



Reprinted  
February 22, 2011

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## SENATE BILL No. 589

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DIGEST OF SB 589 (Updated February 21, 2011 8:44 pm - DI 92)

**Citations Affected:** IC 2-5; IC 5-28; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5; IC 6-8; IC 6-8.1; IC 20-19; IC 21-18; IC 22-4.1; IC 33-26; IC 36-7; IC 36-7.6; noncode.

**Synopsis:** Economic development and state tax matters. Makes the following changes to economic development programs and sales tax and income tax provisions: (1) Makes the economic development study committee a four year committee that expires December 31, 2014, with a membership including legislative and nonlegislative members. Requires the study committee to determine methods for eliminating or reducing the personal property tax statewide and the appropriateness of allowing local government the option of eliminating or abating personal property tax for new investment and economic development purposes. (2) Requires the Indiana economic development corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration. (3) Requires the state board of education, the commission for higher education, and the department of workforce development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force. (4) Requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development  
(Continued next page)

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

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**Hershman, Kenley, Charbonneau,  
Alting, Kruse**

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January 20, 2011, read first time and referred to Committee on Tax and Fiscal Policy.  
February 17, 2011, amended, reported favorably — Do Pass.  
February 21, 2011, read second time, amended, ordered engrossed.

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organizations within geographic regions in Indiana. (5) Permits the department of state revenue to negotiate a collection allowance for the collection of sales taxes by an out-of-state seller. (6) Provides that a claim for a sales tax refund must be filed within one year if the claim is based on the predominant use of electrical energy, natural or artificial gas, water, steam, and steam heat by certain businesses or based on the sales tax exemption for these services or commodities. (7) Decreases the corporate income tax rate from 8.5% to 6.5% effective July 1, 2012. (8) Provides an income tax deduction for corporations that repatriate profits from controlled foreign corporations. (9) Provides that the adjusted gross income tax and financial institutions tax (for credit unions and investment companies) apply to interest on state and local bonds issued by a state other than Indiana or issued by a political subdivision of such a state. (10) Clarifies the attribution rules applicable to business income and sales receipts from certain intangibles under the adjusted gross income tax. Provides that the department of state revenue must contract for advice and recommendations concerning the proper distribution, apportionment, or allocation of income and deductions among two or more businesses. (11) Eliminates the carryback of net operating losses under the adjusted gross income tax. (12) Expires the teacher summer employment income tax credit on January 1, 2012. (13) Specifies that a maternity home tax credit may not be awarded for the providing, after December 31, 2011, of a temporary residence. (14) Provides that a community revitalization enhancement district tax credit may not be awarded for a qualified investment made after December 31, 2011. Removes restrictions on activating a third community revitalization enhancement district in Delaware County. Caps the total amount of state taxes annually captured by the three Delaware County districts at \$2,000,000. Specifies certain requirements for the designation of any community revitalization enhancement district after December 31, 2010. (15) Provides that a tax credit may not be awarded for making available, after December 31, 2011, a health benefit plan. (16) Provides that a small employer qualified wellness program tax credit may not be awarded for costs incurred after December 31, 2011. (17) Extends the time in which a person must file an amended Indiana adjusted gross income tax return to reflect modifications made in a federal income tax return. (18) Prohibits the department of state revenue from taking an action to collect a delinquent tax until the later of the time to file a tax appeal has expired or a final decision is made in a tax appeal. Expands the power of the tax court. Makes related changes to obtaining injunctions against the collection of a tax. (19) Permits local governments to pledge revenue from the county adjusted gross income tax and the county economic development income tax for redevelopment financing. (20) Requires higher education institutions to expand technology and innovation commercialization programs. (21) Provides that if a county or a municipality becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the amount of money that must be transferred annually by the county or municipality is equal to the amount that would be distributed to the county or the municipality from a county economic development income tax rate of 0.025%. Removes outdated individual income tax adjustments. Repeals statutes prohibiting the activation of a third community revitalization enhancement district in Delaware County.

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February 22, 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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## SENATE BILL No. 589

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

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

- 1 SECTION 1. IC 2-5-31 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]:  
4 **Chapter 31. Interim Study Committee on Economic**  
5 **Development**  
6 **Sec. 1. The interim study committee on economic development**  
7 **is established.**  
8 **Sec. 2. (a) The committee consists of the following members:**  
9 (1) **Two (2) members of the senate, who must be affiliated**  
10 **with different political parties, appointed by the president pro**  
11 **tempore of the senate.**  
12 (2) **Two (2) members of the house of representatives, who**  
13 **must be affiliated with different political parties, appointed by**  
14 **the speaker of the house of representatives.**  
15 (3) **The chief executive officer of the Indiana economic**

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

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

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

- (i) One (1) member to represent large businesses.
- (ii) One (1) member to represent small businesses.
- (iii) One (1) member to represent banking and finance.
- (iv) One (1) member to represent labor interests.

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

- (i) One (1) member to represent higher education.
- (ii) One (1) member to represent local economic development organizations and officials.
- (iii) One (1) member to represent cities.
- (iv) One (1) member to represent counties.

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

- (i) One (1) member to represent agricultural interests.
- (ii) One (1) member to represent the public at large.
- (iii) One (1) member to represent kindergarten through grade 12 education.
- (iv) One (1) member to represent quality of life issues.

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

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

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

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**interim:**

- (1) Best practices in state and local economic development policies and activities.**
- (2) The use and effectiveness of tax credits and deductions.**
- (3) Whether there are any specific sectors of the economy for which Indiana might have comparative advantages over other states.**
- (4) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.**
- (5) The extent to which Indiana's education systems support economic development.**
- (6) The benefits of existing community revitalization enhancement districts and possible new community revitalization enhancement districts as an economic development tool.**
- (7) Methods for eliminating or reducing the personal property tax statewide and the appropriateness of allowing local government the option of eliminating or abating personal property tax for new investment and economic development purposes.**
- (8) Any other issue assigned to the committee by the legislative council or as directed by the committee's co-chairs.**

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

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

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

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

- (1) Create and regularly update a strategic economic development plan based on a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.**
- (2) Establish strategic benchmarks and performance measures.**
- (3) Monitor and report on Indiana's economic performance.**
- (4) Market Indiana to businesses worldwide.**

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

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

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

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- 1 assign one (1) or more of the department's or agency's employees
- 2 to the corporation on a temporary basis or may direct a division
- 3 or an agency under the department's or agency's supervision and
- 4 control to make a special study or survey requested by the
- 5 corporation.
- 6 (b) The corporation shall perform the following duties:
- 7 (1) Develop and implement industrial development programs to
- 8 encourage expansion of existing industrial, commercial, and
- 9 business facilities in Indiana and to encourage new industrial,
- 10 commercial, and business locations in Indiana.
- 11 (2) Assist businesses and industries in acquiring, improving, and
- 12 developing overseas markets and encourage international plant
- 13 locations in Indiana. The corporation, with the approval of the
- 14 governor, may establish foreign offices to assist in this function.
- 15 (3) Promote the growth of minority business enterprises by doing
- 16 the following:
- 17 (A) Mobilizing and coordinating the activities, resources, and
- 18 efforts of governmental and private agencies, businesses, trade
- 19 associations, institutions, and individuals.
- 20 (B) Assisting minority businesses in obtaining governmental
- 21 or commercial financing for expansion or establishment of
- 22 new businesses or individual development projects.
- 23 (C) Aiding minority businesses in procuring contracts from
- 24 governmental or private sources, or both.
- 25 (D) Providing technical, managerial, and counseling assistance
- 26 to minority business enterprises.
- 27 (4) Assist the office of the lieutenant governor in:
- 28 (A) community economic development planning;
- 29 (B) implementation of programs designed to further
- 30 community economic development; and
- 31 (C) the development and promotion of Indiana's tourist
- 32 resources.
- 33 (5) Assist the secretary of agriculture and rural development in
- 34 promoting and marketing of Indiana's agricultural products and
- 35 provide assistance to the director of the Indiana state department
- 36 of agriculture.
- 37 (6) With the approval of the governor, implement federal
- 38 programs delegated to the state to carry out the purposes of this
- 39 article.
- 40 (7) Promote the growth of small businesses by doing the
- 41 following:
- 42 (A) Assisting small businesses in obtaining and preparing the

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- 1 permits required to conduct business in Indiana.
- 2 (B) Serving as a liaison between small businesses and state
- 3 agencies.
- 4 (C) Providing information concerning business assistance
- 5 programs available through government agencies and private
- 6 sources.
- 7 (8) Establish a public information page on its current Internet site
- 8 on the world wide web. The page must provide the following:
- 9 (A) By program, cumulative information on the total amount
- 10 of incentives awarded, the total number of companies that
- 11 received the incentives and were assisted in a year, and the
- 12 names and addresses of those companies.
- 13 (B) A mechanism on the page whereby the public may request
- 14 further information online about specific programs or
- 15 incentives awarded.
- 16 (C) A mechanism for the public to receive an electronic
- 17 response.
- 18 (c) The corporation may do the following:
- 19 (1) Disseminate information concerning the industrial,
- 20 commercial, governmental, educational, cultural, recreational,
- 21 agricultural, and other advantages of Indiana.
- 22 (2) Plan, direct, and conduct research activities.
- 23 (3) Assist in community economic development planning and the
- 24 implementation of programs designed to further community
- 25 economic development.
- 26 SECTION 4. IC 5-28-11-10 IS ADDED TO THE INDIANA CODE
- 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 28 1, 2011]: **Sec. 10. The corporation shall collaborate with local**
- 29 **economic development organizations throughout Indiana. Before**
- 30 **August 1 each year through 2014, the corporation shall submit a**
- 31 **written report to the interim study committee on economic**
- 32 **development established by IC 2-5-31-1, indicating how the**
- 33 **corporation has collaborated with local economic development**
- 34 **organizations during the previous state fiscal year, including**
- 35 **details and analysis of each collaboration.**
- 36 SECTION 5. IC 6-2.5-5-5.1 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.1. (a) As used in this
- 38 section, "tangible personal property" includes electrical energy, natural
- 39 or artificial gas, water, steam, and steam heat.
- 40 (b) Transactions involving tangible personal property are exempt
- 41 from the state gross retail tax if the person acquiring the property
- 42 acquires it for direct consumption as a material to be consumed in the

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1 direct production of other tangible personal property in the person's  
2 business of manufacturing, processing, refining, repairing, mining,  
3 agriculture, horticulture, floriculture, or arboriculture. This exemption  
4 includes transactions involving acquisitions of tangible personal  
5 property used in commercial printing.

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

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

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

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

40 (d) A certified service provider or a seller using a certified  
41 automated system that obtains a certification or taxability matrix from  
42 the department is not liable for sales or use tax collection errors that

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

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

- 17 (1) the seller collected the tax at the immediately preceding
- 18 effective rate; and
- 19 (2) the seller's failure to collect at the current rate does not extend
- 20 beyond thirty (30) days after the effective date of the rate change.

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

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

28 **(g) After June 30, 2011, the department may negotiate with a**  
 29 **certified service provider or seller to provide a monetary allowance**  
 30 **that is greater than the allowance provided in IC 6-2.5-6-10 for the**  
 31 **collection of gross retail tax or use tax on sales, leases, and rentals**  
 32 **of goods or services made in a member state or a jurisdiction that**  
 33 **is not a member state. A monetary allowance permitted under this**  
 34 **subsection may not exceed ten percent (10%) of the gross retail tax**  
 35 **or use tax collected from a sale, lease, or rental. The department**  
 36 **may adopt emergency rules under IC 4-22-2-37.1 and shall adopt**  
 37 **rules under IC 4-22-2 to establish standards for granting monetary**  
 38 **allowances under this subsection. The rules must provide that the**  
 39 **permitted monetary allowance is a negotiated rate based on:**

- 40 (1) the collection costs of the certified service provider or
- 41 seller;
- 42 (2) the volume and value to the state of sales, leases, or rentals

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- 1           **processed by a certified service provider or seller;**
- 2           **(3) the administrative and legal costs that the state would**
- 3           **otherwise incur to collect gross retail taxes or use taxes for**
- 4           **these sales, leases, or rentals absent a negotiated monetary**
- 5           **allowance; and**
- 6           **(4) the likelihood of collecting gross retail taxes or use taxes**
- 7           **on these sales, leases, or rentals absent a negotiated monetary**
- 8           **allowance.**

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

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

- 16           (1) Subtract income that is exempt from taxation under this article  
 17           by the Constitution and statutes of the United States.
- 18           (2) Add an amount equal to any deduction or deductions allowed  
 19           or allowable pursuant to Section 62 of the Internal Revenue Code  
 20           for taxes based on or measured by income and levied at the state  
 21           level by any state of the United States.
- 22           (3) Subtract one thousand dollars (\$1,000), or in the case of a  
 23           joint return filed by a husband and wife, subtract for each spouse  
 24           one thousand dollars (\$1,000).
- 25           (4) Subtract one thousand dollars (\$1,000) for:
  - 26           (A) each of the exemptions provided by Section 151(c) of the  
 27           Internal Revenue Code;
  - 28           (B) each additional amount allowable under Section 63(f) of  
 29           the Internal Revenue Code; and
  - 30           (C) the spouse of the taxpayer if a separate return is made by  
 31           the taxpayer and if the spouse, for the calendar year in which  
 32           the taxable year of the taxpayer begins, has no gross income  
 33           and is not the dependent of another taxpayer.
- 34           (5) Subtract:
  - 35           (A) ~~for taxable years beginning after December 31, 2004~~; one  
 36           thousand five hundred dollars (\$1,500) for each of the  
 37           exemptions allowed under Section 151(c)(1)(B) of the Internal  
 38           Revenue Code (as effective January 1, 2004); and
  - 39           (B) five hundred dollars (\$500) for each additional amount  
 40           allowable under Section 63(f)(1) of the Internal Revenue Code  
 41           if the adjusted gross income of the taxpayer, or the taxpayer  
 42           and the taxpayer's spouse in the case of a joint return, is less

