CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 590

Citations Affected: IC 4-3-22-17; IC 5-2; IC 6-3-1-3.5; IC 6-3.1-13; IC 6-5.5-1-2; IC 11-10-1-2; IC 12-7-2; IC 12-32; IC 22-4; IC 22-5; IC 34-28-8.2; IC 34-30-2-146.6; IC 35-33; IC 35-44.

Synopsis: Illegal immigration matters. Conference committee report for ESB 590. Makes various changes concerning enforcement of federal immigration laws, illegal immigration, and related criminal matters, including the following: (1) Requiring the office of management and budget to calculate the costs of illegal aliens to Indiana and make a written request to the Congress of the United States to reimburse the state for those costs. (2) Prohibiting governmental bodies from limiting or restricting: (A) certain actions by other governmental bodies with regard to information of the citizenship or immigration status of an individual; and (B) the enforcement of federal immigration laws to less than the full extent permitted by federal law. Allows certain persons to bring an action to compel a governmental body to comply with these provisions. (3) Prohibiting a law enforcement agency or law enforcement officer from requesting verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the agency or officer only as a witness to or a victim of a crime or for purposes of reporting a crime. (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 department of correction to verify the citizenship or immigration status of criminal offenders. (6) Requiring an agency or political subdivision to verify the eligibility of an individual who applies for federal, state, or local public benefits. (7) 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. (8) Authorizing DWD to file civil actions to obtain the reimbursement of amounts paid as unemployment insurance benefits from employers that knowingly employed unauthorized aliens. (9) Requiring state agencies, political subdivisions, contractors with public contracts for services with the state or a political subdivision, and certain business entities to use E-Verify. Requiring certain subcontractors to certify that they use E-Verify. (10) 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. (11) Prohibiting individuals from commencing day labor without completing an attestation

required under federal law. Requiring 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. (12) Establishing certain state crimes, including: (A) offenses related to consular identification; (B) false identity statement; (C) knowingly or intentionally transporting or moving an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law; and (D) knowingly or intentionally concealing, harboring, or shielding from detection an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law. (13) Requiring law enforcement officers to impound motor vehicles for violations of crimes related to moving, transporting, concealing, harboring, or shielding from detection aliens. (14) Allowing a law enforcement officer to arrest a person if the officer has a certain removal order, detainer, or notice of action issued for the person or if the officer has probable cause to believe the person has been indicted for or convicted of one or more certain aggravated felonies. (15) 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. (16) Establishing certain bond requirements if bail is set for a defendant who is a foreign national unlawfully present in the United States. (17) Urging the legislative council to: (A) assign to an existing study committee certain topics concerning immigration; and (B) urge the study committee to consult with the lieutenant governor on the topics. **(This conference committee report removes provisions that: (1) require the department of workforce development (DWD) and the Indiana department of agriculture to include certain agriculture jobs and wage rates on the departments' Internet web sites; (2) require a person to verify the eligibility of an individual who applies for benefits funded, in whole or part, by federal, state, or local money; (3) allow the state and a political subdivision to use any other system of legal residence verification as approved by the United States Department of Homeland Security or the department of homeland security of Indiana in provisions requiring the state or a political subdivision to use E-Verify; (4) allow employers to use any other system of legal residence verification as approved by the United States Department of Homeland Security or the department of homeland security of Indiana as an immunity to a civil action by DWD for reimbursement of unemployment insurance benefits and in provisions requiring that certain contractors, business entities, and subcontractors use E-Verify; and (5) change the definition of "child abuse or neglect" and "victim of child abuse or neglect" for purposes of the duty to report child abuse or neglect. This conference committee adds provisions that: (1) urge the legislative council to: (A) assign to an existing study committee certain topics concerning immigration; and (B) urge the study committee to consult with the lieutenant governor on the topics; (2) allow certain persons to bring an action to compel a governmental body to comply with certain provisions; (3) provide that health care providers are not required to verify the eligibility of individuals that apply for state, local, or federal public benefits if the health care provider is providing health care services for the treatment of an emergency medical condition; and (4) provide that with regard to a state, local, or federal public benefit that covers health care services, health care providers satisfy certain verification requirements if the health care provider complies with the eligibility verification policies and procedures for providing the benefit that is established by the office of the secretary of family and social services or the federal Department of Health and Human Services. This conference committee also: (1) adds "maintaining information" in the provisions that prohibit governmental bodies from limiting or restricting certain actions by other governmental bodies with regard to information of the citizenship or immigration status of an individual; (2) changes the definition of "knowingly" to "knowingly employ an unauthorized alien" for purposes of the provisions concerning reimbursements by employer of unauthorized aliens for unemployment insurance benefits; (3) provides that if a court finds that a governmental body knowingly**

