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

(1) the issues that the petitioner will raise in the original tax appeal; and

(2) the equitable considerations for which the tax court should order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

(1) the issues raised by the original tax appeal are substantial;

(2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and

(3) the equitable considerations favoring the enjoining of the

C o p y

collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the Indiana gaming commission under IC 4-32.2.

(e) This section applies to a final determination made by the department of state revenue concerning the gaming card excise tax established under IC 4-32.2-10.

SECTION 34. IC 33-26-6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) A taxpayer may petition the tax court to enjoin a violation of IC 6-8.1-8-16.**

(b) After a hearing on a petition filed under subsection (a), the tax court may:

(1) enjoin a collection action that violates IC 6-8.1-8-16;

(2) order the release of any lien imposed in violation of IC 6-8.1-8-16; and

(3) order a refund of any amount that was collected in violation of IC 6-8.1-8-16.".

Page 40, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 35. IC 36-7.6-4-2, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection (b) to the development authority for deposit in the development authority fund.

(b) The amount of the transfer required each year by subsection (a) from each county and each municipality is equal to **the following:**

(1) Except as provided in subdivision (2), the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.

(2) In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013, the amount that would be distributed to the county or municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of twenty-five thousandths of one percent (0.025%) in the county.

(c) Notwithstanding subsection (b), if the additional county

C o p y

economic development income tax under IC 6-3.5-7-28 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the transfer to the development fund of all county economic development income tax revenue derived from the additional tax and deposited in the county regional development authority fund.

(d) The following apply to the transfers required by this section:

(1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.

(2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.

(3) County economic development income tax revenue derived from the additional county economic development income tax under IC 6-3.5-7-28 must be transferred to the development fund not more than thirty (30) days after being deposited in the county regional development fund.

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

SECTION 36. IC 6-3-2-2.2 IS REPEALED [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)].".

Page 40, line 6, delete "IC 6-5.5-2-1,".

Page 40, after line 9, begin a new paragraph and insert:

"SECTION 38. [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)] **(a) IC 6-3-2-2, as amended by this act, applies to taxable years beginning after December 31, 2010.**

(b) This SECTION expires January 1, 2014.

SECTION 39. [EFFECTIVE JULY 1, 2012] **(a) This SECTION applies to a corporate taxpayer that:**

(1) pays adjusted gross income tax under IC 6-3-1 through IC 6-3-7; and

(2) has a taxable year that begins before July 1, 2012, and

Copy

ends after June 30, 2012.

(b) Subject to subsection (c), the rate of the adjusted gross income tax imposed under IC 6-3-2-1 for that taxable year is a rate equal to the sum of:

(1) eight and five-tenths percent (8.5%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred before July 1, 2012, and the denominator of which is the total number of days in the taxable year; and

(2) six and five-tenths percent (6.5%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred after June 30, 2012, and the denominator of which is the total number of days in the taxable year.

(c) However, the rate determined under this section shall be rounded to the nearest one-hundredth of one percent (0.01%).

(d) This SECTION expires January 1, 2015.

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 589 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 589 be amended to read as follows:

Page 36, line 38, delete "eighty-five thousandths (0.085)." and insert "**the corporate adjusted gross income tax rate set forth in IC 6-3-2-1(b).**".

(Reference is to SB 589 as printed February 18, 2011.)

HERSHMAN

C o p y

SENATE MOTION

Madam President: I move that Senate Bill 589 be amended to read as follows:

Page 42, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 6-3.1-19-3, AS AMENDED BY P.L.113-2010, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 5 ~~or 5.5~~ of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

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

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

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for

C o p y

the community revitalization enhancement district; or

(2) allocated to the district.".

Page 59, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 32. IC 36-7-13-12.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: **Sec. 12.3. (a) Notwithstanding any other provision of this chapter, the designation of any district after December 31, 2010, is subject to the requirements of this section.**

(b) An advisory commission on industrial development may not designate a district under section 12 or 12.1 of this chapter unless the advisory commission makes the following findings of fact:

(1) That the county or municipality applying for the designation satisfies each of the following requirements:

(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.

(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.

(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:

(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.

(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.

(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.

(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the

C o p y

site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(c) The legislative body of a county or municipality may not adopt an ordinance designating a district under section 10.5 of this chapter unless the legislative body makes the following findings of fact:

(1) That the county or municipality governed by the legislative body satisfies each of the following requirements:

(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which proposed ordinance is adopted.

(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the proposed ordinance is adopted.

(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:

(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.

(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.

(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.

(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(d) An advisory commission on industrial development or a legislative body that designates a district under this chapter shall include a copy of the findings made under subsection (b) or (c) when sending a copy of the resolution or ordinance designating the

C o p y

district to the budget agency for its approval.

(e) The budget agency may not approve the designation of a district until it confirms the findings of fact submitted under this section. If a resolution or ordinance is submitted to the budget agency without the findings of fact required by this section, the time in which the budget agency must take action on the resolution or ordinance as set forth in sections 10.5, 12, and 12.1 of this chapter is tolled until the findings of fact are submitted to the budget agency.

SECTION 33. IC 36-7-13-14, AS AMENDED BY P.L.113-2010, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

~~(c)~~ **(b)** Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

~~(d)~~ **(c)** Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 34. IC 36-7-13-15, AS AMENDED BY P.L.113-2010, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an

C o p y

incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

~~(c)~~ **(b)** Subject to subsection ~~(d),~~ **(c),** the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for the district under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.

