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# SENATE BILL No. 403

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-33-2-17.5; IC 4-35; IC 6-8.1-1-1.

**Synopsis:** Taxation of racetrack casinos. Renames the amounts paid to support horse racing from slot machine revenues as racing support fees. Requires the department of state revenue to collect the racing support fee, the county slot machine wagering fee, and the supplemental fee. Establishes the Indiana horse racing support fund for the deposit of the racing support fee. Requires that the fees must be remitted on a daily basis. Provides that the slot machine wagering tax imposed on racetrack casinos is determined using taxable receipts that are calculated by excluding some of the racing support fees, county slot machine wagering fees, and supplemental fees remitted by the racetrack casinos. Allows all of the remitted fees to be excluded in 2013. Repeals an obsolete definition. Makes an appropriation.

**Effective:** July 1, 2011.

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January 11, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

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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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## SENATE BILL No. 403



A BILL FOR AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

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

1 SECTION 1. IC 4-35-2-10.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 10.5. "Taxable receipts" means the amount of a**  
4 **licensee's receipts from slot machine wagering that are subject to**  
5 **the slot machine wagering tax as determined under IC 4-35-8-1.**

6 SECTION 2. IC 4-35-7-12, AS AMENDED BY P.L.142-2009,  
7 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2011]: Sec. 12. ~~(a) The Indiana horse racing commission shall~~  
9 ~~enforce the requirements of this section.~~

10 ~~(b) (a) Except as provided in subsections (j) and (k), subsection (h),~~  
11 ~~a licensee shall before the fifteenth day of each month devote to the~~  
12 ~~gaming integrity fund, horse racing purses, and to horsemen's~~  
13 ~~associations an amount equal to fifteen percent (15%) of the adjusted~~  
14 ~~gross receipts of the slot machine wagering. from the previous month~~  
15 ~~at the licensee's racetrack. The Indiana horse racing commission may~~  
16 ~~not use any of this money for any administrative purpose or other~~  
17 ~~purpose of the Indiana horse racing commission, and the entire amount~~



1 of the money shall be distributed as provided in this section. A licensee  
 2 **With respect to slot machine wagering occurring after June 30,**  
 3 **2011, the amount required by this subsection must be remitted to**  
 4 **the department as a racing support fee. A licensee shall remit the**  
 5 **amount of the fee to the department before the close of the business**  
 6 **day following the day the wagers are made.**

7 **(b) The department shall pay the first two hundred fifty thousand**  
 8 **dollars (\$250,000) distributed received from each licensee under this**  
 9 **section in a state fiscal year to the Indiana horse racing commission for**  
 10 **deposit in the gaming integrity fund established by IC 4-35-8.7-3.**

11 **(c) After this money has been distributed the amounts required by**  
 12 **subsection (b) have been paid to the Indiana horse racing**  
 13 **commission, a licensee shall distribute the department shall deposit**  
 14 **the remaining money devoted to horse racing purses and to horsemen's**  
 15 **associations under this subsection as follows: racing support fees**  
 16 **remitted by the licensees into the Indiana horse racing support**  
 17 **fund established by section 12.2 of this chapter. Except as provided**  
 18 **in subsection (h), money in the fund must be used as follows:**

19 (1) Five-tenths percent (0.5%) shall be transferred to horsemen's  
 20 associations for equine promotion or welfare according to the  
 21 ratios specified in subsection ~~(e)~~: **(f)**.

22 (2) Two and five-tenths percent (2.5%) shall be transferred to  
 23 horsemen's associations for backside benevolence according to  
 24 the ratios specified in subsection ~~(e)~~: **(f)**.

25 (3) Ninety-seven percent (97%) shall be distributed to promote  
 26 horses and horse racing as provided in subsection ~~(d)~~: **(e)**.

27 ~~(d)~~ **(d)** A horsemen's association shall expend the amounts  
 28 distributed to the horsemen's association under subsection ~~(b)(1)~~ **(c)(1)**  
 29 through ~~(b)(2)~~ **(c)(2)** for a purpose promoting the equine industry or  
 30 equine welfare or for a benevolent purpose that the horsemen's  
 31 association determines is in the best interests of horse racing in Indiana  
 32 for the breed represented by the horsemen's association. Expenditures  
 33 under this subsection are subject to the regulatory requirements of  
 34 subsection ~~(f)~~: **(g)**.