or intentionally violated the provisions that prohibit governmental bodies from limiting or restricting certain actions by other governmental bodies with regard to information of the citizenship or immigration status of an individual, the court shall enjoin the violation; (4) removes "or to document the foreign nationality of a cardholder" and "in writing" from the provision regarding consular identification; (5) changes "any public purpose" to "as a valid form of identification for any purpose" regarding the consular identification provision; (6) requires the state board of accounts, instead of the department of local government finance, to promulgate rules for political subdivisions concerning verification of individuals who apply for state, local, or federal public benefits; (7) clarifies that the provisions concerning public contracts for services apply only to contracts entered into or renewed after June 30, 2011; and (8) makes technical corrections.)

Effective: July 1, 2011.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 590 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

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

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

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

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

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

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

(e) This section expires July 1, 2013.

SECTION 2. IC 5-2-18.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 18.2. Citizenship and Immigration Status Information and Enforcement of Federal Immigration Laws

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

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

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

(1) Communicating or cooperating with federal officials.

(2) Sending to or receiving information from the United States Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal, state, or local government entity.

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

Sec. 5. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.

Sec. 6. If a court finds that a governmental body knowingly or intentionally violated section 3 or 4 of this chapter, the court shall enjoin the violation.

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

Sec. 8. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

SECTION 3. IC 5-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 20. Prohibit Verification of Citizenship or Immigration Status

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

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

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

(1) as a witness to or victim of a crime; or

(2) for purposes of reporting a crime.

SECTION 4. 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 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 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 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 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

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 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 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 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 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.

(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.

(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 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 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 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 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.);

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 5. 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 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 6. 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 7. 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:

(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).

(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 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 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

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

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

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

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

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

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

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

SECTION 8. IC 11-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A committed criminal 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 criminality; ~~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 any presentence report, any presentence memorandum filed by the offender, any reports of any presentence physical or mental examination, the record of the sentencing hearing,

or other information forwarded by the sentencing court or other agency, if that information meets the department's minimum standards for criminal offender evaluation.

(c) If an offender has undergone, within two (2) years 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 criminal offender, the department shall notify the United States Department of Homeland Security that the citizenship or immigration status of the offender could not be verified. The department shall provide the United States Department of Homeland Security with any information regarding the committed criminal 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 9. 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 IC 12-32-1-1.

SECTION 10. IC 12-7-2-85.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 85.4. "Federal public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.**

SECTION 11. 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 12. 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 13. 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 education award, including a scholarship, a grant, or financial aid; and

(2) the resident tuition rate (as determined by the state educational 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

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

(b) A health care provider (as defined in IC 16-18-2-163(a)) is not required to verify the eligibility of an individual as required under subsection (a) if the health care provider is providing health care services for the treatment of an emergency medical condition (as defined in 42 U.S.C. 1396b(v)(3)).

(c) With regard to a state or local public benefit or a federal public benefit that covers health care services, a health care provider (as defined in IC 16-18-2-163) satisfies the requirements of this chapter if the health care provider complies with the eligibility verification policies and procedures for providing the benefit that is established by the:

(1) office of the secretary of family and social services; or

(2) federal Department of Health and Human Services.

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

(1) require the individual to execute a verification 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 a verification 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 a verification required by this chapter commits a Class D felony.

Sec. 8. An agency 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 state board of accounts:

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

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

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

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of ~~his~~ **the individual's** alien status may be made except upon a preponderance of the evidence.

