



February 18, 2011

SENATE BILL No. 590

DIGEST OF SB 590 (Updated February 17, 2011 1:19 pm - DI 58)

Citations Affected: IC 5-2; IC 5-14; IC 5-28; IC 5-32; IC 6-3; IC 6-3.1; IC 6-5.5; IC 10-11; IC 11-10; IC 12-7; IC 12-32; IC 15-11; IC 22-4; IC 22-5; IC 34-28; IC 34-30; IC 35-33; IC 35-44.

Synopsis: Illegal immigration matters. Makes various changes concerning enforcement of federal immigration laws, checking the citizenship or immigration status of individuals, and related criminal matters, including the following: (1) Requiring that only English be used, with certain exceptions, in public meetings, public documents, by officers and employees of state or political subdivisions in performing their duties, and providing information communicated electronically by the state or a political subdivision. (2) Prohibiting a governmental body from limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law. (3) Permitting law enforcement officers to verify the citizenship or immigration status of individuals in certain situations. Provides that the duration of time that an individual may be detained for verification purposes be reasonable and consistent with standard law enforcement procedures. Allows a law enforcement officer to release an individual if the law enforcement officer is unable to receive verification within a reasonable time unless the individual is being detained for another
(Continued next page)

Effective: July 1, 2011.

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

January 20, 2011, read first time and referred to Committee on Pensions and Labor.
February 10, 2011, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
February 17, 2011, amended, reported favorably — Do Pass.

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lawful purpose. (4) Disallowing certain state income tax credits and deductions for individuals who are prohibited from being hired as employees, unless the employer participated in the E-Verify program. (5) Requiring the superintendent of state police, to the extent possible, to negotiate the terms of a memorandum of agreement with the federal government so that state police employees can be trained to enforce federal immigration and customs laws. (6) Requiring state agencies, political subdivisions, contractors with public contracts for services with a state or political subdivision, and certain business entities to use E-Verify and meet other requirements. (7) Allowing a state agency or political subdivision to terminate a public contract for services with a contractor for breach of the public contract for services if the contractor knowingly employs an unauthorized alien. (8) Prohibiting individuals from commencing day labor without completing an attestation required under federal law. Requires probable cause before a law enforcement officer may submit a complaint to the United States Customs and Immigration Enforcement office concerning violations of required federal attestations related to day labor. (9) Establishing certain state crimes, including: (A) offenses related to identification numbers and documents; (B) knowingly or intentionally transporting or moving an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law; and (C) knowingly or intentionally concealing, harboring, or shielding from detection an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. (10) Requiring law enforcement officers to impound motor vehicles for violations of crimes related to transporting, concealing, harboring, or shielding from detection aliens. (11) Requiring a judicial officer in setting bail to consider that the defendant is a foreign national who has not been lawfully admitted to the United States as relevant to the risk of nonappearance. (12) Allowing a law enforcement officer to arrest a person if the officer has probable cause to believe the person is an alien who meets certain criteria. (13) Requiring the Indiana economic development corporation and the Indiana department of agriculture to include certain agriculture jobs and wage rates on the corporation's and department's web sites. (14) Requiring the department of correction to verify the citizenship or immigration status of offenders. (15) Requiring an agency, political subdivision, or person to verify the eligibility of an individual who applies for federal, state, or local public benefits. (16) Requiring the department of workforce development (DWD) to verify the status of an individual as a qualified alien through the Systematic Alien Verification for Entitlements program to determine the individual's eligibility for unemployment compensation benefits. (17) Authorizing DWD to file civil actions to obtain the reimbursement of amounts paid as unemployment insurance benefits from employers that knowingly employed an unauthorized aliens.

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February 18, 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. 590

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

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

1 SECTION 1. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]:

4 **Chapter 18. Citizenship and Immigration Status Information**
5 **Sec. 1. As used in this chapter, "governmental body" has the**
6 **meaning set forth in IC 5-22-2-13.**

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

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

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

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

11 **SECTION 2. IC 5-2-19 IS ADDED TO THE INDIANA CODE AS**
 12 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 13 **1, 2011]:**

14 **Chapter 19. Verification of Immigration Status**

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

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

19 **Sec. 3. As used in this chapter, "law enforcement officer" has**
 20 **the meaning set forth in IC 5-2-1-2.**

21 **Sec. 4. A governmental body may not limit or restrict the**
 22 **enforcement of federal immigration laws to less than the full extent**
 23 **permitted by federal law.**

24 **Sec. 5. (a) If a law enforcement officer acting in the enforcement**
 25 **of any state law or local ordinance:**

- 26 **(1) makes a lawful stop, detention, or arrest of an individual**
- 27 **for a violation of a state law or local ordinance; and**
- 28 **(2) has reasonable suspicion to believe that the individual**
- 29 **stopped, detained, or arrested as described under subdivision**
- 30 **(1):**

- 31 **(A) is an alien; and**
- 32 **(B) is not lawfully present in the United States;**

33 **the law enforcement officer may request verification of identity**
 34 **and the citizenship or immigration status of the individual at the**
 35 **site of the stop or detention from federal immigration authorities**
 36 **under 8 U.S.C. 1373(c). If an individual is detained for verification**
 37 **purposes under this section, the duration of time that the individual**
 38 **is detained must be reasonable and consistent with standard law**
 39 **enforcement procedures. If the law enforcement officer is unable**
 40 **to receive verification under this section within a reasonable time,**
 41 **the law enforcement officer may release the individual unless the**
 42 **individual is being detained for another lawful purpose.**

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1 (b) A law enforcement officer is not required to request
2 verification of citizenship or immigration status under subsection
3 (a), if the law enforcement officer reports to the law enforcement
4 agency that the attempt would hinder or obstruct a criminal
5 investigation or the treatment of a medical emergency.

6 (c) A law enforcement agency that has custody of an individual
7 who has been verified by federal immigration authorities as an
8 alien unlawfully present in the United States shall request the
9 United States Department of Homeland Security to issue a detainer
10 authorizing transfer of the alien into federal custody.

11 (d) An individual whose immigration status is being verified by
12 a law enforcement officer under this chapter is presumed not to be
13 an alien who is unlawfully present in the United States if the
14 individual provides one (1) or more of the following to the law
15 enforcement officer:

16 (1) A valid Indiana driver's license.

17 (2) A valid Indiana identification card issued under
18 IC 9-24-16.

19 (3) A valid tribal enrollment card or other form of
20 identification issued by a federally recognized Indian tribe
21 that bears a photographic image of the holder.

22 (4) Any valid identification document issued by a federal,
23 state, or local government, if:

24 (A) the document bears a photographic image of the
25 holder; and

26 (B) the issuing entity requires proof of legal presence in the
27 United States as a condition for issuance.

