Adopted	Rejected

COMMITTEE REPORT

YES:	20
NO:	4

MR. SPEAKER:

Your Committee on **Ways and Means**, to which was referred Senate Bill 344, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

Page 1, delete lines 1 through 15.

Page 2, line 5, delete "2014" and insert "**2012**".

Page 2, line 35, delete "2015." and insert "**2013.**".

Page 2, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 6. IC 6-1.1-18-12, AS AMENDED BY P.L.172-2011, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied

for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted each year to account for the change in assessed value of real property that results from:

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of real property under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;

(2) IC 8-22-3-11;

(3) IC 8-22-3-25;

(4) IC 12-29-1-1;

(5) IC 12-29-1-2;

(6) IC 12-29-1-3;

(7) IC 12-29-3-6;

(8) IC 13-21-3-12;

(9) IC 13-21-3-15;

(10) IC 14-27-6-30;

(11) IC 14-33-7-3;

(12) IC 14-33-21-5;

(13) IC 15-14-7-4;

(14) IC 15-14-9-1;

(15) IC 15-14-9-2;

(16) IC 16-20-2-18;

(17) IC 16-20-4-27;

(18) IC 16-20-7-2;

(19) IC 16-22-14;

(20) IC 16-23-1-29;

(21) IC 16-23-3-6;

(22) IC 16-23-4-2;

(23) IC 16-23-5-6;

(24) IC 16-23-7-2;

(25) IC 16-23-8-2;

(26) IC 16-23-9-2;

(27) IC 16-41-15-5;

(28) IC 16-41-33-4;

(29) IC 20-46-2-3 (before its repeal on January 1, 2009);

(30) IC 20-46-6-5;

(31) IC 20-49-2-10;

(32) IC 36-1-19-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;
(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.

(e) **For property tax rates imposed for property taxes first due and payable after December 31, 2012,** the new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP ~~SEVEN~~ **EIGHT** of the following STEPS:

STEP ONE: **Except as provided in subsection (g),** determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: ~~Except as provided in subsection (g),~~ Determine the actual percentage change (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: ~~Except as provided in subsection (g),~~ Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage change (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The STEP FIVE result.

STEP ~~SIX.~~ **SEVEN:** Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP ~~FIVE~~ **SIX** percentage.

STEP ~~SEVEN.~~ **EIGHT:** Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP ~~SIX~~ **SEVEN** percentage. ~~increase.~~

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

~~(g) This subsection applies to STEP TWO and STEP FOUR of subsection (e) for taxes first due and payable after 2011. If the assessed value change used in the STEPS was not an increase, the STEPS are applied using instead:~~

~~(1) the actual percentage decrease (rounded to the nearest~~

~~one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property; or~~

~~(2) zero (0) if the assessed value did not increase or decrease.~~

(g) This section applies only when calculating the maximum rate for taxes due and payable in calendar year 2013. The STEP ONE result is the greater of the following:

(1) The actual maximum rate established for property taxes first due and payable in calendar year 2012.

(2) The maximum rate that would have been established for property taxes first due and payable in calendar year 2012 if the maximum rate had been established under the formula under this section, as amended in the 2012 session of the general assembly.

SECTION 7. IC 6-1.1-18-13 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. ~~Sec. 13. (a) The maximum property tax rate levied under IC 20-46-6 by each school corporation for the school corporation's capital projects fund must be adjusted each year to account for the change in assessed value of real property that results from:~~

~~(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or~~

~~(2) a general reassessment of real property under IC 6-1.1-4-4.~~

~~(b) The new maximum rate under this section is the tax rate determined under STEP SEVEN of the following formula:~~

~~STEP ONE: Determine the maximum rate for the school corporation for the year preceding the year in which the annual adjustment or general reassessment takes effect.~~

~~STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.~~

~~STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).~~

~~STEP SIX: Determine the greater of the following:~~

~~(A) Zero (0).~~

~~(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.~~

~~STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.~~

~~(c) The department of local government finance shall compute the maximum rate allowed under subsection (b) and provide the rate to each school corporation.~~".