35 ~~(d)~~ **(e)** The **Indiana horse racing**  
 36 **commission shall ensure that the amounts described in subsection**  
 37 **~~(b)(3)~~ (c)(3) are allocated** as follows:

38 (1) Forty-six percent (46%) for thoroughbred purposes as follows:

39 (A) Sixty percent (60%) for the following purposes:

40 (i) Ninety-seven percent (97%) for thoroughbred purses.

41 (ii) Two and four-tenths percent (2.4%) to the horsemen's  
 42 association representing thoroughbred owners and trainers.

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- 1 (iii) Six-tenths percent (0.6%) to the horsemen's association
- 2 representing thoroughbred owners and breeders.
- 3 (B) Forty percent (40%) to the breed development fund
- 4 established for thoroughbreds under IC 4-31-11-10.
- 5 (2) Forty-six percent (46%) for standardbred purposes as follows:
- 6 (A) Fifty percent (50%) for the following purposes:
- 7 (i) Ninety-six and five-tenths percent (96.5%) for
- 8 standardbred purses.
- 9 (ii) Three and five-tenths percent (3.5%) to the horsemen's
- 10 association representing standardbred owners and trainers.
- 11 (B) Fifty percent (50%) to the breed development fund
- 12 established for standardbreds under IC 4-31-11-10.
- 13 (3) Eight percent (8%) for quarter horse purposes as follows:
- 14 (A) Seventy percent (70%) for the following purposes:
- 15 (i) Ninety-five percent (95%) for quarter horse purses.
- 16 (ii) Five percent (5%) to the horsemen's association
- 17 representing quarter horse owners and trainers.
- 18 (B) Thirty percent (30%) to the breed development fund
- 19 established for quarter horses under IC 4-31-11-10.

20 Expenditures under this subsection are subject to the regulatory  
 21 requirements of subsection ~~(f)~~ (g).

22 ~~(e)~~ (f) Money distributed under subsection ~~(b)(1)~~ (c)(1) and ~~(b)(2)~~  
 23 (c)(2) shall be allocated as follows:

- 24 (1) Forty-six percent (46%) to the horsemen's association
- 25 representing thoroughbred owners and trainers.
- 26 (2) Forty-six percent (46%) to the horsemen's association
- 27 representing standardbred owners and trainers.
- 28 (3) Eight percent (8%) to the horsemen's association representing
- 29 quarter horse owners and trainers.

30 ~~(f)~~ (g) Money distributed under this section may not be expended  
 31 unless the expenditure is for a purpose authorized in this section and is  
 32 either for a purpose promoting the equine industry or equine welfare or  
 33 is for a benevolent purpose that is in the best interests of horse racing  
 34 in Indiana or the necessary expenditures for the operations of the  
 35 horsemen's association required to implement and fulfill the purposes  
 36 of this section. The Indiana horse racing commission may review any  
 37 expenditure of money distributed under this section to ensure that the  
 38 requirements of this section are satisfied. The Indiana horse racing  
 39 commission shall adopt rules concerning the review and oversight of  
 40 money distributed under this section and shall adopt rules concerning  
 41 the enforcement of this section. The following apply to a horsemen's  
 42 association receiving a distribution of money under this section:

