



January 27, 2012

SENATE BILL No. 344

DIGEST OF SB 344 (Updated January 25, 2012 10:04 am - DI 58)

Citations Affected: IC 6-1.1; IC 6-2.3; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-8.1; IC 12-20; IC 36-7; noncode.

Synopsis: State taxation. Specifies the assessed value for outdoor signs for the 2011 through 2014 assessment dates. Requires the commission on state tax and financing policy to study the assessment of outdoor signs. Repeals the prohibition against using the value of federal income tax credits awarded under Section 42 of the Internal Revenue Code for purposes of determining the assessed value of low income housing tax credit property. Permits the fiscal body of a city or town, or the county, in the case of an unincorporated area, to authorize the unit's redevelopment commission to establish a residential historic rehabilitation grant program. Permits the fiscal body to annually appropriate money for the grant program from the property tax increment resulting from any additional property taxes collected as a result of repealing the prohibition against using the value of federal income tax credits in determining the assessed value of low income housing tax credit property. Separates the township assistance levy from the township's general fund levy, and provides for a levy based on a rate calculation that must be used to determine a township's assistance levy after 2012. Phases in the change through 2014. Freezes a township's township assistance rate for levy determinations after 2014. Permits a township to increase the township assistance levy only if there is a corresponding reduction in the township's general fund levy. Provides a 100% property tax assessed value deduction for a solar power device used to generate electricity that is installed after December 31, 2011. Provides that a person leasing real property with a solar power device is eligible for the exemption if the person is
(Continued next page)

Effective: Upon passage; January 1, 2011 (retroactive); March 1, 2011 (retroactive); January 1, 2012 (retroactive); July 1, 2012; January 1, 2013; July 1, 2013.

Hershman, Mishler

January 9, 2012, read first time and referred to Committee on Tax and Fiscal Policy.
January 26, 2012, amended, reported favorably — Do Pass.

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subject to assessment for the solar power device. Provides that a sales tax refund claim based on the exemption for electrical energy, natural or artificial gas, water, steam, and steam heat may not cover transactions that occur more than 36 months (rather than 18 months, under current law) before the date of the refund claim. Provides a sales tax exemption for sales of wrapping material and empty containers that are acquired for shipping or delivering certain tangible personal property. Exempts from the utility receipts tax any payments of severance damages or other compensation resulting from a change in assigned service area boundaries between electricity suppliers. Specifies that industrial processors and those engaged in floriculture and arboriculture do not have to file a sales tax refund claim if the utility service is separately metered, or it has been determined that the utility service is predominantly used in industrial processing, horticulture, or arboriculture. Provides a sales and use tax exemption for transactions involving tangible personal property by a company that is engaged in offering a competitive racing experience in a two-seater Indianapolis 500 style race car during a competitive racing event. Repeals the laws allowing for a consolidated sales and withholding tax return. Requires all sales tax returns and payments, excluding those retail merchants whose state gross retail and use tax liability in the previous calendar year does not exceed \$1,000, to be filed and remitted electronically. Makes a technical change regarding the details for the amount of an E85 deduction. Provides that withholding tax payments may be made annually if the total withholding tax due for the year is less than \$1,000. Changes the due dates for annual one-time withholding for a nonresident partner and for a nonresident shareholder in an S corporation to April 15. Changes the reporting date for partnerships that make periodic withholding payments from January 30 to March 15. Requires any person filing more than 25 copies of certain tax forms to file reports electronically. Removes the prohibition of taking a case to the tax court if the department of state revenue takes longer than three years to settle a claim. Extends the income tax credits for venture capital investments, Hoosier business investments, alternative fuel manufacturing, and new employers through December 31, 2016. Provides that for purposes of the coal gasification technology investment tax credit, an integrated coal gasification powerplant also includes a facility that is dedicated primarily to production of electricity or gas for sale to or use by the Indiana finance authority under statutes authorizing the authority to enter into contracts for the purchase, transportation, and delivery of substitute natural gas. Adds an exception to the requirement that 100% of the coal used in an integrated coal gasification powerplant or as fuel in a fluidized bed combustion unit must be Indiana coal (by allowing the applicant awarded the coal gasification technology investment tax credit to certify that partial use of feedstock is necessary to result in lower rates for Indiana retail utility customers). Corrects references to the Internal Revenue Code in the income tax law. Provides that a decedent's estate and a trust do not have to file an Indiana fiduciary return if the gross income for the year is less than \$600. Requires the commission on state and financing policy to study all income tax credits during 2012 and 2013. Urges the legislative council to assign to a study committee the topic of more clearly defining what is included in instructional spending by school corporations and what is included in noninstructional spending by school corporations for purposes of the annual performance report provided by school corporations. Adjusts the maximum levy for Clark County.

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January 27, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

1 SECTION 1. IC 6-1.1-3-24 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
3 **MARCH 1, 2011 (RETROACTIVE)]**: **Sec. 24. (a) In determining the**
4 **assessed value of various sizes of outdoor advertising signs for the**
5 **2011 through 2014 assessment dates, a taxpayer and assessing**
6 **official shall use the following table without any adjustments:**

	Single Pole Structure	
	Type of Sign	Value Per Structure
7		
8		
9	At least 48 feet, illuminated	\$5,000
10	At least 48 feet, non-illuminated	\$4,000
11	At least 26 feet and under 48 feet, illuminated	\$4,000
12	At least 26 feet and under 48 feet,	
13	non-illuminated	\$3,300
14	Under 26 feet, illuminated	\$3,200
15	Under 26 feet, non-illuminated	\$2,600

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	Other Types of Outdoor Signs	
1		
2	At least 50 feet, illuminated	\$2,500
3	At least 50 feet, non-illuminated	\$1,500
4	At least 40 feet and under 50 feet, illuminated	\$2,000
5	At least 40 feet and under 50 feet,	
6	non-illuminated	\$1,300
7	At least 30 feet and under 40 feet, illuminated	\$2,000
8	At least 30 feet and under 40 feet,	
9	non-illuminated	\$1,300
10	At least 20 feet and under 30 feet, illuminated	\$1,600
11	At least 20 feet and under 30 feet,	
12	non-illuminated	\$1,000
13	Under 20 feet, illuminated	\$1,600
14	Under 20 feet, non-illuminated	\$1,000

15 (b) During the 2012 legislative interim, the commission on state
 16 tax and financing policy shall study the assessment of outdoor
 17 signs. Before January 1, 2013, the commission shall report to the
 18 general assembly on any suggested changes in the law with regard
 19 to assessing outdoor signs.

20 (c) This section expires July 1, 2015.

21 SECTION 2. IC 6-1.1-4-40 IS REPEALED [EFFECTIVE
 22 JANUARY 1, 2013]. Sec. 40: The value of federal income tax credits
 23 awarded under Section 42 of the Internal Revenue Code may not be
 24 considered in determining the assessed value of low income housing
 25 tax credit property:

26 SECTION 3. IC 6-1.1-12-26.1 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: **Sec. 26.1. (a)**
 29 **This section applies only to a solar power device that is installed**
 30 **after December 31, 2011.**

31 (b) This section does not apply to a solar power device that is
 32 owned or operated by a person that provides electricity at
 33 wholesale or retail for consideration other than a person that:

34 (1) participates in a net metering or feed-in-tariff program
 35 offered by an electric utility with respect to the solar power
 36 device; or

37 (2) is the owner or host of the solar power device site and a
 38 person consumes on the site the equivalent amount of
 39 electricity that is generated by the solar power device on an
 40 annual basis even if the electricity is sold to a public utility,
 41 including a solar power device directly serving a public
 42 utility's business operations site.