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- 1           than forty thousand dollars (\$40,000).
- 2           This amount is in addition to the amount subtracted under
- 3           subdivision (4).
- 4           (6) Subtract an amount equal to the lesser of:
- 5                 (A) that part of the individual's adjusted gross income (as
- 6                 defined in Section 62 of the Internal Revenue Code) for that
- 7                 taxable year that is subject to a tax that is imposed by a
- 8                 political subdivision of another state and that is imposed on or
- 9                 measured by income; or
- 10                (B) two thousand dollars (\$2,000).
- 11           (7) Add an amount equal to the total capital gain portion of a
- 12           lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 13           Internal Revenue Code) if the lump sum distribution is received
- 14           by the individual during the taxable year and if the capital gain
- 15           portion of the distribution is taxed in the manner provided in
- 16           Section 402 of the Internal Revenue Code.
- 17           (8) Subtract any amounts included in federal adjusted gross
- 18           income under Section 111 of the Internal Revenue Code as a
- 19           recovery of items previously deducted as an itemized deduction
- 20           from adjusted gross income.
- 21           (9) Subtract any amounts included in federal adjusted gross
- 22           income under the Internal Revenue Code which amounts were
- 23           received by the individual as supplemental railroad retirement
- 24           annuities under 45 U.S.C. 231 and which are not deductible under
- 25           subdivision (1).
- 26           ~~(10) Add an amount equal to the deduction allowed under Section~~
- 27           ~~221 of the Internal Revenue Code for married couples filing joint~~
- 28           ~~returns if the taxable year began before January 1, 1987.~~
- 29           ~~(11) Add an amount equal to the interest excluded from federal~~
- 30           ~~gross income by the individual for the taxable year under Section~~
- 31           ~~128 of the Internal Revenue Code if the taxable year began before~~
- 32           ~~January 1, 1985.~~
- 33           ~~(12)~~ **(10)** Subtract an amount equal to the amount of federal
- 34           Social Security and Railroad Retirement benefits included in a
- 35           taxpayer's federal gross income by Section 86 of the Internal
- 36           Revenue Code.
- 37           ~~(13)~~ **(11)** In the case of a nonresident taxpayer or a resident
- 38           taxpayer residing in Indiana for a period of less than the taxpayer's
- 39           entire taxable year, the total amount of the deductions allowed
- 40           pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to
- 41           an amount which bears the same ratio to the total as the taxpayer's
- 42           income taxable in Indiana bears to the taxpayer's total income.

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- 1 ~~(14)~~ **(12)** In the case of an individual who is a recipient of
- 2 assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
- 3 IC 12-15-7, subtract an amount equal to that portion of the
- 4 individual's adjusted gross income with respect to which the
- 5 individual is not allowed under federal law to retain an amount to
- 6 pay state and local income taxes.
- 7 ~~(15)~~ **(13)** In the case of an eligible individual, subtract the amount
- 8 of a Holocaust victim's settlement payment included in the
- 9 individual's federal adjusted gross income.
- 10 ~~(16)~~ For taxable years beginning after December 31, 1999; **(14)**
- 11 Subtract an amount equal to the portion of any premiums paid
- 12 during the taxable year by the taxpayer for a qualified long term
- 13 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 14 taxpayer's spouse, or both.
- 15 ~~(17)~~ **(15)** Subtract an amount equal to the lesser of:
- 16 (A) for a taxable year:
- 17 (i) including any part of 2004, the amount determined under
- 18 subsection (f); and
- 19 (ii) beginning after December 31, 2004, two thousand five
- 20 hundred dollars (\$2,500); or
- 21 (B) the amount of property taxes that are paid during the
- 22 taxable year in Indiana by the individual on the individual's
- 23 principal place of residence.
- 24 ~~(18)~~ **(16)** Subtract an amount equal to the amount of a September
- 25 11 terrorist attack settlement payment included in the individual's
- 26 federal adjusted gross income.
- 27 ~~(19)~~ **(17)** Add or subtract the amount necessary to make the
- 28 adjusted gross income of any taxpayer that owns property for
- 29 which bonus depreciation was allowed in the current taxable year
- 30 or in an earlier taxable year equal to the amount of adjusted gross
- 31 income that would have been computed had an election not been
- 32 made under Section 168(k) of the Internal Revenue Code to apply
- 33 bonus depreciation to the property in the year that it was placed
- 34 in service.
- 35 ~~(20)~~ **(18)** Add an amount equal to any deduction allowed under
- 36 Section 172 of the Internal Revenue Code.
- 37 ~~(21)~~ **(19)** Add or subtract the amount necessary to make the
- 38 adjusted gross income of any taxpayer that placed Section 179
- 39 property (as defined in Section 179 of the Internal Revenue Code)
- 40 in service in the current taxable year or in an earlier taxable year
- 41 equal to the amount of adjusted gross income that would have
- 42 been computed had an election for federal income tax purposes

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

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

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

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

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

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

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

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

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

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

33 (6) Add an amount equal to any deduction allowed under Section  
34 172 of the Internal Revenue Code.

35 (7) Add or subtract the amount necessary to make the adjusted  
36 gross income of any taxpayer that placed Section 179 property (as  
37 defined in Section 179 of the Internal Revenue Code) in service  
38 in the current taxable year or in an earlier taxable year equal to  
39 the amount of adjusted gross income that would have been  
40 computed had an election for federal income tax purposes not  
41 been made for the year in which the property was placed in  
42 service to take deductions under Section 179 of the Internal

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

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1 in service during the taxable year and that was classified as  
 2 15-year property under Section 168(e)(3)(E)(ix) of the Internal  
 3 Revenue Code equal to the amount of adjusted gross income that  
 4 would have been computed had the classification not applied to  
 5 the property in the year that it was placed in service.  
 6 (15) Add or subtract the amount necessary to make the adjusted  
 7 gross income of any taxpayer that claimed the special allowance  
 8 for qualified disaster assistance property under Section 168(n) of  
 9 the Internal Revenue Code equal to the amount of adjusted gross  
 10 income that would have been computed had the special allowance  
 11 not been claimed for the property.  
 12 (16) Add or subtract the amount necessary to make the adjusted  
 13 gross income of any taxpayer that made an election under Section  
 14 179C of the Internal Revenue Code to expense costs for qualified  
 15 refinery property equal to the amount of adjusted gross income  
 16 that would have been computed had an election for federal  
 17 income tax purposes not been made for the year.  
 18 (17) Add or subtract the amount necessary to make the adjusted  
 19 gross income of any taxpayer that made an election under Section  
 20 181 of the Internal Revenue Code to expense costs for a qualified  
 21 film or television production equal to the amount of adjusted  
 22 gross income that would have been computed had an election for  
 23 federal income tax purposes not been made for the year.  
 24 (18) Add or subtract the amount necessary to make the adjusted  
 25 gross income of any taxpayer that treated a loss from the sale or  
 26 exchange of preferred stock in:  
 27 (A) the Federal National Mortgage Association, established  
 28 under the Federal National Mortgage Association Charter Act  
 29 (12 U.S.C. 1716 et seq.); or  
 30 (B) the Federal Home Loan Mortgage Corporation, established  
 31 under the Federal Home Loan Mortgage Corporation Act (12  
 32 U.S.C. 1451 et seq.);  
 33 as an ordinary loss under Section 301 of the Emergency  
 34 Economic Stabilization Act of 2008 in the current taxable year or  
 35 in an earlier taxable year equal to the amount of adjusted gross  
 36 income that would have been computed had the loss not been  
 37 treated as an ordinary loss.  
 38 **(19) Add the amount excluded from federal gross income**  
 39 **under Section 103 of the Internal Revenue Code for interest**  
 40 **received on an obligation of a state other than Indiana or a**  
 41 **political subdivision of such a state.**  
 42 (c) In the case of life insurance companies (as defined in Section

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1 816(a) of the Internal Revenue Code) that are organized under Indiana  
 2 law, the same as "life insurance company taxable income" (as defined  
 3 in Section 801 of the Internal Revenue Code), adjusted as follows:  
 4 (1) Subtract income that is exempt from taxation under this article  
 5 by the Constitution and statutes of the United States.  
 6 (2) Add an amount equal to any deduction allowed or allowable  
 7 under Section 170 of the Internal Revenue Code.  
 8 (3) Add an amount equal to a deduction allowed or allowable  
 9 under Section 805 or Section 831(c) of the Internal Revenue Code  
 10 for taxes based on or measured by income and levied at the state  
 11 level by any state.  
 12 (4) Subtract an amount equal to the amount included in the  
 13 company's taxable income under Section 78 of the Internal  
 14 Revenue Code.  
 15 (5) Add or subtract the amount necessary to make the adjusted  
 16 gross income 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 income  
 19 that would have been computed had an election not been made  
 20 under Section 168(k) of the Internal Revenue Code to apply bonus  
 21 depreciation to the property in the year that it was placed in  
 22 service.  
 23 (6) Add an amount equal to any deduction allowed under Section  
 24 172 or Section 810 of the Internal Revenue Code.  
 25 (7) Add or subtract the amount necessary to make the adjusted  
 26 gross income of any taxpayer that placed Section 179 property (as  
 27 defined in Section 179 of the Internal Revenue Code) in service  
 28 in the current taxable year or in an earlier taxable year equal to  
 29 the amount of adjusted gross income that would have been  
 30 computed had an election for federal income tax purposes not  
 31 been made for the year in which the property was placed in  
 32 service to take deductions under Section 179 of the Internal  
 33 Revenue Code in a total amount exceeding twenty-five thousand  
 34 dollars (\$25,000).  
 35 (8) Add an amount equal to the amount that a taxpayer claimed as  
 36 a deduction for domestic production activities for the taxable year  
 37 under Section 199 of the Internal Revenue Code for federal  
 38 income tax purposes.  
 39 (9) Subtract income that is:  
 40 (A) exempt from taxation under IC 6-3-2-21.7; and  
 41 (B) included in the insurance company's taxable income under  
 42 the Internal Revenue Code.

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

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1 film or television production equal to the amount of adjusted  
 2 gross income that would have been computed had an election for  
 3 federal income tax purposes not been made for the year.  
 4 (16) Add or subtract the amount necessary to make the adjusted  
 5 gross income of any taxpayer that treated a loss from the sale or  
 6 exchange of preferred stock in:  
 7 (A) the Federal National Mortgage Association, established  
 8 under the Federal National Mortgage Association Charter Act  
 9 (12 U.S.C. 1716 et seq.); or  
 10 (B) the Federal Home Loan Mortgage Corporation, established  
 11 under the Federal Home Loan Mortgage Corporation Act (12  
 12 U.S.C. 1451 et seq.);  
 13 as an ordinary loss under Section 301 of the Emergency  
 14 Economic Stabilization Act of 2008 in the current taxable year or  
 15 in an earlier taxable year equal to the amount of adjusted gross  
 16 income that would have been computed had the loss not been  
 17 treated as an ordinary loss.  
 18 (17) Add an amount equal to any exempt insurance income under  
 19 Section 953(e) of the Internal Revenue Code that is active  
 20 financing income under Subpart F of Subtitle A, Chapter 1,  
 21 Subchapter N of the Internal Revenue Code.  
 22 **(18) Add the amount excluded from federal gross income**  
 23 **under Section 103 of the Internal Revenue Code for interest**  
 24 **received on an obligation of a state other than Indiana or a**  
 25 **political subdivision of such a state.**  
 26 (d) In the case of insurance companies subject to tax under Section  
 27 831 of the Internal Revenue Code and organized under Indiana law, the  
 28 same as "taxable income" (as defined in Section 832 of the Internal  
 29 Revenue Code), adjusted as follows:  
 30 (1) Subtract income that is exempt from taxation under this article  
 31 by the Constitution and statutes of the United States.  
 32 (2) Add an amount equal to any deduction allowed or allowable  
 33 under Section 170 of the Internal Revenue Code.  
 34 (3) Add an amount equal to a deduction allowed or allowable  
 35 under Section 805 or Section 831(c) of the Internal Revenue Code  
 36 for taxes based on or measured by income and levied at the state  
 37 level by any state.  
 38 (4) Subtract an amount equal to the amount included in the  
 39 company's taxable income under Section 78 of the Internal  
 40 Revenue Code.  
 41 (5) Add or subtract the amount necessary to make the adjusted  
 42 gross income of any taxpayer that owns property for which bonus

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

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

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1 treated as an ordinary loss.

