



April 15, 2011

**ENGROSSED
SENATE BILL No. 590**

DIGEST OF SB 590 (Updated April 15, 2011 10:30 am - DI 110)

Citations Affected: IC 4-3; IC 5-2; IC 6-3; IC 6-3.1; IC 6-5.5; IC 11-10; IC 12-7; IC 12-32; IC 15-11; IC 22-4; IC 22-4.1; IC 22-5; IC 34-28; IC 34-30; IC 35-33; IC 35-44.

Synopsis: Illegal immigration matters. Makes various changes concerning enforcement of federal immigration laws, illegal immigration, and related criminal matters, including the following: (1) Requiring the office of management and budget to calculate the costs of illegal aliens to Indiana and make a written request to the Congress of the United States to reimburse the state for those costs. (2) Prohibiting governmental bodies from restricting or limiting certain actions by other governmental bodies with regard to information of the
(Continued next page)

Effective: July 1, 2011.

**Delph, Boots, Kruse, Banks, Tomes,
Holdman, Landske, Becker, Miller, Steele,
Waterman, Hershman, Yoder, Smith J,
Grooms, Walker,
Young R Michael**

(HOUSE SPONSORS — KOCH, BURTON, WOLKINS)

January 20, 2011, read first time and referred to Committee on Pensions and Labor.
February 10, 2011, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
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 31, nays 18.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Public Policy.
April 15, 2011, amended, reported — Do Pass.

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citizenship or immigration status of an individual. (3) Prohibiting a governmental body from limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law. (4) Disallowing certain state income tax credits and deductions for individuals who are prohibited from being hired as employees, unless the employer participated in the E-Verify program. (5) Requiring state agencies, political subdivisions, contractors with public contracts for services with a state or political subdivision, and certain business entities to use E-Verify and meet other requirements. (6) Allowing a state agency or political subdivision to terminate a public contract for services with a contractor for breach of the public contract for services if the contractor knowingly employs an unauthorized alien. (7) Prohibiting individuals from commencing day labor without completing an attestation required under federal law. Requires probable cause before a law enforcement officer may submit a complaint to the United States Customs and Immigration Enforcement office concerning violations of required federal attestations related to day labor. (8) Establishing certain state crimes, including: (A) offenses related to consular identification; (B) false identity statement; (C) knowingly or intentionally transporting or moving an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law; and (D) knowingly or intentionally concealing, harboring, or shielding from detection an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. (9) Requiring law enforcement officers to impound motor vehicles for violations of crimes related to transporting, concealing, harboring, or shielding from detection aliens. (10) Requiring a judicial officer in setting bail to consider that the defendant is a foreign national who has not been lawfully admitted to the United States as relevant to the risk of nonappearance. (11) Establishing certain bond requirements if bail is set for a defendant who is a foreign national unlawfully present in the United States. (12) Allowing a law enforcement officer to arrest a person if the officer has a certain removal order, detainer, or notice of action issued for the person or if the officer has probable cause to believe the person has been indicted for or convicted of one or more certain aggravated felonies. (13) Requiring the department of workforce development (DWD) and the Indiana department of agriculture to include certain agriculture jobs and wage rates on the departments' Internet web sites. (14) Requiring the department of correction to verify the citizenship or immigration status of offenders. (15) Requiring an agency, political subdivision, or person to verify the eligibility of an individual who applies for federal, state, or local public benefits or benefits funded, in whole or part, by federal, state, or local money. (16) Requiring DWD to verify the status of an individual as a qualified alien through the Systematic Alien Verification for Entitlements program to determine the individual's eligibility for unemployment compensation benefits. (17) Authorizing DWD to file civil actions to obtain the reimbursement of amounts paid as unemployment insurance benefits from employers that knowingly employed unauthorized aliens. (18) Prohibiting a law enforcement agency or law enforcement officer from requesting verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the agency or officer only as a witness to or a victim of a crime or for purposes of reporting a crime.

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April 15, 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.

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ENGROSSED SENATE BILL No. 590

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 4-3-22-17 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 17. (a) As used in this section, "alien" has the**
4 **meaning set forth in 8 U.S.C. 1101(a).**
5 **(b) As used in this section, "illegal alien" means an alien who**
6 **has come to, entered, or remained in the United States in violation**
7 **of the law.**
8 **(c) As used in this section, "total costs" includes, but is not**
9 **limited to, costs related to incarceration, education, health care,**
10 **and public assistance.**
11 **(d) Not later than July 1, 2012, the OMB shall, using existing**
12 **resources, do the following:**
13 **(1) Calculate an estimate of the total costs of illegal aliens to**
14 **the state of Indiana.**
15 **(2) Make a written request to the Congress of the United**

ES 590—LS 7546/DI 110+



1 States to reimburse the state of Indiana for the costs
2 calculated under subdivision (1).

3 (e) This section expires July 1, 2013.

4 SECTION 2. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS
5 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2011]:

7 **Chapter 18. Citizenship and Immigration Status Information**

8 **Sec. 1.** As used in this chapter, "governmental body" has the
9 meaning set forth in IC 5-22-2-13.

10 **Sec. 2.** As used in this chapter, "law enforcement officer" has
11 the meaning set forth in IC 5-2-1-2.

12 **Sec. 3.** A governmental body may not enact or implement an
13 ordinance, a resolution, a rule, or a policy that prohibits or in any
14 way restricts another governmental body, including a law
15 enforcement officer, a state or local official, or a state or local
16 government employee, from taking the following actions with
17 regard to information of the citizenship or immigration status,
18 lawful or unlawful, of an individual:

- 19 (1) Communicating or cooperating with federal officials.
- 20 (2) Sending to or receiving information from the United States
21 Department of Homeland Security.
- 22 (3) Exchanging information with another federal, state, or
23 local government entity.

24 **Sec. 4.** Every law enforcement agency (as defined in IC 5-2-17-2)
25 shall provide each law enforcement officer with a written notice
26 that the law enforcement officer has a duty to cooperate with state
27 and federal agencies and officials on matters pertaining to
28 enforcement of state and federal laws governing immigration.

29 SECTION 3. IC 5-2-19 IS ADDED TO THE INDIANA CODE AS
30 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2011]:

32 **Chapter 19. Prohibit Limiting or Restricting Enforcement of**
33 **Federal Immigration Laws**

34 **Sec. 1.** As used in this chapter, "governmental body" has the
35 meaning set forth in IC 5-22-2-13.

36 **Sec. 2.** A governmental body may not limit or restrict the
37 enforcement of federal immigration laws to less than the full extent
38 permitted by federal law.

39 **Sec. 3.** If a court finds that a governmental body knowingly or
40 intentionally violated section 2 of this chapter, the court shall
41 enjoin the governmental body from engaging in or encouraging
42 policies, practices, or acts that limit or restrict the enforcement of

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federal immigration laws in violation of this chapter.

Sec. 4. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

SECTION 4. IC 5-2-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 20. Prohibit Verification of Citizenship or Immigration Status

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 5-2-17-2.

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

Sec. 3. A law enforcement agency or law enforcement officer may not request verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the law enforcement agency or law enforcement officer only:

- (1) as a witness to or victim of a crime; or**
- (2) for purposes of reporting a crime.**

SECTION 5. IC 6-3-1-3.5, AS AMENDED BY P.L.182-2009(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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

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- 1 the taxable year of the taxpayer begins, has no gross income
- 2 and is not the dependent of another taxpayer.
- 3 (5) Subtract:
- 4 (A) for taxable years beginning after December 31, 2004, one
- 5 thousand five hundred dollars (\$1,500) for each of the
- 6 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 7 Revenue Code (as effective January 1, 2004); and
- 8 (B) five hundred dollars (\$500) for each additional amount
- 9 allowable under Section 63(f)(1) of the Internal Revenue Code
- 10 if the adjusted gross income of the taxpayer, or the taxpayer
- 11 and the taxpayer's spouse in the case of a joint return, is less
- 12 than forty thousand dollars (\$40,000).
- 13 This amount is in addition to the amount subtracted under
- 14 subdivision (4).
- 15 (6) Subtract an amount equal to the lesser of:
- 16 (A) that part of the individual's adjusted gross income (as
- 17 defined in Section 62 of the Internal Revenue Code) for that
- 18 taxable year that is subject to a tax that is imposed by a
- 19 political subdivision of another state and that is imposed on or
- 20 measured by income; or
- 21 (B) two thousand dollars (\$2,000).
- 22 (7) Add an amount equal to the total capital gain portion of a
- 23 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 24 Internal Revenue Code) if the lump sum distribution is received
- 25 by the individual during the taxable year and if the capital gain
- 26 portion of the distribution is taxed in the manner provided in
- 27 Section 402 of the Internal Revenue Code.
- 28 (8) Subtract any amounts included in federal adjusted gross
- 29 income under Section 111 of the Internal Revenue Code as a
- 30 recovery of items previously deducted as an itemized deduction
- 31 from adjusted gross income.
- 32 (9) Subtract any amounts included in federal adjusted gross
- 33 income under the Internal Revenue Code which amounts were
- 34 received by the individual as supplemental railroad retirement
- 35 annuities under 45 U.S.C. 231 and which are not deductible under
- 36 subdivision (1).
- 37 (10) Add an amount equal to the deduction allowed under Section
- 38 221 of the Internal Revenue Code for married couples filing joint
- 39 returns if the taxable year began before January 1, 1987.
- 40 (11) Add an amount equal to the interest excluded from federal
- 41 gross income by the individual for the taxable year under Section
- 42 128 of the Internal Revenue Code if the taxable year began before

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- 1 January 1, 1985.
- 2 (12) Subtract an amount equal to the amount of federal Social
3 Security and Railroad Retirement benefits included in a taxpayer's
4 federal gross income by Section 86 of the Internal Revenue Code.
- 5 (13) In the case of a nonresident taxpayer or a resident taxpayer
6 residing in Indiana for a period of less than the taxpayer's entire
7 taxable year, the total amount of the deductions allowed pursuant
8 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
9 which bears the same ratio to the total as the taxpayer's income
10 taxable in Indiana bears to the taxpayer's total income.
- 11 (14) In the case of an individual who is a recipient of assistance
12 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
13 subtract an amount equal to that portion of the individual's
14 adjusted gross income with respect to which the individual is not
15 allowed under federal law to retain an amount to pay state and
16 local income taxes.
- 17 (15) In the case of an eligible individual, subtract the amount of
18 a Holocaust victim's settlement payment included in the
19 individual's federal adjusted gross income.
- 20 (16) For taxable years beginning after December 31, 1999,
21 subtract an amount equal to the portion of any premiums paid
22 during the taxable year by the taxpayer for a qualified long term
23 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
24 taxpayer's spouse, or both.
- 25 (17) Subtract an amount equal to the lesser of:
- 26 (A) for a taxable year:
- 27 (i) including any part of 2004, the amount determined under
28 subsection (f); and
- 29 (ii) beginning after December 31, 2004, two thousand five
30 hundred dollars (\$2,500); or
- 31 (B) the amount of property taxes that are paid during the
32 taxable year in Indiana by the individual on the individual's
33 principal place of residence.
- 34 (18) Subtract an amount equal to the amount of a September 11
35 terrorist attack settlement payment included in the individual's
36 federal adjusted gross income.
- 37 (19) Add or subtract the amount necessary to make the adjusted
38 gross income of any taxpayer that owns property for which bonus
39 depreciation was allowed in the current taxable year or in an
40 earlier taxable year equal to the amount of adjusted gross income
41 that would have been computed had an election not been made
42 under Section 168(k) of the Internal Revenue Code to apply bonus