Delete pages 3 through 5.

Page 6, delete lines 1 through 4.

Page 8, delete lines 22 through 38.

Page 9, delete lines 18 through 34.

Delete page 47.

Page 48, delete lines 1 through 38.

Page 50, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 28. IC 6-3.5-6-1.5, AS ADDED BY P.L.113-2010, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: Sec. 1.5. (a) Notwithstanding any other provision of this chapter, a power granted by this chapter to adopt an ordinance to:

(1) impose, increase, decrease, or rescind a tax or tax rate; or

(2) grant, increase, decrease, rescind, or change a homestead credit or property tax replacement credit authorized under this chapter;

may be exercised at any time in a year before November 1 of that year.

(b) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that imposes or increases a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately

preceding year and before October 1 of the current year takes effect October 1 of the current year.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(c) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that decreases or rescinds a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect on the later of October 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect on the later of November 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(d) ~~Notwithstanding any other provision of this chapter,~~ **Except as provided in subsection (e),** an ordinance authorized by this chapter that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit authorized under this chapter takes effect for and **initially** applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.

(e) This subsection applies only to Miami County. A county income tax council may adopt an ordinance in 2012 to select a different combination of uses specified in section 32(f) of this chapter for tax revenue distributed to the county from a tax rate imposed under section 32 of this chapter (county option income tax rate to provide property tax relief to taxpayers). The county income tax council may provide in the ordinance that the ordinance initially takes effect for and applies to property taxes first due and payable in 2012. This subsection expires January 1, 2013.".

Page 50, line 9, after "(f)" delete "and" and insert ",".

Page 50, line 9, reset in roman "and (h),".

Page 51, reset in roman lines 28 through 34.

Page 51, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 29. IC 6-8.1-9-2, AS AMENDED BY P.L.182-2009(ss), SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. Subject to subsection (c), if any excess remains after the department has applied the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

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

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

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

(2) the overpayment:

(A) is with respect to a taxable year beginning before January 1, 2009;

(B) is attributable to amounts paid to the department by:

(i) a nonresident shareholder, partner, or member of a pass through entity;

(ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member

of the pass through entity; or

(iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13 on behalf of a nonresident shareholder, partner, or member of another pass through entity; and

(3) the overpayment arises from a determination by the department or a court that the person's pass through income is not includible in the person's adjusted gross income derived from sources within Indiana as a result of the application of IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

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

income subject to the refund or credit was reported as income attributable to that state or jurisdiction.

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

(e) A person who is liable for the payment of excise taxes under IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's excise tax liability in the amount of the excise taxes paid in duplicate by the person, or the person's assignors or predecessors, upon both:

(1) the receipt of the goods subject to the excise taxes, as reported by the person, or the person's assignors or predecessors, on excise tax returns filed with the department; and

(2) the withdrawal of the same goods from a storage facility operated under 19 U.S.C. 1555(a).

(f) The amount of the credit under subsection (e) is equal to the amount of excise taxes:

(1) that were paid by the person, or the person's assignors or predecessors, as described in subsection (e)(2);

(2) that are duplicative of excise taxes paid by the person, or the person's assignors or predecessors, as described in subsection (e)(1); and

(3) for which the person, or the person's assignors or predecessors, has not previously claimed a credit.

The credit may be claimed by subtracting the amount of the credit from the amount of the person's excise taxes reported on the person's monthly excise tax returns filed under IC 7.1-4-6 with the department for taxes imposed under IC 7.1-4-3 or IC 7.1-4-4. The amount of the credit that may be taken monthly by the person on each monthly excise tax return may not exceed five percent (5%) of the excise tax liability reported by the person on the monthly

excise tax return.

(g) The amount of the credit claimed by a person under subsection (f) must be used by the person for capital expenditures to:

(1) expand employment; or

(2) assist in retaining employment;

within Indiana. The department shall annually verify whether the capital expenditures made by the person comply with this subsection.