2 (17) Add an amount equal to any exempt insurance income under

3 Section 953(e) of the Internal Revenue Code that is active

4 financing income under Subpart F of Subtitle A, Chapter 1,

5 Subchapter N of the Internal Revenue Code.

6 **(18) Add the amount excluded from federal gross income**

7 **under Section 103 of the Internal Revenue Code for interest**

8 **received on an obligation of a state other than Indiana or a**

9 **political subdivision of such a state.**

10 (e) In the case of trusts and estates, "taxable income" (as defined for

11 trusts and estates in Section 641(b) of the Internal Revenue Code)

12 adjusted as follows:

13 (1) Subtract income that is exempt from taxation under this article

14 by the Constitution and statutes of the United States.

15 (2) Subtract an amount equal to the amount of a September 11

16 terrorist attack settlement payment included in the federal

17 adjusted gross income of the estate of a victim of the September

18 11 terrorist attack or a trust to the extent the trust benefits a victim

19 of the September 11 terrorist attack.

20 (3) Add or subtract the amount necessary to make the adjusted

21 gross income of any taxpayer that owns property for which bonus

22 depreciation was allowed in the current taxable year or in an

23 earlier taxable year equal to the amount of adjusted gross income

24 that would have been computed had an election not been made

25 under Section 168(k) of the Internal Revenue Code to apply bonus

26 depreciation to the property in the year that it was placed in

27 service.

28 (4) Add an amount equal to any deduction allowed under Section

29 172 of the Internal Revenue Code.

30 (5) Add or subtract the amount necessary to make the adjusted

31 gross income of any taxpayer that placed Section 179 property (as

32 defined in Section 179 of the Internal Revenue Code) in service

33 in the current taxable year or in an earlier taxable year equal to

34 the amount of adjusted gross income that would have been

35 computed had an election for federal income tax purposes not

36 been made for the year in which the property was placed in

37 service to take deductions under Section 179 of the Internal

38 Revenue Code in a total amount exceeding twenty-five thousand

39 dollars (\$25,000).

40 (6) Add an amount equal to the amount that a taxpayer claimed as

41 a deduction for domestic production activities for the taxable year

42 under Section 199 of the Internal Revenue Code for federal

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- 1 income tax purposes.
- 2 (7) Subtract income that is:
- 3 (A) exempt from taxation under IC 6-3-2-21.7; and
- 4 (B) included in the taxpayer's taxable income under the
- 5 Internal Revenue Code.
- 6 (8) Add an amount equal to any income not included in gross
- 7 income as a result of the deferral of income arising from business
- 8 indebtedness discharged in connection with the reacquisition after
- 9 December 31, 2008, and before January 1, 2011, of an applicable
- 10 debt instrument, as provided in Section 108(i) of the Internal
- 11 Revenue Code. Subtract from the adjusted gross income of any
- 12 taxpayer that added an amount to adjusted gross income in a
- 13 previous year the amount necessary to offset the amount included
- 14 in federal gross income as a result of the deferral of income
- 15 arising from business indebtedness discharged in connection with
- 16 the reacquisition after December 31, 2008, and before January 1,
- 17 2011, of an applicable debt instrument, as provided in Section
- 18 108(i) of the Internal Revenue Code.
- 19 (9) Add the amount necessary to make the adjusted gross income
- 20 of any taxpayer that placed qualified restaurant property in service
- 21 during the taxable year and that was classified as 15-year property
- 22 under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal
- 23 to the amount of adjusted gross income that would have been
- 24 computed had the classification not applied to the property in the
- 25 year that it was placed in service.
- 26 (10) Add the amount necessary to make the adjusted gross income
- 27 of any taxpayer that placed qualified retail improvement property
- 28 in service during the taxable year and that was classified as
- 29 15-year property under Section 168(e)(3)(E)(ix) of the Internal
- 30 Revenue Code equal to the amount of adjusted gross income that
- 31 would have been computed had the classification not applied to
- 32 the property in the year that it was placed in service.
- 33 (11) Add or subtract the amount necessary to make the adjusted
- 34 gross income of any taxpayer that claimed the special allowance
- 35 for qualified disaster assistance property under Section 168(n) of
- 36 the Internal Revenue Code equal to the amount of adjusted gross
- 37 income that would have been computed had the special allowance
- 38 not been claimed for the property.
- 39 (12) Add or subtract the amount necessary to make the adjusted
- 40 gross income of any taxpayer that made an election under Section
- 41 179C of the Internal Revenue Code to expense costs for qualified
- 42 refinery property equal to the amount of adjusted gross income

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that would have been computed had an election for federal income tax purposes not been made for the year.

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

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

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

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

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

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

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

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

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

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

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1           ~~divided by the STEP TWO amount.~~  
 2           STEP FOUR: Multiply the STEP THREE amount by two  
 3           thousand five hundred dollars (\$2,500).  
 4           STEP FIVE: Determine the sum of the STEP FOUR amount and  
 5           two thousand five hundred dollars (\$2,500).

6           SECTION 8. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) Each taxable year, a tax at the  
 8 rate of three and four-tenths percent (3.4%) of adjusted gross income  
 9 is imposed upon the adjusted gross income of every resident person,  
 10 and on that part of the adjusted gross income derived from sources  
 11 within Indiana of every nonresident person.

12           (b) Except as provided in section 1.5 of this chapter, each taxable  
 13 year, a tax at the rate of ~~eight and five-tenths percent (8.5%)~~ **six and**  
 14 **five-tenths percent (6.5%)** of adjusted gross income is imposed on  
 15 that part of the adjusted gross income derived from sources within  
 16 Indiana of every corporation.

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

- 23           (1) income from real or tangible personal property located in this
- 24           state;
- 25           (2) income from doing business in this state;
- 26           (3) income from a trade or profession conducted in this state;
- 27           (4) compensation for labor or services rendered within this state;
- 28           and
- 29           (5) income from stocks, bonds, notes, bank deposits, patents,
- 30           copyrights, secret processes and formulas, good will, trademarks,
- 31           trade brands, franchises, and other intangible personal property if
- 32           ~~the receipt from the intangible is attributable to Indiana under~~  
 33           ~~section 2.2 of this chapter.~~ **to the extent that the income is**  
 34           **apportioned to Indiana under this section or if the income is**  
 35           **allocated to Indiana or considered to be derived from sources**  
 36           **within Indiana under this section.**

37           Income from a pass through entity shall be characterized in a manner  
 38 consistent with the income's characterization for federal income tax  
 39 purposes and shall be considered Indiana source income as if the  
 40 person, corporation, or pass through entity that received the income had  
 41 directly engaged in the income producing activity. Income that is  
 42 derived from one (1) pass through entity and is considered to pass

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1 through to another pass through entity does not change these  
 2 characteristics or attribution provisions. In the case of nonbusiness  
 3 income described in subsection (g), only so much of such income as is  
 4 allocated to this state under the provisions of subsections (h) through  
 5 (k) shall be deemed to be derived from sources within Indiana. In the  
 6 case of business income, only so much of such income as is  
 7 apportioned to this state under the provision of subsection (b) shall be  
 8 deemed to be derived from sources within the state of Indiana. In the  
 9 case of compensation of a team member (as defined in section 2.7 of  
 10 this chapter), only the portion of income determined to be Indiana  
 11 income under section 2.7 of this chapter is considered derived from  
 12 sources within Indiana. In the case of a corporation that is a life  
 13 insurance company (as defined in Section 816(a) of the Internal  
 14 Revenue Code) or an insurance company that is subject to tax under  
 15 Section 831 of the Internal Revenue Code, only so much of the income  
 16 as is apportioned to Indiana under subsection (r) is considered derived  
 17 from sources within Indiana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (B) the base of operations or the place from which the service  
42 is directed or controlled is not in any state in which some part

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1 of the service is performed, but the individual is a resident of  
2 this state.

3 (e) The sales factor is a fraction, the numerator of which is the total  
4 sales of the taxpayer in this state during the taxable year, and the  
5 denominator of which is the total sales of the taxpayer everywhere  
6 during the taxable year. Sales include receipts from intangible property  
7 and receipts from the sale or exchange of intangible property. However,  
8 with respect to a foreign corporation, the denominator does not include  
9 sales made in a place that is outside the United States. Receipts from  
10 intangible personal property are derived from sources within Indiana  
11 ~~if the receipts from the intangible personal property are attributable to~~  
12 ~~Indiana under section 2-2 of this chapter. to the extent that the income~~  
13 ~~from the receipts would be apportioned to Indiana under this~~  
14 ~~section or if the income from the receipts would be allocated to~~  
15 ~~Indiana or considered to be derived from sources within Indiana~~  
16 ~~under this section.~~ Regardless of the f.o.b. point or other conditions of  
17 the sale, sales of tangible personal property are in this state if:

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

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

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

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

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

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

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

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

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

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

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

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1 (i) if and to the extent that the property is utilized in this state; or  
 2 (ii) in their entirety if the taxpayer's commercial domicile is in this  
 3 state and the taxpayer is not organized under the laws of or  
 4 taxable in the state in which the property is utilized.  
 5 (3) The extent of utilization of tangible personal property in a state  
 6 is determined by multiplying the rents and royalties by a fraction, the  
 7 numerator of which is the number of days of physical location of the  
 8 property in the state during the rental or royalty period in the taxable  
 9 year, and the denominator of which is the number of days of physical  
 10 location of the property everywhere during all rental or royalty periods  
 11 in the taxable year. If the physical location of the property during the  
 12 rental or royalty period is unknown or unascertainable by the taxpayer,  
 13 tangible personal property is utilized in the state in which the property  
 14 was located at the time the rental or royalty payer obtained possession.  
 15 (i)(1) Capital gains and losses from sales of real property located in  
 16 this state are allocable to this state.  
 17 (2) Capital gains and losses from sales of tangible personal property  
 18 are allocable to this state if:  
 19 (i) the property had a situs in this state at the time of the sale; or  
 20 (ii) the taxpayer's commercial domicile is in this state and the  
 21 taxpayer is not taxable in the state in which the property had a  
 22 situs.  
 23 (3) Capital gains and losses from sales of intangible personal  
 24 property are allocable to this state if the taxpayer's commercial  
 25 domicile is in this state.  
 26 (j) Interest and dividends are allocable to this state if the taxpayer's  
 27 commercial domicile is in this state.  
 28 (k)(1) Patent and copyright royalties are allocable to this state:  
 29 (i) if and to the extent that the patent or copyright is utilized by  
 30 the taxpayer in this state; or  
 31 (ii) if and to the extent that the patent or copyright is utilized by  
 32 the taxpayer in a state in which the taxpayer is not taxable and the  
 33 taxpayer's commercial domicile is in this state.  
 34 (2) A patent is utilized in a state to the extent that it is employed  
 35 in production, fabrication, manufacturing, or other processing in  
 36 the state or to the extent that a patented product is produced in the  
 37 state. If the basis of receipts from patent royalties does not permit  
 38 allocation to states or if the accounting procedures do not reflect  
 39 states of utilization, the patent is utilized in the state in which the  
 40 taxpayer's commercial domicile is located.  
 41 (3) A copyright is utilized in a state to the extent that printing or  
 42 other publication originates in the state. If the basis of receipts

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1 from copyright royalties does not permit allocation to states or if  
 2 the accounting procedures do not reflect states of utilization, the  
 3 copyright is utilized in the state in which the taxpayer's  
 4 commercial domicile is located.

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

10 (1) separate accounting;

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

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

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

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

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

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

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

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

39 (1) a foreign corporation; or

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

42 (p) Notwithstanding subsections (l) and (m), the department may not

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

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

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

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

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

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

31 SECTION 10. IC 6-3-2-2.5, AS AMENDED BY P.L.113-2010,  
 32 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JANUARY 1, 2012]: Sec. 2.5. (a) This section applies to a resident  
 34 person.