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- 1 depreciation to the property in the year that it was placed in
- 2 service.
- 3 (20) Add an amount equal to any deduction allowed under
- 4 Section 172 of the Internal Revenue Code.
- 5 (21) Add or subtract the amount necessary to make the adjusted
- 6 gross income of any taxpayer that placed Section 179 property (as
- 7 defined in Section 179 of the Internal Revenue Code) in service
- 8 in the current taxable year or in an earlier taxable year equal to
- 9 the amount of adjusted gross income that would have been
- 10 computed had an election for federal income tax purposes not
- 11 been made for the year in which the property was placed in
- 12 service to take deductions under Section 179 of the Internal
- 13 Revenue Code in a total amount exceeding twenty-five thousand
- 14 dollars (\$25,000).
- 15 (22) Add an amount equal to the amount that a taxpayer claimed
- 16 as a deduction for domestic production activities for the taxable
- 17 year under Section 199 of the Internal Revenue Code for federal
- 18 income tax purposes.
- 19 (23) Subtract an amount equal to the amount of the taxpayer's
- 20 qualified military income that was not excluded from the
- 21 taxpayer's gross income for federal income tax purposes under
- 22 Section 112 of the Internal Revenue Code.
- 23 (24) Subtract income that is:
- 24 (A) exempt from taxation under IC 6-3-2-21.7; and
- 25 (B) included in the individual's federal adjusted gross income
- 26 under the Internal Revenue Code.
- 27 (25) Subtract any amount of a credit (including an advance refund
- 28 of the credit) that is provided to an individual under 26 U.S.C.
- 29 6428 (federal Economic Stimulus Act of 2008) and included in
- 30 the individual's federal adjusted gross income.
- 31 (26) Add any amount of unemployment compensation excluded
- 32 from federal gross income, as defined in Section 61 of the Internal
- 33 Revenue Code, under Section 85(c) of the Internal Revenue Code.
- 34 (27) Add the amount excluded from gross income under Section
- 35 108(a)(1)(e) of the Internal Revenue Code for the discharge of
- 36 debt on a qualified principal residence.
- 37 (28) Add an amount equal to any income not included in gross
- 38 income as a result of the deferral of income arising from business
- 39 indebtedness discharged in connection with the reacquisition after
- 40 December 31, 2008, and before January 1, 2011, of an applicable
- 41 debt instrument, as provided in Section 108(i) of the Internal
- 42 Revenue Code. Subtract the amount necessary from the adjusted

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1 gross income of any taxpayer that added an amount to adjusted
 2 gross income in a previous year to offset the amount included in
 3 federal gross income as a result of the deferral of income arising
 4 from business indebtedness discharged in connection with the
 5 reacquisition after December 31, 2008, and before January 1,
 6 2011, of an applicable debt instrument, as provided in Section
 7 108(i) of the Internal Revenue Code.

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

15 (30) Add the amount necessary to make the adjusted gross income
 16 of any taxpayer that placed qualified retail improvement property
 17 in service during the taxable year and that was classified as
 18 15-year property under Section 168(e)(3)(E)(ix) of the Internal
 19 Revenue Code equal to the amount of adjusted gross income that
 20 would have been computed had the classification not applied to
 21 the property in the year that it was placed in service.

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

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

34 (33) Add or subtract the amount necessary to make the adjusted
 35 gross income of any taxpayer that made an election under Section
 36 181 of the Internal Revenue Code to expense costs for a qualified
 37 film or television production equal to the amount of adjusted
 38 gross income that would have been computed had an election for
 39 federal income tax purposes not been made for the year.

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

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1 (A) the Federal National Mortgage Association, established
 2 under the Federal National Mortgage Association Charter Act
 3 (12 U.S.C. 1716 et seq.); or
 4 (B) the Federal Home Loan Mortgage Corporation, established
 5 under the Federal Home Loan Mortgage Corporation Act (12
 6 U.S.C. 1451 et seq.);
 7 as an ordinary loss under Section 301 of the Emergency
 8 Economic Stabilization Act of 2008 in the current taxable year or
 9 in an earlier taxable year equal to the amount of adjusted gross
 10 income that would have been computed had the loss not been
 11 treated as an ordinary loss.

12 **(35) This subdivision does not apply to payments made for**
 13 **services provided to a business that was enrolled and**
 14 **participated in the E-verify program (as defined in**
 15 **IC 22-5-1.7-3) during the time the taxpayer conducted**
 16 **business in Indiana in the taxable year. For a taxable year**
 17 **beginning after June 30, 2011, add the amount of any trade or**
 18 **business deduction allowed under the Internal Revenue Code**
 19 **for wages, reimbursements, or other payments made for**
 20 **services provided in Indiana by an individual for services as**
 21 **an employee, if the individual was, during the period of**
 22 **service, prohibited from being hired as an employee under 8**
 23 **U.S.C. 1324a.**

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

- 27 (1) Subtract income that is exempt from taxation under this article
- 28 by the Constitution and statutes of the United States.
- 29 (2) Add an amount equal to any deduction or deductions allowed
- 30 or allowable pursuant to Section 170 of the Internal Revenue
- 31 Code.
- 32 (3) Add an amount equal to any deduction or deductions allowed
- 33 or allowable pursuant to Section 63 of the Internal Revenue Code
- 34 for taxes based on or measured by income and levied at the state
- 35 level by any state of the United States.
- 36 (4) Subtract an amount equal to the amount included in the
- 37 corporation's taxable income under Section 78 of the Internal
- 38 Revenue Code.
- 39 (5) Add or subtract the amount necessary to make the adjusted
- 40 gross income of any taxpayer that owns property for which bonus
- 41 depreciation was allowed in the current taxable year or in a
- 42 earlier taxable year equal to the amount of adjusted gross income

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- 1 that would have been computed had an election not been made
 2 under Section 168(k) of the Internal Revenue Code to apply bonus
 3 depreciation to the property in the year that it was placed in
 4 service.
- 5 (6) Add an amount equal to any deduction allowed under Section
 6 172 of the Internal Revenue Code.
- 7 (7) Add or subtract the amount necessary to make the adjusted
 8 gross income of any taxpayer that placed Section 179 property (as
 9 defined in Section 179 of the Internal Revenue Code) in service
 10 in the current taxable year or in an earlier taxable year equal to
 11 the amount of adjusted gross income that would have been
 12 computed had an election for federal income tax purposes not
 13 been made for the year in which the property was placed in
 14 service to take deductions under Section 179 of the Internal
 15 Revenue Code in a total amount exceeding twenty-five thousand
 16 dollars (\$25,000).
- 17 (8) Add an amount equal to the amount that a taxpayer claimed as
 18 a deduction for domestic production activities for the taxable year
 19 under Section 199 of the Internal Revenue Code for federal
 20 income tax purposes.
- 21 (9) Add to the extent required by IC 6-3-2-20 the amount of
 22 intangible expenses (as defined in IC 6-3-2-20) and any directly
 23 related intangible interest expenses (as defined in IC 6-3-2-20) for
 24 the taxable year that reduced the corporation's taxable income (as
 25 defined in Section 63 of the Internal Revenue Code) for federal
 26 income tax purposes.
- 27 (10) Add an amount equal to any deduction for dividends paid (as
 28 defined in Section 561 of the Internal Revenue Code) to
 29 shareholders of a captive real estate investment trust (as defined
 30 in section 34.5 of this chapter).
- 31 (11) Subtract income that is:
- 32 (A) exempt from taxation under IC 6-3-2-21.7; and
- 33 (B) included in the corporation's taxable income under the
 34 Internal Revenue Code.
- 35 (12) Add an amount equal to any income not included in gross
 36 income as a result of the deferral of income arising from business
 37 indebtedness discharged in connection with the reacquisition after
 38 December 31, 2008, and before January 1, 2011, of an applicable
 39 debt instrument, as provided in Section 108(i) of the Internal
 40 Revenue Code. Subtract from the adjusted gross income of any
 41 taxpayer that added an amount to adjusted gross income in a
 42 previous year the amount necessary to offset the amount included

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1 in federal gross income as a result of the deferral of income
 2 arising from business indebtedness discharged in connection with
 3 the reacquisition after December 31, 2008, and before January 1,
 4 2011, of an applicable debt instrument, as provided in Section
 5 108(i) of the Internal Revenue Code.
 6 (13) Add the amount necessary to make the adjusted gross income
 7 of any taxpayer that placed qualified restaurant property in service
 8 during the taxable year and that was classified as 15-year property
 9 under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal
 10 to the amount of adjusted gross income that would have been
 11 computed had the classification not applied to the property in the
 12 year that it was placed in service.
 13 (14) Add the amount necessary to make the adjusted gross income
 14 of any taxpayer that placed qualified retail improvement property
 15 in service during the taxable year and that was classified as
 16 15-year property under Section 168(e)(3)(E)(ix) of the Internal
 17 Revenue Code equal to the amount of adjusted gross income that
 18 would have been computed had the classification not applied to
 19 the property in the year that it was placed in service.
 20 (15) Add or subtract the amount necessary to make the adjusted
 21 gross income of any taxpayer that claimed the special allowance
 22 for qualified disaster assistance property under Section 168(n) of
 23 the Internal Revenue Code equal to the amount of adjusted gross
 24 income that would have been computed had the special allowance
 25 not been claimed for the property.
 26 (16) Add or subtract the amount necessary to make the adjusted
 27 gross income of any taxpayer that made an election under Section
 28 179C of the Internal Revenue Code to expense costs for qualified
 29 refinery property equal to the amount of adjusted gross income
 30 that would have been computed had an election for federal
 31 income tax purposes not been made for the year.
 32 (17) Add or subtract the amount necessary to make the adjusted
 33 gross income of any taxpayer that made an election under Section
 34 181 of the Internal Revenue Code to expense costs for a qualified
 35 film or television production equal to the amount of adjusted
 36 gross income that would have been computed had an election for
 37 federal income tax purposes not been made for the year.
 38 (18) Add or subtract the amount necessary to make the adjusted
 39 gross income of any taxpayer that treated a loss from the sale or
 40 exchange of preferred stock in:
 41 (A) the Federal National Mortgage Association, established
 42 under the Federal National Mortgage Association Charter Act

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1 (12 U.S.C. 1716 et seq.); or
2 (B) the Federal Home Loan Mortgage Corporation, established
3 under the Federal Home Loan Mortgage Corporation Act (12
4 U.S.C. 1451 et seq.);

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

10 **(19) This subdivision does not apply to payments made for**
11 **services provided to a business that was enrolled and**
12 **participated in the E-verify program (as defined in**
13 **IC 22-5-1.7-3) during the time the taxpayer conducted**
14 **business in Indiana in the taxable year. For a taxable year**
15 **beginning after June 30, 2011, add the amount of any trade or**
16 **business deduction allowed under the Internal Revenue Code**
17 **for wages, reimbursements, or other payments made for**
18 **services provided in Indiana by an individual for services as**
19 **an employee, if the individual was, during the period of**
20 **service, prohibited from being hired as an employee under 8**
21 **U.S.C. 1324a.**