28 Sec. 6. A law enforcement agency may securely transport an
29 alien in the law enforcement agency's custody who has been
30 verified by federal immigration authorities as unlawfully present
31 in the United States to:

32 (1) a federal facility in Indiana; or

33 (2) any other point of transfer into federal custody that is
34 outside Indiana;

35 if the receiving federal agency agrees to the transportation and
36 transfer of the alien.

37 Sec. 7. If a court finds that a governmental body knowingly or
38 intentionally violated section 4 of this chapter or a law enforcement
39 agency knowingly or intentionally failed to comply with section 5
40 of this chapter, the court shall enjoin the law enforcement agency
41 or political subdivision from engaging in or encouraging policies,
42 practices, or acts that limit or restrict the enforcement of federal

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immigration laws in violation of this chapter.

Sec. 8. If a law enforcement officer is a party to an action under this chapter, the law enforcement agency with whom the law enforcement officer is employed shall indemnify the law enforcement officer for all reasonable costs and expenses, including attorney's fees, incurred by the law enforcement officer in connection with the action unless the law enforcement officer is found to have acted in bad faith.

Sec. 9. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

SECTION 3. IC 5-14-1.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. (a) Notwithstanding any other state law and except as provided in subsection (b), a governing body of a public agency shall conduct all meetings, including meetings by telephone, computer, videoconferencing, or any other electronic means of communication, in English.**

(b) A language other than English may be used when required:

- (1) by the Constitution of the United States, federal law, or the Constitution of the State of Indiana;**
- (2) to protect the rights of parties and witnesses in a civil or criminal action in a court or in an administrative proceeding;**
- (3) to promote tourism or international trade; or**
- (4) by law enforcement or public health and safety needs.**

(c) This section may not be construed to affect the ability of a person to exercise the person's rights under:

- (1) the First Amendment to the Constitution of the United States; or**
- (2) Article 1, Section 9 of the Constitution of the State of Indiana.**

SECTION 4. IC 5-14-1.5-7, AS AMENDED BY P.L.179-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) An action may be filed by any person in any court of competent jurisdiction to:**

- (1) obtain a declaratory judgment;**
- (2) enjoin continuing, threatened, or future violations of this chapter; or**
- (3) declare void any policy, decision, or final action:**
 - (A) taken at an executive session in violation of section 3(a) of this chapter;**
 - (B) taken at any meeting of which notice is not given in accordance with section 5 of this chapter;**

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- 1 (C) that is based in whole or in part upon official action taken
- 2 at any:
- 3 (i) executive session in violation of section 3(a) of this
- 4 chapter;
- 5 (ii) meeting of which notice is not given in accordance with
- 6 section 5 of this chapter; or
- 7 (iii) series of gatherings in violation of section 3.1 of this
- 8 chapter; or
- 9 **(iv) meeting that was not conducted in English in**
- 10 **violation of section 3.5 of this chapter; or**
- 11 (D) taken at a meeting held in a location in violation of section
- 12 8 of this chapter.

13 The plaintiff need not allege or prove special damage different from
14 that suffered by the public at large.

15 (b) Regardless of whether a formal complaint or an informal inquiry
16 is pending before the public access counselor, any action to declare any
17 policy, decision, or final action of a governing body void, or to enter an
18 injunction which would invalidate any policy, decision, or final action
19 of a governing body, based on violation of this chapter occurring before
20 the action is commenced, shall be commenced:

- 21 (1) prior to the delivery of any warrants, notes, bonds, or
- 22 obligations if the relief sought would have the effect, if granted,
- 23 of invalidating the notes, bonds, or obligations; or
- 24 (2) with respect to any other subject matter, within thirty (30)
- 25 days of either:
- 26 (A) the date of the act or failure to act complained of; or
- 27 (B) the date that the plaintiff knew or should have known that
- 28 the act or failure to act complained of had occurred;

29 whichever is later. If the challenged policy, decision, or final action is
30 recorded in the memoranda or minutes of a governing body, a plaintiff
31 is considered to have known that the act or failure to act complained of
32 had occurred not later than the date that the memoranda or minutes are
33 first available for public inspection.

34 (c) If a court finds that a governing body of a public agency has
35 violated this chapter, it may not find that the violation was cured by the
36 governing body by only having taken final action at a meeting that
37 complies with this chapter.

38 (d) In determining whether to declare any policy, decision, or final
39 action void, a court shall consider the following factors among other
40 relevant factors:

- 41 (1) The extent to which the violation:
- 42 (A) affected the substance of the policy, decision, or final

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1 action;
2 (B) denied or impaired access to any meetings that the public
3 had a right to observe and record; and
4 (C) prevented or impaired public knowledge or understanding
5 of the public's business.
6 (2) Whether voiding of the policy, decision, or final action is a
7 necessary prerequisite to a substantial reconsideration of the
8 subject matter.
9 (3) Whether the public interest will be served by voiding the
10 policy, decision, or final action by determining which of the
11 following factors outweighs the other:
12 (A) The remedial benefits gained by effectuating the public
13 policy of the state declared in section 1 of this chapter.
14 (B) The prejudice likely to accrue to the public if the policy,
15 decision, or final action is voided, including the extent to
16 which persons have relied upon the validity of the challenged
17 action and the effect declaring the challenged action void
18 would have on them.
19 (4) Whether the defendant acted in compliance with an informal
20 inquiry response or advisory opinion issued by the public access
21 counselor concerning the violation.
22 (e) If a court declares a policy, decision, or final action of a
23 governing body of a public agency void, the court may enjoin the
24 governing body from subsequently acting upon the subject matter of
25 the voided act until it has been given substantial reconsideration at a
26 meeting or meetings that comply with this chapter.
27 (f) In any action filed under this section, a court shall award
28 reasonable attorney's fees, court costs, and other reasonable expenses
29 of litigation to the prevailing party if:
30 (1) the plaintiff prevails; or
31 (2) the defendant prevails and the court finds that the action is
32 frivolous and vexatious.
33 The plaintiff is not eligible for the awarding of attorney's fees, court
34 costs, and other reasonable expenses if the plaintiff filed the action
35 without first seeking and receiving an informal inquiry response or
36 advisory opinion from the public access counselor, unless the plaintiff
37 can show the filing of the action was necessary to prevent a violation
38 of this chapter.
39 (g) A court shall expedite the hearing of an action filed under this
40 section.
41 SECTION 5. IC 5-28-6-8 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2011]: **Sec. 8. The corporation shall include on the corporation's**
2 **Internet web site the following:**

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

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

8 SECTION 6. IC 5-32 IS ADDED TO THE INDIANA CODE AS A
9 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
10 2011]:

11 **ARTICLE 32. ENGLISH LANGUAGE REQUIREMENT**

12 **Chapter 1. Official Documents or Communications**

13 **Sec. 1. As used in this chapter, "official document or**
14 **communication" means a written document or written**
15 **communication that:**