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

40 (c) An Indiana net operating loss equals the taxpayer's federal net  
 41 operating loss for a taxable year as calculated under Section 172 of the  
 42 Internal Revenue Code, adjusted for the modifications required by

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- 1 IC 6-3-1-3.5.
- 2 (d) The following provisions apply for purposes of subsection (c):
- 3 (1) The modifications that are to be applied are those
- 4 modifications required under IC 6-3-1-3.5 for the same taxable
- 5 year in which each net operating loss was incurred.
- 6 (2) An Indiana net operating loss includes a net operating loss that
- 7 arises when the modifications required by IC 6-3-1-3.5 exceed the
- 8 taxpayer's federal adjusted gross income (as defined in Section 62
- 9 of the Internal Revenue Code) for the taxable year in which the
- 10 Indiana net operating loss is determined.
- 11 (e) Subject to the limitations contained in subsection (g), an Indiana
- 12 net operating loss ~~carryback~~ or carryover shall be available as a
- 13 deduction from the taxpayer's adjusted gross income (as defined in
- 14 IC 6-3-1-3.5) in the ~~carryback~~ or carryover year provided in subsection
- 15 (f).
- 16 (f) ~~Carrybacks and~~ Carryovers shall be determined under this
- 17 subsection as follows:
- 18 (1) ~~An Indiana net operating loss shall be an Indiana net operating~~
- 19 ~~loss carryback to each of the carryback years preceding the~~
- 20 ~~taxable year of the loss:~~
- 21 (2) (1) An Indiana net operating loss shall be an Indiana net
- 22 operating loss carryover to each of the carryover years following
- 23 the taxable year of the loss.
- 24 (3) ~~Carryback years shall be determined by reference to the~~
- 25 ~~number of years allowed for carrying back a net operating loss~~
- 26 ~~under Section 172(b) of the Internal Revenue Code. However;~~
- 27 ~~with respect to the carryback period for a net operating loss:~~
- 28 (A) ~~for which a taxpayer made an election to use five (5) years~~
- 29 ~~instead of two (2) years under Section 172(b)(1)(H) of the~~
- 30 ~~Internal Revenue Code; two (2) years shall be used instead of~~
- 31 ~~five (5) years; or~~
- 32 (B) ~~that is a qualified disaster loss for which the taxpayer~~
- 33 ~~elected to have the net operating loss carryback period with~~
- 34 ~~respect to the loss year determined without regard to Section~~
- 35 ~~172(b)(1)(J) of the Internal Revenue Code; five (5) years shall~~
- 36 ~~be used.~~
- 37 (4) (2) Carryover years shall be determined by reference to the
- 38 number of years allowed for carrying over net operating losses
- 39 under Section 172(b) of the Internal Revenue Code.
- 40 (5) ~~A taxpayer who makes an election under Section 172(b)(3) of~~
- 41 ~~the Internal Revenue Code to relinquish the carryback period with~~
- 42 ~~respect to a net operating loss for any taxable year shall be~~

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1           considered to have also relinquished the carryback of the Indiana  
2           net operating loss for purposes of this section.

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

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

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

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

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

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

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

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

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

41           (3) An Indiana net operating loss includes a net operating loss that  
42 arises when the modifications required by IC 6-3-1-3.5 exceed the

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

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

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

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

18 ~~(2) (1) An Indiana net operating loss shall be an Indiana net~~  
19 ~~operating loss carryover to each of the carryover years following~~  
20 ~~the taxable year of the loss.~~

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

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

29 ~~(B) that is a qualified disaster loss for which the taxpayer~~  
30 ~~elected to have the net operating loss carryback period with~~  
31 ~~respect to the loss year determined without regard to Section~~  
32 ~~172(b)(1)(J) of the Internal Revenue Code; five (5) years shall~~  
33 ~~be used.~~

34 ~~(4) (2) Carryover years shall be determined by reference to the~~  
35 ~~number of years allowed for carrying over net operating losses~~  
36 ~~under Section 172(b) of the Internal Revenue Code.~~

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

42 (g) The entire amount of the Indiana net operating loss for any

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

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

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

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

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

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

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

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

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

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

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

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

41 SECTION 12. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE  
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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1 JANUARY 1, 2012]: **Sec. 22. (a) If a taxpayer is a corporation that**  
 2 **is a United States shareholder, the taxpayer may elect to deduct an**  
 3 **amount equal to part of the cash dividends that are received during**  
 4 **the taxable year by the shareholder from controlled foreign**  
 5 **corporations. The amount of the deduction is the percentage**  
 6 **amount approved by the Indiana economic development**  
 7 **corporation established under IC 5-28-3. If, within the taxable year**  
 8 **for which the election under this section is in effect, a United States**  
 9 **shareholder receives a cash distribution from a controlled foreign**  
 10 **corporation which is excluded from gross income under Section**  
 11 **959(a) of the Internal Revenue Code, the distribution shall be**  
 12 **treated for purposes of this section as a cash dividend to the extent**  
 13 **of any amount included in income by the United States shareholder**  
 14 **under Section 951(a)(1)(A) of the Internal Revenue Code as a**  
 15 **result of any cash dividend during such taxable year to:**

- 16 (1) the controlled foreign corporation from another controlled
- 17 foreign corporation that is in a chain of ownership described
- 18 in Section 958(a) of the Internal Revenue Code; or
- 19 (2) any other controlled foreign corporation in the chain of
- 20 ownership, but only to the extent of cash distributions
- 21 described in Section 959(b) of the Internal Revenue Code that
- 22 are made during the taxable year to the controlled foreign
- 23 corporation from which the United States shareholder
- 24 received the distribution.

25 (b) The following apply to the amount of dividends taken into  
 26 account under subsection (a):

- 27 (1) The amount of dividends taken into account under
- 28 subsection (a) may not exceed the greater of:
- 29 (A) one million dollars (\$1,000,000);
- 30 (B) the amount shown on the applicable financial
- 31 statement as earnings permanently reinvested outside the
- 32 United States; or
- 33 (C) in the case of an applicable financial statement that
- 34 fails to show a specific amount of earnings permanently
- 35 reinvested outside the United States and that shows a
- 36 specific amount of tax liability attributable to the earnings,
- 37 the amount equal to the amount of the liability divided by
- 38 the corporate adjusted gross income tax rate set forth in
- 39 IC 6-3-2-1(b).

40 The amounts described in clauses (B) and (C) shall be treated  
 41 as being zero (0) if there is no statement or the statement fails  
 42 to show a specific amount of earnings or liability, whichever

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- 1 applies.
- 2 (2) The amount of dividends taken into account under
- 3 subsection (a) may not exceed the excess (if any) of the
- 4 remainder of:
- 5 (A) the dividends received during the taxable year by the
- 6 shareholder from controlled foreign corporations; minus
- 7 (B) the annual average for the base period years of:
- 8 (i) the dividends received during each base period year
- 9 by the shareholder from controlled foreign corporations;
- 10 (ii) the amounts includable in the shareholder's gross
- 11 income for each base period year under Section
- 12 951(a)(1)(B) of the Internal Revenue Code with respect
- 13 to controlled foreign corporations; and
- 14 (iii) the amounts that would have been included for each
- 15 base period year but for Section 959(a) of the Internal
- 16 Revenue Code with respect to controlled foreign
- 17 corporations.
- 18 The amount taken into account under item (iii) for any
- 19 base period year may not include any amount that is not
- 20 includable in gross income by reason of an amount
- 21 described in item (ii) with respect to a prior taxable year.
- 22 Amounts described in clause (B) for any base period year
- 23 must be the amounts shown on the most recent return filed
- 24 for that year, except that amended returns filed after June 30,
- 25 2012, may not be taken into account.
- 26 (3) The amount of dividends that would (but for this
- 27 subdivision) be taken into account under subsection (a) shall
- 28 be reduced by the excess (if any) of:
- 29 (A) the amount of indebtedness of the controlled foreign
- 30 corporation to any related person (as defined in Section
- 31 954(d)(3)) of the Internal Revenue Code as of the close of
- 32 the taxable year for which the election under this section is
- 33 in effect; minus
- 34 (B) the amount of indebtedness of the controlled foreign
- 35 corporation to any related person (as so defined) as of
- 36 December 31, 2012.
- 37 All controlled foreign corporations with respect to which the
- 38 taxpayer is a United States shareholder shall be treated as one
- 39 (1) controlled foreign corporation for purposes of this
- 40 subdivision.
- 41 (4) Subsection (a) does not apply to any dividend received by
- 42 a United States shareholder unless the amount of the dividend

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is invested in Indiana under a domestic reinvestment plan that:

- (A) is approved by:
  - (i) the taxpayer's president, chief executive officer, or comparable official before the payment of the dividend and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body; and
  - (ii) the Indiana economic development corporation; and
- (B) provides for the reinvestment of the dividend in Indiana (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation.

- (c) For purposes of this section, the following apply:
  - (1) "Applicable financial statement" refers, with respect to a United States shareholder, to the most recently audited financial statement (including notes and other documents which accompany such a statement) that includes the shareholder:
    - (A) that is certified on or before the date established by the Indiana economic development corporation for the corporation, as being prepared in accordance with generally accepted accounting principles; and
    - (B) that is used for the purposes of a statement or report:
      - (i) to creditors;
      - (ii) to shareholders; or
      - (iii) for any other substantial nontax purpose.

In the case of a corporation required to file a financial statement with the United States Securities and Exchange Commission, the term means the most recent financial statement filed on or before the date established by the Indiana economic development corporation.

- (2) "Base period years" means:
  - (A) the three (3) taxable years:
    - (i) that are among the five (5) most recent taxable years ending on or before the date established by the Indiana economic development corporation for the corporation; and
    - (ii) that are determined by disregarding one (1) taxable

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year for which the sum of the amounts described in subsection (b)(2)(B)(i), (b)(2)(B)(ii), and (b)(2)(B)(iii) is the largest and the one (1) taxable year for which the sum is the smallest.

**(B) If the taxpayer has fewer than five (5) taxable years ending on or before the date established by the Indiana economic development corporation for the corporation, then instead of applying clause (A), the base period years include all the taxable years of the taxpayer ending on or before the date established by the Indiana economic development corporation for the corporation.**

**(C) With regard to mergers, acquisitions, spin-offs, or similar situations:**

**(i) Rules similar to the rules of subparagraphs (A) and (B) of Section 41(f)(3) of the Internal Revenue Code apply for purposes of this subdivision.**

**(ii) If there is a distribution to which Section 355 of the Internal Revenue Code (or so much of Section 356 of the Internal Revenue Code as relates to Section 355 of the Internal Revenue Code) applies during the five (5) year period referred to in clause (A)(i) and the controlled corporation (within the meaning of Section 355 of the Internal Revenue Code) is a United States shareholder, the controlled corporation shall be treated as being in existence during the period that the distributing corporation (within the meaning of Section 355 of the Internal Revenue Code) is in existence. In addition, for purposes of applying subsection (b)(2) to the controlled corporation and the distributing corporation, amounts described in subsection (b)(2)(B) that are received or includable by the distributing corporation or controlled corporation (whichever applies) before the distribution from a controlled foreign corporation shall be allocated between these corporations in proportion to their respective interests as United States shareholders of the controlled foreign corporation immediately after the distribution. However, this allocation does not apply if neither the controlled corporation nor the distributing corporation is a United States shareholder of the controlled foreign corporation immediately after the distribution.**

**(3) "Dividend" does not include amounts includable in gross**

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1 income as a dividend under Section 78 of the Internal  
 2 Revenue Code, Section 367 of the Internal Revenue Code, or  
 3 Section 1248 of the Internal Revenue Code. However, in the  
 4 case of a liquidation under Section 332 of the Internal  
 5 Revenue Code to which Section 367(b) of the Internal  
 6 Revenue Code applies, the exclusion does not apply to the  
 7 extent the United States shareholder actually receives cash as  
 8 part of the liquidation.

9 (4) A deduction is not allowed under any other law for any  
 10 dividend for which a deduction is allowed under this section.

11 (5) With regard to controlled groups the following apply:

12 (A) All United States shareholders that are members of an  
 13 affiliated group filing a consolidated return under Section  
 14 1501 of the Internal Revenue Code shall be treated as one  
 15 (1) United States shareholder.

16 (B) All corporations that are treated as a single employer  
 17 under Section 52(a) of the Internal Revenue Code shall be  
 18 limited to one (1) ceiling amount in subsection (b)(1)(A),  
 19 and the amount shall be divided among these corporations  
 20 as prescribed by the Indiana economic development  
 21 corporation.

22 (C) If a financial statement is an applicable financial  
 23 statement for more than one (1) United States shareholder,  
 24 the amount applicable under subsection (b)(1)(B) or  
 25 (b)(1)(C) shall be divided among these shareholders as  
 26 prescribed by the Indiana economic development  
 27 corporation.

28 (d) No other credit or deduction is allowed under any other law  
 29 for the following:

30 (1) Any taxes paid or accrued (or treated as paid or accrued)  
 31 with respect to the deductible part of:

32 (A) any dividend; or

33 (B) any amount described in subsection (a)(2) which is  
 34 included in income under Section 951(a)(1)(A) of the  
 35 Internal Revenue Code.

36 No deduction is allowed under this section for any tax for  
 37 which credit is not allowable by reason of this subdivision.

38 (2) Expenses properly allocated and apportioned to the  
 39 deductible part described in subdivision (1).

40 For purposes of this section, unless the taxpayer otherwise  
 41 specifies, the deductible part of any dividend or other amount is the  
 42 amount that bears the same ratio to the amount of the dividend or

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1 other amount as the amount allowed as a deduction under  
 2 subsection (a) for the taxable year bears to the amount described  
 3 in subsection (b)(2)(A) for that year.

4 (e) A deduction under this section may not reduce the adjusted  
 5 gross income of any United States shareholder for any taxable year  
 6 to less than zero (0). The excess of the amount of dividends taken  
 7 into account under subsection (a) over the deduction allowed under  
 8 subsection (a) for these dividends for any taxable year may not be  
 9 taken into account in determining the amount of any net operating  
 10 loss deductible from adjusted gross income for the taxable year.

11 (f) A taxpayer may elect to apply this section to:

12 (1) the taxpayer's last taxable year that begins in the year the  
 13 deduction is approved by the Indiana economic development  
 14 corporation; or

15 (2) the taxpayer's first taxable year that begins in the year  
 16 after the year the deduction is approved by the Indiana  
 17 economic development corporation.