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1 (c) For purposes of this section, "solar power device" means a
 2 device, such as a solar thermal, a photovoltaic, or other solar
 3 energy system, that is designed to use the radiant light or heat from
 4 the sun to produce electricity.

5 (d) The owner of real property equipped with a solar power
 6 device that is assessed as a real property improvement may have
 7 deducted annually from the assessed value of the real property an
 8 amount equal to:

9 (1) the assessed value of the real property with the solar
 10 power device included; minus

11 (2) the assessed value of the real property without the solar
 12 power device.

13 (e) The owner of a solar power device that is assessed as:

14 (1) distributable property under IC 6-1.1-8; or

15 (2) personal property;

16 may have deducted annually the assessed value of the solar power
 17 device.

18 SECTION 4. IC 6-1.1-12-27.1, AS AMENDED BY P.L.113-2010,
 19 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 27.1. Except as provided
 21 in sections 36 and 44 of this chapter and subject to section 45 of this
 22 chapter, a person who desires to claim the deduction provided by
 23 section 26 **or 26.1** of this chapter must file a certified statement in
 24 duplicate, on forms prescribed by the department of local government
 25 finance, with the auditor of the county in which the real property, ~~or~~
 26 mobile home, **manufactured home, or solar power device** is subject
 27 to assessment. With respect to real property **or a solar power device**
 28 **that is assessed as distributable property under IC 6-1.1-8 or as**
 29 **personal property**, the person must file the statement during the year
 30 for which the person desires to obtain the deduction. Except as
 31 provided in sections 36 and 44 of this chapter and subject to section 45
 32 of this chapter, with respect to a mobile home which is not assessed as
 33 real property, the person must file the statement during the twelve (12)
 34 months before March 31 of each year for which the person desires to
 35 obtain the deduction. The person must:

36 (1) own the real property, mobile home, or manufactured home **or**
 37 **own the solar power device; or**

38 (2) be buying the real property, mobile home, ~~or~~ manufactured
 39 home, **or solar power device** under contract; **or**

40 (3) be leasing the real property from the real property owner
 41 **and be subject to assessment and property taxation with**
 42 **respect to the solar power device;**



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1 on the date the statement is filed under this section. The statement may
 2 be filed in person or by mail. If mailed, the mailing must be postmarked
 3 on or before the last day for filing. On verification of the statement by
 4 the assessor of the township in which the real property, ~~or~~ mobile
 5 home, **manufactured home, or solar power device** is subject to
 6 assessment, or the county assessor if there is no township assessor for
 7 the township, the county auditor shall allow the deduction.

8 SECTION 5. IC 6-2.3-4-7 IS ADDED TO THE INDIANA CODE
 9 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE
 10 JANUARY 1, 2013]: **Sec. 7. Gross receipts are exempt from the**
 11 **utility receipts tax if the gross receipts are received by a taxpayer**
 12 **from an electricity supplier (as defined in IC 8-1-2.3-2) as payment**
 13 **of severance damages or other compensation resulting from a**
 14 **change in assigned service area boundaries under IC 8-1-2.3-6(1),**
 15 **IC 8-1-2.3-6(2), or IC 8-1-2.3-6(3).**

16 SECTION 6. IC 6-2.5-4-5, AS AMENDED BY P.L.32-2007,
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JANUARY 1, 2013]: Sec. 5. (a) As used in this section, a "power
 19 subsidiary" means a corporation which is owned or controlled by one
 20 (1) or more public utilities that furnish or sell electrical energy, natural
 21 or artificial gas, water, steam, or steam heat and which produces power
 22 exclusively for the use of those public utilities.

23 (b) A power subsidiary or a person engaged as a public utility is a
 24 retail merchant making a retail transaction when the subsidiary or
 25 person furnishes or sells electrical energy, natural or artificial gas,
 26 water, steam, or steam heating service to a person for commercial or
 27 domestic consumption.

28 (c) Notwithstanding subsection (b), a power subsidiary or a person
 29 engaged as a public utility is not a retail merchant making a retail
 30 transaction in any of the following transactions:

31 (1) The power subsidiary or person provides, installs, constructs,
 32 services, or removes tangible personal property which is used in
 33 connection with the furnishing of the services or commodities
 34 listed in subsection (b).

35 (2) The power subsidiary or person sells the services or
 36 commodities listed in subsection (b) to another public utility or
 37 power subsidiary described in this section or a person described
 38 in section 6 of this chapter.

39 (3) The power subsidiary or person sells the services or
 40 commodities listed in subsection (b) to a person for use in
 41 manufacturing, mining, production, **processing, repairing,**
 42 refining, oil extraction, mineral extraction, irrigation, agriculture,

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1 **floriculture, arboriculture,** or horticulture. However, this
2 exclusion for sales of the services and commodities only applies
3 if the services are consumed as an essential and integral part of an
4 integrated process that produces tangible personal property and
5 those sales are separately metered for the excepted uses listed in
6 this subdivision, or if those sales are not separately metered but
7 are predominately used by the purchaser for the excepted uses
8 listed in this subdivision.

9 (4) The power subsidiary or person sells the services or
10 commodities listed in subsection (b) and all the following
11 conditions are satisfied:

12 (A) The services or commodities are sold to a business that
13 after June 30, 2004:

- 14 (i) relocates all or part of its operations to a facility; or
15 (ii) expands all or part of its operations in a facility;

16 located in a military base (as defined in IC 36-7-30-1(c)), a
17 military base reuse area established under IC 36-7-30, the part
18 of an economic development area established under
19 IC 36-7-14.5-12.5 that is or formerly was a military base (as
20 defined in IC 36-7-30-1(c)), a military base recovery site
21 designated under IC 6-3.1-11.5, or a qualified military base
22 enhancement area established under IC 36-7-34.

23 (B) The business uses the services or commodities in the
24 facility described in clause (A) not later than five (5) years
25 after the operations that are relocated to the facility or
26 expanded in the facility commence.

27 (C) The sales of the services or commodities are separately
28 metered for use by the relocated or expanded operations.

29 (D) In the case of a business that uses the services or
30 commodities in a qualified military base enhancement area
31 established under IC 36-7-34-4(1), the business must satisfy at
32 least one (1) of the following criteria:

33 (i) The business is a participant in the technology transfer
34 program conducted by the qualified military base (as defined
35 in IC 36-7-34-3).

36 (ii) The business is a United States Department of Defense
37 contractor.

38 (iii) The business and the qualified military base have a
39 mutually beneficial relationship evidenced by a
40 memorandum of understanding between the business and
41 the United States Department of Defense.

42 (E) In the case of a business that uses the services or

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1 commodities in a qualified military base enhancement area
 2 established under IC 36-7-34-4(2), the business must satisfy at
 3 least one (1) of the following criteria:

4 (i) The business is a participant in the technology transfer
 5 program conducted by the qualified military base (as defined
 6 in IC 36-7-34-3).

7 (ii) The business and the qualified military base have a
 8 mutually beneficial relationship evidenced by a
 9 memorandum of understanding between the business and
 10 the qualified military base (as defined in IC 36-7-34-3).

11 However, this subdivision does not apply to a business that
 12 substantially reduces or ceases its operations at another location
 13 in Indiana in order to relocate its operations in an area described
 14 in this subdivision, unless the department determines that the
 15 business had existing operations in the area described in this
 16 subdivision and that the operations relocated to the area are an
 17 expansion of the business's operations in the area.