SECTION 29. IC 8-1-34-16, AS AMENDED BY P.L.219-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) Except as provided in ~~section~~ **sections** 21 **and 30** of this chapter, after June 30, 2006:

(1) the commission is the sole franchising authority (as defined in 47 U.S.C. 522(10)) for the provision of video service in Indiana; and

(2) a unit may not:

(A) require a provider to obtain a separate franchise;

(B) impose any fee, gross receipt tax, licensing requirement, rate regulation, or build-out requirement on a provider;

(C) regulate a holder or provider; or

(D) establish, fund, or otherwise designate an agency, a board, or another subordinate entity to monitor, supervise, evaluate, or regulate the holder or provider;

except as authorized by this chapter.

(b) Except as provided in section 21 of this chapter, a person who seeks to provide video service in Indiana after June 30, 2006, shall file with the commission an application for a franchise. The application shall be made on a form prescribed by the commission and must include the following:

(1) A sworn affidavit, signed by an officer or another person authorized to bind the applicant, that affirms the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering video service in Indiana.

(B) That the applicant agrees to comply with all federal and state statutes, rules, and regulations applicable to the operation

of the applicant's video service system.

(C) That the applicant agrees to:

(i) comply with any local ordinance or regulation governing the use of public rights-of-way in the delivery of video service; and

(ii) recognize the police powers of a unit to enforce the ordinance or regulation.

(D) If the applicant will terminate an existing local franchise under section 21 of this chapter, that the applicant agrees to perform any obligations owed to any private person, as required by section 22 of this chapter.

(2) The applicant's legal name and any name under which the applicant does or will do business in Indiana, as authorized by the secretary of state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of each service area in Indiana to be served by the applicant. A service area described under this subdivision may include an unincorporated area in Indiana.

(7) The expected date for the deployment of video service in each of the areas identified in subdivision (6).

(8) A list of other states in which the applicant provides video service.

(9) If the applicant will terminate an existing local franchise under section 21(b) of this chapter, a copy of the written notice sent to the municipality under section 21(c) of this chapter.

(10) Any other information the commission considers necessary to:

(A) monitor the provision of video service to Indiana customers; and

(B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

(c) This section does not empower the commission to require:

(1) an applicant to disclose confidential and proprietary business

plans and other confidential information without adequate protection of the information; or

(2) a provider to disclose more frequently than in each odd numbered year information regarding the areas in which an applicant has deployed, or plans to deploy, video services.

The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(d) The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 17 of this chapter.

(e) Nothing in this title may be construed to require an applicant or a provider to disclose information that identifies by census block, street address, or other similar level of specificity the areas in which the applicant or provider has deployed, or plans to deploy, video service in Indiana. The commission may not disclose, publish, or report by census block, street address, or other similar level of specificity any information identifying the areas in Indiana in which an applicant or a provider has deployed, or plans to deploy, video service.

SECTION 30. IC 8-1-34-24, AS ADDED BY P.L.27-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 24. (a) Subject to ~~subsection~~ **subsections** (e) **and (f),** not later than forty-five (45) days after the end of each calendar quarter, the holder shall pay to each unit included in the holder's service area under a certificate issued under this chapter a franchise fee equal to:

(1) the amount of gross revenue received from providing video service in the unit during the most recent calendar quarter, as determined under section 23 of this chapter; multiplied by

(2) a percentage equal to one (1) of the following:

(A) If a local franchise has never been in effect in the unit before July 1, 2006, five percent (5%).

(B) If no local franchise is in effect in the unit on July 1, 2006, but one (1) or more local franchises have been in effect in the unit before July 1, 2006, the percentage of gross revenue paid by the holder of the most recent local franchise in effect in the unit, unless the unit elects to impose a different percentage, which may not exceed five percent (5%).

(C) If there is one (1) local franchise in effect in the unit on July 1, 2006, the percentage of gross revenue paid by the holder of that local franchise as a franchise fee to the unit, unless the unit elects to impose a different percentage, which may not exceed five percent (5%). Upon the expiration of a local franchise described in this clause, the percentage shall be determined by the unit but may not exceed five percent (5%).