18 An election may be made for a taxable year only if it is made  
 19 before the due date (including extensions) for filing the return of  
 20 tax for that taxable year. An election may cover not more than two  
 21 (2) taxable years for any particular taxpayer.

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

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

31 (1) a federal income tax return filed by the taxpayer after January  
 32 1, 1978; or

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

35 The taxpayer shall file the notice on the form prescribed by the  
 36 department within one hundred twenty (120) days after the  
 37 modification is made **if the modification was made before January**  
 38 **1, 2011, and one hundred eighty (180) days after the modification**  
 39 **is made if the modification is made after December 31, 2010.**

40 (c) If the federal modification results in a change in the taxpayer's  
 41 federal or Indiana adjusted gross income, the taxpayer shall file an  
 42 Indiana amended return within one hundred twenty (120) days after the

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1 modification is made **if the modification was made before January**  
 2 **1, 2011, and one hundred eighty (180) days after the modification**  
 3 **is made if the modification is made after December 31, 2010.**

4 SECTION 14. IC 6-3.1-2-8 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2011]: **Sec. 8. (a) A tax credit may not be awarded under this**  
 7 **chapter after December 31, 2011.**

8 **(b) This chapter expires January 1, 2020.**

9 SECTION 15. IC 6-3.1-14-9 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 11 1, 2011]: **Sec. 9. (a) A tax credit may not be awarded under this**  
 12 **chapter for the providing, after December 31, 2011, of a temporary**  
 13 **residence.**

14 **(b) Any tax credit previously awarded but not claimed may not**  
 15 **be carried over to a taxable year beginning during the period**  
 16 **January 1, 2012, through December 31, 2013, and must be carried**  
 17 **forward to a taxable year that begins after December 31, 2013, and**  
 18 **before January 1, 2016.**

19 **(c) This chapter expires January 1, 2020.**

20 SECTION 16. IC 6-3.1-19-3, AS AMENDED BY P.L.113-2010,  
 21 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 UPON PASSAGE]: **Sec. 3. (a) Except as provided in section 5 or 5.5**  
 23 **of this chapter, a taxpayer is entitled to a credit against the taxpayer's**  
 24 **state and local tax liability for a taxable year if the taxpayer makes a**  
 25 **qualified investment in that year.**

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

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

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

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

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

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

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

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

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

17 (2) allocated to the district.

18 SECTION 17. IC 6-3.1-19-7 IS ADDED TO THE INDIANA CODE  
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
20 1, 2011]: **Sec. 7. (a) A tax credit may not be awarded under this  
21 chapter for a qualified investment made after December 31, 2011.**

22 **(b) Any tax credit previously awarded but not claimed may not  
23 be carried over to a taxable year beginning during the period  
24 January 1, 2012, through December 31, 2013, and must be carried  
25 forward to a taxable year that begins after December 31, 2013, and  
26 before January 1, 2016.**

27 **(c) This chapter expires January 1, 2020.**

28 SECTION 18. IC 6-3.1-31-14 IS ADDED TO THE INDIANA  
29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2011]: **Sec. 14. (a) A tax credit may not be  
31 awarded under this chapter for making available after December  
32 31, 2011, a health benefit plan.**

33 **(b) Any tax credit previously awarded but not claimed may not  
34 be carried over to a taxable year beginning during the period  
35 January 1, 2012, through December 31, 2013, and must be carried  
36 forward to a taxable year that begins after December 31, 2013, and  
37 before January 1, 2016.**

38 **(c) This chapter expires January 1, 2020.**

39 SECTION 19. IC 6-3.1-31.2-11 IS ADDED TO THE INDIANA  
40 CODE AS A NEW SECTION TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2011]: **Sec. 11. (a) A tax credit may not be  
42 awarded under this chapter for costs incurred after December 31,**

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**2011.**  
**(b) Any tax credit previously awarded but not claimed may not be carried over to a taxable year beginning during the period January 1, 2012, through December 31, 2013, and must be carried forward to a taxable year that begins after December 31, 2013, and before January 1, 2016.**

**(c) This chapter expires January 1, 2020.**

SECTION 20. IC 6-5.5-1-2, AS AMENDED BY P.L.182-2009(ss), SECTION 233, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

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

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

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

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

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

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

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

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1 improvement property in service during the taxable year and  
 2 that was classified as 15-year property under Section  
 3 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the  
 4 amount of adjusted gross income that would have been  
 5 computed had the classification not applied to the property in  
 6 the year that it was placed in service.

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

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

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

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

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

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

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

41 (Q) Add an amount equal to any exempt insurance income  
 42 under Section 953(e) of the Internal Revenue Code for active

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- 1 financing income under Subpart F, Subtitle A, Chapter 1,  
2 Subchapter N of the Internal Revenue Code.
- 3 (2) Subtract the following amounts:
- 4 (A) Income that the United States Constitution or any statute  
5 of the United States prohibits from being used to measure the  
6 tax imposed by this chapter.
- 7 (B) Income that is derived from sources outside the United  
8 States, as defined by the Internal Revenue Code.
- 9 (C) An amount equal to a debt or part of a debt that becomes  
10 worthless, as permitted under Section 166(a) of the Internal  
11 Revenue Code.
- 12 (D) An amount equal to any bad debt reserves that are  
13 included in federal income because of accounting method  
14 changes required by Section 585(c)(3)(A) or Section 593 of  
15 the Internal Revenue Code.
- 16 (E) The amount necessary to make the adjusted gross income  
17 of any taxpayer that owns property for which bonus  
18 depreciation was allowed in the current taxable year or in an  
19 earlier taxable year equal to the amount of adjusted gross  
20 income that would have been computed had an election not  
21 been made under Section 168(k) of the Internal Revenue Code  
22 to apply bonus depreciation.
- 23 (F) The amount necessary to make the adjusted gross income  
24 of any taxpayer that placed Section 179 property (as defined  
25 in Section 179 of the Internal Revenue Code) in service in the  
26 current taxable year or in an earlier taxable year equal to the  
27 amount of adjusted gross income that would have been  
28 computed had an election for federal income tax purposes not  
29 been made for the year in which the property was placed in  
30 service to take deductions under Section 179 of the Internal  
31 Revenue Code in a total amount exceeding twenty-five  
32 thousand dollars (\$25,000).
- 33 (G) Income that is:
- 34 (i) exempt from taxation under IC 6-3-2-21.7; and  
35 (ii) included in the taxpayer's taxable income under the  
36 Internal Revenue Code.
- 37 (b) In the case of a credit union, "adjusted gross income" for a  
38 taxable year means the total transfers to undivided earnings **plus the**  
39 **amount excluded from federal gross income under Section 103 of**  
40 **the Internal Revenue Code for interest received on an obligation of**  
41 **a state other than Indiana or a political subdivision of such a state**  
42 **minus dividends for that taxable year after statutory reserves are set**

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aside under IC 28-7-1-24.

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

- (1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by
- (2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

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

- (1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
- (2) solicits or receives a payment to be made to itself and issues in exchange for the payment:
  - (A) a so-called bond;
  - (B) a share;
  - (C) a coupon;
  - (D) a certificate of membership;
  - (E) an agreement;
  - (F) a pretended agreement; or
  - (G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 21. IC 6-8-5-1, AS AMENDED BY P.L.2-2007,

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1 SECTION 128, IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JANUARY 1, 2012]: Sec. 1. (a) All bonds issued after  
 3 March 11, 1959, or notes, warrants, or other evidences of indebtedness  
 4 issued in the state of Indiana by or in the name of any **Indiana** county,  
 5 township, city, incorporated town, school corporation, state educational  
 6 institution, or any other **Indiana** political, municipal, public or  
 7 quasi-public corporation or body, or in the name of any special  
 8 assessment or taxing district or in the name of any authorized body of  
 9 any such corporation or district, the interest thereon, the proceeds  
 10 received by a holder from the sale of such obligations to the extent of  
 11 the holder's cost of acquisition, or proceeds received upon redemption  
 12 prior to maturity, or proceeds received at maturity, and the receipt of  
 13 such interest and proceeds, shall be exempt from taxation in the state  
 14 of Indiana for all purposes except a state inheritance tax imposed under  
 15 IC 6-4.1.

16 (b) All bonds issued after March 11, 1933, and before March 12,  
 17 1959, by any municipality in this state under the provisions of any  
 18 statute whereby the terms thereof provide for the payment of such  
 19 bonds out of the funds derived from the revenues of any municipally  
 20 owned utility or which are to be paid by pledging the physical property  
 21 of any such municipally owned utility, or any bonds issued pledging  
 22 both the physical property and the revenues of such utility, or any  
 23 bonds issued for additions to or improvements to be made to such  
 24 municipally owned utility, or any bonds issued by any municipality to  
 25 be paid out of taxes levied by such municipality for the acquiring,  
 26 purchase, construction, or the reconstruction of a utility, or any part  
 27 thereof, shall be exempt from taxation for all purposes except a state  
 28 inheritance tax imposed under IC 6-4.1.

29 (c) This section does not apply to measuring the franchise tax  
 30 imposed on the privilege of transacting the business of a financial  
 31 institution in Indiana under IC 6-5.5.

32 (d) No other statute exempting interest paid on debt obligations of:  
 33 (1) a state or local public entity, including an agency, a  
 34 government corporation, or an authority; or  
 35 (2) a corporation or other entity leasing real or personal property  
 36 to an entity described in subdivision (1);  
 37 applies to measuring of the franchise tax imposed on financial  
 38 institutions under IC 6-5.5.

39 SECTION 22. IC 6-8.1-3-10 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The department  
 41 may enter into contracts with persons outside the department to provide  
 42 services that the department feels are necessary to properly administer

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and collect the listed taxes.

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

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

SECTION 23. IC 6-8.1-5-1, AS AMENDED BY P.L.1-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 1. (a) As used in this section, "letter of findings" includes a supplemental letter of findings.

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

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

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

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

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

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

(f) No later than sixty (60) days after conducting a hearing on a

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

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

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

- 19 (1) the letter of findings is issued by the department, if the person
- 20 does not make a timely request for a rehearing under subsection
- 21 (g) on the letter of findings; or
- 22 (2) the department issues a denial of the person's timely request
- 23 for a rehearing under subsection (g) on the letter of findings.

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

- 26 (1) Uphold or deny any part of the assessment that is appealed.
- 27 (2) Assess the court costs in a manner that the court believes to be
- 28 equitable.
- 29 ~~(3) Enjoin the collection of a listed tax under IC 33-26-6-2.~~

30 **(3) Take any other action permitted by law.**

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

- 34 (1) the person failed to properly respond within the forty-five (45)
- 35 day period;
- 36 (2) the person requested a hearing but failed to appear at that
- 37 hearing; or
- 38 (3) after consideration of the evidence presented in the protest or
- 39 hearing, the department finds that the person still owes tax.

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

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

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1 SECTION 24. IC 6-8.1-8-2, AS AMENDED BY P.L.111-2006,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 **and**  
4 **section 16 of this chapter**, the department must issue a demand notice  
5 for the payment of a tax and any interest or penalties accrued on the  
6 tax, if a person files a tax return without including full payment of the  
7 tax or if the department, after ruling on a protest, finds that a person  
8 owes the tax before the department issues a tax warrant. The demand  
9 notice must state the following:

- 10 (1) That the person has ten (10) days from the date the department
- 11 mails the notice to either pay the amount demanded or show
- 12 reasonable cause for not paying the amount demanded.
- 13 (2) The statutory authority of the department for the issuance of
- 14 a tax warrant.
- 15 (3) The earliest date on which a tax warrant may be filed and
- 16 recorded.
- 17 (4) The statutory authority for the department to levy against a
- 18 person's property that is held by a financial institution.
- 19 (5) The remedies available to the taxpayer to prevent the filing
- 20 and recording of the judgment.

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

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

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

- 36 (1) at least twenty (20) days after the date the demand notice was
- 37 mailed to the taxpayer; and
- 38 (2) no later than five (5) days after the date the department issues
- 39 the warrant.

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

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- 1 listing the following:
- 2 (1) The name of the person owing the tax.
- 3 (2) The amount of the tax, interest, penalties, collection fee,  
4 sheriff's costs, clerk's costs, and fees established under section  
5 4(b) of this chapter when applicable.
- 6 (3) The date the warrant was filed with the clerk.
- 7 (e) When the entry is made, the total amount of the tax warrant  
8 becomes a judgment against the person owing the tax. The judgment  
9 creates a lien in favor of the state that attaches to all the person's  
10 interest in any:
- 11 (1) chose in action in the county; and  
12 (2) real or personal property in the county;  
13 excepting only negotiable instruments not yet due.
- 14 (f) A judgment obtained under this section is valid for ten (10) years  
15 from the date the judgment is filed. The department may renew the  
16 judgment for additional ten (10) year periods by filing an alias tax  
17 warrant with the circuit court clerk of the county in which the judgment  
18 previously existed.
- 19 (g) A judgment arising from a tax warrant in a county may be  
20 released by the department:
- 21 (1) after the judgment, including all accrued interest to the date of  
22 payment, has been fully satisfied; or  
23 (2) if the department determines that the tax assessment or the  
24 issuance of the tax warrant was in error.
- 25 (h) If the department determines that the filing of a tax warrant was  
26 in error, the department shall mail a release of the judgment to the  
27 taxpayer and the circuit court clerk of each county where the warrant  
28 was filed. The department shall mail the release as soon as possible but  
29 no later than seven (7) days after:
- 30 (1) the determination by the department that the filing of the  
31 warrant was in error; and  
32 (2) the receipt of information by the department that the judgment  
33 has been recorded under subsection (d).
- 34 (i) If the department determines that a judgment described in  
35 subsection (h) is obstructing a lawful transaction, the department shall  
36 mail a release of the judgment to the taxpayer and the circuit court  
37 clerk of each county where the judgment was filed immediately upon  
38 making the determination.
- 39 (j) A release issued under subsection (h) or (i) must state that the  
40 filing of the tax warrant was in error. Upon the request of the taxpayer,  
41 the department shall mail a copy of a release issued under subsection  
42 (h) or (i) to each major credit reporting company located in each county

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where the judgment was filed.