18 (5) The power subsidiary or person sells services or commodities
 19 that:

20 (A) are referred to in subsection (b); and

21 (B) qualify as home energy (as defined in IC 6-2.5-5-16.5);
 22 to a person who acquires the services or commodities after June
 23 30, 2006, and before July 1, 2009, through home energy
 24 assistance (as defined in IC 6-2.5-5-16.5).

25 SECTION 7. IC 6-2.5-5-5.1, AS AMENDED BY P.L.172-2011,
 26 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2012]: Sec. 5.1. (a) As used in this section, "tangible personal
 28 property" includes electrical energy, natural or artificial gas, water,
 29 steam, and steam heat.

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

38 (c) A refund claim based on the exemption provided by this section
 39 for electrical energy, natural or artificial gas, water, steam, and steam
 40 heat may not cover transactions that occur more than ~~eighteen (18)~~
 41 **thirty-six (36)** months before the date of the refund claim.

42 SECTION 8. IC 6-2.5-5-9 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) As used in this
 2 section, "returnable containers" means containers customarily returned
 3 by the buyer of the contents for reuse as containers.

4 (b) Sales of returnable containers are exempt from the state gross
 5 retail tax if the transaction constitutes selling at retail as defined in
 6 IC 6-2.5-4-1 and if the returnable containers contain contents.

7 (c) Sales of returnable containers are exempt from the state gross
 8 retail tax if the containers are transferred empty for the purpose of
 9 refilling.

10 (d) Sales of wrapping material and empty containers are exempt
 11 from the state gross retail tax if the person acquiring the material or
 12 containers acquires them for use as nonreturnable packages for:

13 (1) selling the contents that ~~he~~ **the person** adds; or

14 (2) **shipping or delivering tangible personal property that:**

15 (A) **is owned by another person;**

16 (B) **is processed or serviced for the owner; and**

17 (C) **will be sold by that owner either in the same form or as**
 18 **a part of other tangible personal property produced by**
 19 **that owner in the owner's business of manufacturing,**
 20 **assembling, constructing, refining, or processing.**

21 SECTION 9. IC 6-2.5-5-37, AS AMENDED BY P.L.193-2005,
 22 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JANUARY 1, 2011 (RETROACTIVE)]: Sec. 37. (a) Transactions
 24 involving tangible personal property are exempt from the state gross
 25 retail tax, if the tangible personal property:

26 (1) is leased, owned, or operated by a professional racing team;
 27 and

28 (2) comprises any part of a professional motor racing vehicle,
 29 excluding tires and accessories.

30 (b) **Transactions involving tangible personal property are**
 31 **exempt from the state gross retail tax, if the tangible personal**
 32 **property:**

33 (1) **is leased, owned, or operated by a company that is engaged**
 34 **in offering a competitive racing experience during a**
 35 **competitive racing event; and**

36 (2) **comprises any part of a two-seater Indianapolis 500 style**
 37 **race car, excluding tires and accessories.**

38 SECTION 10. IC 6-2.5-6-1, AS AMENDED BY P.L.182-2009(ss),
 39 SECTION 180, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JANUARY 1, 2013]: Sec. 1. (a) Except as otherwise
 41 provided in this section, each person liable for collecting the state gross
 42 retail or use tax shall file a return for each calendar month and pay the

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1 state gross retail and use taxes that the person collects during that
 2 month. A person shall file the person's return for a particular month
 3 with the department and make the person's tax payment for that month
 4 to the department not more than thirty (30) days after the end of that
 5 month, if that person's average monthly liability for collections of state
 6 gross retail and use taxes under this section as determined by the
 7 department for the preceding calendar year did not exceed one
 8 thousand dollars (\$1,000). If a person's average monthly liability for
 9 collections of state gross retail and use taxes under this section as
 10 determined by the department for the preceding calendar year exceeded
 11 one thousand dollars (\$1,000), that person shall file the person's return
 12 for a particular month and make the person's tax payment for that
 13 month to the department not more than twenty (20) days after the end
 14 of that month.

15 ~~(b)~~ If a person files a combined sales and withholding tax report and
 16 either this section or IC 6-3-4-8.1 requires sales or withholding tax
 17 reports to be filed and remittances to be made within twenty (20) days
 18 after the end of each month, then the person shall file the combined
 19 report and remit the sales and withholding taxes due within twenty (20)
 20 days after the end of each month.

21 ~~(c)~~ (b) Instead of the twelve (12) monthly reporting periods required
 22 by subsection (a), the department may permit a person to divide a year
 23 into a different number of reporting periods. The return and payment
 24 for each reporting period is due not more than twenty (20) days after
 25 the end of the period.

26 ~~(d)~~ (c) Instead of the reporting periods required under subsection
 27 (a), the department may permit a retail merchant to report and pay the
 28 merchant's state gross retail and use taxes for a period covering a
 29 calendar year, if the retail merchant's state gross retail and use tax
 30 liability in the previous calendar year does not exceed one thousand
 31 dollars (\$1,000). A retail merchant using a reporting period allowed
 32 under this subsection must file the merchant's return and pay the
 33 merchant's tax for a reporting period not later than the last day of the
 34 month immediately following the close of that reporting period.

35 ~~(e)~~ (d) If a retail merchant reports the merchant's adjusted gross
 36 income tax, or the tax the merchant pays in place of the adjusted gross
 37 income tax, over a fiscal year not corresponding to the calendar year,
 38 the merchant may, without prior departmental approval, report and pay
 39 the merchant's state gross retail and use taxes over the merchant's fiscal
 40 year that corresponds to the calendar year the merchant is permitted to
 41 use under subsection ~~(d)~~: (c). However, the department may, at any
 42 time, require the retail merchant to stop using the fiscal reporting



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- 1 period.
- 2 (f) If a retail merchant files a combined sales and withholding tax
- 3 report, the reporting period for the combined report is the shortest
- 4 period required under:
- 5 (1) this section;
- 6 (2) IC 6-3-4-8; or
- 7 (3) IC 6-3-4-8.1.
- 8 (g) (e) If the department determines that a person's:
- 9 (1) estimated monthly gross retail and use tax liability for the
- 10 current year; or
- 11 (2) average monthly gross retail and use tax liability for the
- 12 preceding year;
- 13 exceeds five thousand dollars (\$5,000), the person shall pay the
- 14 monthly gross retail and use taxes due by electronic funds transfer (as
- 15 defined in IC 4-8.1-2-7) or by delivering in person or by overnight
- 16 courier a payment by cashier's check, certified check, or money order
- 17 to the department. The transfer or payment shall be made on or before
- 18 the date the tax is due.
- 19 (h) (f) A person that registers as a retail merchant after December
- 20 31, 2009, shall report and remit state gross retail and use taxes through
- 21 the department's online tax filing program. This subsection does not
- 22 apply to a retail merchant that was a registered retail merchant before
- 23 January 1, 2010, but adds an additional place of business in accordance
- 24 with IC 6-2.5-8-1(e) after December 31, 2009.
- 25 (i) (g) A person:
- 26 (1) who has voluntarily registered as a seller under the
- 27 Streamlined Sales and Use Tax Agreement;
- 28 (2) who is not a Model 1, Model 2, or Model 3 seller (as defined
- 29 in the Streamlined Sales and Use Tax Agreement); and
- 30 (3) whose liability for collections of state gross retail and use
- 31 taxes under this section for the preceding calendar year as
- 32 determined by the department does not exceed one thousand
- 33 dollars (\$1,000);
- 34 is not required to file a monthly gross retail and use tax return.
- 35 SECTION 11. IC 6-2.5-7-5, AS AMENDED BY P.L.148-2009,
- 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2012]: Sec. 5. (a) Each retail merchant who dispenses
- 38 gasoline or special fuel from a metered pump shall, in the manner
- 39 prescribed in IC 6-2.5-6, report to the department the following
- 40 information:
- 41 (1) The total number of gallons of gasoline sold from a metered
- 42 pump during the period covered by the report.