- 16 (1) **binds or commits the state;**
- 17 (2) **is required by law; or**
- 18 (3) **gives the appearance of presenting the official views or**
19 **positions of the state.**

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

22 **Sec. 3. As used in this chapter, "state" means Indiana or any**
23 **agency of state government and includes a body corporate and**
24 **politic established as an instrumentality of the state. The term does**
25 **not include a political subdivision (as defined in IC 3-5-2-38).**

26 **Sec. 4. Notwithstanding any other state law and except as**
27 **provided in section 7 of this chapter, an official document or**
28 **communication issued:**

- 29 (1) **by;**
- 30 (2) **on behalf of; or**
- 31 (3) **representing;**

32 **the state or a political subdivision may be issued only in the English**
33 **language.**

34 **Sec. 5. Notwithstanding any other state law and except as**
35 **provided in section 7 of this chapter, an officer or employee of the**
36 **state or a political subdivision may not provide information or**
37 **communicate in a language other than English while performing**
38 **the duties of the officer or employee.**

39 **Sec. 6. Notwithstanding any other state law and except as**
40 **provided in section 7 of this chapter, information communicated**
41 **electronically by the state or a political subdivision may not be in**
42 **a language other than English, including an:**

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1 (1) electronic telephone voice system;
 2 (2) electronic mail message; or
 3 (3) Internet web site.
 4 **Sec. 7. (a) A language other than English may be used when**
 5 **required:**
 6 (1) by the Constitution of the United States, federal law, or the
 7 Constitution of the State of Indiana;
 8 (2) by law enforcement or public health and safety needs;
 9 (3) to protect the rights of parties and witnesses in a civil or
 10 criminal action in a court or in an administrative proceeding;
 11 (4) to promote and encourage tourism and international
 12 trade;
 13 (5) to teach:
 14 (A) another language to students proficient in English; or
 15 (B) English to students of limited English proficiency; or
 16 (6) by libraries:
 17 (A) to collect and promote foreign language materials; and
 18 (B) to provide foreign language services and activities.
 19 **(b) A language other than English may be used as follows:**
 20 (1) To create or promote state or political subdivision mottos.
 21 (2) For inscriptions on public monuments.
 22 (3) When the language involves terms of art or terms or
 23 phrases from languages other than English that are
 24 commonly used in official communications.
 25 **Sec. 8. This chapter may not be construed to affect the ability of**
 26 **a person to exercise the person's rights under:**
 27 (1) the First Amendment to the Constitution of the United
 28 States; or
 29 (2) Article 1, Section 9 of the Constitution of the State of
 30 Indiana.
 31 SECTION 7. IC 6-3-1-3.5, AS AMENDED BY P.L.182-2009(ss),
 32 SECTION 186, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2011]: Sec. 3.5. When used in this article, the
 34 term "adjusted gross income" shall mean the following:
 35 (a) In the case of all individuals, "adjusted gross income" (as
 36 defined in Section 62 of the Internal Revenue Code), modified as
 37 follows:
 38 (1) Subtract income that is exempt from taxation under this article
 39 by the Constitution and statutes of the United States.
 40 (2) Add an amount equal to any deduction or deductions allowed
 41 or allowable pursuant to Section 62 of the Internal Revenue Code
 42 for taxes based on or measured by income and levied at the state

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

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- 1 (9) Subtract any amounts included in federal adjusted gross
- 2 income under the Internal Revenue Code which amounts were
- 3 received by the individual as supplemental railroad retirement
- 4 annuities under 45 U.S.C. 231 and which are not deductible under
- 5 subdivision (1).
- 6 (10) Add an amount equal to the deduction allowed under Section
- 7 221 of the Internal Revenue Code for married couples filing joint
- 8 returns if the taxable year began before January 1, 1987.
- 9 (11) Add an amount equal to the interest excluded from federal
- 10 gross income by the individual for the taxable year under Section
- 11 128 of the Internal Revenue Code if the taxable year began before
- 12 January 1, 1985.
- 13 (12) Subtract an amount equal to the amount of federal Social
- 14 Security and Railroad Retirement benefits included in a taxpayer's
- 15 federal gross income by Section 86 of the Internal Revenue Code.
- 16 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 17 residing in Indiana for a period of less than the taxpayer's entire
- 18 taxable year, the total amount of the deductions allowed pursuant
- 19 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 20 which bears the same ratio to the total as the taxpayer's income
- 21 taxable in Indiana bears to the taxpayer's total income.
- 22 (14) In the case of an individual who is a recipient of assistance
- 23 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
- 24 subtract an amount equal to that portion of the individual's
- 25 adjusted gross income with respect to which the individual is not
- 26 allowed under federal law to retain an amount to pay state and
- 27 local income taxes.
- 28 (15) In the case of an eligible individual, subtract the amount of
- 29 a Holocaust victim's settlement payment included in the
- 30 individual's federal adjusted gross income.
- 31 (16) For taxable years beginning after December 31, 1999,
- 32 subtract an amount equal to the portion of any premiums paid
- 33 during the taxable year by the taxpayer for a qualified long term
- 34 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
- 35 taxpayer's spouse, or both.
- 36 (17) Subtract an amount equal to the lesser of:
- 37 (A) for a taxable year:
- 38 (i) including any part of 2004, the amount determined under
- 39 subsection (f); and
- 40 (ii) beginning after December 31, 2004, two thousand five
- 41 hundred dollars (\$2,500); or
- 42 (B) the amount of property taxes that are paid during the

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- 1 taxable year in Indiana by the individual on the individual's
2 principal place of residence.
- 3 (18) Subtract an amount equal to the amount of a September 11
4 terrorist attack settlement payment included in the individual's
5 federal adjusted gross income.
- 6 (19) Add or subtract the amount necessary to make the adjusted
7 gross income of any taxpayer that owns property for which bonus
8 depreciation was allowed in the current taxable year or in an
9 earlier taxable year equal to the amount of adjusted gross income
10 that would have been computed had an election not been made
11 under Section 168(k) of the Internal Revenue Code to apply bonus
12 depreciation to the property in the year that it was placed in
13 service.
- 14 (20) Add an amount equal to any deduction allowed under
15 Section 172 of the Internal Revenue Code.
- 16 (21) Add or subtract the amount necessary to make the adjusted
17 gross income of any taxpayer that placed Section 179 property (as
18 defined in Section 179 of the Internal Revenue Code) in service
19 in the current taxable year or in an earlier taxable year equal to
20 the amount of adjusted gross income that would have been
21 computed had an election for federal income tax purposes not
22 been made for the year in which the property was placed in
23 service to take deductions under Section 179 of the Internal
24 Revenue Code in a total amount exceeding twenty-five thousand
25 dollars (\$25,000).
- 26 (22) Add an amount equal to the amount that a taxpayer claimed
27 as a deduction for domestic production activities for the taxable
28 year under Section 199 of the Internal Revenue Code for federal
29 income tax purposes.
- 30 (23) Subtract an amount equal to the amount of the taxpayer's
31 qualified military income that was not excluded from the
32 taxpayer's gross income for federal income tax purposes under
33 Section 112 of the Internal Revenue Code.
- 34 (24) Subtract income that is:
- 35 (A) exempt from taxation under IC 6-3-2-21.7; and
36 (B) included in the individual's federal adjusted gross income
37 under the Internal Revenue Code.
- 38 (25) Subtract any amount of a credit (including an advance refund
39 of the credit) that is provided to an individual under 26 U.S.C.
40 6428 (federal Economic Stimulus Act of 2008) and included in
41 the individual's federal adjusted gross income.
- 42 (26) Add any amount of unemployment compensation excluded