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

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

- (1) before the judgment is fully satisfied;
- (2) before the sheriff has properly disbursed the amount collected;
- or
- (3) after the sheriff has returned the tax warrant to the department; the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department.

SECTION 25. IC 6-8.1-8-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies without an injunction from the tax court to any assessment that is made or pending after April 30, 2011.**

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

- (1) The expiration of the period in which the taxpayer may appeal the listed tax to the tax court.**
- (2) A decision of the tax court concerning the listed tax becomes final, if the taxpayer filed a timely appeal.**

SECTION 26. IC 6-8.1-9-1, AS AMENDED BY P.L.182-2009(ss), SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f), ~~and~~ (g), and (h), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:**

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor

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1 carrier fuel tax, the oil inspection fee, or the petroleum severance tax  
 2 is the end of the calendar year which contains the taxable period for  
 3 which the return is filed. The claim must set forth the amount of the  
 4 refund to which the person is entitled and the reasons that the person  
 5 is entitled to the refund.

6 (b) When the department receives a claim for refund, the  
 7 department shall consider the claim for refund and shall, if the taxpayer  
 8 requests, hold a hearing on the claim for refund to obtain and consider  
 9 additional evidence. After considering the claim and all evidence  
 10 relevant to the claim, the department shall issue a decision on the  
 11 claim, stating the part, if any, of the refund allowed and containing a  
 12 statement of the reasons for any part of the refund that is denied. The  
 13 department shall mail a copy of the decision to the person who filed the  
 14 claim. If the department allows the full amount of the refund claim, a  
 15 warrant for the payment of the claim is sufficient notice of the decision.

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

- 22 (1) the appeal is filed more than three (3) years after the date the
- 23 claim for refund was filed with the department;
- 24 (2) the appeal is filed more than ninety (90) days after the date the
- 25 department mails the decision of denial to the person; or
- 26 (3) the appeal is filed both before the decision is issued and
- 27 before the one hundred eighty-first day after the date the person
- 28 files the claim for refund with the department.

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

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

40 (f) If a taxpayer's federal income tax liability for a taxable year is  
 41 modified by the Internal Revenue Service, and the modification would  
 42 result in a reduction of the tax legally due, the due date by which the

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1 taxpayer must file a claim for refund with the department is the later of:  
 2 (1) the date determined under subsection (a); or  
 3 (2) the date that is ~~six (6) months~~ **one hundred eighty (180) days**  
 4 after the date on which the taxpayer is notified of the modification  
 5 by the Internal Revenue Service.

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

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

- 12 (1) **IC 6-2.5-4-5(c)(3); or**
- 13 (2) **the exemption provided by IC 6-2.5-5-5.1 for electrical**  
 14 **energy, natural or artificial gas, water, steam, and steam heat;**  
 15 **the person must file the claim with the department within one (1)**  
 16 **year after the date of payment.**

17 SECTION 27. IC 6-8.1-9-2, AS AMENDED BY P.L.182-2009(ss),  
 18 SECTION 257, IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]; Sec. 2. (a) If the  
 20 department finds that a person has paid more tax for a taxable year than  
 21 is legally due, the department shall apply the amount of the excess  
 22 against any amount of that same tax that is assessed and is currently  
 23 due. The department may then apply any remaining excess against any  
 24 of the listed taxes that have been assessed against the person and that  
 25 are currently due. Subject to subsection (c), if any excess remains after  
 26 the department has applied the overpayment against the person's tax  
 27 liabilities, the department shall either refund the amount to the person  
 28 or, at the person's request, credit the amount to the person's future tax  
 29 liabilities.

30 (b) Subject to subsection (c), if a court determines that a person has  
 31 paid more tax for a taxable year than is legally due, the department  
 32 shall refund the excess amount to the person.

33 (c) As used in this subsection, "pass through entity" means a  
 34 corporation that is exempt from the adjusted gross income tax under  
 35 IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited  
 36 liability partnership and "pass through income" means a person's  
 37 distributive share of adjusted gross income for a taxable year  
 38 attributable to the person's interest in a pass through entity. This  
 39 subsection applies to a person's overpayment of adjusted gross income  
 40 tax for a taxable year if:

- 41 (1) the person has filed a timely claim for refund with respect to  
 42 the overpayment under IC 6-8.1-9-1;

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- 1 (2) the overpayment:  
 2 (A) is with respect to a taxable year beginning before January  
 3 1, 2009;  
 4 (B) is attributable to amounts paid to the department by:  
 5 (i) a nonresident shareholder, partner, or member of a pass  
 6 through entity;  
 7 (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13  
 8 on behalf of a nonresident shareholder, partner, or member  
 9 of the pass through entity; or  
 10 (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13  
 11 on behalf of a nonresident shareholder, partner, or member  
 12 of another pass through entity; and  
 13 (3) the overpayment arises from a determination by the  
 14 department or a court that the person's pass through income is not  
 15 includible in the person's adjusted gross income derived from  
 16 sources within Indiana as a result of the application of  
 17 IC 6-3-2-2(a)(5). ~~and IC 6-3-2-2(g).~~  
 18 The department shall apply the overpayment to the person's liability for  
 19 taxes that have been assessed and are currently due as provided in  
 20 subsection (a) and apply any remaining overpayment as a credit or  
 21 credits in satisfaction of the person's liability for listed taxes in taxable  
 22 years beginning after December 31, 2008. If the person, including any  
 23 successor to the person's interest in the overpayment, does not have  
 24 sufficient liability for listed taxes against which to credit all the  
 25 remaining overpayment in a taxable year beginning after December 31,  
 26 2008, and ending before January 1, 2019, the taxpayer is not entitled  
 27 for any taxable year ending after December 31, 2018, to have any part  
 28 of the remaining overpayment applied, refunded, or credited to the  
 29 person's liability for listed taxes. If an overpayment or part of an  
 30 overpayment is required to be applied as a credit under this subsection  
 31 to the person's liability for listed taxes for a taxable year beginning after  
 32 December 31, 2008, and has not been determined by the department or  
 33 a court to meet the conditions of subdivision (3) by the due date of the  
 34 person's return for a listed tax for a taxable year beginning after  
 35 December 31, 2008, the department shall refund to the person that part  
 36 of the overpayment that should have been applied as a credit for such  
 37 taxable year within ninety (90) days of the date that the department or  
 38 a court makes the determination that the overpayment meets the  
 39 conditions of subdivision (3). However, the department may establish  
 40 a program to refund small overpayment amounts that do not exceed the  
 41 threshold dollar value established by the department rather than  
 42 crediting the amounts against tax liability accruing for a taxable year

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1 after December 31, 2008. A person that receives a refund or credit  
2 under this subsection shall file a report with the department in the form  
3 and in the schedule specified by the department that identifies under  
4 penalties of perjury the home state or other jurisdiction where the  
5 income subject to the refund or credit was reported as income  
6 attributable to that state or jurisdiction.

7 (d) An excess tax payment that is not refunded or credited against  
8 a current or future tax liability within ninety (90) days after the date the  
9 refund claim is filed, the date the tax payment was due, or the date the  
10 tax was paid, whichever is latest, accrues interest from the date the  
11 refund claim is filed at the rate established under IC 6-8.1-10-1 until a  
12 date, determined by the department, that does not precede by more than  
13 thirty (30) days, the date on which the refund or credit is made. As used  
14 in this subsection, "refund claim" includes an amended return that  
15 indicates an overpayment of tax.

16 SECTION 28. IC 20-19-2-14, AS ADDED BY P.L.1-2005,  
17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2011]: Sec. 14. The state board shall do the following:

- 19 (1) Establish the educational goals of the state, developing
- 20 standards and objectives for local school corporations.
- 21 (2) Assess the attainment of the established goals.
- 22 (3) Assure compliance with established standards and objectives.
- 23 **(4) Coordinate with the commission for higher education**
- 24 **(IC 21-18-1) and the department of workforce development**
- 25 **(IC 22-4.1-2) to develop entrepreneurship education programs**
- 26 **for elementary and secondary education, higher education,**
- 27 **and individuals in the work force.**
- 28 ~~(4)~~ **(5)** Make recommendations to the governor and general
- 29 assembly concerning the educational needs of the state, including
- 30 financial needs.

31 SECTION 29. IC 21-18-8-5 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2011]: **Sec. 5. (a) The commission shall coordinate with the**  
34 **Indiana state board of education (IC 20-19-2) and the department**  
35 **of workforce development (IC 22-4.1-2) to develop**  
36 **entrepreneurship education programs for elementary and**  
37 **secondary education, higher education, and individuals in the work**  
38 **force.**

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

42 SECTION 30. IC 22-4.1-4-5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2011]: **Sec. 5. The department shall coordinate with the  
3 commission for higher education (IC 21-18-1) and the Indiana state  
4 board of education (IC 20-19-2) to develop entrepreneurship  
5 education programs for elementary and secondary education,  
6 higher education, and individuals in the work force.**

7 SECTION 31. IC 33-26-6-2, AS AMENDED BY P.L.91-2006,  
8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: Sec. 2. (a) A taxpayer who wishes to initiate an  
10 original tax appeal must file a petition in the tax court to set aside the  
11 final determination of the department of state revenue or the Indiana  
12 board of tax review. If a taxpayer fails to comply with any statutory  
13 requirement for the initiation of an original tax appeal, the tax court  
14 does not have jurisdiction to hear the appeal.

15 (b) **If a taxpayer who** wishes to enjoin the collection of a tax  
16 pending the original tax appeal **and the collection action is not**  
17 **prohibited under IC 6-8.1-8-16, the taxpayer** must file a petition  
18 with the tax court to enjoin the collection of the tax. The petition must  
19 set forth a summary of:

- 20 (1) the issues that the petitioner will raise in the original tax  
21 appeal; and  
22 (2) the equitable considerations for which the tax court should  
23 order the collection of the tax to be enjoined.

24 (c) After a hearing on the petition filed under subsection (b), the tax  
25 court may enjoin the collection of the tax pending the original tax  
26 appeal, if the tax court finds that:

- 27 (1) the issues raised by the original tax appeal are substantial;  
28 (2) the petitioner has a reasonable opportunity to prevail in the  
29 original tax appeal; and  
30 (3) the equitable considerations favoring the enjoining of the  
31 collection of the tax outweigh the state's interests in collecting the  
32 tax pending the original tax appeal.

33 (d) This section does not apply to a final determination of the  
34 Indiana gaming commission under IC 4-32.2.

35 (e) This section applies to a final determination made by the  
36 department of state revenue concerning the gaming card excise tax  
37 established under IC 4-32.2-10.

38 SECTION 32. IC 33-26-6-2.5 IS ADDED TO THE INDIANA  
39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
40 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) A taxpayer may  
41 petition the tax court to enjoin a violation of IC 6-8.1-8-16.**

42 (b) **After a hearing on a petition filed under subsection (a), the**

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tax court may:

- (1) enjoin a collection action that violates IC 6-8.1-8-16;
- (2) order the release of any lien imposed in violation of IC 6-8.1-8-16; and
- (3) order a refund of any amount that was collected in violation of IC 6-8.1-8-16.

SECTION 33. IC 36-7-13-12.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: **Sec. 12.3. (a) Notwithstanding any other provision of this chapter, the designation of any district after December 31, 2010, is subject to the requirements of this section.**

**(b) An advisory commission on industrial development may not designate a district under section 12 or 12.1 of this chapter unless the advisory commission makes the following findings of fact:**

**(1) That the county or municipality applying for the designation satisfies each of the following requirements:**

**(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.**

**(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the application of the county or municipality is filed with the advisory commission on industrial development.**

**(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:**

**(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.**

**(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.**

**(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two**

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**hundred thousand (200,000) square feet.**

**(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.**

**(E) The site consists of at least one hundred twenty (120) acres of land.**

**(c) The legislative body of a county or municipality may not adopt an ordinance designating a district under section 10.5 of this chapter unless the legislative body makes the following findings of fact:**

**(1) That the county or municipality governed by the legislative body satisfies each of the following requirements:**

**(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which proposed ordinance is adopted.**

**(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the proposed ordinance is adopted.**

**(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:**

**(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.**

**(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.**

**(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.**

**(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.**

**(E) The site consists of at least one hundred twenty (120) acres of land.**

**(d) An advisory commission on industrial development or a**

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1 legislative body that designates a district under this chapter shall  
2 include a copy of the findings made under subsection (b) or (c)  
3 when sending a copy of the resolution or ordinance designating the  
4 district to the budget agency for its approval.