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- 1 (2) The total amount of money received from the sale of gasoline
 2 described in subdivision (1) during the period covered by the
 3 report.
 4 (3) That portion of the amount described in subdivision (2) which
 5 represents state and federal taxes imposed under this article,
 6 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.
 7 (4) The total number of gallons of special fuel sold from a
 8 metered pump during the period covered by the report.
 9 (5) The total amount of money received from the sale of special
 10 fuel during the period covered by the report.
 11 (6) That portion of the amount described in subdivision (5) that
 12 represents state and federal taxes imposed under this article,
 13 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.
 14 (7) The total number of gallons of E85 sold from a metered pump
 15 during the period covered by the report.
 16 (b) Concurrently with filing the report, the retail merchant shall
 17 remit the state gross retail tax in an amount which equals six and
 18 fifty-four hundredths percent (6.54%) of the gross receipts, including
 19 state gross retail taxes but excluding Indiana and federal gasoline and
 20 special fuel taxes, received by the retail merchant from the sale of the
 21 gasoline and special fuel that is covered by the report and on which the
 22 retail merchant was required to collect state gross retail tax. The retail
 23 merchant shall remit that amount regardless of the amount of state
 24 gross retail tax which the merchant has actually collected under this
 25 chapter. However, the retail merchant is entitled to deduct and retain
 26 the amounts prescribed in subsection (c), IC 6-2.5-6-10, and
 27 IC 6-2.5-6-11.
 28 (c) A retail merchant is entitled to deduct from the amount of state
 29 gross retail tax required to be remitted under subsection (b) the amount
 30 determined under STEP THREE of the following formula:
 31 STEP ONE: Determine:
 32 (A) the sum of the prepayment amounts made during the
 33 period covered by the retail merchant's report; minus
 34 (B) the sum of prepayment amounts collected by the retail
 35 merchant, in the merchant's capacity as a qualified distributor,
 36 during the period covered by the retail merchant's report.
 37 STEP TWO: Subject to subsections (d) and (f), for qualified
 38 reporting periods beginning after June 30, 2009, and ending
 39 before July 1, 2020, determine the product of:
 40 (A) eighteen cents (\$0.18); multiplied by
 41 (B) the number of gallons of E85 sold at retail by the retail
 42 merchant during the period covered by the retail merchant's

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STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed the amount of money that the budget agency determines is available in the retail merchant E85 deduction reimbursement fund established under IC 15-15-12-30.5 for the deductions for all retail merchants in a particular qualified reporting period. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. Before August 1 of each year, the budget agency shall estimate whether the amount of **unreimbursed** deductions from the immediately preceding qualified reporting period that are subject to reimbursement under IC 15-15-12-30.5(f) and the deductions expected to be reported under subsection (c) STEP TWO for the qualified reporting periods beginning after December 31 and ending before April 1 of the following year will exceed the amount of money available in the retail merchant E85 deduction reimbursement fund for the deductions. If the budget agency determines that the amount of money in the retail merchant E85 deduction reimbursement fund is insufficient to cover the amount of the deductions expected to be reported, the budget agency shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is suspended with respect to the qualified reporting periods occurring in the following calendar year and that no deductions will be granted for retail transactions occurring in the qualified reporting periods occurring in the following calendar year.

(e) As used in this section, "qualified reporting period" refers to a reporting period beginning after December 31 and ending before April 1 of each year.

(f) The budget agency may suspend the deduction program under subsection (c) STEP TWO for a particular year at any time during a qualified reporting period if the budget agency determines that the amount of money in the retail merchant E85 deduction reimbursement fund and the amount of money that will be transferred to the fund on July 1 will not be sufficient to reimburse the deductions expected to occur before the deduction program for the year ends on March 31. The budget agency shall immediately provide notice to the participating retail merchants of the decision to suspend the deduction program for that year.

SECTION 12. IC 6-3-1-3.5, AS AMENDED BY P.L.229-2011,

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1 SECTION 83, AS AMENDED BY P.L.171-2011, SECTION 4, AND
2 AS AMENDED BY P.L.172-2011, SECTION 53, IS CORRECTED
3 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
4 2012]: Sec. 3.5. When used in this article, the term "adjusted gross
5 income" shall mean the following:

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

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

11 (2) Add an amount equal to any deduction or deductions allowed
12 or allowable pursuant to Section 62 of the Internal Revenue Code
13 for taxes based on or measured by income and levied at the state
14 level by any state of the United States.

15 (3) Subtract one thousand dollars (\$1,000), or in the case of a
16 joint return filed by a husband and wife, subtract for each spouse
17 one thousand dollars (\$1,000).

18 (4) Subtract one thousand dollars (\$1,000) for:

19 (A) each of the exemptions provided by Section 151(c) of the
20 Internal Revenue Code;

21 (B) each additional amount allowable under Section 63(f) of
22 the Internal Revenue Code; and

23 (C) the spouse of the taxpayer if a separate return is made by
24 the taxpayer and if the spouse, for the calendar year in which
25 the taxable year of the taxpayer begins, has no gross income
26 and is not the dependent of another taxpayer.

27 (5) Subtract:

28 (A) *for taxable years beginning after December 31, 2004*, one
29 thousand five hundred dollars (\$1,500) for each of the
30 exemptions allowed under Section 151(c)(1)(B) of the Internal
31 Revenue Code (as effective January 1, 2004); and

32 (B) five hundred dollars (\$500) for each additional amount
33 allowable under Section 63(f)(1) of the Internal Revenue Code
34 if the adjusted gross income of the taxpayer, or the taxpayer
35 and the taxpayer's spouse in the case of a joint return, is less
36 than forty thousand dollars (\$40,000).

37 This amount is in addition to the amount subtracted under
38 subdivision (4).

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

40 (A) that part of the individual's adjusted gross income (as
41 defined in Section 62 of the Internal Revenue Code) for that
42 taxable year that is subject to a tax that is imposed by a