(D) If there is more than one (1) local franchise in effect with respect to the unit on July 1, 2006, a percentage determined by the unit, which may not exceed the greater of:

(i) five percent (5%); or

(ii) the percentage paid by a holder of any local franchise in effect in the unit on July 1, 2006.

(b) If the holder provides video service to an unincorporated area in Indiana, as described in section 23(e) of this chapter, the holder shall:

(1) calculate the franchise fee with respect to the unincorporated area in accordance with subsection (a); and

(2) remit the franchise fee to the county in which the unincorporated area is located.

If an unincorporated area served by the provider is located in one (1) or more contiguous counties, the provider shall remit part of the franchise fee calculated under subdivision (1) to each county having territory in the unincorporated area served. The part of the franchise fee remitted to a county must bear the same proportion to the total franchise fee for the area, as calculated under subdivision (1), that the number of subscribers in the county bears to the total number of subscribers in the unincorporated area served.

(c) With each payment of a franchise fee to a unit under this section, the holder shall include a statement explaining the basis for the calculation of the franchise fee. A unit may review the books and records of:

(1) the holder; or

(2) an affiliate of the holder, if appropriate;

to the extent necessary to ensure the holder's compliance with section 23 of this chapter in calculating the gross revenue upon which the remitted franchise fee is based. Each party shall bear the party's own costs of an examination under this subsection. If the holder and the unit cannot agree on the amount of gross revenue on which the franchise fee

should be based, either party may petition the commission to determine the amount of gross revenue on which the franchise fee should be based. A determination of the commission under this subsection is final, subject to the right of direct appeal by either party.

(d) A franchise fee owed by a holder to a unit under this section may be passed through to, and collected from, the holder's subscribers in the unit. To the extent allowed under ~~43 U.S.C. 542(c),~~ **47 U.S.C. 542(c),** the holder may identify as a separate line item on each regular bill issued to a subscriber:

(1) the amount of the total bill assessed as a franchise fee under this section; and

(2) the identity of the unit to which the franchise fee is paid.

(e) A holder that elects under section 21(b)(1) of this chapter to continue providing video service under a local franchise is not required to pay the franchise fee prescribed under this section, but shall pay any franchise fee imposed under the terms of the local franchise **with respect to video service provided in a calendar year ending before January 1, 2013. A fee required by a local franchise does not apply to video service provided in a calendar year beginning after December 31, 2012.**

(f) A holder is not required to pay the franchise fee prescribed by subsections (a) through (d) with respect to video service provided in a calendar year beginning after December 31, 2012.

SECTION 31. IC 8-1-34-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 30. (a) As used in this section, "department" refers to the department of state revenue.**

(b) As used in this section, "direct broadcast satellite service" means distributing or broadcasting video programming (as defined in 47 U.S.C. 522(20)) or video service by satellite directly to receiving equipment located at an end user subscriber's or an end user customer's premises. The term includes the following:

(1) Renting receiving or recording equipment used by a subscriber or customer to obtain or use the service.

(2) Providing premium channels.

(3) Installing or repairing receiving or recording equipment used by a subscriber or customer to obtain or use the service.

(4) Providing music or other audio services or channels.

(5) Any other service provided in connection with the provision of direct broadcast satellite service.

(c) As used in this section, "direct broadcast satellite service provider" means any person that transmits, broadcasts, or otherwise provides direct broadcast satellite service to subscribers in Indiana.

(d) With respect to a direct broadcast satellite service provider, "gross revenue" means all consideration of any kind or nature, including cash, credits, property, and in kind contributions received by the direct broadcast satellite service provider or an affiliate of the provider. Gross revenue is determined as follows:

(1) The term includes the following fees and charges charged to subscribers for direct broadcast satellite service provided by a direct broadcast satellite service provider or an affiliate of the provider:

(A) Recurring monthly charges for direct broadcast satellite service.