5 (e) The budget agency may not approve the designation of a  
6 district until it confirms the findings of fact submitted under this  
7 section. If a resolution or ordinance is submitted to the budget  
8 agency without the findings of fact required by this section, the  
9 time in which the budget agency must take action on the resolution  
10 or ordinance as set forth in sections 10.5, 12, and 12.1 of this  
11 chapter is tolled until the findings of fact are submitted to the  
12 budget agency.

13 SECTION 34. IC 36-7-13-14, AS AMENDED BY P.L.113-2010,  
14 SECTION 132, IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section does not  
16 apply to a district that:

- 17 (1) is described in section 23(a) of this chapter; and
- 18 (2) is not selected by the advisory commission to receive an  
19 allocation of income tax incremental amount and the gross retail  
20 incremental amount under this chapter.

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

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

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

34 SECTION 35. IC 36-7-13-15, AS AMENDED BY P.L.113-2010,  
35 SECTION 133, IS AMENDED TO READ AS FOLLOWS  
36 [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not  
37 apply to a district that:

- 38 (1) is described in section 23(a) of this chapter; and
- 39 (2) is not selected by the advisory commission to receive an  
40 allocation of income tax incremental amount and the gross retail  
41 incremental amount under this chapter.

42 (b) (a) If an advisory commission on industrial development

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1 designates a district under this chapter or the legislative body of a  
 2 county or municipality adopts an ordinance designating a district under  
 3 section 10.5 of this chapter, the treasurer of state shall establish an  
 4 incremental tax financing fund for the district. The fund shall be  
 5 administered by the treasurer of state. Money in the fund does not  
 6 revert to the state general fund at the end of a state fiscal year.

7 ~~(c)~~ **(b)** Subject to subsection ~~(d)~~; **(c)**, the following amounts shall be  
 8 deposited during each state fiscal year in the incremental tax financing  
 9 fund established for the district under subsection (a):

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

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

18 ~~(d)~~ **(c)** **Except as provided in subsection (e)**, the aggregate amount  
 19 of revenues that is:

20 (1) attributable to:

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

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

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

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

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

36 **(e) The aggregate amount of revenues that is:**

37 **(1) attributable to:**

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

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

42 **(2) deposited during any state fiscal year in the incremental**

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1           **tax financing funds established for the districts located in**  
2           **Delaware County;**  
3           **may not exceed two million dollars (\$2,000,000).**

4           SECTION 36. IC 36-7-14-25.5 IS AMENDED TO READ AS  
5           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 25.5. (a)  
6           Notwithstanding any other law, the legislative body may pledge  
7           revenues received or to be received by the unit from:

- 8           (1) the unit's:
  - 9               **(A) certified shares of the county adjusted gross income tax**
  - 10              **under IC 6-3.5-1.1;**
  - 11              **(B) distributive share of the county option income tax under**
  - 12              **IC 6-3.5-6; or**
  - 13              **(C) distributions of county economic development income**
  - 14              **tax revenue under IC 6-3.5-7;**

15           (2) any other source legally available to the unit for the purposes  
16           of this chapter; or

17           (3) any combination of revenues under subdivisions (1) through  
18           (2);

19           in any amount to pay amounts payable under section 25.1 or 25.2 of  
20           this chapter.

21           (b) The legislative body may covenant to adopt an ordinance to  
22           increase its tax rate under the county option income tax or any other  
23           revenues at the time it is necessary to raise funds to pay any amounts  
24           payable under section 25.1 or 25.2 of this chapter.

25           (c) The commission may pledge revenues received or to be received  
26           from any source legally available to the commission for the purposes  
27           of this chapter in any amount to pay amounts payable under section  
28           25.1 or 25.2 of this chapter.

29           (d) The pledge or the covenant under this section may be for the life  
30           of the bonds issued under section 25.1 of this chapter, the term of a  
31           lease entered into under section 25.2 of this chapter, or for a shorter  
32           period as determined by the legislative body. Money pledged by the  
33           legislative body under this section shall be considered revenues or  
34           other money available to the commission under sections 25.1 through  
35           25.2 of this chapter.

36           (e) The general assembly covenants not to impair this pledge or  
37           covenant so long as any bonds issued under section 25.1 of this chapter  
38           are outstanding or as long as any lease entered into under section 25.2  
39           of this chapter is still in effect. The pledge or covenant shall be  
40           enforced as provided in IC 5-1-14-4.

41           SECTION 37. IC 36-7-15.1-17.5 IS AMENDED TO READ AS  
42           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17.5. (a)

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1 Notwithstanding any other law, the legislative body may pledge  
2 revenues received or to be received by the unit from:

- 3 (1) the unit's:
  - 4 **(A) certified shares of the county adjusted gross income tax**
  - 5 **under IC 6-3.5-1.1;**
  - 6 **(B) distributive share of the county option income tax under**
  - 7 **IC 6-3.5-6; or**
  - 8 **(C) distributions of county economic development income**
  - 9 **tax revenue under IC 6-3.5-7;**

10 (2) any other source legally available to the unit for the purposes  
11 of this chapter; or

12 (3) combination of revenues under subdivisions (1) through (2);  
13 in any amount to pay amounts payable under section 17 or 17.1 of this  
14 chapter.

15 (b) The legislative body may covenant to adopt an ordinance to  
16 increase its tax rate under the county option income tax or any other  
17 revenues at the time it is necessary to raise funds to pay any amounts  
18 payable under section 17 or 17.1 of this chapter.

19 (c) The commission may pledge revenues received or to be received  
20 from any source legally available to it for the purposes of this chapter  
21 in any amount to pay amounts payable under section 17 or 17.1 of this  
22 chapter.

23 (d) The pledge or the covenant under this section may be for the life  
24 of the bonds issued under section 17 of this chapter, the term of a lease  
25 entered into under section 17.1 of this chapter, or for a shorter period  
26 as determined by the legislative body. Money pledged by the legislative  
27 body under this section shall be considered revenues or other money  
28 available to the commission under sections 17 through 17.1 of this  
29 chapter.

30 (e) The general assembly covenants not to impair this pledge or  
31 covenant so long as any bonds issued under section 17 of this chapter  
32 are outstanding or as long as any lease entered into under section 17.1  
33 of this chapter is still in effect. The pledge or covenant shall be  
34 enforced as provided in IC 5-1-14-4.

35 SECTION 38. IC 36-7.6-4-2, AS ADDED BY P.L.232-2007,  
36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2011]: Sec. 2. (a) Beginning January 1 of the year following  
38 the year in which a development authority is established, the fiscal  
39 officer of each county and each municipality that is a member of the  
40 development authority shall transfer the amount determined under  
41 subsection (b) to the development authority for deposit in the  
42 development authority fund.

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1 (b) The amount of the transfer required each year by subsection (a)  
 2 from each county and each municipality is equal to **the following:**  
 3 **(1) Except as provided in subdivision (2),** the amount that  
 4 would be distributed to the county or the municipality as certified  
 5 distributions of county economic development income tax  
 6 revenue raised from a county economic development income tax  
 7 rate of five-hundredths of one percent (0.05%) in the county.  
 8 **(2) In the case of a county or municipality that becomes a**  
 9 **member of a development authority after June 30, 2011, and**  
 10 **before July 1, 2013, the amount that would be distributed to**  
 11 **the county or municipality as certified distributions of county**  
 12 **economic development income tax revenue raised from a**  
 13 **county economic development income tax rate of twenty-five**  
 14 **thousandths of one percent (0.025%) in the county.**  
 15 (c) Notwithstanding subsection (b), if the additional county  
 16 economic development income tax under IC 6-3.5-7-28 is in effect in  
 17 a county, the obligations of the county and each municipality in the  
 18 county under this section are satisfied by the transfer to the  
 19 development fund of all county economic development income tax  
 20 revenue derived from the additional tax and deposited in the county  
 21 regional development authority fund.  
 22 (d) The following apply to the transfers required by this section:  
 23 (1) The transfers shall be made without appropriation by the fiscal  
 24 body of the county or the fiscal body of the municipality.  
 25 (2) Except as provided in subdivision (3), the fiscal officer of  
 26 each county and each municipality that is a member of the  
 27 development authority shall transfer twenty-five percent (25%) of  
 28 the total transfers due for the year before the last business day of  
 29 January, April, July, and October of each year.  
 30 (3) County economic development income tax revenue derived  
 31 from the additional county economic development income tax  
 32 under IC 6-3.5-7-28 must be transferred to the development fund  
 33 not more than thirty (30) days after being deposited in the county  
 34 regional development fund.  
 35 (4) This subdivision does not apply to a county in which the  
 36 additional county economic development income tax under  
 37 IC 6-3.5-7-28 has been imposed or to any municipality in the  
 38 county. The transfers required by this section may be made from  
 39 any local revenue (other than property tax revenue) of the county  
 40 or municipality, including excise tax revenue, income tax  
 41 revenue, local option tax revenue, riverboat tax revenue,  
 42 distributions, incentive payments, or money deposited in the

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- 1 county's or municipality's local major moves construction fund  
2 under IC 8-14-16.
- 3 SECTION 39. IC 6-3-2-2.2 IS REPEALED [EFFECTIVE  
4 JANUARY 1, 2011 (RETROACTIVE)].
- 5 SECTION 40. THE FOLLOWING ARE REPEALED [EFFECTIVE  
6 UPON PASSAGE]: IC 6-3.1-19-5.5; IC 36-7-13-23.
- 7 SECTION 41. [EFFECTIVE JULY 1, 2011] IC 6-3-1-3.5,  
8 IC 6-3-2-1, IC 6-3-2-22, IC 6-5.5-1-2, and IC 6-8-5-1, all as  
9 amended or added by this act, apply to taxable years beginning  
10 after December 31, 2011.
- 11 (b) This SECTION expires January 1, 2016.
- 12 SECTION 42. [EFFECTIVE JANUARY 1, 2011  
13 (RETROACTIVE)] (a) IC 6-3-2-2, as amended by this act, applies  
14 to taxable years beginning after December 31, 2010.
- 15 (b) This SECTION expires January 1, 2014.
- 16 SECTION 43. [EFFECTIVE JULY 1, 2012] (a) This SECTION  
17 applies to a corporate taxpayer that:
- 18 (1) pays adjusted gross income tax under IC 6-3-1 through  
19 IC 6-3-7; and
- 20 (2) has a taxable year that begins before July 1, 2012, and  
21 ends after June 30, 2012.
- 22 (b) Subject to subsection (c), the rate of the adjusted gross  
23 income tax imposed under IC 6-3-2-1 for that taxable year is a rate  
24 equal to the sum of:
- 25 (1) eight and five-tenths percent (8.5%) multiplied by a  
26 fraction, the numerator of which is the number of days in the  
27 taxpayer's taxable year that occurred before July 1, 2012, and  
28 the denominator of which is the total number of days in the  
29 taxable year; and
- 30 (2) six and five-tenths percent (6.5%) multiplied by a fraction,  
31 the numerator of which is the number of days in the  
32 taxpayer's taxable year that occurred after June 30, 2012, and  
33 the denominator of which is the total number of days in the  
34 taxable year.
- 35 (c) However, the rate determined under this section shall be  
36 rounded to the nearest one-hundredth of one percent (0.01%).
- 37 (d) This SECTION expires January 1, 2015.
- 38 SECTION 44. An emergency is declared for this act.

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## COMMITTEE REPORT

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

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

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

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

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

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

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

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

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

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

- (1) the seller collected the tax at the immediately preceding effective rate; and
- (2) the seller's failure to collect at the current rate does not extend beyond thirty (30) days after the effective date of the rate change.

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

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

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

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

- (1) the collection costs of the certified service provider or seller;
- (2) the volume and value to the state of sales, leases, or rentals processed by a certified service provider or seller;
- (3) the administrative and legal costs that the state would otherwise incur to collect gross retail taxes or use taxes for these sales, leases, or rentals absent a negotiated monetary allowance; and
- (4) the likelihood of collecting gross retail taxes or use taxes on these sales, leases, or rentals absent a negotiated monetary allowance."

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

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

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

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

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

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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taxpayer's commercial domicile is in this state.

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

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

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

(1) separate accounting;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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be used.

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

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

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

- (1) The entire amount of the Indiana net operating loss has been used as a deduction.
- (2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

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

- (1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or
- (2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

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

- (1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue Code; and
- (2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

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

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

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

Page 28, between lines 23 and 24, begin a new paragraph and insert: "SECTION 13. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which ~~he~~ **the taxpayer** has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

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

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

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

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

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

Page 28, delete lines 28 through 32.

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

Page 28, delete lines 34 through 42.

Page 29, delete lines 1 through 23.

Page 35, delete lines 17 through 42.

Page 36, delete lines 1 through 27.

Page 37, between lines 24 and 25, begin a new paragraph and insert: "SECTION 24. IC 6-8.1-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The department

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

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

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

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

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

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

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

- (1) set the hearing at the department's earliest convenient time; and
- (2) notify the person by United States mail of the time, date, and location of the hearing.