(3) Any modifications to the provisions of Section 3304(a)(14) of the Federal Unemployment Tax Act, as provided by P.L.94-566, which specify other conditions or other effective date than stated in this section for the denial of benefits based on services performed by aliens and which are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be considered applicable under this section.

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

SECTION 15. 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 employ an unauthorized alien" has the meaning prescribed in 8 U.S.C. 1324a as in effect on July 1, 2011. This term shall be interpreted consistently with 8 U.S.C. 1324a and any applicable federal rules or regulations.

Sec. 3. (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.

(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. 4. (a) The department may not file an action under section 3 of this chapter against an employer that has knowingly employed an unauthorized alien if the alien was employed by the employer before July 1, 2011.

(b) The department may not file an action under section 3 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. 5. The department has the power to:

(1) administer oaths and affirmations;

(2) take depositions; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) is a party to a contract with a contractor; and

(2) provides services for work the contractor is performing under a public contract for services.

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

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

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

Sec. 11. (a) This subsection applies only to a public contract for services entered into or renewed after June 30, 2011. A state agency or political subdivision may not enter into or renew a public contract for services with a contractor unless:

(1) the public contract contains:

(A) a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program; and

(B) a provision that provides that a contractor is not required to verify the work eligibility status of all newly 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 dollars ($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 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 knowingly 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 17. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 6. Completion of Federal Attestation

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

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

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

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

SECTION 18. IC 34-28-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 8.2. Offenses Related to Consular Identification

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

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

(b) Except as otherwise provided under federal law, a person who knowingly or intentionally offers, accepts, or records a consular identification as a valid form of identification for any purpose commits a Class C infraction. However, the person commits:

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

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

SECTION 19. IC 34-30-2-146.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 146.6. IC 35-33-8-4.5(b) (Concerning a defendant's failure to appear).**

SECTION 20. IC 35-33-1-1, AS AMENDED BY P.L.50-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

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

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

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

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

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

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

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

The officer may use an affidavit executed by an individual alleged

to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;

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

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

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

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

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

(A) violating or has violated IC 35-45-2-5 (interference with the reporting of a crime); and

(B) interfering with or preventing the reporting of a crime involving domestic or family violence (as defined in IC 34-6-2-34.5);

(11) a removal order issued for the person by an immigration court;

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

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

(b) A person who:

(1) is employed full time as a federal enforcement officer;

(2) is empowered to effect an arrest with or without warrant for a violation of the United States Code; and

(3) is authorized to carry firearms in the performance of the person's duties;

may act as an officer for the arrest of offenders against the laws of this state where the person reasonably believes that a felony has been or is about to be committed or attempted in the person's presence.

SECTION 21. IC 35-33-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The court shall order the amount in which a person charged by an indictment or information is to be held to bail, and the clerk shall enter the order on the order book and indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff shall present the warrant to the judge of an appropriate court of criminal jurisdiction, and the judge shall indorse on the warrant the amount of bail.

(b) Bail may not be set higher than that amount reasonably required to assure the defendant's appearance in court or to assure the physical safety of another person or the community if the court finds by clear and convincing evidence that the defendant poses a risk to the physical safety of another person or the community. In setting and accepting an amount of bail, the judicial officer shall take into account all facts relevant to the risk of nonappearance, including:

(1) the length and character of the defendant's residence in the

community;

(2) the defendant's employment status and history and his ability to give bail;

(3) the defendant's family ties and relationships;

(4) the defendant's character, reputation, habits, and mental condition;

(5) the defendant's criminal or juvenile record, insofar as it demonstrates instability and a disdain for the court's authority to bring him to trial;

(6) the defendant's previous record in not responding to court appearances when required or with respect to flight to avoid criminal prosecution;

(7) the nature and gravity of the offense and the potential penalty faced, insofar as these factors are relevant to the risk of nonappearance;

(8) the source of funds or property to be used to post bail or to pay a premium, insofar as it affects the risk of nonappearance; ~~and~~

(9) that the defendant is a foreign national who is unlawfully present in the United States under federal immigration law; and

~~(9)~~ **(10)** any other factors, including any evidence of instability and a disdain for authority, which might indicate that the defendant might not recognize and adhere to the authority of the court to bring him to trial.