(B) Event based charges for direct broadcast satellite service, including pay per view and video on demand charges.

(C) Charges for the rental of equipment related to providing direct broadcast satellite service.

(D) Service charges related to providing direct broadcast satellite service, including activation, installation, repair, and maintenance charges.

(E) Administrative charges related to providing direct broadcast satellite service, including service order and service termination charges.

(F) Any other fee or charge that would be included in gross revenue as determined under section 23 of this chapter, regardless of whether the direct broadcast satellite service provider, or an affiliate of the provider, is otherwise subject to this chapter.

(2) The term does not include the following received by a direct broadcast satellite service provider or an affiliate of the provider:

(A) Revenue not actually received, regardless of whether it is billed, including bad debt.

(B) Revenue received by an affiliate or any other person in exchange for supplying goods and services used by the direct broadcast satellite service provider to provide direct broadcast satellite service.

(C) Refunds, rebates, or discounts made to a subscriber, an advertiser, a unit, another provider, or any other person.

(D) Revenue from providing service other than direct broadcast satellite service, including:

(i) telecommunications service (as defined in 47 U.S.C. 153(46));

(ii) information service (as defined in 47 U.S.C. 153(20)); or

(iii) any other service that is not direct broadcast satellite service.

(E) The tax imposed on retail transactions described in IC 6-2.5-4-11.

(F) Any video service provider fee that is:

(i) imposed on the provider under subsection (f); and

(ii) passed through to and collected from subscribers.

(G) Any tax of general applicability imposed on the direct broadcast satellite service provider, or a subscriber of direct broadcast satellite service, by a federal, state, or local governmental entity and required to be collected and remitted to the taxing entity, including the state gross retail and use taxes (IC 6-2.5) and the utility receipts tax (IC 6-2.3).

(H) Any foregone revenue from providing free or reduced cost direct broadcast satellite service to any person, including employees of the direct broadcast satellite service provider or any governmental entity as required or permitted by federal, state, or local law, except revenue foregone in exchange for goods or services through a trade or barter arrangement.

(I) Revenue from the sale of:

(i) capital assets; or

(ii) surplus equipment not used by the purchaser to receive direct broadcast satellite service from the direct broadcast satellite service provider.

(J) Reimbursements that:

(i) are made by programmers to the direct broadcast satellite service provider for marketing costs incurred by the direct broadcast satellite service provider for the introduction of new programming; and

(ii) exceed the actual costs incurred by the direct broadcast satellite service provider.

(K) Late payment fees collected from customers.

(L) Charges, other than those charges described in subdivision (1), that are aggregated or bundled with charges described in subdivision (1) on a customer's bill, if the direct broadcast satellite service provider can reasonably identify the charges in its books and records kept in the regular course of business.

(e) With respect to a holder, "gross revenue" has the meaning set forth in section 5 of this chapter.

(f) After June 30, 2012, a unit may adopt an ordinance to impose a video service provider fee upon any holder or direct broadcast satellite service provider providing video service or direct broadcast satellite service to subscribers located in the unit. However:

(1) a county may impose the fee only upon services provided to subscribers located within the unincorporated area of the county;

(2) a township may impose the fee only if the township was entitled to receive the distribution of the fee imposed under section 24 of this chapter or was a party to a local franchise that a video service provider elected to continue operating under as provided by section 21(b)(1) of this chapter.

(g) A fee imposed under this section may not exceed three percent (3%) of the gross revenue of the holder or direct broadcast satellite service provider that is attributable to services provided to subscribers located in the unit imposing the fee. A fee imposed under this section takes effect on January 1 of the calendar year following the calendar year in which the ordinance imposing the fee is adopted.

(h) The video service provider fee is in addition to the state gross retail tax and use tax imposed by IC 6-2.5.