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- 1 political subdivision of another state and that is imposed on or
 2 measured by income; or
 3 (B) two thousand dollars (\$2,000).
- 4 (7) Add an amount equal to the total capital gain portion of a
 5 lump sum distribution (as defined in Section 402(e)(4)(D) of the
 6 Internal Revenue Code) if the lump sum distribution is received
 7 by the individual during the taxable year and if the capital gain
 8 portion of the distribution is taxed in the manner provided in
 9 Section 402 of the Internal Revenue Code.
- 10 (8) Subtract any amounts included in federal adjusted gross
 11 income under Section 111 of the Internal Revenue Code as a
 12 recovery of items previously deducted as an itemized deduction
 13 from adjusted gross income.
- 14 (9) Subtract any amounts included in federal adjusted gross
 15 income under the Internal Revenue Code which amounts were
 16 received by the individual as supplemental railroad retirement
 17 annuities under 45 U.S.C. 231 and which are not deductible under
 18 subdivision (1).
- 19 ~~(10)~~ Add an amount equal to the deduction allowed under Section
 20 221 of the Internal Revenue Code for married couples filing joint
 21 returns if the taxable year began before January 1, 1987.
- 22 ~~(11)~~ Add an amount equal to the interest excluded from federal
 23 gross income by the individual for the taxable year under Section
 24 128 of the Internal Revenue Code if the taxable year began before
 25 January 1, 1985.
- 26 ~~(12)~~ (10) Subtract an amount equal to the amount of federal
 27 Social Security and Railroad Retirement benefits included in a
 28 taxpayer's federal gross income by Section 86 of the Internal
 29 Revenue Code.
- 30 ~~(13)~~ (11) In the case of a nonresident taxpayer or a resident
 31 taxpayer residing in Indiana for a period of less than the taxpayer's
 32 entire taxable year, the total amount of the deductions allowed
 33 pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to
 34 an amount which bears the same ratio to the total as the taxpayer's
 35 income taxable in Indiana bears to the taxpayer's total income.
- 36 ~~(14)~~ (12) In the case of an individual who is a recipient of
 37 assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or
 38 IC 12-15-7, subtract an amount equal to that portion of the
 39 individual's adjusted gross income with respect to which the
 40 individual is not allowed under federal law to retain an amount to
 41 pay state and local income taxes.
- 42 ~~(15)~~ (13) In the case of an eligible individual, subtract the amount

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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, (14)* 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)~~ (15) 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)~~ (16) 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)~~ (17) 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)~~ (18) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
~~(21)~~ (19) 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)~~ (20) 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

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1 federal income tax purposes.
 2 ~~(23)~~ (21) Subtract an amount equal to the amount of the taxpayer's
 3 qualified military income that was not excluded from the
 4 taxpayer's gross income for federal income tax purposes under
 5 Section 112 of the Internal Revenue Code.
 6 ~~(24)~~ (22) Subtract income that is:
 7 (A) exempt from taxation under IC 6-3-2-21.7; and
 8 (B) included in the individual's federal adjusted gross income
 9 under the Internal Revenue Code.
 10 ~~(25)~~ (23) Subtract any amount of a credit (including an advance
 11 refund of the credit) that is provided to an individual under 26
 12 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and
 13 included in the individual's federal adjusted gross income.
 14 ~~(26)~~ (24) Add any amount of unemployment compensation
 15 excluded from federal gross income, as defined in Section 61 of
 16 the Internal Revenue Code, under Section 85(c) of the Internal
 17 Revenue Code.
 18 ~~(27)~~ (25) Add the amount excluded from gross income under
 19 Section 108(a)(1)(e) of the Internal Revenue Code for the
 20 discharge of debt on a qualified principal residence.
 21 ~~(28)~~ (26) Add an amount equal to any income not included in
 22 gross income as a result of the deferral of income arising from
 23 business indebtedness discharged in connection with the
 24 reacquisition after December 31, 2008, and before January 1,
 25 2011, of an applicable debt instrument, as provided in Section
 26 108(i) of the Internal Revenue Code. Subtract the amount
 27 necessary from the adjusted gross income of any taxpayer that
 28 added an amount to adjusted gross income in a previous year to
 29 offset the amount included in federal gross income as a result of
 30 the deferral of income arising from business indebtedness
 31 discharged in connection with the reacquisition after December
 32 31, 2008, and before January 1, 2011, of an applicable debt
 33 instrument, as provided in Section 108(i) of the Internal Revenue
 34 Code.
 35 ~~(29)~~ (27) Add the amount necessary to make the adjusted gross
 36 income of any taxpayer that placed qualified restaurant property
 37 in service during the taxable year and that was classified as
 38 15-year property under Section 168(e)(3)(E)(v) of the Internal
 39 Revenue Code equal to the amount of adjusted gross income that
 40 would have been computed had the classification not applied to
 41 the property in the year that it was placed in service.
 42 ~~(30)~~ (28) Add the amount necessary to make the adjusted gross

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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.

~~(29)~~ (29) 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.

~~(30)~~ (30) 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.

~~(31)~~ (31) 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.

~~(32)~~ (32) 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.

(33) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on

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- 1 *an obligation of a state other than Indiana, or a political*
 2 *subdivision of such a state, that is acquired by the taxpayer after*
 3 *December 31, 2011.*
- 4 ~~(35)~~ (34) *Add the amount deducted from gross income under*
 5 *Section 198 of the Internal Revenue Code for the expensing of*
 6 *environmental remediation costs.*
- 7 ~~(36)~~ (35) *Add the amount excluded from gross income under*
 8 *Section 408(d)(8) of the Internal Revenue Code for a charitable*
 9 *distribution from an individual retirement plan.*
- 10 ~~(37)~~ (36) *Add the amount deducted from gross income under*
 11 *Section 222 of the Internal Revenue Code for qualified tuition*
 12 *and related expenses.*
- 13 ~~(38)~~ (37) *Add the amount deducted from gross income under*
 14 *Section ~~62(2)(D)~~ **62(a)(2)(D)** of the Internal Revenue Code for*
 15 *certain expenses of elementary and secondary school teachers.*
- 16 ~~(39)~~ (38) *Add the amount excluded from gross income under*
 17 *Section 127 of the Internal Revenue Code as annual employer*
 18 *provided education expenses.*
- 19 ~~(40)~~ (39) *Add the amount deducted from gross income under*
 20 *Section 179E of the Internal Revenue Code for any qualified*
 21 *advanced mine safety equipment property.*
- 22 ~~(41)~~ (40) *Add the monthly amount excluded from gross income*
 23 *under Section 132(f)(1)(A) and 132(f)(1)(B) **of the Internal***
 24 ***Revenue Code** that exceeds one hundred dollars (\$100) a month*
 25 *for a qualified transportation fringe.*
- 26 ~~(42)~~ (41) *Add the amount deducted from gross income under*
 27 *Section 221 of the Internal Revenue Code that exceeds the*
 28 *amount the taxpayer could deduct under Section 221 of the*
 29 *Internal Revenue Code before it was amended by the Tax Relief,*
 30 *Unemployment Insurance Reauthorization, and Job Creation Act*
 31 *of 2010 (P.L. 111-312).*
- 32 ~~(43)~~ (42) *Add the amount necessary to make the adjusted gross*
 33 *income of any taxpayer that placed any qualified leasehold*
 34 *improvement property in service during the taxable year and that*
 35 *was classified as 15-year property under Section 168(e)(3)(E)(iv)*
 36 *of the Internal Revenue Code equal to the amount of adjusted*
 37 *gross income that would have been computed had the*
 38 *classification not applied to the property in the year that it was*
 39 *placed into service.*
- 40 ~~(44)~~ (43) *Add the amount necessary to make the adjusted gross*
 41 *income of any taxpayer that placed a motorsports entertainment*
 42 *complex in service during the taxable year and that was classified*

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1 *as 7-year property under Section 168(e)(3)(C)(ii) of the Internal*
 2 *Revenue Code equal to the amount of adjusted gross income that*
 3 *would have been computed had the classification not applied to*
 4 *the property in the year that it was placed into service.*

5 ~~(45)~~ (44) *Add the amount deducted under Section 195 of the*
 6 *Internal Revenue Code for start-up expenditures that exceeds the*
 7 *amount the taxpayer could deduct under Section 195 of the*
 8 *Internal Revenue Code before it was amended by the Small*
 9 *Business Jobs Act of 2010 (P.L. 111-240).*