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1 from federal gross income, as defined in Section 61 of the Internal
 2 Revenue Code, under Section 85(c) of the Internal Revenue Code.
 3 (27) Add the amount excluded from gross income under Section
 4 108(a)(1)(e) of the Internal Revenue Code for the discharge of
 5 debt on a qualified principal residence.
 6 (28) 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 the amount necessary from the adjusted
 12 gross income of any taxpayer that added an amount to adjusted
 13 gross income in a previous year to offset the amount included in
 14 federal gross income as a result of the deferral of income arising
 15 from business indebtedness discharged in connection with the
 16 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 (29) 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 (30) 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 (31) 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 (32) 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.

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

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

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

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

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

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

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

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- 1 (3) Add an amount equal to any deduction or deductions allowed
- 2 or allowable pursuant to Section 63 of the Internal Revenue Code
- 3 for taxes based on or measured by income and levied at the state
- 4 level by any state of the United States.
- 5 (4) Subtract an amount equal to the amount included in the
- 6 corporation's taxable income under Section 78 of the Internal
- 7 Revenue Code.
- 8 (5) Add or subtract the amount necessary to make the adjusted
- 9 gross income of any taxpayer that owns property for which bonus
- 10 depreciation was allowed in the current taxable year or in an
- 11 earlier taxable year equal to the amount of adjusted gross income
- 12 that would have been computed had an election not been made
- 13 under Section 168(k) of the Internal Revenue Code to apply bonus
- 14 depreciation to the property in the year that it was placed in
- 15 service.
- 16 (6) Add an amount equal to any deduction allowed under Section
- 17 172 of the Internal Revenue Code.
- 18 (7) Add or subtract the amount necessary to make the adjusted
- 19 gross income of any taxpayer that placed Section 179 property (as
- 20 defined in Section 179 of the Internal Revenue Code) in service
- 21 in the current taxable year or in an earlier taxable year equal to
- 22 the amount of adjusted gross income that would have been
- 23 computed had an election for federal income tax purposes not
- 24 been made for the year in which the property was placed in
- 25 service to take deductions under Section 179 of the Internal
- 26 Revenue Code in a total amount exceeding twenty-five thousand
- 27 dollars (\$25,000).
- 28 (8) Add an amount equal to the amount that a taxpayer claimed as
- 29 a deduction for domestic production activities for the taxable year
- 30 under Section 199 of the Internal Revenue Code for federal
- 31 income tax purposes.
- 32 (9) Add to the extent required by IC 6-3-2-20 the amount of
- 33 intangible expenses (as defined in IC 6-3-2-20) and any directly
- 34 related intangible interest expenses (as defined in IC 6-3-2-20) for
- 35 the taxable year that reduced the corporation's taxable income (as
- 36 defined in Section 63 of the Internal Revenue Code) for federal
- 37 income tax purposes.
- 38 (10) Add an amount equal to any deduction for dividends paid (as
- 39 defined in Section 561 of the Internal Revenue Code) to
- 40 shareholders of a captive real estate investment trust (as defined
- 41 in section 34.5 of this chapter).
- 42 (11) Subtract income that is:

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(A) exempt from taxation under IC 6-3-2-21.7; and
(B) included in the corporation's taxable income under the Internal Revenue Code.
(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.
(13) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified restaurant property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(v) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.
(14) Add the amount necessary to make the adjusted gross income of any taxpayer that placed qualified retail improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(ix) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to the property in the year that it was placed in service.
(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that claimed the special allowance for qualified disaster assistance property under Section 168(n) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.
(16) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section 179C of the Internal Revenue Code to expense costs for qualified refinery property equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

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1 (17) Add or subtract the amount necessary to make the adjusted
 2 gross income of any taxpayer that made an election under Section
 3 181 of the Internal Revenue Code to expense costs for a qualified
 4 film or television production equal to the amount of adjusted
 5 gross income that would have been computed had an election for
 6 federal income tax purposes not been made for the year.

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

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

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

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

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

33 (c) In the case of life insurance companies (as defined in Section
 34 816(a) of the Internal Revenue Code) that are organized under Indiana
 35 law, the same as "life insurance company taxable income" (as defined
 36 in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

41 (3) Add an amount equal to a deduction allowed or allowable
 42 under Section 805 or Section 831(c) of the Internal Revenue Code

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- 1 for taxes based on or measured by income and levied at the state
 2 level by any state.
- 3 (4) Subtract an amount equal to the amount included in the
 4 company's taxable income under Section 78 of the Internal
 5 Revenue Code.
- 6 (5) Add or subtract the amount necessary to make the adjusted
 7 gross income of any taxpayer that owns property for which bonus
 8 depreciation was allowed in the current taxable year or in an
 9 earlier taxable year equal to the amount of adjusted gross income
 10 that would have been computed had an election not been made
 11 under Section 168(k) of the Internal Revenue Code to apply bonus
 12 depreciation to the property in the year that it was placed in
 13 service.
- 14 (6) Add an amount equal to any deduction allowed under Section
 15 172 or Section 810 of the Internal Revenue Code.
- 16 (7) Add or subtract the amount necessary to make the adjusted
 17 gross income of any taxpayer that placed Section 179 property (as
 18 defined in Section 179 of the Internal Revenue Code) in service
 19 in the current taxable year or in an earlier taxable year equal to
 20 the amount of adjusted gross income that would have been
 21 computed had an election for federal income tax purposes not
 22 been made for the year in which the property was placed in
 23 service to take deductions under Section 179 of the Internal
 24 Revenue Code in a total amount exceeding twenty-five thousand
 25 dollars (\$25,000).
- 26 (8) Add an amount equal to the amount that a taxpayer claimed as
 27 a deduction for domestic production activities for the taxable year
 28 under Section 199 of the Internal Revenue Code for federal
 29 income tax purposes.
- 30 (9) Subtract income that is:
- 31 (A) exempt from taxation under IC 6-3-2-21.7; and
- 32 (B) included in the insurance company's taxable income under
 33 the Internal Revenue Code.
- 34 (10) Add an amount equal to any income not included in gross
 35 income as a result of the deferral of income arising from business
 36 indebtedness discharged in connection with the reacquisition after
 37 December 31, 2008, and before January 1, 2011, of an applicable
 38 debt instrument, as provided in Section 108(i) of the Internal
 39 Revenue Code. Subtract from the adjusted gross income of any
 40 taxpayer that added an amount to adjusted gross income in a
 41 previous year the amount necessary to offset the amount included
 42 in federal gross income as a result of the deferral of income