22 (c) In the case of life insurance companies (as defined in Section
23 816(a) of the Internal Revenue Code) that are organized under Indiana
24 law, the same as "life insurance company taxable income" (as defined
25 in Section 801 of the Internal Revenue Code), adjusted as follows:

- 26 (1) Subtract income that is exempt from taxation under this article
27 by the Constitution and statutes of the United States.
- 28 (2) Add an amount equal to any deduction allowed or allowable
29 under Section 170 of the Internal Revenue Code.
- 30 (3) Add an amount equal to a deduction allowed or allowable
31 under Section 805 or Section 831(c) of the Internal Revenue Code
32 for taxes based on or measured by income and levied at the state
33 level by any state.
- 34 (4) Subtract an amount equal to the amount included in the
35 company's taxable income under Section 78 of the Internal
36 Revenue Code.
- 37 (5) Add or subtract the amount necessary to make the adjusted
38 gross income of any taxpayer that owns property for which bonus
39 depreciation was allowed in the current taxable year or in an
40 earlier taxable year equal to the amount of adjusted gross income
41 that would have been computed had an election not been made
42 under Section 168(k) of the Internal Revenue Code to apply bonus

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- 1 depreciation to the property in the year that it was placed in
2 service.
- 3 (6) Add an amount equal to any deduction allowed under Section
4 172 or Section 810 of the Internal Revenue Code.
- 5 (7) Add or subtract the amount necessary to make the adjusted
6 gross income of any taxpayer that placed Section 179 property (as
7 defined in Section 179 of the Internal Revenue Code) in service
8 in the current taxable year or in an earlier taxable year equal to
9 the amount of adjusted gross income that would have been
10 computed had an election for federal income tax purposes not
11 been made for the year in which the property was placed in
12 service to take deductions under Section 179 of the Internal
13 Revenue Code in a total amount exceeding twenty-five thousand
14 dollars (\$25,000).
- 15 (8) Add an amount equal to the amount that a taxpayer claimed as
16 a deduction for domestic production activities for the taxable year
17 under Section 199 of the Internal Revenue Code for federal
18 income tax purposes.
- 19 (9) Subtract income that is:
- 20 (A) exempt from taxation under IC 6-3-2-21.7; and
- 21 (B) included in the insurance company's taxable income under
22 the Internal Revenue Code.
- 23 (10) Add an amount equal to any income not included in gross
24 income as a result of the deferral of income arising from business
25 indebtedness discharged in connection with the reacquisition after
26 December 31, 2008, and before January 1, 2011, of an applicable
27 debt instrument, as provided in Section 108(i) of the Internal
28 Revenue Code. Subtract from the adjusted gross income of any
29 taxpayer that added an amount to adjusted gross income in a
30 previous year the amount necessary to offset the amount included
31 in federal gross income as a result of the deferral of income
32 arising from business indebtedness discharged in connection with
33 the reacquisition after December 31, 2008, and before January 1,
34 2011, of an applicable debt instrument, as provided in Section
35 108(i) of the Internal Revenue Code.
- 36 (11) Add the amount necessary to make the adjusted gross income
37 of any taxpayer that placed qualified restaurant property in service
38 during the taxable year and that was classified as 15-year property
39 under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal
40 to the amount of adjusted gross income that would have been
41 computed had the classification not applied to the property in the
42 year that it was placed in service.

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- 1 (12) Add the amount necessary to make the adjusted gross income
 2 of any taxpayer that placed qualified retail improvement property
 3 in service during the taxable year and that was classified as
 4 15-year property under Section 168(e)(3)(E)(ix) of the Internal
 5 Revenue Code equal to the amount of adjusted gross income that
 6 would have been computed had the classification not applied to
 7 the property in the year that it was placed in service.
- 8 (13) Add or subtract the amount necessary to make the adjusted
 9 gross income of any taxpayer that claimed the special allowance
 10 for qualified disaster assistance property under Section 168(n) of
 11 the Internal Revenue Code equal to the amount of adjusted gross
 12 income that would have been computed had the special allowance
 13 not been claimed for the property.
- 14 (14) Add or subtract the amount necessary to make the adjusted
 15 gross income of any taxpayer that made an election under Section
 16 179C of the Internal Revenue Code to expense costs for qualified
 17 refinery property equal to the amount of adjusted gross income
 18 that would have been computed had an election for federal
 19 income tax purposes not been made for the year.
- 20 (15) Add or subtract the amount necessary to make the adjusted
 21 gross income of any taxpayer that made an election under Section
 22 181 of the Internal Revenue Code to expense costs for a qualified
 23 film or television production equal to the amount of adjusted
 24 gross income that would have been computed had an election for
 25 federal income tax purposes not been made for the year.
- 26 (16) Add or subtract the amount necessary to make the adjusted
 27 gross income of any taxpayer that treated a loss from the sale or
 28 exchange of preferred stock in:
- 29 (A) the Federal National Mortgage Association, established
 30 under the Federal National Mortgage Association Charter Act
 31 (12 U.S.C. 1716 et seq.); or
- 32 (B) the Federal Home Loan Mortgage Corporation, established
 33 under the Federal Home Loan Mortgage Corporation Act (12
 34 U.S.C. 1451 et seq.);
- 35 as an ordinary loss under Section 301 of the Emergency
 36 Economic Stabilization Act of 2008 in the current taxable year or
 37 in an earlier taxable year equal to the amount of adjusted gross
 38 income that would have been computed had the loss not been
 39 treated as an ordinary loss.
- 40 (17) Add an amount equal to any exempt insurance income under
 41 Section 953(e) of the Internal Revenue Code that is active
 42 financing income under Subpart F of Subtitle A, Chapter 1,

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Subchapter N of the Internal Revenue Code.
(18) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) 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

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

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

11 (9) Subtract income that is:

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

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

15 (10) Add an amount equal to any income not included in gross
 16 income as a result of the deferral of income arising from business
 17 indebtedness discharged in connection with the reacquisition after
 18 December 31, 2008, and before January 1, 2011, of an applicable
 19 debt instrument, as provided in Section 108(i) of the Internal
 20 Revenue Code. Subtract from the adjusted gross income of any
 21 taxpayer that added an amount to adjusted gross income in a
 22 previous year the amount necessary to offset the amount included
 23 in federal gross income as a result of the deferral of income
 24 arising from business indebtedness discharged in connection with
 25 the reacquisition after December 31, 2008, and before January 1,
 26 2011, of an applicable debt instrument, as provided in Section
 27 108(i) of the Internal Revenue Code.

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

35 (12) Add the amount necessary to make the adjusted gross income
 36 of any taxpayer that placed qualified retail improvement property
 37 in service during the taxable year and that was classified as
 38 15-year property under Section 168(e)(3)(E)(ix) of the Internal
 39 Revenue Code equal to the amount of adjusted gross income that
 40 would have been computed had the classification not applied to
 41 the property in the year that it was placed in service.

42 (13) Add or subtract the amount necessary to make the adjusted

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1 gross income of any taxpayer that claimed the special allowance
 2 for qualified disaster assistance property under Section 168(n) of
 3 the Internal Revenue Code equal to the amount of adjusted gross
 4 income that would have been computed had the special allowance
 5 not been claimed for the property.
 6 (14) Add or subtract the amount necessary to make the adjusted
 7 gross income of any taxpayer that made an election under Section
 8 179C of the Internal Revenue Code to expense costs for qualified
 9 refinery property equal to the amount of adjusted gross income
 10 that would have been computed had an election for federal
 11 income tax purposes not been made for the year.
 12 (15) Add or subtract the amount necessary to make the adjusted
 13 gross income of any taxpayer that made an election under Section
 14 181 of the Internal Revenue Code to expense costs for a qualified
 15 film or television production equal to the amount of adjusted
 16 gross income that would have been computed had an election for
 17 federal income tax purposes not been made for the year.
 18 (16) Add or subtract the amount necessary to make the adjusted
 19 gross income of any taxpayer that treated a loss from the sale or
 20 exchange of preferred stock in:
 21 (A) the Federal National Mortgage Association, established
 22 under the Federal National Mortgage Association Charter Act
 23 (12 U.S.C. 1716 et seq.); or
 24 (B) the Federal Home Loan Mortgage Corporation, established
 25 under the Federal Home Loan Mortgage Corporation Act (12
 26 U.S.C. 1451 et seq.);
 27 as an ordinary loss under Section 301 of the Emergency
 28 Economic Stabilization Act of 2008 in the current taxable year or
 29 in an earlier taxable year equal to the amount of adjusted gross
 30 income that would have been computed had the loss not been
 31 treated as an ordinary loss.
 32 (17) Add an amount equal to any exempt insurance income under
 33 Section 953(e) of the Internal Revenue Code that is active
 34 financing income under Subpart F of Subtitle A, Chapter 1,
 35 Subchapter N of the Internal Revenue Code.
 36 **(18) This subdivision does not apply to payments made for**
 37 **services provided to a business that was enrolled and**
 38 **participated in the E-verify program (as defined in**
 39 **IC 22-5-1.7-3) during the time the taxpayer conducted**
 40 **business in Indiana in the taxable year. For a taxable year**
 41 **beginning after June 30, 2011, add the amount of any trade or**
 42 **business deduction allowed under the Internal Revenue Code**

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for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(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 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

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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.
(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

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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) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(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.

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- 1 STEP TWO: Determine the amount of property taxes that the
- 2 taxpayer paid in the taxable year for the March 1, 2003,
- 3 assessment date and the January 15, 2004, assessment date.
- 4 STEP THREE: Determine the result of the STEP ONE amount
- 5 divided by the STEP TWO amount.
- 6 STEP FOUR: Multiply the STEP THREE amount by two
- 7 thousand five hundred dollars (\$2,500).
- 8 STEP FIVE: Determine the sum of the STEP FOUR amount and
- 9 two thousand five hundred dollars (\$2,500).

10 SECTION 6. IC 6-3.1-13-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) As used in this
 12 chapter, "incremental income tax withholdings" means the total amount
 13 withheld under IC 6-3-4-8 by the taxpayer during the taxable year from
 14 the compensation of new employees.

15 **(b) The term does not include, for withholding periods**
 16 **beginning after June 30, 2011, any amount withheld from an**
 17 **individual for services provided in Indiana as an employee, if the:**
 18 **(1) individual was, during the period of service, prohibited**
 19 **from being hired as an employee under 8 U.S.C. 1324a; and**
 20 **(2) taxpayer was not enrolled and participating in the**
 21 **E-Verify program (as defined in IC 22-5-1.7-3) during the**
 22 **time the taxpayer conducted business in Indiana in the taxable**
 23 **year.**

24 SECTION 7. IC 6-3.1-13-18, AS AMENDED BY P.L.137-2006,
 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 18. (a) The corporation shall determine the
 27 amount and duration of a tax credit awarded under this chapter. The
 28 duration of the credit may not exceed ten (10) taxable years. The credit
 29 may be stated as a percentage of the incremental income tax
 30 withholdings attributable to the applicant's project and may include a
 31 fixed dollar limitation. In the case of a credit awarded for a project to
 32 create new jobs in Indiana, the credit amount may not exceed the
 33 incremental income tax withholdings. However, the credit amount
 34 claimed for a taxable year may exceed the taxpayer's state tax liability
 35 for the taxable year, in which case the excess may, at the discretion of
 36 the corporation, be refunded to the taxpayer.