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1 (1) The horsemen's association must annually file a report with  
 2 the Indiana horse racing commission concerning the use of the  
 3 money by the horsemen's association. The report must include  
 4 information as required by the commission.  
 5 (2) The horsemen's association must register with the Indiana  
 6 horse racing commission.  
 7 (g) The commission shall provide the Indiana horse racing  
 8 commission with the information necessary to enforce this section.  
 9 (h) The Indiana horse racing commission shall investigate any  
 10 complaint that a licensee has failed to comply with the horse racing  
 11 purse requirements set forth in this section. If, after notice and a  
 12 hearing, the Indiana horse racing commission finds that a licensee has  
 13 failed to comply with the purse requirements set forth in this section;  
 14 the Indiana horse racing commission may:  
 15 (1) issue a warning to the licensee;  
 16 (2) impose a civil penalty that may not exceed one million dollars  
 17 (\$1,000,000); or  
 18 (3) suspend a meeting permit issued under IC 4-31-5 to conduct  
 19 a pari-mutuel wagering horse racing meeting in Indiana.  
 20 (i) A civil penalty collected under this section must be deposited in  
 21 the state general fund.  
 22 (j) For a state fiscal year beginning after June 30, 2008, and ending  
 23 before July 1, 2009, the amount of money dedicated to the purposes  
 24 described in subsection (b) for a particular state fiscal year is equal to  
 25 the lesser of:  
 26 (1) fifteen percent (15%) of the licensee's adjusted gross receipts  
 27 for the state fiscal year; or  
 28 (2) eighty-five million dollars (\$85,000,000).  
 29 If fifteen percent (15%) of a licensee's adjusted gross receipts for the  
 30 state fiscal year exceeds the amount specified in subdivision (2), the  
 31 licensee shall transfer the amount of the excess to the commission for  
 32 deposit in the state general fund. The licensee shall adjust the transfers  
 33 required under this section in the final month of the state fiscal year to  
 34 comply with the requirements of this subsection.  
 35 (k) (h) For a state fiscal year beginning after June 30, 2009, 2011,  
 36 the amount of money dedicated to the purposes described in subsection  
 37 (b) (a) for a particular state fiscal year is equal to the lesser of:  
 38 (1) fifteen percent (15%) of the licensee's adjusted gross receipts  
 39 for the state fiscal year; or  
 40 (2) the amount dedicated to the purposes described in subsection  
 41 (b) (a) in the previous state fiscal year increased by a percentage  
 42 that does not exceed the percent of increase in the United States

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1 Department of Labor Consumer Price Index during the **state**  
 2 **fiscal** year preceding the **state fiscal** year in which an increase is  
 3 established.

4 If fifteen percent (15%) of a licensee's adjusted gross receipts for the  
 5 state fiscal year exceeds the amount specified in subdivision (2), the  
 6 ~~licensee~~ **Indiana horse racing commission** shall transfer the amount  
 7 of the excess to the ~~commission~~ **department** for deposit in the state  
 8 general fund. The ~~licensee~~ **Indiana horse racing commission** shall  
 9 adjust the ~~transfers required under this section~~ **amounts distributed**  
 10 **from the Indiana horse racing support fund** in the final month of the  
 11 state fiscal year to comply with the requirements of this subsection.  
 12 **The budget agency shall assist the Indiana horse racing**  
 13 **commission in making the calculations required by this subsection.**

14 SECTION 3. IC 4-35-7-12.1 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2011]: **Sec. 12.1. (a) The department may require payment of the**  
 17 **racing support fee imposed by section 12 of this chapter to be made**  
 18 **by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).**

19 **(b) If the department requires racing support fees to be remitted**  
 20 **through electronic funds transfer, the department may allow the**  
 21 **licensee to file a monthly report to reconcile the amounts remitted**  
 22 **to the department.**

23 **(c) The payment of the racing support fee must be documented**  
 24 **on a form prescribed by the department.**

25 SECTION 4. IC 4-35-7-12.2 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2011]: **Sec. 12.2. (a) The Indiana horse racing support fund is**  
 28 **established. The fund shall be administered by the Indiana horse**  
 29 **racing commission. The fund does not revert to the state general**  
 30 **fund at the end of a state fiscal year.**

31 **(b) The fund consists of the money deposited in the fund under**  
 32 **section 12 of this chapter.**

33 **(c) Except as provided in section 12(h) of this chapter, the**  
 34 **Indiana horse racing commission shall distribute money in the**  
 35 **fund to the:**

- 36 **(1) horsemen's associations; and**  
 37 **(2) licensees;**

38 **in the manner and amounts required by section 12 of this chapter.**

39 **(d) Money in the fund is continuously appropriated to the**  
 40 **Indiana horse racing commission for the purposes of section 12 of**  
 41 **this chapter. The Indiana horse racing commission may not use**  
 42 **money in the fund for any administrative purpose or other purpose**

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1 of the Indiana horse racing commission. Money in the fund must  
2 be used solely for the purposes described in section 12 of this  
3 chapter.