10 ~~(46)~~ (45) *Add the amount necessary to make the adjusted gross*
 11 *income of any taxpayer for which tax was not imposed on the net*
 12 *recognized built-in gain of an S corporation under Section*
 13 *1374(d)(7) of the Internal Revenue Code as amended by the Small*
 14 *Business Jobs Act of 2010 (P.L. 111-240) equal to the amount of*
 15 *adjusted gross income that would have been computed before*
 16 *Section 1374(d)(7) of the Internal Revenue Code as amended by*
 17 *the Small Business Jobs Act of 2010 (P.L. 111-240).*

18 ~~(35)~~ **(46)** *This subdivision does not apply to payments made for*
 19 *services provided to a business that was enrolled and*
 20 *participated in the E-Verify program (as defined in*
 21 *IC 22-5-1.7-3) during the time the taxpayer conducted business*
 22 *in Indiana in the taxable year. For a taxable year beginning after*
 23 *June 30, 2011, add the amount of any trade or business deduction*
 24 *allowed under the Internal Revenue Code for wages,*
 25 *reimbursements, or other payments made for services provided*
 26 *in Indiana by an individual for services as an employee, if the*
 27 *individual was, during the period of service, prohibited from*
 28 *being hired as an employee under 8 U.S.C. 1324a.*

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

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

34 (2) *Add an amount equal to any deduction or deductions allowed*
 35 *or allowable pursuant to Section 170 of the Internal Revenue*
 36 *Code.*

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

41 (4) *Subtract an amount equal to the amount included in the*
 42 *corporation's taxable income under Section 78 of the Internal*

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- 1 Revenue Code.
- 2 (5) Add or subtract the amount necessary to make the adjusted
- 3 gross income of any taxpayer that owns property for which bonus
- 4 depreciation was allowed in the current taxable year or in an
- 5 earlier taxable year equal to the amount of adjusted gross income
- 6 that would have been computed had an election not been made
- 7 under Section 168(k) of the Internal Revenue Code to apply bonus
- 8 depreciation to the property in the year that it was placed in
- 9 service.
- 10 (6) Add an amount equal to any deduction allowed under Section
- 11 172 of the Internal Revenue Code.
- 12 (7) Add or subtract the amount necessary to make the adjusted
- 13 gross income of any taxpayer that placed Section 179 property (as
- 14 defined in Section 179 of the Internal Revenue Code) in service
- 15 in the current taxable year or in an earlier taxable year equal to
- 16 the amount of adjusted gross income that would have been
- 17 computed had an election for federal income tax purposes not
- 18 been made for the year in which the property was placed in
- 19 service to take deductions under Section 179 of the Internal
- 20 Revenue Code in a total amount exceeding twenty-five thousand
- 21 dollars (\$25,000).
- 22 (8) Add an amount equal to the amount that a taxpayer claimed as
- 23 a deduction for domestic production activities for the taxable year
- 24 under Section 199 of the Internal Revenue Code for federal
- 25 income tax purposes.
- 26 (9) Add to the extent required by IC 6-3-2-20 the amount of
- 27 intangible expenses (as defined in IC 6-3-2-20) and any directly
- 28 related intangible interest expenses (as defined in IC 6-3-2-20) for
- 29 the taxable year that reduced the corporation's taxable income (as
- 30 defined in Section 63 of the Internal Revenue Code) for federal
- 31 income tax purposes.
- 32 (10) Add an amount equal to any deduction for dividends paid (as
- 33 defined in Section 561 of the Internal Revenue Code) to
- 34 shareholders of a captive real estate investment trust (as defined
- 35 in section 34.5 of this chapter).
- 36 (11) Subtract income that is:
- 37 (A) exempt from taxation under IC 6-3-2-21.7; and
- 38 (B) included in the corporation's taxable income under the
- 39 Internal Revenue Code.
- 40 (12) Add an amount equal to any income not included in gross
- 41 income as a result of the deferral of income arising from business
- 42 indebtedness discharged in connection with the reacquisition after

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1 December 31, 2008, and before January 1, 2011, of an applicable
2 debt instrument, as provided in Section 108(i) of the Internal
3 Revenue Code. Subtract from the adjusted gross income of any
4 taxpayer that added an amount to adjusted gross income in a
5 previous year the amount necessary to offset the amount included
6 in federal gross income as a result of the deferral of income
7 arising from business indebtedness discharged in connection with
8 the reacquisition after December 31, 2008, and before January 1,
9 2011, of an applicable debt instrument, as provided in Section
10 108(i) of the Internal Revenue Code.

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

18 (14) Add the amount necessary to make the adjusted gross income
19 of any taxpayer that placed qualified retail improvement property
20 in service during the taxable year and that was classified as
21 15-year property under Section 168(e)(3)(E)(ix) of the Internal
22 Revenue Code equal to the amount of adjusted gross income that
23 would have been computed had the classification not applied to
24 the property in the year that it was placed in service.

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

31 (16) Add or subtract the amount necessary to make the adjusted
32 gross income of any taxpayer that made an election under Section
33 179C of the Internal Revenue Code to expense costs for qualified
34 refinery property equal to the amount of adjusted gross income
35 that would have been computed had an election for federal
36 income tax purposes not been made for the year.

37 (17) Add or subtract the amount necessary to make the adjusted
38 gross income of any taxpayer that made an election under Section
39 181 of the Internal Revenue Code to expense costs for a qualified
40 film or television production equal to the amount of adjusted
41 gross income that would have been computed had an election for
42 federal income tax purposes not been made for the year.

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1 (18) Add or subtract the amount necessary to make the adjusted
 2 gross income of any taxpayer that treated a loss from the sale or
 3 exchange of preferred stock in:
 4 (A) the Federal National Mortgage Association, established
 5 under the Federal National Mortgage Association Charter Act
 6 (12 U.S.C. 1716 et seq.); or
 7 (B) the Federal Home Loan Mortgage Corporation, established
 8 under the Federal Home Loan Mortgage Corporation Act (12
 9 U.S.C. 1451 et seq.);
 10 as an ordinary loss under Section 301 of the Emergency
 11 Economic Stabilization Act of 2008 in the current taxable year or
 12 in an earlier taxable year equal to the amount of adjusted gross
 13 income that would have been computed had the loss not been
 14 treated as an ordinary loss.
 15 *(19) Add the amount deducted from gross income under Section*
 16 *198 of the Internal Revenue Code for the expensing of*
 17 *environmental remediation costs.*
 18 *(20) Add the amount deducted from gross income under Section*
 19 *179E of the Internal Revenue Code for any qualified advanced*
 20 *mine safety equipment property.*
 21 *(21) Add the amount necessary to make the adjusted gross income*
 22 *of any taxpayer that placed any qualified leasehold improvement*
 23 *property in service during the taxable year and that was*
 24 *classified as 15-year property under Section 168(e)(3)(E)(iv) of*
 25 *the Internal Revenue Code equal to the amount of adjusted gross*
 26 *income that would have been computed had the classification not*
 27 *applied to the property in the year that it was placed into service.*
 28 *(22) Add the amount necessary to make the adjusted gross income*
 29 *of any taxpayer that placed a motorsports entertainment complex*
 30 *in service during the taxable year and that was classified as*
 31 *7-year property under Section 168(e)(3)(C)(ii) of the Internal*
 32 *Revenue Code equal to the amount of adjusted gross income that*
 33 *would have been computed had the classification not applied to*
 34 *the property in the year that it was placed into service.*
 35 *(23) Add the amount deducted under Section 195 of the Internal*
 36 *Revenue Code for start-up expenditures that exceeds the amount*
 37 *the taxpayer could deduct under Section 195 of the Internal*
 38 *Revenue Code before it was amended by the Small Business Jobs*
 39 *Act of 2010 (P.L. 111-240).*
 40 ~~*(19)*~~ **(24)** *This subdivision does not apply to payments made for*
 41 *services provided to a business that was enrolled and*
 42 *participated in the E-Verify program (as defined in*

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

9 ~~(24)~~ **(25)** *Add the amount excluded from federal gross income*
 10 *under Section 103 of the Internal Revenue Code for interest*
 11 *received on an obligation of a state other than Indiana, or a*
 12 *political subdivision of such a state, that is acquired by the*
 13 *taxpayer after December 31, 2011.*

14 (c) In the case of life insurance companies (as defined in Section
 15 816(a) of the Internal Revenue Code) that are organized under Indiana
 16 law, the same as "life insurance company taxable income" (as defined
 17 in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

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

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

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

37 (6) Add an amount equal to any deduction allowed under Section
 38 172 or Section 810 of the Internal Revenue Code.