37 (b) For state fiscal year 2006 and each state fiscal year thereafter,
 38 the aggregate amount of credits awarded under this chapter for projects
 39 to retain existing jobs in Indiana may not exceed ten million dollars
 40 (\$10,000,000) per year.

41 (c) **This subsection does not apply to a business that was**
 42 **enrolled and participated in the E-verify program (as defined in**

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1 **IC 22-5-1.7-3) during the time the taxpayer conducted business in**
 2 **Indiana in the taxable year. A credit under this chapter may not be**
 3 **computed on any amount withheld from an individual or paid to an**
 4 **individual for services provided in Indiana as an employee, if the**
 5 **individual was, during the period of service, prohibited from being**
 6 **hired as an employee under 8 U.S.C. 1324a.**

7 SECTION 8. IC 6-5.5-1-2, AS AMENDED BY P.L.182-2009(ss),
 8 SECTION 233, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as provided in
 10 subsections (b) through (d), "adjusted gross income" means taxable
 11 income as defined in Section 63 of the Internal Revenue Code, adjusted
 12 as follows:

13 (1) Add the following amounts:

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

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

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

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

29 (E) An amount equal to the deduction allowed under Section
 30 172 or 1212 of the Internal Revenue Code for net operating
 31 losses or net capital losses.

32 (F) For a taxpayer that is not a large bank (as defined in
 33 Section 585(c)(2) of the Internal Revenue Code), an amount
 34 equal to the recovery of a debt, or part of a debt, that becomes
 35 worthless to the extent a deduction was allowed from gross
 36 income in a prior taxable year under Section 166(a) of the
 37 Internal Revenue Code.

38 (G) Add the amount necessary to make the adjusted gross
 39 income of any taxpayer that owns property for which bonus
 40 depreciation was allowed in the current taxable year or in an
 41 earlier taxable year equal to the amount of adjusted gross
 42 income that would have been computed had an election not

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1 been made under Section 168(k) of the Internal Revenue Code
2 to apply bonus depreciation to the property in the year that it
3 was placed in service.
4 (H) Add the amount necessary to make the adjusted gross
5 income of any taxpayer that placed Section 179 property (as
6 defined in Section 179 of the Internal Revenue Code) in
7 service in the current taxable year or in an earlier taxable year
8 equal to the amount of adjusted gross income that would have
9 been computed had an election for federal income tax
10 purposes not been made for the year in which the property was
11 placed in service to take deductions under Section 179 of the
12 Internal Revenue Code in a total amount exceeding
13 twenty-five thousand dollars (\$25,000).
14 (I) Add an amount equal to the amount that a taxpayer claimed
15 as a deduction for domestic production activities for the
16 taxable year under Section 199 of the Internal Revenue Code
17 for federal income tax purposes.
18 (J) Add an amount equal to any income not included in gross
19 income as a result of the deferral of income arising from
20 business indebtedness discharged in connection with the
21 reacquisition after December 31, 2008, and before January 1,
22 2011, of an applicable debt instrument, as provided in Section
23 108(i) of the Internal Revenue Code. Subtract from the
24 adjusted gross income of any taxpayer that added an amount
25 to adjusted gross income in a previous year the amount
26 necessary to offset the amount included in federal gross
27 income as a result of the deferral of income arising from
28 business indebtedness discharged in connection with the
29 reacquisition after December 31, 2008, and before January 1,
30 2011, of an applicable debt instrument, as provided in Section
31 108(i) of the Internal Revenue Code.
32 (K) Add the amount necessary to make the adjusted gross
33 income of any taxpayer that placed qualified restaurant
34 property in service during the taxable year and that was
35 classified as 15-year property under Section 168(e)(3)(E)(v) of
36 the Internal Revenue Code equal to the amount of adjusted
37 gross income that would have been computed had the
38 classification not applied to the property in the year that it was
39 placed in service.
40 (L) Add the amount necessary to make the adjusted gross
41 income of any taxpayer that placed qualified retail
42 improvement property in service during the taxable year and

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1 that was classified as 15-year property under Section
2 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the
3 amount of adjusted gross income that would have been
4 computed had the classification not applied to the property in
5 the year that it was placed in service.
6 (M) Add or subtract the amount necessary to make the
7 adjusted gross income of any taxpayer that claimed the special
8 allowance for qualified disaster assistance property under
9 Section 168(n) of the Internal Revenue Code equal to the
10 amount of adjusted gross income that would have been
11 computed had the special allowance not been claimed for the
12 property.
13 (N) Add or subtract the amount necessary to make the adjusted
14 gross income of any taxpayer that made an election under
15 Section 179C of the Internal Revenue Code to expense costs
16 for qualified refinery property equal to the amount of adjusted
17 gross income that would have been computed had an election
18 for federal income tax purposes not been made for the year.
19 (O) Add or subtract the amount necessary to make the adjusted
20 gross income of any taxpayer that made an election under
21 Section 181 of the Internal Revenue Code to expense costs for
22 a qualified film or television production equal to the amount
23 of adjusted gross income that would have been computed had
24 an election for federal income tax purposes not been made for
25 the year.
26 (P) Add or subtract the amount necessary to make the adjusted
27 gross income of any taxpayer that treated a loss from the sale
28 or exchange of preferred stock in:
29 (i) the Federal National Mortgage Association, established
30 under the Federal National Mortgage Association Charter
31 Act (12 U.S.C. 1716 et seq.); or
32 (ii) the Federal Home Loan Mortgage Corporation,
33 established under the Federal Home Loan Mortgage
34 Corporation Act (12 U.S.C. 1451 et seq.);
35 as an ordinary loss under Section 301 of the Emergency
36 Economic Stabilization Act of 2008 in the current taxable year
37 or in an earlier taxable year equal to the amount of adjusted
38 gross income that would have been computed had the loss not
39 been treated as an ordinary loss.
40 (Q) Add an amount equal to any exempt insurance income
41 under Section 953(e) of the Internal Revenue Code for active
42 financing income under Subpart F, Subtitle A, Chapter 1,

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- 1 Subchapter N of the Internal Revenue Code.
- 2 (2) Subtract the following amounts:
- 3 (A) Income that the United States Constitution or any statute
- 4 of the United States prohibits from being used to measure the
- 5 tax imposed by this chapter.
- 6 (B) Income that is derived from sources outside the United
- 7 States, as defined by the Internal Revenue Code.
- 8 (C) An amount equal to a debt or part of a debt that becomes
- 9 worthless, as permitted under Section 166(a) of the Internal
- 10 Revenue Code.
- 11 (D) An amount equal to any bad debt reserves that are
- 12 included in federal income because of accounting method
- 13 changes required by Section 585(c)(3)(A) or Section 593 of
- 14 the Internal Revenue Code.
- 15 (E) The amount necessary to make the adjusted gross income
- 16 of any taxpayer that owns property for which bonus
- 17 depreciation was allowed in the current taxable year or in an
- 18 earlier taxable year equal to the amount of adjusted gross
- 19 income that would have been computed had an election not
- 20 been made under Section 168(k) of the Internal Revenue Code
- 21 to apply bonus depreciation.
- 22 (F) The amount necessary to make the adjusted gross income
- 23 of any taxpayer that placed Section 179 property (as defined
- 24 in Section 179 of the Internal Revenue Code) in service in the
- 25 current taxable year or in an earlier taxable year equal to the
- 26 amount of adjusted gross income that would have been
- 27 computed had an election for federal income tax purposes not
- 28 been made for the year in which the property was placed in
- 29 service to take deductions under Section 179 of the Internal
- 30 Revenue Code in a total amount exceeding twenty-five
- 31 thousand dollars (\$25,000).
- 32 (G) Income that is:
- 33 (i) exempt from taxation under IC 6-3-2-21.7; and
- 34 (ii) included in the taxpayer's taxable income under the
- 35 Internal Revenue Code.
- 36 **(H) This clause does not apply to payments made for**
- 37 **services provided to a business that was enrolled and**
- 38 **participated in the E-verify program (as defined in**
- 39 **IC 22-5-1.7-3) during the time the taxpayer conducted**
- 40 **business in Indiana in the taxable year. For a taxable year**
- 41 **beginning after June 30, 2011, add the amount of any trade**
- 42 **or business deduction allowed under the Internal Revenue**

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1 **Code for wages, reimbursements, or other payments made**
 2 **for services provided in Indiana by an individual for**
 3 **services as an employee, if the individual was, during the**
 4 **period of service, prohibited from being hired as an**
 5 **employee under 8 U.S.C. 1324a.**

6 (b) In the case of a credit union, "adjusted gross income" for a
 7 taxable year means the total transfers to undivided earnings minus
 8 dividends for that taxable year after statutory reserves are set aside
 9 under IC 28-7-1-24.

10 (c) In the case of an investment company, "adjusted gross income"
 11 means the company's federal taxable income multiplied by the quotient
 12 of:

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

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

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

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

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

28 (A) a so-called bond;

29 (B) a share;

30 (C) a coupon;

31 (D) a certificate of membership;

32 (E) an agreement;

33 (F) a pretended agreement; or

34 (G) other evidences of obligation;

35 entitling the holder to anything of value at some future date, if the
 36 gross payments received by the company during the taxable year
 37 on outstanding investment contracts, plus interest and dividends
 38 earned on those contracts (by prorating the interest and dividends
 39 earned on investment contracts by the same proportion that
 40 certificate reserves (as defined by the Investment Company Act
 41 of 1940) is to the company's total assets) is at least fifty percent
 42 (50%) of the company's gross payments upon investment

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1 contracts plus gross income from all other sources except
 2 dividends from subsidiaries for the taxable year. The term
 3 "investment contract" means an instrument listed in clauses (A)
 4 through (G).

5 SECTION 9. IC 11-10-1-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A committed
 7 criminal offender shall, within a reasonable time, be evaluated
 8 regarding:

9 (1) ~~his the offender's~~ medical, psychological, educational,
 10 vocational, economic and social condition, and history;

11 (2) the circumstances surrounding ~~his the offender's~~ present
 12 commitment;

13 (3) ~~his the offender's~~ history of criminality; ~~and~~

14 **(4) the citizenship or immigration status of the offender by**
 15 **making a reasonable effort to verify the offender's citizenship**
 16 **or immigration status with the United States Department of**
 17 **Homeland Security under 8 U.S.C. 1373(c); and**

18 ~~(4)~~ **(5)** any additional relevant matters.

19 (b) In making the evaluation prescribed in subsection (a), the
 20 department may utilize any presentence report, any presentence
 21 memorandum filed by the offender, any reports of any presentence
 22 physical or mental examination, the record of the sentencing hearing,
 23 or other information forwarded by the sentencing court or other agency,
 24 if that information meets the department's minimum standards for
 25 criminal offender evaluation.

26 (c) If an offender has undergone, within two (2) years before the
 27 date of ~~his the offender's~~ commitment, a previous departmental
 28 evaluation under this section, the department may rely on the previous
 29 evaluation and the information used at that time. However, this
 30 subsection does not deprive an offender of the right to a medical and
 31 dental examination under IC 11-10-3.