4 SECTION 5. IC 4-35-7-12.3 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
6 UPON PASSAGE]: **Sec. 12.3. Each permit holder holding a  
7 gambling game license under this article shall submit for the  
8 approval of the Indiana horse racing commission a plan for the  
9 distribution of money in the Indiana horse racing support fund to  
10 the permit holder for purses as required by section 12 of this  
11 chapter. The plan must be submitted as follows:**

12 (1) Before June 1, 2011, with respect to races conducted after  
13 June 30, 2011, and before January 1, 2012.

14 (2) At the time the permit holder applies for a renewal of the  
15 permit holder's recognized meeting permit, with respect to  
16 each recognized meeting beginning after December 31, 2011.

17 SECTION 6. IC 4-35-7-12.4 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2011]: **Sec. 12.4. (a) The Indiana horse racing commission shall  
20 investigate any complaint that a licensee has failed to comply with  
21 the horse racing purse requirements set forth in section 12 of this  
22 chapter. If, after notice and a hearing, the Indiana horse racing  
23 commission finds that a licensee has failed to comply with the purse  
24 requirements set forth in this section, the Indiana horse racing  
25 commission may:**

26 (1) issue a warning to the licensee;

27 (2) impose a civil penalty that may not exceed one million  
28 dollars (\$1,000,000); or

29 (3) suspend a meeting permit issued under IC 4-31-5 to  
30 conduct a pari-mutuel wagering horse racing meeting in  
31 Indiana.

32 (b) A civil penalty collected under this section must be deposited  
33 in the state general fund.

34 SECTION 7. IC 4-35-8-1, AS ADDED BY P.L.233-2007,  
35 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2011]: **Sec. 1. (a) A graduated slot machine wagering tax is  
37 imposed as follows on the ~~adjusted gross taxable~~ receipts received  
38 from wagering on gambling games authorized by this article:**

39 (1) Twenty-five percent (25%) of the first one hundred million  
40 dollars (\$100,000,000) of ~~adjusted gross taxable~~ receipts received  
41 during the period beginning July 1 of each year and ending June  
42 30 of the following year.

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1 (2) Thirty percent (30%) of the ~~adjusted gross taxable~~ receipts in  
 2 excess of one hundred million dollars (\$100,000,000) but not  
 3 exceeding two hundred million dollars (\$200,000,000) received  
 4 during the period beginning July 1 of each year and ending June  
 5 30 of the following year.

6 (3) Thirty-five percent (35%) of the ~~adjusted gross taxable~~  
 7 receipts in excess of two hundred million dollars (\$200,000,000)  
 8 received during the period beginning July 1 of each year and  
 9 ending June 30 of the following year.

10 (b) A licensee shall remit the tax imposed by this section to the  
 11 department before the close of the business day following the day the  
 12 wagers are made. **With respect to slot machine wagers made after**  
 13 **June 30, 2011, the amount of a licensee's taxable receipts for a**  
 14 **particular day is equal to the result determined under STEP TWO**  
 15 **of the following formula:**

16 **STEP ONE: Determine the amount of the adjusted gross**  
 17 **receipts received by the licensee during that day.**

18 **STEP TWO: Determine the result of:**

19 **(A) the STEP ONE amount; minus**

20 **(B) the licensee's qualified daily deduction amount**  
 21 **determined for that day under section 5(b) of this chapter.**

22 (c) The department may require payment under this section to be  
 23 made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

24 (d) If the department requires taxes to be remitted under this chapter  
 25 through electronic funds transfer, the department may allow the  
 26 licensee to file a monthly report to reconcile the amounts remitted to  
 27 the department.

28 (e) The payment of the tax under this section must be on a form  
 29 prescribed by the department.