(i) The video service provider fee may be passed through to, and collected from, a holder or direct broadcast satellite service provider's subscribers in Indiana. To the extent allowed under federal or state law, the holder or direct broadcast satellite service provider may identify as a separate line item on each regular bill issued to a subscriber:

(1) the amount of the total bill assessed as a video service provider fee under this section; and

(2) the identity of the unit to which the video service provider fee is paid.

(j) Each holder or direct broadcast satellite service provider liable for the video service provider fee shall file a report for each calendar quarter and pay to the department the fee imposed by this section for each calendar quarter. A holder or direct broadcast satellite service provider shall file a report for each calendar quarter with the department and pay the video service provider fee for that calendar quarter to the department not later than twenty (20) days after the end of that calendar quarter. The report must include a summary of gross revenue and fees categorized by unit. This subsection does not create a liability of the holder or direct broadcast satellite service provider directly to a unit.

(k) The department shall prescribe the form of the direct broadcast satellite service fee report required under subsection (j).

(l) For each unit in which a provider provides direct broadcast satellite service or video service, the department shall:

(1) credit to a special account for that unit the money received from the fees collected by the department for the unit for the most recent calendar quarter from each provider that provides direct broadcast satellite service or video service in the unit; and

(2) use the money in the account to make distributions to the unit before the last business day in January, April, July, and October based on the amount of fees received in that month for the most recent calendar quarter from each provider that provides direct broadcast satellite service or video service in the unit.

The money in each special account is appropriated to make the distributions.

SECTION 29. IC 8-10-2-2, AS AMENDED BY P.L.98-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) In addition to the powers conferred upon the ports of Indiana by other provisions of this article, the ports of Indiana, whenever the ports of Indiana finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the ports of Indiana further finds will increase the traffic into or out of the project. ~~Any such facilities and the site thereof shall not be~~ **Neither a facility leased under this section nor the site on which the facility is located may become** exempt from property taxation ~~and~~ **because of the lease.** The lessee in any lease ~~thereof~~ **authorized by this subsection** shall agree to pay all property taxes levied on ~~such facilities and the site thereof.~~ **the leased facility and the site of the facility unless the lessee itself is exempt from property taxation. Any property taxes imposed upon the leased facility and the site of the facility remain the liability of the lessee. Unpaid property taxes are not a liability of the ports of Indiana or any subsequent lessee or occupant of the leased facility. The terms of any lease agreement entered into after June 30, 2012, must comply with this subsection.**

(b) In exercising the powers granted in this section, the ports of Indiana shall have all the powers granted to it by this article, in connection with a project, and the term "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the ports of Indiana to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The ports of

Indiana shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.".

Delete pages 52 through 53.

Page 54, delete lines 1 through 8, begin a new paragraph and insert:

"SECTION 32. IC 36-2-6-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 23. A county treasurer shall provide written notice to the ports of Indiana of any determination that a person liable for property taxes due on:**

(1) a facility leased by the person from the ports of Indiana; or

(2) the site of a facility leased by the person from the ports of Indiana;

has failed to pay the property taxes. The notice must be provided not later than thirty (30) days after the determination is made.".

Page 55, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 32. IC 36-7-32-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "gross retail base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a certified technology park during the full state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter **(subject to any subsequent adjustment under section 28 of this chapter).**

SECTION 33. IC 36-7-32-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. As used in this chapter, "income tax base period amount" means the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter **(subject to any subsequent adjustment under section 28 of this chapter):**

(1) The adjusted gross income tax.

(2) The county adjusted gross income tax.

(3) The county option income tax.

(4) The county economic development income tax.

SECTION 34. IC 36-7-32-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. (a) This section applies only to a certified technology park located in a county having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred thirty-five thousand (135,000).**

(b) A redevelopment commission may petition the department of state revenue to adjust a certified technology park's gross retail base period amount or income tax base period amount, or both, if the redevelopment commission believes in good faith at the time the petition is made that the gross retail base period amount or the income tax base period amount, or both, in effect for the certified technology park are incorrect.

(c) A redevelopment commission that submits a petition under subsection (b) has the burden of demonstrating the redevelopment commission's claim by a preponderance of the evidence.