32 **(d) If the department is unable to verify the citizenship or**
 33 **immigration status of a committed criminal offender, the**
 34 **department shall notify the United States Department of Homeland**
 35 **Security that the citizenship or immigration status of the offender**
 36 **could not be verified. The department shall provide the United**
 37 **States Department of Homeland Security with any information**
 38 **regarding the committed criminal offender that:**

39 **(1) is requested by the United States Department of Homeland**
 40 **Security; and**

41 **(2) is in the department's possession or the department is able**
 42 **to obtain.**

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1 SECTION 10. IC 12-7-2-9, AS AMENDED BY P.L.93-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 9. "Agency" means the following:

4 (1) For purposes of IC 12-10-12, the meaning set forth in
5 IC 12-10-12-1.

6 (2) For purposes of IC 12-12.7-2, the meaning set forth in
7 IC 12-12.7-2-1.

8 **(3) For purposes of IC 12-32-1, the meaning set forth in**
9 **IC 12-32-1-1.**

10 SECTION 11. IC 12-7-2-85.1 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2011]: **Sec. 85.1. "Federal public benefit", for**
13 **purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.**

14 SECTION 12. IC 12-7-2-142 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 142. "Political
16 subdivision", for purposes of the following statutes, has the meaning
17 set forth in IC 36-1-2-13:

18 (1) IC 12-8.

19 (2) IC 12-13-4.

20 **(3) IC 12-32-1.**

21 SECTION 13. IC 12-7-2-185.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2011]: **Sec. 185.5. "State or local public**
24 **benefit", for purposes of IC 12-32-1, has the meaning set forth in**
25 **IC 12-32-1-3.**

26 SECTION 14. IC 12-32 IS ADDED TO THE INDIANA CODE AS
27 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
28 2011]:

29 **ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS**

30 **Chapter 1. Restrictions on Public Benefits to Illegal Aliens**

31 **Sec. 1. As used in this chapter, "agency" means any state**
32 **administration, agency, authority, board, bureau, commission,**
33 **committee, council, department, division, institution, office, service,**
34 **or other similar body of state government.**

35 **Sec. 2. As used in this chapter, "federal public benefit" has the**
36 **meaning set forth in 8 U.S.C. 1611.**

37 **Sec. 3. (a) As used in this chapter, "state or local public benefit"**
38 **has the meaning set forth in 8 U.S.C. 1621.**

39 **(b) The term includes:**

40 **(1) a postsecondary award, including a scholarship, a grant,**
41 **or financial aid; and**

42 **(2) the resident tuition rate (as determined by the state**

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1 financial institution).

2 **Sec. 4.** This chapter shall be enforced without regard to race,
3 religion, gender, ethnicity, or national origin.

4 **Sec. 5. (a)** Notwithstanding any other provision of law and
5 except as otherwise provided under federal law, an agency or a
6 political subdivision shall verify, in the manner required under
7 section 6 of this chapter, the eligibility of any individual who:

- 8 (1) is at least eighteen (18) years of age; and
9 (2) applies for state or local public benefits or federal public
10 benefits that are provided by the agency or the political
11 subdivision.

12 **(b)** Notwithstanding any other provision of law and except as
13 otherwise provided under federal law, a person that provides
14 benefits that are funded, in whole or part, by federal, state, or local
15 money shall verify, in the manner required under section 6 of this
16 chapter, the eligibility of any individual who:

- 17 (1) is at least eighteen (18) years of age; and
18 (2) applies for or requests benefits from the person that
19 provides the benefits.

20 **Sec. 6.** An agency, a political subdivision, or a person required
21 to verify the eligibility of an individual under section 5 of this
22 chapter shall:

- 23 (1) require the individual to execute a verification stating
24 under penalty of perjury that the individual is a:
25 (A) United States citizen; or
26 (B) qualified alien (as defined under 8 U.S.C. 1641); and
27 (2) maintain a verification executed in accordance with
28 subdivision (1) for at least five (5) years.

29 **Sec. 7.** A person who knowingly or intentionally makes a false,
30 fictitious, or fraudulent statement or representation in a
31 verification required by this chapter commits a Class D felony.

32 **Sec. 8.** An agency or a person may adopt a variation of the
33 requirements set forth in this chapter to provide for an
34 adjudication in the case of unique individual circumstances under
35 which the procedures set forth in this chapter would impose
36 unusual hardship on a legal resident of Indiana.

37 **Sec. 9.** The department of local government finance:

- 38 (1) shall adopt rules under IC 4-22-2, applicable to all political
39 subdivisions, to carry out this chapter; and
40 (2) may adopt a variation of the requirements set forth in this
41 chapter, applicable to all political subdivisions, to provide for
42 an adjudication in the case of unique individual circumstances

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1 under which the procedures set forth in this chapter would
2 impose an unusual hardship on a legal resident of Indiana.

3 **Sec. 10. An agency may adopt rules under IC 4-22-2 to carry out**
4 **this chapter.**

5 SECTION 15. IC 15-11-2-8 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2011]: **Sec. 8. (a) The department shall include on the**
8 **department's Internet web site the following:**

9 (1) **A list of agricultural jobs in which there is a critical need**
10 **for agricultural workers, as determined by the department.**

11 (2) **The wage rate for each agricultural job listed in**
12 **accordance with subdivision (1).**

13 **(b) The department shall:**

14 (1) **accept information on agricultural jobs; and**

15 (2) **determine whether there is a critical need for agricultural**
16 **workers for the agricultural jobs.**

17 **(c) The department shall provide a list of agricultural jobs in**
18 **which there is a critical need for agricultural workers and the wage**
19 **rate for each of the agricultural jobs to the department of**
20 **workforce development.**

21 SECTION 16. IC 22-4-14-9 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 9. (a) As used in this**
23 **section, "SAVE program" refers to the Systematic Alien**
24 **Verification for Entitlements program operated by the United**
25 **States Department of Homeland Security or a successor program**
26 **designated by the United States Department of Homeland Security.**

27 **(b) For weeks of unemployment occurring subsequent to December**
28 **31, 1977, benefits may not be paid on the basis of services performed**
29 **by an alien unless the alien is an individual who has been lawfully**
30 **admitted for permanent residence at the time the services are**
31 **performed, is lawfully present for purposes of performing the services,**
32 **or otherwise is permanently residing in the United States under color**
33 **of law at the time the services are performed (including an alien who**
34 **is lawfully present in the United States as a result of the application of**
35 **the provisions of Section 207, Section 208, or Section 212(d)(5) of the**
36 **Immigration and Nationality Act (8 U.S.C. 1157 through 1158).**

37 (1) **Any data or information required of individuals applying for**
38 **benefits to determine whether benefits are not payable to them**
39 **because of their alien status shall be uniformly required from all**
40 **applicants for benefits.**

41 (2) **In the case of an individual whose application for benefits**
42 **would otherwise be approved, no determination that benefits to**

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1 the individual are not payable because of ~~his~~ **the individual's**
 2 alien status may be made except upon a preponderance of the
 3 evidence.
 4 (3) Any modifications to the provisions of Section 3304(a)(14) of
 5 the Federal Unemployment Tax Act, as provided by P.L.94-566,
 6 which specify other conditions or other effective date than stated
 7 in this section for the denial of benefits based on services
 8 performed by aliens and which are required to be implemented
 9 under state law as a condition for full tax credit against the tax
 10 imposed by the Federal Unemployment Tax Act, shall be
 11 considered applicable under this section.

12 **(c) If an individual who applies for benefits is not a citizen or**
 13 **national of the United States, the department shall verify the status**
 14 **of the individual as a qualified alien (as defined in 8 U.S.C. 1641)**
 15 **through the SAVE program to determine the individual's eligibility**
 16 **for benefits. The department shall implement this subsection in**
 17 **accordance with federal law.**

18 SECTION 17. IC 22-4-39.5 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2011]:

21 **Chapter 39.5. Reimbursements by Employers of Unauthorized**
 22 **Aliens**

23 **Sec. 1. As used in this chapter, "E-Verify program" means the**
 24 **electronic verification of work authorization program of the Illegal**
 25 **Immigration Reform and Immigration Responsibility Act of 1996**
 26 **(P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated**
 27 **by the United States Department of Homeland Security or a**
 28 **successor work authorization program designated by the United**
 29 **States Department of Homeland Security or other federal agency**
 30 **authorized to verify the work authorization status of newly hired**
 31 **employees under the Immigration Reform and Control Act of 1986**
 32 **(P.L. 99-603).**

33 **Sec. 2. As used in this chapter, "knowingly" means knowledge**
 34 **that may fairly be inferred through notice of certain facts and**
 35 **circumstances that would lead a person, through the exercise of**
 36 **reasonable care, to know that an employee is unlawfully present in**
 37 **the United States.**

38 **Sec. 3. As used in this chapter, "unauthorized alien" has the**
 39 **meaning set forth in 8 U.S.C. 1324a(h)(3).**

40 **Sec. 4. (a) The department may file a civil action to obtain**
 41 **reimbursement of amounts paid by the department as**
 42 **unemployment insurance benefits from an employer that has**

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knowingly employed an unauthorized alien.

(b) The action must be filed in the county in which the employer employed the unauthorized alien.

(c) In determining whether an individual is an unauthorized alien for purposes of this chapter, a court may consider only the federal government's verification or status information under 8 U.S.C. 1373(c).

(d) After holding a hearing and making a finding that the employer knowingly employed an unauthorized alien, the court shall award the following to the department:

- (1) The reimbursement of unemployment insurance benefits paid by the department computed using the salary of the position held by the unauthorized alien during the period the unauthorized alien was employed by the employer.
- (2) Reasonable costs and attorney's fees.

(e) The department shall deposit the reimbursement awarded under subsection (d)(1) in the unemployment insurance benefit fund established by IC 22-4-26-1.

Sec. 5. (a) The department may not file an action under section 4 of this chapter against an employer that has knowingly employed an unauthorized alien if the alien was employed by the employer before July 1, 2011.

(b) The department may not file an action under section 4 of this chapter against an employer who used the E-Verify program to verify the employment eligibility of an individual who is determined to be an unauthorized alien.

Sec. 6. The department has the power to:

- (1) administer oaths and affirmations;
- (2) take depositions;
- (3) issue and serve subpoenas that compel:
 - (A) the attendance of witnesses; and
 - (B) the production of books, papers, correspondence, memoranda, and other records;

as necessary for the department to administer this chapter.

SECTION 18. 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 include on the department's Internet web site the following:

- (1) A list of agricultural jobs in which there is a critical need for agricultural workers, as determined by the department of agriculture under IC 15-11-2-8.
- (2) The wage rate for each agricultural job listed in

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accordance with subdivision (1).
SECTION 19. IC 22-5-1.7 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2011]:

**Chapter 1.7. Public Contract for Services; Business Entities;
Unauthorized Aliens**

Sec. 1. (a) As used in this chapter, "business entity" means a person or group of persons that perform or engage in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood.

(b) The term includes self-employed individuals, partnerships, corporations, contractors, and subcontractors.

(c) The term does not include a self-employed person that does not employ any employees.

Sec. 2. As used in this chapter, "contractor" means a person that has or is attempting to enter into a public contract for services with a state agency or political subdivision.

Sec. 3. As used in this chapter, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

Sec. 4. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 5. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 6. As used in this chapter, "public contract for services" means any type of agreement between a state agency or a political subdivision and a contractor for the procurement of services.