30 SECTION 8. IC 4-35-8-5 IS ADDED TO THE INDIANA CODE  
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 32 1, 2011]: **Sec. 5. (a) This section applies to slot machine wagers**  
 33 **made under this article after June 30, 2011.**

34 **(b) For July 1, 2011, and each day thereafter, a licensee's**  
 35 **qualified daily deduction amount for purposes of calculating the**  
 36 **licensee's taxable receipts for that day is equal to the result**  
 37 **determined under STEP TWO of the following formula:**

38 **STEP ONE: Determine the total amount that the licensee**  
 39 **remitted to the department for that day under IC 4-35-7-12,**  
 40 **IC 4-35-8.5, and IC 4-35-8.9.**

41 **STEP TWO: Determine the result of:**

42 **(A) the STEP ONE amount; multiplied by**

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- (B) the appropriate percentage determined as follows:**
  - (i) Thirty-three percent (33%) for a day occurring in the state fiscal year beginning on July 1, 2011.**
  - (ii) Sixty-seven percent (67%) for a day occurring in the state fiscal year beginning on July 1, 2012.**
  - (iii) One hundred percent (100%) for a day occurring in a state fiscal year beginning after June 30, 2013.**

SECTION 9. IC 4-35-8.5-1, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) ~~Before the fifteenth day of each month,~~ A licensee that offers slot machine wagering under this article shall pay to the ~~commission~~ **department** a county slot machine wagering fee equal to three percent (3%) of the adjusted gross receipts received from slot machine wagering ~~during the previous month~~ at the licensee's racetrack. **A licensee shall remit the amount of the fee to the department before the close of the business day following the day the wagers are made.** However, a licensee is not required to pay more than eight million dollars (\$8,000,000) of county slot machine wagering fees under this section in any state fiscal year.

(b) The ~~commission~~ **department** shall deposit the county slot machine wagering fee received by the ~~commission~~ **department** into a separate account within the state general fund.

**(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).**

**(d) If the department requires fees to be remitted under this section through electronic funds transfer, the department may allow the licensee to file a monthly report to reconcile the amounts remitted to the department.**

**(e) The payment of the fees under this section must be documented on a form prescribed by the department.**

SECTION 10. IC 4-35-8.9-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) ~~Before the fifteenth day of each month,~~ A licensee that offers slot machine wagering under this article shall pay to the ~~commission~~ **department** a supplemental fee equal to one percent (1%) of the adjusted gross receipts received by the licensee from slot machine wagering. **A licensee shall remit the amount of the fee to the department before the close of the business day following the day the wagers are made.**

**(b) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).**

**(c) If the department requires fees to be remitted under this**

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1 section through electronic funds transfer, the department may  
2 allow the licensee to file a monthly report to reconcile the amounts  
3 remitted to the department.

4 (d) The payment of the fees under this section must be  
5 documented on a form prescribed by the department.

6 (b) (e) The ~~commission~~ department shall deposit the supplemental  
7 fees into a separate account within the state general fund.

8 SECTION 11. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss),  
9 SECTION 247, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2011]: Sec. 1. "Listed taxes" or "taxes" includes  
11 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the  
12 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax  
13 (IC 4-33-13); **the racing support fee (IC 4-35-7-12)**; the slot machine  
14 wagering tax (IC 4-35-8); **the county slot machine wagering fee**  
15 **(IC 4-35-8.5); supplemental gambling fees (IC 4-35-8.9)**; the type II  
16 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)  
17 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);  
18 the state gross retail and use taxes (IC 6-2.5); the adjusted gross income  
19 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the  
20 county adjusted gross income tax (IC 6-3.5-1.1); the county option  
21 income tax (IC 6-3.5-6); the county economic development income tax  
22 (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial  
23 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative  
24 fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor  
25 carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a  
26 reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax  
27 (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise  
28 tax imposed on recreational vehicles and truck campers (IC 6-6-5.1);  
29 the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax  
30 (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax  
31 (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax  
32 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum  
33 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the  
34 various food and beverage taxes (IC 6-9); the county admissions tax  
35 (IC 6-9-13 and IC 6-9-28); the regional transportation improvement  
36 income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the  
37 emergency and hazardous chemical inventory form fee (IC 6-6-10); the  
38 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the  
39 fees and penalties assessed for overweight vehicles (IC 9-20-4 and  
40 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste  
41 management fee (IC 13-20-22); and any other tax or fee that the  
42 department is required to collect or administer.

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1           SECTION 12. IC 4-33-2-17.5 IS REPEALED [EFFECTIVE JULY  
2           1, 2011].  
3           SECTION 13. **An emergency is declared for this act.**

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