SECTION 22. IC 35-33-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4.5. (a) If bail is set for a defendant who is a foreign national who is unlawfully present in the United States under federal immigration law, the defendant may be released from custody only by posting a:**

(1) cash bond in an amount equal to the bail;

(2) real estate bond in which the net equity in the real estate is at least two (2) times the amount of the bail; or

(3) surety bond in the full amount of the bail that is written by a licensed and appointed agent of an insurer (as defined in IC 27-10-1-7).

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

(1) taken into custody or deported by a federal agency; or

(2) arrested and incarcerated for another offense;

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

SECTION 23. IC 35-44-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) A person who:**

(1) with intent to mislead public servants;

(2) in a five (5) year period; and

(3) in one (1) or more official proceedings or investigations;

has knowingly made at least two (2) material statements concerning the person's identity that are inconsistent to the degree that one (1) of them is necessarily false commits false identity statement, a Class A misdemeanor.

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

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

(1) the indictment or information need not specify which statement is actually false; and

(2) the falsity of a statement may be established sufficient for conviction by proof that the defendant made irreconcilably contradictory statements concerning the person's identity.

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

Chapter 5. Offenses Relating to Illegal Aliens

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

(1) A church or religious organization conducting activity that is protected by the First Amendment to the United States Constitution.

(2) The provision of assistance for health care items and services that are necessary for the treatment of an emergency medical condition of an individual.

(3) A health care provider (as defined in IC 16-18-2-163(a)) that is providing health care services.

(4) An attorney or other person that is providing legal services.

(5) A person who:

(A) is a spouse of an alien or who stands in relation of parent or child to an alien; and

(B) would otherwise commit an offense under this chapter with respect to the alien.

(6) A provider that:

(A) receives federal or state funding to provide services to victims of domestic violence, sexual assault, human trafficking, or stalking; and

(B) is providing the services described in clause (A).

(7) An employee of Indiana or a political subdivision (as defined in IC 36-1-2-13) if the employee is acting within the scope of the employee's employment.

(8) An employee of a school acting within the scope of the employee's employment.

Sec. 2. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).

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:

(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.

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

(c) A landlord that rents real property to a person who is an alien does not violate this section as a result of renting the property to the person.

Sec. 5. A person who transports, moves, or cares for a child (as defined in IC 35-47-10-3) who is an alien does not violate this chapter as a result of transporting, moving, or caring for the child.

Sec. 6. A determination by the United States Department of Homeland Security that an alien has come to, entered, or remained in the United States in violation of law is evidence that the alien is in the United States in violation of law.

Sec. 7. A law enforcement officer shall impound a motor vehicle, other than a motor vehicle used in public transportation and owned or operated by the state or a political subdivision, that is used to commit a violation of section 3 or 4 of this chapter.

SECTION 25. [EFFECTIVE JULY 1, 2011] **(a) The general assembly urges the legislative council to do the following:**

(1) Assign to an existing study committee the following topics:

(A) The enforcement of immigration laws by state and local law enforcement.

(B) The feasibility of entering into a memorandum of understanding with the United States Department of Homeland Security for the enforcement of immigration laws by state and local law enforcement.

(2) Urge the study committee to consult with the lieutenant governor on the topics listed in subdivision (1).

(b) If the topics listed in subsection (a)(1) are assigned to an existing study committee under subsection (a), the study committee shall issue a final report to the legislative council containing the study committee's finding and recommendations, including any recommended legislation concerning the topic, not later than November 1, 2011.

(c) This SECTION expires December 31, 2011

(Reference is to SB 590 as reprinted April 21, 2011.)

Conference Committee Report
on
Engrossed Senate Bill 590

Signed by:

Senator Delph Chairperson	Representative Koch
Senator Boots	Representative Kubacki
Senate Conferees	**House Conferees**