Sec. 7. As used in this chapter, "state agency" has the meaning set forth in IC 4-6-3-1.

Sec. 8. As used in this chapter, "subcontractor" means a person that:

- (1) is a party to a contract with a contractor; and**
- (2) provides services for work the contractor is performing under a public contract for services.**

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1 **Sec. 9.** As used in this chapter, "unauthorized alien" has the
2 meaning set forth in 8 U.S.C. 1324a(h)(3).

3 **Sec. 10. (a)** Except as provided in subsection (b), a state agency
4 or political subdivision shall use the E-Verify program to verify the
5 work eligibility status of all employees of the state agency or
6 political subdivision hired after June 30, 2011.

7 **(b)** A state agency or political subdivision is not required to use
8 the E-Verify program as required under subsection (a) if the
9 E-Verify program no longer exists.

10 **Sec. 11. (a)** A state agency or political subdivision may not enter
11 into or renew a public contract for services with a contractor
12 unless:

13 **(1)** the public contract contains:
14 **(A)** a provision requiring the contractor to enroll in and
15 verify the work eligibility status of all newly hired
16 employees of the contractor through the E-Verify
17 program; and

18 **(B)** a provision that provides that a contractor is not
19 required to verify the work eligibility status of all newly
20 hired employees of the contractor through the E-Verify
21 program if the E-Verify program no longer exists; and

22 **(2)** the contractor signs an affidavit affirming that the
23 contractor does not knowingly employ an unauthorized alien.

24 **(b)** A state agency or political subdivision may not award a
25 grant of more than one thousand dollars (\$1,000) to a business
26 entity unless the business entity:

27 **(1)** signs a sworn affidavit that affirms that the business entity
28 has enrolled and is participating in the E-Verify program;

29 **(2)** provides documentation to the state agency or political
30 subdivision that the business entity has enrolled and is
31 participating in the E-Verify program; and

32 **(3)** signs an affidavit affirming that the business entity does
33 not knowingly employ an unauthorized alien.

34 **Sec. 12. (a)** A contractor or a subcontractor may not:

35 **(1)** knowingly employ or contract with an unauthorized alien;
36 or

37 **(2)** retain an employee or contract with a person that the
38 contractor or subcontractor subsequently learns is an
39 unauthorized alien.

40 **(b)** If a contractor violates this section, the state agency or
41 political subdivision shall require the contractor to remedy the
42 violation not later than thirty (30) days after the date the state

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1 agency or political subdivision notifies the contractor of the
2 violation.

3 (c) There is a rebuttable presumption that a contractor did not
4 knowingly employ an unauthorized alien if the contractor verified
5 the work eligibility status of the employee through the E-Verify
6 program.

7 Sec. 13. (a) Except as provided in subsection (b), if the
8 contractor fails to remedy the violation within the thirty (30) day
9 period provided under section 12(b) of this chapter, the state
10 agency or political subdivision shall terminate the public contract
11 for services with the contractor for breach of the public contract
12 for services.

13 (b) If a contractor employs or contracts with an unauthorized
14 alien but the state agency or political subdivision (whichever the
15 contractor has a public contract for services with) determines that
16 terminating the public contract for services under subsection (a)
17 would be detrimental to the public interest or public property, the
18 state agency or political subdivision may allow the public contract
19 for services to remain in effect until the state agency or political
20 subdivision procures a new contractor.

21 (c) If a state agency or political subdivision terminates a public
22 contract for services under subsection (a), the contractor is liable
23 to the state agency or political subdivision for actual damages.

24 Sec. 14. A contractor may file an action with a circuit or
25 superior court having jurisdiction in the county to challenge:

- 26 (1) a notice of a violation to the contractor under section 12(b)
27 of this chapter not later than twenty (20) days after the
28 contractor receives the notice; or
- 29 (2) a termination of a public contract for services under
30 section 13(a) of this chapter not later than twenty (20) days
31 after the state agency or political subdivision terminates the
32 public contract for services with the contractor.

33 Sec. 15. If a contractor uses a subcontractor to provide services
34 for work the contractor is performing under a public contract for
35 services, the subcontractor shall certify to the contractor in a
36 manner consistent with federal law that the subcontractor, at the
37 time of certification:

- 38 (1) does not employ or contract with an unauthorized alien;
39 and
- 40 (2) has enrolled and is participating in the E-Verify program.

41 Sec. 16. A contractor shall maintain on file a certification of a
42 subcontractor under section 15 of this chapter throughout the

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duration of the term of a contract with the subcontractor.

Sec. 17. (a) If a contractor determines that a subcontractor is in violation of this chapter, the contractor may terminate a contract with the subcontractor for the violation.

(b) A contract terminated under subsection (a) for a violation of this chapter by a subcontractor may not be considered a breach of contract by the contractor or the subcontractor.

(c) A subcontractor may file an action with a circuit or superior court having jurisdiction in the county to challenge a termination of a contract under subsection (a) not later than twenty (20) days after the contractor terminates the contract with the subcontractor.

SECTION 20. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 6. Completion of Federal Attestation

Sec. 1. As used in this chapter, "commence day labor employment" means the physical act of beginning any employment in which no employment agreement has been executed specifying that the term of the employment is to be more than three (3) working days.

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

Sec. 3. An individual who is at least eighteen (18) years of age may not commence day labor employment in Indiana unless the individual has completed the individual attestation of employment authorization required under 8 U.S.C. 1324a(b)(2).

Sec. 4. If a law enforcement officer or any other entity authorized to enforce the employment laws of Indiana has probable cause to believe that an individual has violated this chapter, the law enforcement officer or entity shall submit a complaint in the form prescribed under 8 CFR 274a.9, as amended, to the United States Immigration and Customs Enforcement office that has jurisdiction over the residence of the individual who is allegedly in violation of this chapter.

SECTION 21. IC 34-28-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 8. Offenses Related to Consular Identification

Sec. 1. As used in this chapter, "consular identification" means an identification, other than a passport, issued by the government of a foreign state for the purpose of providing consular services in

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the United States to a national of the foreign state.

Sec. 2. (a) This section does not apply to a law enforcement officer who is presented with a consular identification during the investigation of a crime.

(b) Except as otherwise provided under federal law or to document the foreign nationality of a cardholder, a person who knowingly or intentionally offers in writing, accepts, or records a consular identification for any public purpose commits a Class C infraction. However, the person commits:

- (1) a Class B infraction for a second offense; and**
- (2) a Class A infraction for a third or subsequent offense.**

SECTION 22. IC 34-30-2-146.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 146.6. IC 35-33-8-4.5(b) (Concerning a defendant's failure to appear).**

SECTION 23. IC 35-33-1-1, AS AMENDED BY P.L.50-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

- (1) a warrant commanding that the person be arrested;
- (2) probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony;
- (3) probable cause to believe the person has violated the provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
- (4) probable cause to believe the person is committing or attempting to commit a misdemeanor in the officer's presence;
- (5) probable cause to believe the person has committed a:
 - (A) battery resulting in bodily injury under IC 35-42-2-1; or
 - (B) domestic battery under IC 35-42-2-1.3.

The officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;

- (6) probable cause to believe that the person violated IC 35-46-1-15.1 (invasion of privacy);
- (7) probable cause to believe that the person violated IC 35-47-2-1 (carrying a handgun without a license) or IC 35-47-2-22 (counterfeit handgun license);
- (8) probable cause to believe that the person is violating or has violated an order issued under IC 35-50-7;
- (9) probable cause to believe that the person is violating or has

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1 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
 2 device); or
 3 (10) probable cause to believe that the person is:
 4 (A) violating or has violated IC 35-45-2-5 (interference with
 5 the reporting of a crime); and
 6 (B) interfering with or preventing the reporting of a crime
 7 involving domestic or family violence (as defined in
 8 IC 34-6-2-34.5);
 9 **(11) a removal order issued for the person by an immigration**
 10 **court;**
 11 **(12) a detainer or notice of action for the person issued by the**
 12 **United States Department of Homeland Security; or**
 13 **(13) probable cause to believe that the person has been**
 14 **indicted for or convicted of one (1) or more aggravated**
 15 **felonies (as defined in 8 U.S.C. 1101(a)(43)).**
 16 (b) A person who:
 17 (1) is employed full time as a federal enforcement officer;
 18 (2) is empowered to effect an arrest with or without warrant for a
 19 violation of the United States Code; and
 20 (3) is authorized to carry firearms in the performance of the
 21 person's duties;
 22 may act as an officer for the arrest of offenders against the laws of this
 23 state where the person reasonably believes that a felony has been or is
 24 about to be committed or attempted in the person's presence.
 25 SECTION 24. IC 35-33-8-4 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The court shall
 27 order the amount in which a person charged by an indictment or
 28 information is to be held to bail, and the clerk shall enter the order on
 29 the order book and indorse the amount on each warrant when issued.
 30 If no order fixing the amount of bail has been made, the sheriff shall
 31 present the warrant to the judge of an appropriate court of criminal
 32 jurisdiction, and the judge shall indorse on the warrant the amount of
 33 bail.
 34 (b) Bail may not be set higher than that amount reasonably required
 35 to assure the defendant's appearance in court or to assure the physical
 36 safety of another person or the community if the court finds by clear
 37 and convincing evidence that the defendant poses a risk to the physical
 38 safety of another person or the community. In setting and accepting an
 39 amount of bail, the judicial officer shall take into account all facts
 40 relevant to the risk of nonappearance, including:
 41 (1) the length and character of the defendant's residence in the
 42 community;

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- 1 (2) the defendant's employment status and history and his ability
- 2 to give bail;
- 3 (3) the defendant's family ties and relationships;
- 4 (4) the defendant's character, reputation, habits, and mental
- 5 condition;
- 6 (5) the defendant's criminal or juvenile record, insofar as it
- 7 demonstrates instability and a disdain for the court's authority to
- 8 bring him to trial;
- 9 (6) the defendant's previous record in not responding to court
- 10 appearances when required or with respect to flight to avoid
- 11 criminal prosecution;
- 12 (7) the nature and gravity of the offense and the potential penalty
- 13 faced, insofar as these factors are relevant to the risk of
- 14 nonappearance;
- 15 (8) the source of funds or property to be used to post bail or to pay
- 16 a premium, insofar as it affects the risk of nonappearance; and
- 17 **(9) that the defendant is a foreign national who is unlawfully**
- 18 **present in the United States under federal immigration law;**
- 19 **and**
- 20 ~~(9)~~ **(10)** any other factors, including any evidence of instability
- 21 and a disdain for authority, which might indicate that the
- 22 defendant might not recognize and adhere to the authority of the
- 23 court to bring him to trial.

24 SECTION 25. IC 35-33-8-4.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2011]: **Sec. 4.5. (a) If bail is set for a**
 27 **defendant who is a foreign national who is unlawfully present in**
 28 **the United States under federal immigration law, the defendant**
 29 **may be released from custody only by posting a:**

- 30 (1) cash bond in an amount equal to the bail;
- 31 (2) real estate bond in which the net equity in the real estate
- 32 is at least two (2) times the amount of the bail; or
- 33 (3) surety bond in the full amount of the bail that is written by
- 34 a licensed and appointed agent of an insurer (as defined in
- 35 IC 27-10-1-7).