(2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.

~~(d)~~ **(c) Except as provided in subsection (e),** the aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district;

may not exceed one million dollars ($1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars ($750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

~~(e)~~ **(d)** On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.

(e) The aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in the incremental tax financing funds established for the districts located in Delaware County;

may not exceed two million dollars ($2,000,000).".

C o p y

Page 62, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-3.1-19-5.5; IC 36-7-13-23.".

Renumber all SECTIONS consecutively.

(Reference is to SB 589 as printed February 18, 2011.)

HERSHMAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 589, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 589 as reprinted February 22, 2011.)

ESPICH, Chair

Committee Vote: yeas 18, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 589 be amended to read as follows:

Page 13, delete lines 10 through 14, begin a new line block indented and insert:

"**(33) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.**".

Page 16, delete lines 1 through 5, begin a new line block indented and insert:

"**(19) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.**".

Copy

Page 18, delete lines 28 through 32, begin a new line block indented and insert:

"**(18) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.**".

Page 21, delete lines 13 through 17, begin a new line block indented and insert:

"**(18) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.**".

Page 23, delete lines 34 through 38, begin a new line block indented and insert:

"**(16) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana or a political subdivision of such a state.**".

Page 24, line 25, delete "For taxable years beginning before January 1, 2013," and insert "**Before July 1, 2012,**".

Page 24, line 27, delete "For taxable years beginning after December 31, 2012, and" and insert "**After June 30, 2012, and before July 1, 2013,**".

Page 24, line 28, delete "before January 1, 2014,".

Page 24, line 29, delete "For taxable years beginning after December 31, 2013, and" and insert "**After June 30, 2013, and before July 1, 2014,**".

Page 24, line 30, delete "before January 1, 2015,".

Page 24, line 31, delete "For taxable years beginning after December 31, 2014, and" and insert "**After June 30, 2014, and before July 1, 2015,**".

Page 24, line 32, delete "before January 1, 2016,".

Page 24, line 33, delete "For taxable years beginning after December 31, 2015," and insert "**After June 30, 2015,**".

Page 24, between lines 34 and 35, begin a new paragraph and insert:

"(c) If for any taxable year a taxpayer is subject to different tax rates under subsection (b), the taxpayer's tax rate for that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede the month the rate changed by the rate in effect before the rate change.

C o p y

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow the month before the rate changed by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

However, the rate determined under this subsection shall be rounded to the nearest one-hundredth of one percent (0.01%).".

Page 41, delete line 1.

Page 41, line 2, delete "2012,".

Page 41, delete line 9.

Page 41, line 10, delete "2012,".

(Reference is to ESB 589 as printed April 13, 2011.)

TURNER

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 589 be amended to read as follows:

Page 50, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 26. IC 36-7-31.3-9, AS AMENDED BY P.L.214-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, ~~2005,~~ **2013,** in the case of:

(A) a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. Before May 15, 2005, a tax area **established before January 1, 2005,** may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. After May 14, 2005, a tax area **established before January 1, 2005,** may not be changed and the terms governing a tax area may not be revised. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less

C o p y

than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 589 as printed April 13, 2011.)

TURNER

C o p y

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 589 be amended to read as follows:

Page 50, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 25. IC 22-4-13-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4. (a) This section applies to an individual:**

(1) for whom the department has established an overpayment by a final written determination under section 1(a) or 1(b) of this chapter; and

(2) whose overpayment amount that is due and payable equals or exceeds:

(A) the individual's weekly benefit amount; multiplied by

(B) four (4).

(b) Notwithstanding any other law and subject to subsection (c), an individual is entitled to repay the established amount of an overpayment over a period:

(1) beginning on the date the determination of the amount of the overpayment is final; and

(2) ending on a date not later than the date occurring thirty-six (36) months after the date specified in subdivision (1).

(c) An individual to whom this section applies may repay an overpayment over time as provided in subsection (b) not more than once during the individual's lifetime.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 589 as printed April 13, 2011.)

GOODIN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 589 be amended to read as follows:

Page 35, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 13. IC 6-3.1-19-3, AS AMENDED BY P.L.113-2010, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 5 ~~or 5.5~~ of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a

C o p y

qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

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

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

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.".

Page 50, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 28. IC 36-7-13-14, AS AMENDED BY P.L.113-2010, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an~~

C o p y

~~allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

~~(c)~~ **(b)** Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

~~(d)~~ **(c)** Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 29. IC 36-7-13-15, AS AMENDED BY P.L.113-2010, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~(a) This section does not apply to a district that:~~

~~(1) is described in section 23(a) of this chapter; and~~

~~(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.~~

~~(b)~~ **(a)** If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

~~(c)~~ **(b)** Subject to subsection ~~(d),~~ **(c),** the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for the district under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.

(2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.

~~(d)~~ **(c)** The aggregate amount of revenues that is:

C o p y

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district;

may not exceed one million dollars ($1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars ($750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

~~(c)~~ **(d)** On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.".

Page 51, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 6-3.1-19-5.5; IC 36-7-13-23.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 589 as printed April 13, 2011.)

TYLER

C o p y