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

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

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

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

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

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

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

- (1) Uphold or deny any part of the assessment that is appealed.
- (2) Assess the court costs in a manner that the court believes to be equitable.

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

**(3) Take any other action permitted by law.**

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

- (1) the person failed to properly respond within the forty-five (45) day period;
- (2) the person requested a hearing but failed to appear at that hearing; or
- (3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

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

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

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

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

- (1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.
- (2) The statutory authority of the department for the issuance of a tax warrant.
- (3) The earliest date on which a tax warrant may be filed and recorded.
- (4) The statutory authority for the department to levy against a person's property that is held by a financial institution.
- (5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

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

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

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

- (1) at least twenty (20) days after the date the demand notice was mailed to the taxpayer; and
- (2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the

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department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

- (1) The name of the person owing the tax.
- (2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.
- (3) The date the warrant was filed with the clerk.

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

- (1) chose in action in the county; and
- (2) real or personal property in the county;

excepting only negotiable instruments not yet due.

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

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

- (1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or
- (2) if the department determines that the tax assessment or the issuance of the tax warrant was in error.

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The department shall mail the release as soon as possible but no later than seven (7) days after:

- (1) the determination by the department that the filing of the warrant was in error; and
- (2) the receipt of information by the department that the judgment has been recorded under subsection (d).

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

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer,

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the department shall mail a copy of a release issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

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

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

- (1) before the judgment is fully satisfied;
- (2) before the sheriff has properly disbursed the amount collected;
- or
- (3) after the sheriff has returned the tax warrant to the department;

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

SECTION 27. IC 6-8.1-8-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies without an injunction from the tax court to any assessment that is made or pending after April 30, 2011.**

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

- (1) The expiration of the period in which the taxpayer may appeal the listed tax to the tax court.**
- (2) A decision of the tax court concerning the listed tax becomes final, if the taxpayer filed a timely appeal.**

SECTION 28. IC 6-8.1-9-1, AS AMENDED BY P.L.182-2009(ss), SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f), ~~and~~ (g), and (h), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:**

- (1) The due date of the return.
- (2) The date of payment.

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

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

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

- (1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;
- (2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or
- (3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

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

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

(f) If a taxpayer's federal income tax liability for a taxable year is

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modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

- (1) the date determined under subsection (a); or
- (2) the date that is ~~six (6) months~~ **one hundred eighty (180) days** after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

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

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

- (1) IC 6-2.5-4-5(c)(3); or**
- (2) the exemption provided by IC 6-2.5-5-5.1 for electrical energy, natural or artificial gas, water, steam, and steam heat; the person must file the claim with the department within one (1) year after the date of payment.**

SECTION 29. IC 6-8.1-9-2, AS AMENDED BY P.L.182-2009(ss), SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. Subject to subsection (c), if any excess remains after the department has applied the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

(b) Subject to subsection (c), if a court determines that a person has paid more tax for a taxable year than is legally due, the department shall refund the excess amount to the person.

(c) As used in this subsection, "pass through entity" means a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited liability partnership and "pass through income" means a person's distributive share of adjusted gross income for a taxable year attributable to the person's interest in a pass through entity. This subsection applies to a person's overpayment of adjusted gross income tax for a taxable year if:

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- (1) the person has filed a timely claim for refund with respect to the overpayment under IC 6-8.1-9-1;
- (2) the overpayment:
  - (A) is with respect to a taxable year beginning before January 1, 2009;
  - (B) is attributable to amounts paid to the department by:
    - (i) a nonresident shareholder, partner, or member of a pass through entity;
    - (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of the pass through entity; or
    - (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of another pass through entity; and
- (3) the overpayment arises from a determination by the department or a court that the person's pass through income is not includible in the person's adjusted gross income derived from sources within Indiana as a result of the application of IC 6-3-2-2(a)(5). ~~and IC 6-3-2-2.2(g).~~

The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or a court to meet the conditions of subdivision (3) by the due date of the person's return for a listed tax for a taxable year beginning after December 31, 2008, the department shall refund to the person that part of the overpayment that should have been applied as a credit for such taxable year within ninety (90) days of the date that the department or a court makes the determination that the overpayment meets the conditions of subdivision (3). However, the department may establish a program to refund small overpayment amounts that do not exceed the

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threshold dollar value established by the department rather than crediting the amounts against tax liability accruing for a taxable year after December 31, 2008. A person that receives a refund or credit under this subsection shall file a report with the department in the form and in the schedule specified by the department that identifies under penalties of perjury the home state or other jurisdiction where the income subject to the refund or credit was reported as income attributable to that state or jurisdiction.

(d) An excess tax payment that is not refunded or credited against a current or future tax liability within ninety (90) days after the date the refund claim is filed, the date the tax payment was due, or the date the tax was paid, whichever is latest, accrues interest from the date the refund claim is filed at the rate established under IC 6-8.1-10-1 until a date, determined by the department, that does not precede by more than thirty (30) days, the date on which the refund or credit is made. As used in this subsection, "refund claim" includes an amended return that indicates an overpayment of tax."

Page 38, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 33. IC 33-26-6-2, AS AMENDED BY P.L.91-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) **If a taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal and the collection action is not prohibited under IC 6-8.1-8-16, the taxpayer** must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

- (1) the issues that the petitioner will raise in the original tax appeal; and
- (2) the equitable considerations for which the tax court should order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

- (1) the issues raised by the original tax appeal are substantial;
- (2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and
- (3) the equitable considerations favoring the enjoining of the

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collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the Indiana gaming commission under IC 4-32.2.

(e) This section applies to a final determination made by the department of state revenue concerning the gaming card excise tax established under IC 4-32.2-10.

SECTION 34. IC 33-26-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) A taxpayer may petition the tax court to enjoin a violation of IC 6-8.1-8-16.**

**(b) After a hearing on a petition filed under subsection (a), the tax court may:**

- (1) enjoin a collection action that violates IC 6-8.1-8-16;**
- (2) order the release of any lien imposed in violation of IC 6-8.1-8-16; and**
- (3) order a refund of any amount that was collected in violation of IC 6-8.1-8-16."**

Page 40, between lines 4 and 5, begin a new paragraph and insert: "SECTION 35. IC 36-7.6-4-2, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2. (a)** Beginning January 1 of the year following the year in which a development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection (b) to the development authority for deposit in the development authority fund.

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

- (1) Except as provided in subdivision (2),** the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.
- (2) In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013,** the amount that would be distributed to the county or municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of twenty-five thousandths of one percent (0.025%) in the county.

**(c)** Notwithstanding subsection (b), if the additional county

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

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

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

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

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

(4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

SECTION 36. IC 6-3-2-2.2 IS REPEALED [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]."

Page 40, line 6, delete "IC 6-5.5-2-1,".

Page 40, after line 9, begin a new paragraph and insert:

"SECTION 38. [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)] (a) **IC 6-3-2-2, as amended by this act, applies to taxable years beginning after December 31, 2010.**

**(b) This SECTION expires January 1, 2014.**

SECTION 39. [EFFECTIVE JULY 1, 2012] (a) **This SECTION applies to a corporate taxpayer that:**

**(1) pays adjusted gross income tax under IC 6-3-1 through IC 6-3-7; and**

**(2) has a taxable year that begins before July 1, 2012, and**

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ends after June 30, 2012.

(b) Subject to subsection (c), the rate of the adjusted gross income tax imposed under IC 6-3-2-1 for that taxable year is a rate equal to the sum of:

(1) eight and five-tenths percent (8.5%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred before July 1, 2012, and the denominator of which is the total number of days in the taxable year; and

(2) six and five-tenths percent (6.5%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred after June 30, 2012, and the denominator of which is the total number of days in the taxable year.

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

(d) This SECTION expires January 1, 2015.

SECTION 40. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 589 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 589 be amended to read as follows:

Page 36, line 38, delete "eighty-five thousandths (0.085)." and insert "the corporate adjusted gross income tax rate set forth in IC 6-3-2-1(b).".

(Reference is to SB 589 as printed February 18, 2011.)

HERSHMAN

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## SENATE MOTION

Madam President: I move that Senate Bill 589 be amended to read as follows:

Page 42, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 16. IC 6-3.1-19-3, AS AMENDED BY P.L.113-2010, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 5 ~~or 5.5~~ of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

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

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

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

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

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

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

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

- (1) deposited in the incremental tax financing fund established for

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the community revitalization enhancement district; or  
 (2) allocated to the district."

Page 59, between lines 7 and 8, begin a new paragraph and insert:  
 "SECTION 32. IC 36-7-13-12.3 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: **Sec. 12.3. (a)**  
**Notwithstanding any other provision of this chapter, the**  
**designation of any district after December 31, 2010, is subject to**  
**the requirements of this section.**

**(b) An advisory commission on industrial development may not  
 designate a district under section 12 or 12.1 of this chapter unless  
 the advisory commission makes the following findings of fact:**

**(1) That the county or municipality applying for the  
 designation satisfies each of the following requirements:**

**(A) That, as reported by the Indiana Real Estate Markets  
 Report, the average selling price of homes located in the  
 county or municipality has declined by at least fourteen  
 percent (14%) over a one (1) year period occurring within  
 the four (4) calendar years preceding the calendar year in  
 which the application of the county or municipality is filed  
 with the advisory commission on industrial development.**

**(B) That, as reported by the Indiana department of  
 workforce development, the unemployment rate of the  
 county or municipality was at least ten and four-tenths  
 percent (10.4%) for any calendar month occurring in the  
 calendar year preceding the calendar year in which the  
 application of the county or municipality is filed with the  
 advisory commission on industrial development.**

**(2) That the proposed district contains a site that is suitable  
 for revitalization under this chapter and satisfies the following  
 requirements:**

**(A) The site contains a vacated industrial building  
 consisting of at least one million three hundred thousand  
 (1,300,000) square feet of space.**

**(B) The vacated industrial building described by clause (A)  
 contains at least eighty thousand (80,000) square feet of  
 office space.**

**(C) The site contains a reinforced concrete pad suitable for  
 expanding the vacated industrial building by at least two  
 hundred thousand (200,000) square feet.**

**(D) The site is serviced by a water treatment facility  
 capable of treating all of the effluent discharged from the**

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site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(c) The legislative body of a county or municipality may not adopt an ordinance designating a district under section 10.5 of this chapter unless the legislative body makes the following findings of fact:

(1) That the county or municipality governed by the legislative body satisfies each of the following requirements:

(A) That, as reported by the Indiana Real Estate Markets Report, the average selling price of homes located in the county or municipality has declined by at least fourteen percent (14%) over a one (1) year period occurring within the four (4) calendar years preceding the calendar year in which proposed ordinance is adopted.

(B) That, as reported by the Indiana department of workforce development, the unemployment rate of the county or municipality was at least ten and four-tenths percent (10.4%) for any calendar month occurring in the calendar year preceding the calendar year in which the proposed ordinance is adopted.

(2) That the proposed district contains a site that is suitable for revitalization under this chapter and satisfies the following requirements:

(A) The site contains a vacated industrial building consisting of at least one million three hundred thousand (1,300,000) square feet of space.

(B) The vacated industrial building described by clause (A) contains at least eighty thousand (80,000) square feet of office space.

(C) The site contains a reinforced concrete pad suitable for expanding the vacated industrial building by at least two hundred thousand (200,000) square feet.

(D) The site is serviced by a water treatment facility capable of treating all of the effluent discharged from the site.

(E) The site consists of at least one hundred twenty (120) acres of land.

(d) An advisory commission on industrial development or a legislative body that designates a district under this chapter shall include a copy of the findings made under subsection (b) or (c) when sending a copy of the resolution or ordinance designating the

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**district to the budget agency for its approval.**

**(e) The budget agency may not approve the designation of a district until it confirms the findings of fact submitted under this section. If a resolution or ordinance is submitted to the budget agency without the findings of fact required by this section, the time in which the budget agency must take action on the resolution or ordinance as set forth in sections 10.5, 12, and 12.1 of this chapter is tolled until the findings of fact are submitted to the budget agency.**

SECTION 33. IC 36-7-13-14, AS AMENDED BY P.L.113-2010, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~(a) This section does not apply to a district that:~~

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

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

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

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

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

SECTION 34. IC 36-7-13-15, AS AMENDED BY P.L.113-2010, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. ~~(a) This section does not apply to a district that:~~

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

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

~~(b) (a) If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an~~

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incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

~~(c)~~ **(b)** Subject to subsection ~~(d)~~; **(c)**, the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for the district under subsection (a):

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

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

~~(d)~~ **(c)** **Except as provided in subsection (e)**, the aggregate amount of revenues that is:

(1) attributable to:

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

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

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district; may not exceed one million dollars (\$1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars (\$750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

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

**(e) The aggregate amount of revenues that is:**

**(1) attributable to:**

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

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

**(2) deposited during any state fiscal year in the incremental tax financing funds established for the districts located in Delaware County;**

**may not exceed two million dollars (\$2,000,000)."**

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Page 62, between lines 8 and 9, begin a new paragraph and insert:  
"SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE  
UPON PASSAGE]: IC 6-3.1-19-5.5; IC 36-7-13-23."

Renumber all SECTIONS consecutively.

(Reference is to SB 589 as printed February 18, 2011.)

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