36 **(b) If the defendant for whom bail has been posted under this**
 37 **section does not appear before the court as ordered because the**
 38 **defendant has been:**

- 39 (1) taken into custody or deported by a federal agency; or
- 40 (2) arrested and incarcerated for another offense;

41 **the bond posted under this section may not be declared forfeited by**
 42 **the court and the insurer (as defined in IC 27-10-1-7) that issued**

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1 the bond is released from any liability regarding the defendant's
2 failure to appear.

3 SECTION 26. IC 35-44-2-6 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2011]: Sec. 6. (a) A person who:

- 6 (1) with intent to mislead public servants;
 - 7 (2) in a five (5) year period; and
 - 8 (3) in one (1) or more official proceedings or investigations;
- 9 has knowingly made at least two (2) material statements
10 concerning the person's identity that are inconsistent to the degree
11 that one (1) of them is necessarily false, commits false identity
12 statement, a Class A misdemeanor.

13 (b) It is a defense to a prosecution under this section that the
14 material statements that are the basis of a prosecution under
15 subsection (a) concerning the person's identity are accurate or
16 were accurate in the past.

- 17 (c) In a prosecution under subsection (a):
- 18 (1) the indictment or information need not specify which
- 19 statement is actually false; and
- 20 (2) the falsity of a statement may be established sufficient for
- 21 conviction by proof that the defendant made irreconcilably
- 22 contradictory statements concerning the person's identity.

23 SECTION 27. IC 35-44-5 IS ADDED TO THE INDIANA CODE
24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2011]:

26 **Chapter 5. Offenses Relating to Illegal Aliens**

27 **Sec. 1. This chapter does not apply to the following:**

- 28 (1) A church or religious organization conducting activity that
- 29 is protected by the First Amendment to the United States
- 30 Constitution.
- 31 (2) The provision of assistance for health care items and
- 32 services that are necessary for the treatment of an emergency
- 33 medical condition of an individual.
- 34 (3) A health care provider (as defined in IC 16-18-2-163(a))
- 35 that is providing health care services.
- 36 (4) An attorney or other person that is providing legal
- 37 services.
- 38 (5) A person who:
- 39 (A) is a spouse of an alien or who stands in relation of
- 40 parent or child to an alien; and
- 41 (B) would otherwise commit an offense under this chapter
- 42 with respect to the alien.

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1 **(6) A provider that:**
2 **(A) receives federal or state funding to provide services to**
3 **victims of domestic violence, sexual assault, human**
4 **trafficking, or stalking; and**
5 **(B) is providing the services described in clause (A).**
6 **(7) An employee of Indiana or a political subdivision (as**
7 **defined in IC 36-1-2-13) if the employee is acting in the**
8 **employee's official capacity.**
9 **Sec. 2. As used in this chapter, "alien" has the meaning set forth**
10 **in 8 U.S.C. 1101(a).**
11 **Sec. 3. (a) A person who knowingly or intentionally:**
12 **(1) transports; or**
13 **(2) moves;**
14 **an alien, for the purpose of commercial advantage or private**
15 **financial gain, knowing or in reckless disregard of the fact that the**
16 **alien has come to, entered, or remained in the United States in**
17 **violation of the law commits transporting an illegal alien, a Class**
18 **A misdemeanor.**
19 **(b) If a violation under this section involves more than nine (9)**
20 **aliens, the violation is a Class D felony.**
21 **Sec. 4. (a) This section does not apply to a landlord that rents**
22 **real property to a person if the person began renting the property**
23 **before July 1, 2011.**
24 **(b) A person who knowingly or intentionally:**
25 **(1) conceals;**
26 **(2) harbors; or**
27 **(3) shields from detection;**
28 **an alien in any place, including a building or means of**
29 **transportation, for the purpose of commercial advantage or**
30 **private financial gain, knowing or in reckless disregard of the fact**
31 **that the alien has come to, entered, or remained in the United**
32 **States in violation of law, commits harboring an illegal alien, a**
33 **Class A misdemeanor.**
34 **(c) If a violation under this section involves more than nine (9)**
35 **aliens, the violation is a Class D felony.**
36 **Sec. 5. It is a defense to a prosecution under section 4 of this**
37 **chapter that a landlord, before renting real property to a person,**
38 **was provided with and retained a copy of one (1) or more of the**
39 **following from the person:**
40 **(1) A valid state issued driver's license.**
41 **(2) A valid identification card issued under IC 9-24-16-1 or a**
42 **similar card issued under the laws of another state or federal**

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1 **government.**
2 **(3) Documentary evidence provided to the bureau of motor**
3 **vehicles to comply with IC 9-24-9-2.5 or IC 9-24-16-3.5.**
4 **(4) A United States birth certificate.**
5 **(5) A valid United States military identification card.**
6 **(6) Any valid document recognized by the federal government**
7 **as evidence of alien registration under 8 U.S.C. 1301 et seq.**
8 **that bears the person's photograph.**
9 **A document is considered valid for purposes of this section if the**
10 **document is unexpired and reasonably appears on its face to be**
11 **genuine.**
12 **Sec. 6. A person who transports, moves, or cares for a child (as**
13 **defined in IC 35-47-10-3) who is an alien does not violate this**
14 **chapter as a result of transporting, moving, or caring for the child.**
15 **Sec. 7. A determination by the United States Department of**
16 **Homeland Security that an alien has come to, entered, or remained**
17 **in the United States in violation of law is evidence that the alien is**
18 **in the United States in violation of law.**
19 **Sec. 8. A law enforcement officer shall impound a motor vehicle,**
20 **other than a motor vehicle used in public transportation and**
21 **owned or operated by the state or a political subdivision, that is**
22 **used to commit a violation of section 3 or 4 of this chapter.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 590, 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 9, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 8. IC 6-3-1-3.5, AS AMENDED BY P.L.182-2009(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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
 - (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

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

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

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's

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adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

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

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

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

(A) for a taxable year:

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

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

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

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

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

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

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

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dollars (\$25,000).

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

(23) 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) 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) 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) 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) 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) 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 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(29) 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

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year that it was placed in service.

(30) 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) 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) 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) 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) 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.

(35) This subdivision does not apply to payments made for services provided to a business that was enrolled and

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participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(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 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

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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 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

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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) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted

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business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(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

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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 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.

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(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.);

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) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) 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

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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 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

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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) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(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

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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 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

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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.

(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.);

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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) This subdivision does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

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

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

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

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

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

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

SECTION 9. IC 6-3.1-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) As used in this chapter, "incremental income tax withholdings" means the total amount withheld under IC 6-3-4-8 by the taxpayer during the taxable year from

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the compensation of new employees.

(b) The term does not include, for withholding periods beginning after June 30, 2011, any amount withheld from an individual for services provided in Indiana as an employee, if the:

- (1) individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a; and**
- (2) taxpayer was not enrolled and participating in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year.**

SECTION 10. IC 6-3.1-13-18, AS AMENDED BY P.L.137-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess may, at the discretion of the corporation, be refunded to the taxpayer.

(b) For state fiscal year 2006 and each state fiscal year thereafter, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed ten million dollars (\$10,000,000) per year.

(c) This subsection does not apply to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. A credit under this chapter may not be computed on any amount withheld from an individual or paid to an individual for services provided in Indiana as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

SECTION 11. IC 6-5.5-1-2, AS AMENDED BY P.L.182-2009(ss), SECTION 233, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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:

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(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 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).

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(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 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

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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 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

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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.

(H) This clause does not apply to payments made for services provided to a business that was enrolled and participated in the E-verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. For a taxable year beginning after June 30, 2011, add the amount of any trade or business deduction allowed under the Internal Revenue Code for wages, reimbursements, or other payments made for services provided in Indiana by an individual for services as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings 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 multiplied by the quotient of:

- (1) the aggregate of the gross payments collected by the company

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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 (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)."

Page 11, between lines 34 and 35, begin a new paragraph and insert: "SECTION 15. IC 12-7-2-9, AS AMENDED BY P.L.93-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. "Agency" means the following:

- (1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.
- (2) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-1.
- (3) For purposes of IC 12-32-1, the meaning set forth in**

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IC 12-32-1-1.

SECTION 16. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2011]: **Sec. 85.1. "Federal public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.**

SECTION 17. IC 12-7-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:

- (1) IC 12-8.
- (2) IC 12-13-4.
- (3) IC 12-32-1.**

SECTION 18. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2011]: **Sec. 185.5. "State or local public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-3.**

SECTION 19. IC 12-32 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2011]:

ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

Sec. 2. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

Sec. 3. (a) As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

(b) The term includes:

- (1) a postsecondary award, including a scholarship, a grant, or financial aid; and**
- (2) the resident tuition rate (as determined by the state financial institution).**

Sec. 4. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Sec. 5. (a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:

- (1) is at least eighteen (18) years of age; and**

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(2) applies for state or local public benefits or federal public benefits that are provided by the agency or the political subdivision.

(b) Notwithstanding any other provision of law and except as otherwise provided under federal law, a person that provides benefits that are funded, in whole or part, by federal, state, or local money shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:

- (1) is at least eighteen (18) years of age; and
- (2) applies for or requests benefits from the person that provides the benefits.

Sec. 6. An agency, a political subdivision, or a person required to verify the eligibility of an individual under section 5 of this chapter shall:

- (1) require the individual to execute an affidavit stating under penalty of perjury that the individual is a:
 - (A) United States citizen; or
 - (B) qualified alien (as defined under 8 U.S.C. 1641); and
- (2) maintain an affidavit executed in accordance with subdivision (1) for at least five (5) years.

Sec. 7. A person who knowingly or intentionally makes a false, fictitious, or fraudulent statement or representation in an affidavit required by this chapter commits a Class D felony.

Sec. 8. An agency or a person may adopt a variation of the requirements set forth in this chapter to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose unusual hardship on a legal resident of Indiana.

Sec. 9. The department of local government finance:

- (1) shall adopt rules under IC 4-22-2, applicable to all political subdivisions, to carry out this chapter; and
- (2) may adopt a variation of the requirements set forth in this chapter, applicable to all political subdivisions, to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose an unusual hardship on a legal resident of Indiana.

Sec. 10. If an agency, a political subdivision, or a person violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the agency, political subdivision, or person to comply with this chapter.

Sec. 11. An agency may adopt rules under IC 4-22-2 to carry out this chapter."

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Page 12, delete lines 9 through 29.

Page 13, delete lines 27 through 42, begin a new paragraph and insert:

"SECTION 22. IC 22-4-39.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 39.5. Reimbursements by Employers of Unauthorized Aliens

Sec. 1. As used in this chapter, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

Sec. 2. As used in this chapter, "knowingly" means knowledge that may fairly be inferred through notice of certain facts and circumstances that would lead a person, through the exercise of reasonable care, to know that an employee is unlawfully present in the United States.

Sec. 3. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 4. (a) The department may file a civil action to obtain reimbursement of amounts paid by the department as unemployment insurance benefits from an employer that has knowingly employed an unauthorized alien.

(b) The action must be filed in the county in which the employer employed the unauthorized alien.

(c) In determining whether an individual is an unauthorized alien for purposes of this chapter, a court may consider only the federal government's verification or status information under 8 U.S.C. 1373(c).