39 (7) Add or subtract the amount necessary to make the adjusted
 40 gross income of any taxpayer that placed Section 179 property (as
 41 defined in Section 179 of the Internal Revenue Code) in service
 42 in the current taxable year or in an earlier taxable year equal to

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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

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1 gross income of any taxpayer that claimed the special allowance
 2 for qualified disaster assistance property under Section 168(n) of
 3 the Internal Revenue Code equal to the amount of adjusted gross
 4 income that would have been computed had the special allowance
 5 not been claimed for the property.
 6 (14) Add or subtract the amount necessary to make the adjusted
 7 gross income of any taxpayer that made an election under Section
 8 179C of the Internal Revenue Code to expense costs for qualified
 9 refinery property equal to the amount of adjusted gross income
 10 that would have been computed had an election for federal
 11 income tax purposes not been made for the year.
 12 (15) Add or subtract the amount necessary to make the adjusted
 13 gross income of any taxpayer that made an election under Section
 14 181 of the Internal Revenue Code to expense costs for a qualified
 15 film or television production equal to the amount of adjusted
 16 gross income that would have been computed had an election for
 17 federal income tax purposes not been made for the year.
 18 (16) Add or subtract the amount necessary to make the adjusted
 19 gross income of any taxpayer that treated a loss from the sale or
 20 exchange of preferred stock in:
 21 (A) the Federal National Mortgage Association, established
 22 under the Federal National Mortgage Association Charter Act
 23 (12 U.S.C. 1716 et seq.); or
 24 (B) the Federal Home Loan Mortgage Corporation, established
 25 under the Federal Home Loan Mortgage Corporation Act (12
 26 U.S.C. 1451 et seq.);
 27 as an ordinary loss under Section 301 of the Emergency
 28 Economic Stabilization Act of 2008 in the current taxable year or
 29 in an earlier taxable year equal to the amount of adjusted gross
 30 income that would have been computed had the loss not been
 31 treated as an ordinary loss.
 32 (17) Add an amount equal to any exempt insurance income under
 33 Section 953(e) of the Internal Revenue Code that is active
 34 financing income under Subpart F of Subtitle A, Chapter 1,
 35 Subchapter N of the Internal Revenue Code.
 36 (18) *Add the amount necessary to make the adjusted gross income*
 37 *of any taxpayer that placed any qualified leasehold improvement*
 38 *property in service during the taxable year and that was*
 39 *classified as 15-year property under Section 168(e)(3)(E)(iv) of*
 40 *the Internal Revenue Code equal to the amount of adjusted gross*
 41 *income that would have been computed had the classification not*
 42 *applied to the property in the year that it was placed into service.*

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1 (19) Add the amount necessary to make the adjusted gross income
 2 of any taxpayer that placed a motorsports entertainment complex
 3 in service during the taxable year and that was classified as
 4 7-year property under Section 168(e)(3)(C)(ii) of the Internal
 5 Revenue Code equal to the amount of adjusted gross income that
 6 would have been computed had the classification not applied to
 7 the property in the year that it was placed into service.

8 (20) Add the amount deducted under Section 195 of the Internal
 9 Revenue Code for start-up expenditures that exceeds the amount
 10 the taxpayer could deduct under Section 195 of the Internal
 11 Revenue Code before it was amended by the Small Business Jobs
 12 Act of 2010 (P.L. 111-240).

13 (21) Add the amount deducted from gross income under Section
 14 198 of the Internal Revenue Code for the expensing of
 15 environmental remediation costs.

16 (22) Add the amount deducted from gross income under Section
 17 179E of the Internal Revenue Code for any qualified advanced
 18 mine safety equipment property.

19 ~~(18)~~ (23) This subdivision does not apply to payments made for
 20 services provided to a business that was enrolled and
 21 participated in the E-Verify program (as defined in
 22 IC 22-5-1.7-3) during the time the taxpayer conducted business
 23 in Indiana in the taxable year. For a taxable year beginning after
 24 June 30, 2011, add the amount of any trade or business deduction
 25 allowed under the Internal Revenue Code for wages,
 26 reimbursements, or other payments made for services provided
 27 in Indiana by an individual for services as an employee, if the
 28 individual was, during the period of service, prohibited from
 29 being hired as an employee under 8 U.S.C. 1324a.

30 ~~(23)~~ (24) Add the amount excluded from federal gross income
 31 under Section 103 of the Internal Revenue Code for interest
 32 received on an obligation of a state other than Indiana, or a
 33 political subdivision of such a state, that is acquired by the
 34 taxpayer after December 31, 2011.

35 (d) In the case of insurance companies subject to tax under Section
 36 831 of the Internal Revenue Code and organized under Indiana law, the
 37 same as "taxable income" (as defined in Section 832 of the Internal
 38 Revenue Code), adjusted as follows:

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

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

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- 1 (3) Add an amount equal to a deduction allowed or allowable
2 under Section 805 or Section 831(c) of the Internal Revenue Code
3 for taxes based on or measured by income and levied at the state
4 level by any state.
- 5 (4) Subtract an amount equal to the amount included in the
6 company's taxable income under Section 78 of the Internal
7 Revenue Code.
- 8 (5) Add or subtract the amount necessary to make the adjusted
9 gross income of any taxpayer that owns property for which bonus
10 depreciation was allowed in the current taxable year or in an
11 earlier taxable year equal to the amount of adjusted gross income
12 that would have been computed had an election not been made
13 under Section 168(k) of the Internal Revenue Code to apply bonus
14 depreciation to the property in the year that it was placed in
15 service.
- 16 (6) Add an amount equal to any deduction allowed under Section
17 172 of the Internal Revenue Code.
- 18 (7) Add or subtract the amount necessary to make the adjusted
19 gross income of any taxpayer that placed Section 179 property (as
20 defined in Section 179 of the Internal Revenue Code) in service
21 in the current taxable year or in an earlier taxable year equal to
22 the amount of adjusted gross income that would have been
23 computed had an election for federal income tax purposes not
24 been made for the year in which the property was placed in
25 service to take deductions under Section 179 of the Internal
26 Revenue Code in a total amount exceeding twenty-five thousand
27 dollars (\$25,000).
- 28 (8) Add an amount equal to the amount that a taxpayer claimed as
29 a deduction for domestic production activities for the taxable year
30 under Section 199 of the Internal Revenue Code for federal
31 income tax purposes.
- 32 (9) Subtract income that is:
- 33 (A) exempt from taxation under IC 6-3-2-21.7; and
34 (B) included in the insurance company's taxable income under
35 the Internal Revenue Code.
- 36 (10) Add an amount equal to any income not included in gross
37 income as a result of the deferral of income arising from business
38 indebtedness discharged in connection with the reacquisition after
39 December 31, 2008, and before January 1, 2011, of an applicable
40 debt instrument, as provided in Section 108(i) of the Internal
41 Revenue Code. Subtract from the adjusted gross income of any
42 taxpayer that added an amount to adjusted gross income in a