(d) A petition submitted under subsection (b) must include the following:

(1) An explanation of the calculation that was made to determine the gross retail base period amount or income tax base period amount, or both, in effect at the time the petition is made.

(2) An explanation of why the gross retail base period amount or income tax base period amount, or both, should be changed.

(3) An explanation of the proposed change in the calculation of the gross retail base period amount or income tax base period amount, or both, describing:

(A) the proposed change in the calculation formula, if any;

(B) the proposed new facts to use in making the calculation, if any; or

(C) the information in both clauses (A) and (B).

(e) In addition to information provided in a petition submitted under subsection (b), the department of state revenue may require a redevelopment commission to furnish any additional reasonable

documentation or other evidence the department of state revenue requires to make its determination.

(f) If the department of state revenue determines as a result of a petition submitted under this section that a certified technology park's gross retail base period amount or income tax base period amount, or both, are incorrect, the department of state revenue shall compute the appropriate adjustments and notify the petitioning redevelopment commission, the Indiana economic development corporation, the budget agency, and the treasurer of state.

(g) An adjustment of a certified technology park's gross retail base period amount or income tax base period amount under this section is retroactive to the later of the following dates:

(1) The date the incorrect gross retail base period amount or income tax base period amount, as applicable, became effective.

(2) July 1 of the state fiscal year immediately preceding the state fiscal year in which the redevelopment commission submitted the petition to the department of state revenue under subsection (b).

(h) If the date to which an adjustment of a certified technology park's gross retail base period amount or income tax base period amount is retroactive occurred before the beginning of the state fiscal year in which the adjustment is determined under this section, the department of state revenue shall notify the auditor of state and the budget agency of the adjustment with an explanation of the sum of the following:

(1) The difference, if any, between:

(A) the incorrect gross retail incremental amount; and

(B) the adjusted gross retail incremental amount;

of the certified technology park for all state fiscal years before the state fiscal year in which the determination under this section is made that are affected by the adjustment in the gross retail base period amount, based on the date determined under subsection (g).

(2) The difference, if any, between:

(A) the incorrect income tax incremental amount; and

(B) the adjusted income tax incremental amount;

of the certified technology park for all state fiscal years before the state fiscal year in which the determination under this section is made that are affected by the adjustment in the income tax base period amount, based on the date determined under subsection (g).

If the budget agency is satisfied that the explanation furnished by the department of state revenue of the sum determined under this subsection is correct, the budget agency shall direct the auditor of state to transfer the sum determined under this section from the state general fund to the incremental tax financing fund for the relevant certified technology park, without appropriation, subject to section 22(c) of this chapter, to be distributed as provided in section 22(d) of this chapter.".

Page 55, line 40, delete "attributable to the increment" and insert "**appropriated by the fiscal body for deposit in the fund from any revenue source available to the fiscal body.**".

Page 55, line 41, delete "determined under section 5 of this chapter.".

Page 56, delete lines 4 through 41.

Page 57, delete lines 14 through 22.

Page 58, line 14, delete "general".

Page 58, line 15, delete "assembly urges the".

Page 58, line 15, after "council" delete "to" and insert "**shall**".

Page 58, line 21, delete "If the topic described in subsection (a) is assigned to an" and insert "**The**".

Page 58, delete line 22.

Page 58, line 23, after "committee" insert "**assigned the topic described in subsection (a)**".

Page 58, run in lines 21 through 23.

Page 58, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 40. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "office of the secretary" refers to the office of the secretary of family and social services.**

(b) As used in this SECTION, "government assistance income" means the sum of the value of all:

(1) cash;

(2) free services; or

(3) savings from reduced fees;

that an Indiana resident with an income at or below two hundred percent (200%) of the federal poverty income level receives.

(c) Before December 31, 2012, the office of the secretary shall study the following:

(1) The tax relief available for Indiana residents with incomes under the federal poverty income level.