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arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

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

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

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

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

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

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

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

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1 (B) the Federal Home Loan Mortgage Corporation, established
 2 under the Federal Home Loan Mortgage Corporation Act (12
 3 U.S.C. 1451 et seq.);
 4 as an ordinary loss under Section 301 of the Emergency
 5 Economic Stabilization Act of 2008 in the current taxable year or
 6 in an earlier taxable year equal to the amount of adjusted gross
 7 income that would have been computed had the loss not been
 8 treated as an ordinary loss.
 9 (17) Add an amount equal to any exempt insurance income under
 10 Section 953(e) of the Internal Revenue Code that is active
 11 financing income under Subpart F of Subtitle A, Chapter 1,
 12 Subchapter N of the Internal Revenue Code.
 13 **(18) This subdivision does not apply to payments made for**
 14 **services provided to a business that was enrolled and**
 15 **participated in the E-verify program (as defined in**
 16 **IC 22-5-1.7-3) during the time the taxpayer conducted**
 17 **business in Indiana in the taxable year. For a taxable year**
 18 **beginning after June 30, 2011, add the amount of any trade or**
 19 **business deduction allowed under the Internal Revenue Code**
 20 **for wages, reimbursements, or other payments made for**
 21 **services provided in Indiana by an individual for services as**
 22 **an employee, if the individual was, during the period of**
 23 **service, prohibited from being hired as an employee under 8**
 24 **U.S.C. 1324a.**
 25 (d) In the case of insurance companies subject to tax under Section
 26 831 of the Internal Revenue Code and organized under Indiana law, the
 27 same as "taxable income" (as defined in Section 832 of the Internal
 28 Revenue Code), adjusted as follows:
 29 (1) Subtract income that is exempt from taxation under this article
 30 by the Constitution and statutes of the United States.
 31 (2) Add an amount equal to any deduction allowed or allowable
 32 under Section 170 of the Internal Revenue Code.
 33 (3) Add an amount equal to a deduction allowed or allowable
 34 under Section 805 or Section 831(c) of the Internal Revenue Code
 35 for taxes based on or measured by income and levied at the state
 36 level by any state.
 37 (4) Subtract an amount equal to the amount included in the
 38 company's taxable income under Section 78 of the Internal
 39 Revenue Code.
 40 (5) Add or subtract the amount necessary to make the adjusted
 41 gross income of any taxpayer that owns property for which bonus
 42 depreciation was allowed in the current taxable year or in an

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1 earlier taxable year equal to the amount of adjusted gross income
 2 that would have been computed had an election not been made
 3 under Section 168(k) of the Internal Revenue Code to apply bonus
 4 depreciation to the property in the year that it was placed in
 5 service.

6 (6) Add an amount equal to any deduction allowed under Section
 7 172 of the Internal Revenue Code.

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

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

22 (9) Subtract income that is:

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

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

26 (10) Add an amount equal to any income not included in gross
 27 income as a result of the deferral of income arising from business
 28 indebtedness discharged in connection with the reacquisition after
 29 December 31, 2008, and before January 1, 2011, of an applicable
 30 debt instrument, as provided in Section 108(i) of the Internal
 31 Revenue Code. Subtract from the adjusted gross income of any
 32 taxpayer that added an amount to adjusted gross income in a
 33 previous year the amount necessary to offset the amount included
 34 in federal gross income as a result of the deferral of income
 35 arising from business indebtedness discharged in connection with
 36 the reacquisition after December 31, 2008, and before January 1,
 37 2011, of an applicable debt instrument, as provided in Section
 38 108(i) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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.

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

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

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not

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

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the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the special allowance not been claimed for the property.

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

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

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

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

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

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

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

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

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1 **service, prohibited from being hired as an employee under 8**
 2 **U.S.C. 1324a.**

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

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

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

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

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

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

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

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

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

35 SECTION 9. IC 6-3.1-13-18, AS AMENDED BY P.L.137-2006,
 36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2011]: Sec. 18. (a) The corporation shall determine the
 38 amount and duration of a tax credit awarded under this chapter. The
 39 duration of the credit may not exceed ten (10) taxable years. The credit
 40 may be stated as a percentage of the incremental income tax
 41 withholdings attributable to the applicant's project and may include a
 42 fixed dollar limitation. In the case of a credit awarded for a project to

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1 create new jobs in Indiana, the credit amount may not exceed the
 2 incremental income tax withholdings. However, the credit amount
 3 claimed for a taxable year may exceed the taxpayer's state tax liability
 4 for the taxable year, in which case the excess may, at the discretion of
 5 the corporation, be refunded to the taxpayer.

6 (b) For state fiscal year 2006 and each state fiscal year thereafter,
 7 the aggregate amount of credits awarded under this chapter for projects
 8 to retain existing jobs in Indiana may not exceed ten million dollars
 9 (\$10,000,000) per year.

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

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

24 (1) Add the following amounts:

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

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

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

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

40 (E) An amount equal to the deduction allowed under Section
 41 172 or 1212 of the Internal Revenue Code for net operating
 42 losses or net capital losses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (2) Subtract the following amounts:

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

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

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

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

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

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

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- (G) Income that is:
 - (i) exempt from taxation under IC 6-3-2-21.7; and
 - (ii) included in the taxpayer's taxable income under the Internal Revenue Code.

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

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

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

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

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1 (E) an agreement;
 2 (F) a pretended agreement; or
 3 (G) other evidences of obligation;
 4 entitling the holder to anything of value at some future date, if the
 5 gross payments received by the company during the taxable year
 6 on outstanding investment contracts, plus interest and dividends
 7 earned on those contracts (by prorating the interest and dividends
 8 earned on investment contracts by the same proportion that
 9 certificate reserves (as defined by the Investment Company Act
 10 of 1940) is to the company's total assets) is at least fifty percent
 11 (50%) of the company's gross payments upon investment
 12 contracts plus gross income from all other sources except
 13 dividends from subsidiaries for the taxable year. The term
 14 "investment contract" means an instrument listed in clauses (A)
 15 through (G).