(d) After holding a hearing and making a finding that the employer knowingly employed an unauthorized alien, the court shall award the following to the department:

- (1) The reimbursement of unemployment insurance benefits paid by the department computed using the salary of the position held by the unauthorized alien during the period the unauthorized alien was employed by the employer.**

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(2) Reasonable costs and attorney's fees.

(e) The department shall deposit the reimbursement awarded under subsection (d)(1) in the unemployment insurance benefit fund established by IC 22-4-26-1.

Sec. 5. The department may not file an action under section 4 of this chapter against an employer who used the E-Verify program to verify the employment eligibility of an individual who is determined to be an unauthorized alien.

Sec. 6. The department has the power to:

- (1) administer oaths and affirmations;**
- (2) take depositions;**
- (3) issue and serve subpoenas that compel:**
 - (A) the attendance of witnesses; and**
 - (B) the production of books, papers, correspondence, memoranda, and other records;**

as necessary for the department to administer this chapter."

Delete pages 14 through 19.

Page 20, delete lines 1 through 41.

Page 22, delete lines 32 through 42.

Page 23, line 1, delete "13." and insert "12."

Page 23, line 16, delete "14." and insert "13."

Page 23, line 18, delete "13(b)" and insert "12(b)".

Page 23, line 33, delete "15." and insert "14."

Page 23, line 35, delete "13(b)" and insert "12(b)".

Page 23, line 39, delete "14(a)" and insert "13(a)".

Page 23, line 42, delete "16." and insert "15."

Page 24, line 8, delete "17." and insert "16."

Page 24, line 9, delete "16" and insert "15".

Page 24, line 11, delete "18." and insert "17."

Page 29, delete lines 17 through 42, begin a new paragraph and insert:

"Sec. 3. (a) A person who knowingly or intentionally:

- (1) transports; or**
- (2) moves;**

an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law commits transporting an illegal alien, a Class A misdemeanor.

(b) If a violation under this section involves more than nine (9) aliens, the violation is a Class D felony.

Sec. 4. (a) A person who knowingly or intentionally:

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(1) conceals;
 (2) harbors; or
 (3) shields from detection;
 an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law, commits harboring an illegal alien, a Class A misdemeanor."

Page 30, delete lines 1 through 4.

Page 30, line 7, delete "6." and insert "5."

Page 30, line 7, delete "5(a)(2)" and insert "4".

Page 30, line 22, delete "7." and insert "6."

Page 30, line 26, delete "8." and insert "7."

Page 30, line 29, delete "5(a)(1) or 5(a)(2)" and insert "3 or 4".

Renumber all SECTIONS consecutively.

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 590 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 590, 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 1, delete lines 1 through 15.

Page 2, delete lines 1 through 3.

Page 2, delete line 22.

Page 2, line 23, delete "(4)" and insert "(3)".

Page 2, delete lines 25 through 27.

Page 2, line 28, delete "5." and insert "4."

Page 3, line 4, delete "Except as provided under subsection (b), if" and insert "If".

Page 3, line 14, delete "shall" and insert "may".

Page 3, line 15, after "individual" insert "at the site of the stop or detention".

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Page 3, line 16, after "8 U.S.C. 1373(c)." insert "**If an individual is detained for verification purposes under this section, the duration of time that the individual is detained must be reasonable and consistent with standard law enforcement procedures. If the law enforcement officer is unable to receive verification under this section within a reasonable time, the law enforcement officer may release the individual unless the individual is being detained for another lawful purpose.**".

Page 4, delete lines 11 through 17.

Page 4, line 18, delete "8." and insert "7."

Page 4, delete lines 25 through 26.

Page 4, line 27, delete "10." and insert "8."

Page 4, line 34, delete "11." and insert "9."

Page 32, line 1, after "shall" insert ", **to the extent possible,**".

Page 32, line 8, delete "and" and insert ",".

Page 32, line 9, delete "governor,".

Page 36, delete lines 22 through 25.

Page 36, line 26, delete "11." and insert "10."

Page 42, line 40, delete "reasonable suspicion" and insert "**probable cause**".

Page 46, delete lines 10 through 29.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 590 as printed February 11, 2011.)

KENLEY, Chairperson

Committee Vote: Yeas 8, Nays 5.

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SENATE MOTION

Madam President: I move that Senate Bill 590 be amended to read as follows:

Page 9, line 15, delete "or".

Page 9, line 18, delete "activities." and insert "**activities; or**

(7) to arrange for or provide health care services or items.".

Page 41, line 6, after "thousand" insert "**dollars**".

Page 43, line 11, after "cause" insert "**to believe**".

Page 44, delete lines 9 through 12.

Page 48, between lines 5 and 6, begin a new line blocked left and insert:

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"A document is considered valid for purposes of this section if the document is unexpired and reasonably appears on its face to be genuine."

Renumber all SECTIONS consecutively.

(Reference is to SB 590 as printed February 18, 2011.)

DELPH

SENATE MOTION

Madam President: I move that Senate Bill 590 be amended to read as follows:

Page 5, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 3. IC 5-2-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 20. Prohibit Verification of Citizenship or Immigration Status

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 5-2-17-2.

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

Sec. 3. A law enforcement agency or law enforcement officer may not request verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the law enforcement agency or law enforcement officer only:

- (1) as a witness to or victim of a crime; or**
- (2) for purposes of reporting a crime."**

Renumber all SECTIONS consecutively.

(Reference is to SB 590 as printed February 18, 2011.)

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Report of the President
Pro Tempore

Madam President: I hereby report that, pursuant to Senate Rule 76, I have received permission from Senator Delph for Senator Boots to call Senate Bill 590 on third reading February 22, 2011.

LONG

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 590, 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:

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

"SECTION 1. IC 4-3-22-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 17. (a) As used in this section, "alien" has the meaning set forth in 8 U.S.C. 1101(a).**

(b) As used in this section, "illegal alien" means an alien who has come to, entered, or remained in the United States in violation of the law.

(c) As used in this section, "total costs" includes, but is not limited to, costs related to incarceration, education, health care, and public assistance.

(d) Not later than July 1, 2012, the OMB shall, using existing resources, do the following:

(1) Calculate an estimate of the total costs of illegal aliens to the state of Indiana.

(2) Make a written request to the Congress of the United States to reimburse the state of Indiana for the costs calculated under subdivision (1).

(e) This section expires July 1, 2013."

Page 2, line 14, delete "Verification of Immigration Status" and insert "**Prohibit Limiting or Restricting Enforcement of Federal Immigration Laws**".

Page 2, delete lines 17 through 20.

Page 2, line 21, delete "4." and insert "2."

Page 2, delete lines 24 through 42.

Page 3, delete lines 1 through 36.

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Page 3, line 37, delete "7." and insert "3."

Page 3, line 38, delete "section 4 of this chapter or a law enforcement" and insert "**section 2 of this chapter**,".

Page 3, delete line 39.

Page 3, line 40, delete "of this chapter,".

Page 3, line 40, delete "law enforcement agency".

Page 3, line 41, delete "or political subdivision" and insert "**governmental body**".

Page 4, delete lines 2 through 8.

Page 4, line 9, delete "9." and insert "4."

Page 4, delete lines 27 through 42.

Delete pages 5 through 8.

Page 9, delete lines 1 through 5.

Page 31, delete lines 33 through 42.

Page 32, delete lines 1 through 22.

Page 33, delete lines 19 through 42.

Page 34, delete lines 1 through 11.

Page 35, line 34, delete "an affidavit" and insert "**a verification**".

Page 35, line 38, delete "an affidavit" and insert "**a verification**".

Page 35, line 41, delete "an affidavit" and insert "**a verification**".

Page 36, line 30, delete "Indiana economic" and insert "**department of workforce development**".

Page 36, delete line 31.

Page 38, line 30, after "5." insert "**(a) The department may not file an action under section 4 of this chapter against an employer that has knowingly employed an unauthorized alien if the alien was employed by the employer before July 1, 2011.**

(b)".

Page 38, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 20. 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 include on the department's Internet web site the following:**

(1) A list of agricultural jobs in which there is a critical need for agricultural workers, as determined by the department of agriculture under IC 15-11-2-8.

(2) The wage rate for each agricultural job listed in accordance with subdivision (1)."

Page 42, line 37, after "to" insert "**Consular**".

Page 42, line 37, delete "Numbers and".

Page 42, delete line 38.

Page 43, delete lines 1 through 5.

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Page 43, line 6, delete "3." and insert "2."

Page 43, delete lines 16 through 25.

Page 43, between lines 25 and 26, begin a new paragraph and insert:
"SECTION 22. IC 34-30-2-146.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 146.6. IC 35-33-8-4.5(b) (Concerning a defendant's failure to appear).**"

Page 44, line 18, delete "or".

Page 44, line 19, delete "probable cause to believe that the person is an alien who:" and insert "**a removal order issued for the person by an immigration court;**

(12) a detainer or notice of action for the person issued by the United States Department of Homeland Security; or

(13) probable cause to believe that the person has been indicted for or convicted of one (1) or more aggravated felonies (as defined in 8 U.S.C. 1101(a)(43))."

Page 44, delete lines 20 through 27.

Page 45, between lines 35 and 36, begin a new paragraph and insert:
"SECTION 26. IC 35-33-8-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.5. (a) If bail is set for a defendant who is a foreign national who is unlawfully present in the United States under federal immigration law, the defendant may be released from custody only by posting a:**

- (1) cash bond in an amount equal to the bail;**
- (2) real estate bond in which the net equity in the real estate is at least two (2) times the amount of the bail; or**
- (3) surety bond in the full amount of the bail that is written by a licensed and appointed agent of an insurer (as defined in IC 27-10-1-7).**

(b) If the defendant for whom bail has been posted under this section does not appear before the court as ordered because the defendant has been:

- (1) taken into custody or deported by a federal agency; or**
- (2) arrested and incarcerated for another offense;**

the bond posted under this section may not be declared forfeited by the court and the insurer (as defined in IC 27-10-1-7) that issued the bond is released from any liability regarding the defendant's failure to appear.

SECTION 27. IC 35-44-2-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) A person who:**

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(1) with intent to mislead public servants;
 (2) in a five (5) year period; and
 (3) in one (1) or more official proceedings or investigations;
 has knowingly made at least two (2) material statements concerning the person's identity that are inconsistent to the degree that one (1) of them is necessarily false, commits false identity statement, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the material statements that are the basis of a prosecution under subsection (a) concerning the person's identity are accurate or were accurate in the past.

(c) In a prosecution under subsection (a):

- (1) the indictment or information need not specify which statement is actually false; and
- (2) the falsity of a statement may be established sufficient for conviction by proof that the defendant made irreconcilably contradictory statements concerning the person's identity."

Page 46, line 34, after "(a)" insert "**This section does not apply to a landlord that rents real property to a person if the person began renting the property before July 1, 2011.**

(b)".

Page 47, line 2, delete "(b)" and insert "(c)".

Page 47, between lines 21 and 22, begin a new paragraph and insert:

"Sec. 6. A person who transports, moves, or cares for a child (as defined in IC 35-47-10-3) who is an alien does not violate this chapter as a result of transporting, moving, or caring for the child."

Page 47, line 22, delete "6." and insert "7."

Page 47, line 26, delete "7." and insert "8."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 590 as reprinted February 22, 2011.)

CULVER, Chair

Committee Vote: yeas 6, nays 5.

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