(2) The availability of programs that provide financial or medical assistance to low income Indiana residents with incomes under the federal poverty income level, including:

(A) Medicaid;

(B) Temporary Assistance for Needy Families;

(C) food stamps; and

(D) any other federal, state, or local financial or medical assistance available to Indiana residents whose income is at or below two hundred percent (200%) of the federal poverty income level.

(3) The maximum government assistance income an individual could receive by pursuing and obtaining the benefits described in subdivisions (1) and (2).

(d) The office of the secretary shall submit a report of its findings not later than December 31, 2012, to the governor and the legislative council. The report must be in an electronic format under IC 5-14-6. The report must include a detailed explanation of the calculation assumptions and methodology.

(e) This SECTION expires January 1, 2013.

SECTION 41. [EFFECTIVE MAY 1, 2012] **(a) This SECTION applies to a taxpayer notwithstanding IC 6-1.1-11 or any other law or administrative rule or provision.**

(b) This SECTION applies to an assessment date (as defined in IC 6-1.1-1-2) occurring in 2008 through 2009.

(c) This SECTION applies only to a taxpayer that is an Indiana nonprofit corporation that serves the homeless and to land and improvements that meet all of the following conditions:

(1) The corporation leased land and improvements that served as a homeless shelter that met the physical, emotional, academic, and spiritual needs of children, teens, adults, and families during 2008 through 2009. The corporation timely filed an application under IC 6-1.1-11 for a property tax

exemption for the land and improvements and received an exemption from property taxes for the 2007, 2010, and 2011 assessment dates for the land and improvements.

(2) The corporation did not timely file an application under IC 6-1.1-11 for a property tax exemption for the land and improvements described in subdivision (1) for the 2008 through 2009 assessment dates, and as a result the corporation's land and improvements referred to in subdivision (1) were assessed and subject to property taxation for the 2008 through 2009 assessment dates.

(3) For the 2008 through 2009 assessment dates, the land and improvements described in subdivision (1) would have been eligible for a property tax exemption if the corporation had filed an exemption application under IC 6-1.1-11.

A taxpayer described in this subsection may, before July 1, 2012, file with the county assessor an application for property tax exemption for the land and improvements described in subdivision (1) for the 2008 through 2009 assessment dates.

(d) If the taxpayer demonstrates in the application filed under subsection (c) that the property that is the subject of the exemption application would have qualified for an exemption under IC 6-1.1-10-16 as owned, occupied, and used for an educational or charitable purpose if the application had been filed under IC 6-1.1-11 in a timely manner, the taxpayer is entitled to the exemptions from real property taxes or personal property taxes, or both, as claimed on the property tax exemption applications filed by the taxpayer under subsection (c) and shall pay no property taxes, penalties, or interest with respect to the exempt property.

(e) For a taxpayer's property to be exempt under this SECTION, the taxpayer must have received for the 2007, 2010, and 2011 assessment dates an exemption from property taxes for property identified by the same parcel or key numbers or the same parcel and key numbers included on the property tax exemption applications filed by the taxpayer for those assessment dates.

(f) An application for property tax exemption that is filed under subsection (c) is considered to be timely filed for the 2008 through 2009 assessment dates, and the county assessor shall forward the application to the county property tax assessment board of appeals

for review. The board shall grant an exemption claimed for the 2008 through 2009 assessment dates if the board determines that:

(1) the corporation's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the corporation's land and improvements were, except for the failure to timely file a property tax exemption application, otherwise eligible for the claimed exemption for the 2008 through 2009 assessment dates.

(g) If the exemption is granted under this SECTION, the county shall issue a refund to the corporation for all taxes paid for the 2008 and 2009 assessment dates with respect to the exempt property. The county may pay the refund to the taxpayer over a two (2) year period from the date the county determines that the property qualifies for the exemption.

(h) This SECTION expires January 1, 2013.".

Renumber all SECTIONS consecutively.

(Reference is to SB 344 as reprinted February 1, 2012.)

and when so amended that said bill do pass.

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Representative Espich