16 SECTION 11. IC 10-11-2-21.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2011]: **Sec. 21.5. (a) The superintendent shall,**
 19 **to the extent possible, negotiate the terms of a memorandum of**
 20 **agreement under Section 287(g) of the United States Immigration**
 21 **and Nationality Act between the state and the United States**
 22 **Department of Homeland Security concerning the enforcement of**
 23 **federal immigration and customs laws in Indiana.**

24 (b) The memorandum of agreement described in subsection (a)
 25 must be signed on behalf of the state by the superintendent, unless
 26 otherwise required by the United States Department of Homeland
 27 Security.

28 (c) The superintendent shall designate appropriate police
 29 employees to be trained under the memorandum of agreement
 30 described in subsection (a).

31 (d) The department shall apply for federal funding, as available,
 32 for the costs associated with training police employees under the
 33 memorandum of agreement described in subsection (a).

34 (e) A police employee certified as trained in accordance with the
 35 memorandum of agreement described in subsection (a) may
 36 enforce federal immigration and customs laws while performing
 37 within the scope of the police employee's duties.

38 (f) This section may not be construed to require an agreement
 39 in order for any police employee to:

40 (1) communicate with the United States Department of
 41 Homeland Security regarding the immigration status of any
 42 individual, including reporting knowledge that a particular

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1 **alien is not lawfully present in the United States; or**
 2 **(2) otherwise cooperate with the United States Department of**
 3 **Homeland Security in the identification, apprehension,**
 4 **detention, or removal of aliens not lawfully present in the**
 5 **United States.**

6 SECTION 12. IC 11-10-1-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A committed
 8 criminal offender shall, within a reasonable time, be evaluated
 9 regarding:

- 10 (1) ~~his~~ **the offender's** medical, psychological, educational,
- 11 vocational, economic and social condition, and history;
- 12 (2) the circumstances surrounding ~~his~~ **the offender's** present
- 13 commitment;
- 14 (3) ~~his~~ **the offender's** history of criminality; ~~and~~
- 15 **(4) the citizenship or immigration status of the offender by**
- 16 **making a reasonable effort to verify the offender's citizenship**
- 17 **or immigration status with the United States Department of**
- 18 **Homeland Security under 8 U.S.C. 1373(c); and**
- 19 ~~(4)~~ **(5)** any additional relevant matters.

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

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

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

- 40 **(1) is requested by the United States Department of Homeland**
- 41 **Security; and**
- 42 **(2) is in the department's possession or the department is able**

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to obtain.
SECTION 13. IC 11-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) A committed offender shall, within a reasonable time, be evaluated regarding:

- (1) ~~his~~ **the offender's** medical, psychological, educational, vocational, economic and social condition, and history;
- (2) the circumstances surrounding ~~his~~ **the offender's** present commitment;
- (3) ~~his~~ **the offender's** history of delinquency; ~~and~~
- (4) the citizenship or immigration status of the offender by making a reasonable effort to verify the offender's citizenship or immigration status with the United States Department of Homeland Security under 8 U.S.C. 1373(c); and**
- ~~(4)~~ **(5)** any additional relevant matters.

(b) In making the evaluation prescribed in subsection (a), the department may utilize reports of any precommitment physical or mental examination or other information or records forwarded by the committing court or other agency, if that information meets the department's minimum standards for delinquent offender evaluation.

(c) If a committed offender has undergone, within one (1) year before the date of ~~his~~ **the offender's** commitment, a previous departmental evaluation under this section, the department may rely on the previous evaluation and the information used at that time. However, this subsection does not deprive an offender of the right to a medical and dental examination under IC 11-10-3.

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

- (1) is requested by the United States Department of Homeland Security; and**
- (2) is in the department's possession or the department is able to obtain.**

SECTION 14. IC 12-7-2-9, AS AMENDED BY P.L.93-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. "Agency" means the following:

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

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IC 12-12.7-2-1.

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

SECTION 15. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 85.1. "Federal public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.**

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

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-32-1.

SECTION 17. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 185.5. "State or local public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-3.**

SECTION 18. IC 12-32 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

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

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

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

(b) The term includes:

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

(2) the resident tuition rate (as determined by the state financial institution).

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

Sec. 5. (a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under

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section 6 of this chapter, the eligibility of any individual who:

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

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

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

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

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

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

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

Sec. 9. The department of local government finance:

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

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

SECTION 19. IC 15-11-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2011]: **Sec. 8. (a) The department shall include on the**
 2 **department's Internet web site the following:**
 3 **(1) A list of agricultural jobs in which there is a critical need**
 4 **for agricultural workers, as determined by the department.**
 5 **(2) The wage rate for each agricultural job listed in**
 6 **accordance with subdivision (1).**
 7 **(b) The department shall:**
 8 **(1) accept information on agricultural jobs; and**
 9 **(2) determine whether there is a critical need for agricultural**
 10 **workers for the agricultural jobs.**
 11 **(c) The department shall provide a list of agricultural jobs in**
 12 **which there is a critical need for agricultural workers and the wage**
 13 **rate for each of the agricultural jobs to the Indiana economic**
 14 **development corporation.**
 15 SECTION 20. IC 22-4-14-9 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 9. (a) As used in this**
 17 **section, "SAVE program" refers to the Systematic Alien**
 18 **Verification for Entitlements program operated by the United**
 19 **States Department of Homeland Security or a successor program**
 20 **designated by the United States Department of Homeland Security.**
 21 **(b) For weeks of unemployment occurring subsequent to December**
 22 **31, 1977, benefits may not be paid on the basis of services performed**
 23 **by an alien unless the alien is an individual who has been lawfully**
 24 **admitted for permanent residence at the time the services are**
 25 **performed, is lawfully present for purposes of performing the services,**
 26 **or otherwise is permanently residing in the United States under color**
 27 **of law at the time the services are performed (including an alien who**
 28 **is lawfully present in the United States as a result of the application of**
 29 **the provisions of Section 207, Section 208, or Section 212(d)(5) of the**
 30 **Immigration and Nationality Act (8 U.S.C. 1157 through 1158).**
 31 **(1) Any data or information required of individuals applying for**
 32 **benefits to determine whether benefits are not payable to them**
 33 **because of their alien status shall be uniformly required from all**
 34 **applicants for benefits.**
 35 **(2) In the case of an individual whose application for benefits**
 36 **would otherwise be approved, no determination that benefits to**
 37 **the individual are not payable because of ~~his~~ the individual's**
 38 **alien status may be made except upon a preponderance of the**
 39 **evidence.**
 40 **(3) Any modifications to the provisions of Section 3304(a)(14) of**
 41 **the Federal Unemployment Tax Act, as provided by P.L.94-566,**
 42 **which specify other conditions or other effective date than stated**

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1 in this section for the denial of benefits based on services
2 performed by aliens and which are required to be implemented
3 under state law as a condition for full tax credit against the tax
4 imposed by the Federal Unemployment Tax Act, shall be
5 considered applicable under this section.

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

12 SECTION 21. IC 22-4-39.5 IS ADDED TO THE INDIANA CODE
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2011]:

15 **Chapter 39.5. Reimbursements by Employers of Unauthorized**
16 **Aliens**

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

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

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

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

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

40 **(c) In determining whether an individual is an unauthorized**
41 **alien for purposes of this chapter, a court may consider only the**
42 **federal government's verification or status information under 8**

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U.S.C. 1373(c).

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

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

(2) Reasonable costs and attorney's fees.

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

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

Sec. 6. The department has the power to:

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

as necessary for the department to administer this chapter.

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

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

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

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

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

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

Sec. 3. As used in this chapter, "E-Verify program" means the electronic verification of work authorization program of the Illegal

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1 Immigration Reform and Immigration Responsibility Act of 1996
2 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended, operated
3 by the United States Department of Homeland Security or a
4 successor work authorization program designated by the United
5 States Department of Homeland Security or other federal agency
6 authorized to verify the work authorization status of newly hired
7 employees under the Immigration Reform and Control Act of 1986
8 (P.L. 99-603).

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

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

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

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

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

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

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

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

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

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

- 36 (1) the public contract contains:
 - 37 (A) a provision requiring the contractor to enroll in and
38 verify the work eligibility status of all newly hired
39 employees of the contractor through the E-Verify
40 program; and
 - 41 (B) a provision that provides that a contractor is not
42 required to verify the work eligibility status of all newly

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hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and

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

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

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

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

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

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

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

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

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

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

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

(b) If a contractor employs or contracts with an unauthorized alien but the state agency or political subdivision (whichever the contractor has a public contract for services with) determines that terminating the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political

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subdivision procures a new contractor.

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

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

(1) a notice of a violation to the contractor under section 12(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or

(2) a termination of a public contract for services under section 13(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor.

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

(1) does not employ or contract with an unauthorized alien; and

(2) has enrolled and is participating in the E-Verify program.

Sec. 16. A contractor shall maintain on file a certification of a subcontractor under section 15 of this chapter throughout the duration of the term of a contract with the subcontractor.

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

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

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

SECTION 23. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 6. Completion of Federal Attestation

Sec. 1. As used in this chapter, "commence day labor employment" means the physical act of beginning any employment in which no employment agreement has been executed specifying

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1 that the term of the employment is to be more than three (3)
2 working days.

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

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

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

17 SECTION 24. IC 34-28-8 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]:

20 **Chapter 8. Offenses Related to Identification Numbers and**
21 **Documents**

22 Sec. 1. As used in this chapter, "consular identification" means
23 an identification, other than a passport, issued by the government
24 of a foreign state for the purpose of providing consular services in
25 the United States to a national of the foreign state.

26 Sec. 2. As used in this chapter, "individual taxpayer
27 identification number" means a tax processing number issued by
28 the United States Internal Revenue Service for the purpose of
29 facilitating federal tax reporting by individuals who are not eligible
30 to obtain a federal Social Security number.

31 Sec. 3. (a) This section does not apply to a law enforcement
32 officer who is presented with a consular identification during the
33 investigation of a crime.

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

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

41 Sec. 4. Except as otherwise provided under law, a person who
42 knowingly or intentionally offers in writing, accepts, or records an

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1 individual taxpayer identification number as a valid form of
 2 identification for any public or private purpose, other than for
 3 reporting, payment, or other processing of federal or state personal
 4 taxation for which a Social Security number would otherwise be
 5 required of a United States citizen, commits a Class C infraction.
 6 However, the person commits:

7 (1) a Class B infraction for a second offense; and

8 (2) a Class A infraction for a third or subsequent offense.

9 SECTION 25. IC 34-30-2-87.3 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2011]: **Sec. 87.3. IC 22-5-1.5-24 (Concerning**
 12 **certain employers that employ unauthorized aliens).**

13 SECTION 26. IC 35-33-1-1, AS AMENDED BY P.L.50-2005,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2011]: Sec. 1. (a) A law enforcement officer may arrest a
 16 person when the officer has:

17 (1) a warrant commanding that the person be arrested;

18 (2) probable cause to believe the person has committed or
 19 attempted to commit, or is committing or attempting to commit,
 20 a felony;

21 (3) probable cause to believe the person has violated the
 22 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
 23 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;

24 (4) probable cause to believe the person is committing or
 25 attempting to commit a misdemeanor in the officer's presence;

26 (5) probable cause to believe the person has committed a:

27 (A) battery resulting in bodily injury under IC 35-42-2-1; or

28 (B) domestic battery under IC 35-42-2-1.3.

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

32 (6) probable cause to believe that the person violated
 33 IC 35-46-1-15.1 (invasion of privacy);

34 (7) probable cause to believe that the person violated
 35 IC 35-47-2-1 (carrying a handgun without a license) or
 36 IC 35-47-2-22 (counterfeit handgun license);

37 (8) probable cause to believe that the person is violating or has
 38 violated an order issued under IC 35-50-7;

39 (9) probable cause to believe that the person is violating or has
 40 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
 41 device); or

42 (10) probable cause to believe that the person is:

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1 (A) violating or has violated IC 35-45-2-5 (interference with
 2 the reporting of a crime); and
 3 (B) interfering with or preventing the reporting of a crime
 4 involving domestic or family violence (as defined in
 5 IC 34-6-2-34.5); or
 6 **(11) probable cause to believe that the person is an alien who:**
 7 **(A) is subject to:**
 8 **(i) a removal order issued by an immigration court; or**
 9 **(ii) a detainer or notice of action issued by the United**
 10 **States Department of Homeland Security;**
 11 **(B) has been indicted for or convicted of one (1) or more**
 12 **aggravated felonies (as defined in 8 U.S.C. 1101(a)(43)); or**
 13 **(C) has willfully failed to register with the federal**
 14 **government under 8 U.S.C. 1301 et seq.**
 15 (b) A person who:
 16 (1) is employed full time as a federal enforcement officer;
 17 (2) is empowered to effect an arrest with or without warrant for a
 18 violation of the United States Code; and
 19 (3) is authorized to carry firearms in the performance of the
 20 person's duties;
 21 may act as an officer for the arrest of offenders against the laws of this
 22 state where the person reasonably believes that a felony has been or is
 23 about to be committed or attempted in the person's presence.
 24 SECTION 27. IC 35-33-8-4 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The court shall
 26 order the amount in which a person charged by an indictment or
 27 information is to be held to bail, and the clerk shall enter the order on
 28 the order book and indorse the amount on each warrant when issued.
 29 If no order fixing the amount of bail has been made, the sheriff shall
 30 present the warrant to the judge of an appropriate court of criminal
 31 jurisdiction, and the judge shall indorse on the warrant the amount of
 32 bail.
 33 (b) Bail may not be set higher than that amount reasonably required
 34 to assure the defendant's appearance in court or to assure the physical
 35 safety of another person or the community if the court finds by clear
 36 and convincing evidence that the defendant poses a risk to the physical
 37 safety of another person or the community. In setting and accepting an
 38 amount of bail, the judicial officer shall take into account all facts
 39 relevant to the risk of nonappearance, including:
 40 (1) the length and character of the defendant's residence in the
 41 community;
 42 (2) the defendant's employment status and history and his ability

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

23 SECTION 28. IC 35-44-5 IS ADDED TO THE INDIANA CODE
 24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2011]:

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

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

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

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- 1 **(6) A provider that:**
 2 **(A) receives federal or state funding to provide services to**
 3 **victims of domestic violence, sexual assault, human**
 4 **trafficking, or stalking; and**
 5 **(B) is providing the services described in clause (A).**
 6 **(7) An employee of Indiana or a political subdivision (as**
 7 **defined in IC 36-1-2-13) if the employee is acting in the**
 8 **employee's official capacity.**
 9 **Sec. 2. As used in this chapter, "alien" has the meaning set forth**
 10 **in 8 U.S.C. 1101(a).**
 11 **Sec. 3. (a) A person who knowingly or intentionally:**
 12 **(1) transports; or**
 13 **(2) moves;**
 14 **an alien, for the purpose of commercial advantage or private**
 15 **financial gain, knowing or in reckless disregard of the fact that the**
 16 **alien has come to, entered, or remained in the United States in**
 17 **violation of the law commits transporting an illegal alien, a Class**
 18 **A misdemeanor.**
 19 **(b) If a violation under this section involves more than nine (9)**
 20 **aliens, the violation is a Class D felony.**
 21 **Sec. 4. (a) A person who knowingly or intentionally:**
 22 **(1) conceals;**
 23 **(2) harbors; or**
 24 **(3) shields from detection;**
 25 **an alien in any place, including a building or means of**
 26 **transportation, for the purpose of commercial advantage or**
 27 **private financial gain, knowing or in reckless disregard of the fact**
 28 **that the alien has come to, entered, or remained in the United**
 29 **States in violation of law, commits harboring an illegal alien, a**
 30 **Class A misdemeanor.**
 31 **(b) If a violation under this section involves more than nine (9)**
 32 **aliens, the violation is a Class D felony.**
 33 **Sec. 5. It is a defense to a prosecution under section 4 of this**
 34 **chapter that a landlord, before renting real property to a person,**
 35 **was provided with and retained a copy of one (1) or more of the**
 36 **following from the person:**
 37 **(1) A valid state issued driver's license.**
 38 **(2) A valid identification card issued under IC 9-24-16-1 or a**
 39 **similar card issued under the laws of another state or federal**
 40 **government.**
 41 **(3) Documentary evidence provided to the bureau of motor**
 42 **vehicles to comply with IC 9-24-9-2.5 or IC 9-24-16-3.5.**

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- 1 **(4) A United States birth certificate.**
- 2 **(5) A valid United States military identification card.**
- 3 **(6) Any valid document recognized by the federal government**
- 4 **as evidence of alien registration under 8 U.S.C. 1301 et seq.**
- 5 **that bears the person's photograph.**
- 6 **Sec. 6. A determination by the United States Department of**
- 7 **Homeland Security that an alien has come to, entered, or remained**
- 8 **in the United States in violation of law is evidence that the alien is**
- 9 **in the United States in violation of law.**
- 10 **Sec. 7. A law enforcement officer shall impound a motor vehicle,**
- 11 **other than a motor vehicle used in public transportation and**
- 12 **owned or operated by the state or a political subdivision, that is**
- 13 **used to commit a violation of section 3 or 4 of this chapter.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 590, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 9, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 8. IC 6-3-1-3.5, AS AMENDED BY P.L.182-2009(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

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

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

This amount is in addition to the amount subtracted under

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subdivision (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) for a taxable year:

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

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

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

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

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

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

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

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dollars (\$25,000).

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

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

(24) Subtract income that is:

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

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

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

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

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

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

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

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year that it was placed in service.

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

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

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

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

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

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

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

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

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

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

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in

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service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

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

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

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

(11) Subtract income that is:

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

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

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

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

(14) Add the amount necessary to make the adjusted gross income

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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dollars (\$25,000).

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

(9) Subtract income that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (9) Subtract income that is:
 - (A) exempt from taxation under IC 6-3-2-21.7; and
 - (B) included in the insurance company's taxable income under

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the Internal Revenue Code.

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

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

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

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

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

(15) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that made an election under Section

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181 of the Internal Revenue Code to expense costs for a qualified film or television production equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year.

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

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

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

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

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

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

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

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

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

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11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

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

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

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

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

(7) Subtract income that is:

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

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

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

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108(i) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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the compensation of new employees.

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

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

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

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

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

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

- (1) Add the following amounts:

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

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

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

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

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

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

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

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

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

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

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

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

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

(N) Add or subtract the amount necessary to make the adjusted

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

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

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

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

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

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

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

(2) Subtract the following amounts:

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

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

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

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

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the Internal Revenue Code.

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

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

(G) Income that is:

- (i) exempt from taxation under IC 6-3-2-21.7; and
- (ii) included in the taxpayer's taxable income under the Internal Revenue Code.

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

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

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

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

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during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

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

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

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

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

- (A) a so-called bond;
- (B) a share;
- (C) a coupon;
- (D) a certificate of membership;
- (E) an agreement;
- (F) a pretended agreement; or
- (G) other evidences of obligation;

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

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

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

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IC 12-32-1-1.

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

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

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

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

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

ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS**Chapter 1. Restrictions on Public Benefits to Illegal Aliens**

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

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

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

(b) The term includes:

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. The department of local government finance:

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

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

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

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Page 12, delete lines 9 through 29.

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

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

Chapter 39.5. Reimbursements by Employers of Unauthorized Aliens

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

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

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

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

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

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

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

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

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(2) Reasonable costs and attorney's fees.

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

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

Sec. 6. The department has the power to:

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

as necessary for the department to administer this chapter."

Delete pages 14 through 19.

Page 20, delete lines 1 through 41.

Page 22, delete lines 32 through 42.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 30, delete lines 1 through 4.

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

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

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

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

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

Renumber all SECTIONS consecutively.

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

(Reference is to SB 590 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 590, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 3.

Page 2, delete line 22.

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

Page 2, delete lines 25 through 27.

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

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

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

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

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

Page 4, delete lines 11 through 17.

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

Page 4, delete lines 25 through 26.

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

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

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

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

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

Page 36, delete lines 22 through 25.

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

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

Page 46, delete lines 10 through 29.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

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

KENLEY, Chairperson

Committee Vote: Yeas 8, Nays 5.

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