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

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1 under the Federal National Mortgage Association Charter Act
 2 (12 U.S.C. 1716 et seq.); or
 3 (B) the Federal Home Loan Mortgage Corporation, established
 4 under the Federal Home Loan Mortgage Corporation Act (12
 5 U.S.C. 1451 et seq.);
 6 as an ordinary loss under Section 301 of the Emergency
 7 Economic Stabilization Act of 2008 in the current taxable year or
 8 in an earlier taxable year equal to the amount of adjusted gross
 9 income that would have been computed had the loss not been
 10 treated as an ordinary loss.
 11 (17) Add an amount equal to any exempt insurance income under
 12 Section 953(e) of the Internal Revenue Code that is active
 13 financing income under Subpart F of Subtitle A, Chapter 1,
 14 Subchapter N of the Internal Revenue Code.
 15 *(18) Add the amount necessary to make the adjusted gross income*
 16 *of any taxpayer that placed any qualified leasehold improvement*
 17 *property in service during the taxable year and that was*
 18 *classified as 15-year property under Section 168(e)(3)(E)(iv) of*
 19 *the Internal Revenue Code equal to the amount of adjusted gross*
 20 *income that would have been computed had the classification not*
 21 *applied to the property in the year that it was placed into service.*
 22 *(19) Add the amount necessary to make the adjusted gross income*
 23 *of any taxpayer that placed a motorsports entertainment complex*
 24 *in service during the taxable year and that was classified as*
 25 *7-year property under Section 168(e)(3)(C)(ii) of the Internal*
 26 *Revenue Code equal to the amount of adjusted gross income that*
 27 *would have been computed had the classification not applied to*
 28 *the property in the year that it was placed into service.*
 29 *(20) Add the amount deducted under Section 195 of the Internal*
 30 *Revenue Code for start-up expenditures that exceeds the amount*
 31 *the taxpayer could deduct under Section 195 of the Internal*
 32 *Revenue Code before it was amended by the Small Business Jobs*
 33 *Act of 2010 (P.L. 111-240).*
 34 *(21) Add the amount deducted from gross income under Section*
 35 *198 of the Internal Revenue Code for the expensing of*
 36 *environmental remediation costs.*
 37 *(22) Add the amount deducted from gross income under Section*
 38 *179E of the Internal Revenue Code for any qualified advanced*
 39 *mine safety equipment property.*
 40 ~~(18)~~ **(23)** *This subdivision does not apply to payments made for*
 41 *services provided to a business that was enrolled and*
 42 *participated in the E-Verify program (as defined in*



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

9 ~~(23)~~ **(24)** *Add the amount excluded from federal gross income*
 10 *under Section 103 of the Internal Revenue Code for interest*
 11 *received on an obligation of a state other than Indiana, or a*
 12 *political subdivision of such a state, that is acquired by the*
 13 *taxpayer after December 31, 2011.*

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

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

19 (2) Subtract an amount equal to the amount of a September 11
 20 terrorist attack settlement payment included in the federal
 21 adjusted gross income of the estate of a victim of the September
 22 11 terrorist attack or a trust to the extent the trust benefits a victim
 23 of the September 11 terrorist attack.

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

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

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

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

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(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) Add the amount necessary to make the adjusted gross income of any taxpayer that placed any qualified leasehold improvement property in service during the taxable year and that was classified as 15-year property under Section 168(e)(3)(E)(iv) 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 into service.

(17) Add the amount necessary to make the adjusted gross income of any taxpayer that placed a motorsports entertainment complex in service during the taxable year and that was classified as 7-year property under Section 168(e)(3)(C)(ii) of the Internal Revenue Code equal to the amount of adjusted gross income that would have been computed had the classification not applied to

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1 *the property in the year that it was placed into service.*

2 *(18) Add the amount deducted under Section 195 of the Internal*
 3 *Revenue Code for start-up expenditures that exceeds the amount*
 4 *the taxpayer could deduct under Section 195 of the Internal*
 5 *Revenue Code before it was amended by the Small Business Jobs*
 6 *Act of 2010 (P.L. 111-240).*

7 *(19) Add the amount deducted from gross income under Section*
 8 *198 of the Internal Revenue Code for the expensing of*
 9 *environmental remediation costs.*

10 *(20) Add the amount deducted from gross income under Section*
 11 *179E of the Internal Revenue Code for any qualified advanced*
 12 *mine safety equipment property.*

13 *(21) Add the amount necessary to make the adjusted gross income*
 14 *of any taxpayer for which tax was not imposed on the net*
 15 *recognized built-in gain of an S corporation under Section*
 16 *1374(d)(7) of the Internal Revenue Code as amended by the Small*
 17 *Business Jobs Act of 2010 (P.L. 111-240) equal to the amount of*
 18 *adjusted gross income that would have been computed before*
 19 *Section 1374(d)(7) of the Internal Revenue Code as amended by*
 20 *the Small Business Jobs Act of 2010 (P.L. 111-240).*

21 ~~(16)~~ **(22)** *This subdivision does not apply to payments made for*
 22 *services provided to a business that was enrolled and*
 23 *participated in the E-Verify program (as defined in*
 24 *IC 22-5-1.7-3) during the time the taxpayer conducted business*
 25 *in Indiana in the taxable year. For a taxable year beginning after*
 26 *June 30, 2011, add the amount of any trade or business deduction*
 27 *allowed under the Internal Revenue Code for wages,*
 28 *reimbursements, or other payments made for services provided*
 29 *in Indiana by an individual for services as an employee, if the*
 30 *individual was, during the period of service, prohibited from*
 31 *being hired as an employee under 8 U.S.C. 1324a.*

32 ~~(22)~~ **(23)** *Add the amount excluded from federal gross income*
 33 *under Section 103 of the Internal Revenue Code for interest*
 34 *received on an obligation of a state other than Indiana, or a*
 35 *political subdivision of such a state, that is acquired by the*
 36 *taxpayer after December 31, 2011.*

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

42 *STEP ONE: Determine the amount of property taxes that the*

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- 1 *taxpayer paid after December 31, 2003, in the taxable year for*
- 2 *property taxes imposed for the March 1, 2002, assessment date*
- 3 *and the January 15, 2003, assessment date.*
- 4 *STEP TWO: Determine the amount of property taxes that the*
- 5 *taxpayer paid in the taxable year for the March 1, 2003,*
- 6 *assessment date and the January 15, 2004, assessment date.*
- 7 *STEP THREE: Determine the result of the STEP ONE amount*
- 8 *divided by the STEP TWO amount.*
- 9 *STEP FOUR: Multiply the STEP THREE amount by two thousand*
- 10 *five hundred dollars (\$2,500).*
- 11 *STEP FIVE: Determine the sum of the STEP FOUR amount and*
- 12 *two thousand five hundred dollars (\$2,500).*

13 SECTION 13. IC 6-3-1-11, AS AMENDED BY P.L.229-2011,
 14 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 11. (a) Except as provided in subsection (d), the
 16 term "Internal Revenue Code" means the Internal Revenue Code of
 17 1986 of the United States as amended and in effect on January 1, 2011.

18 (b) Whenever the Internal Revenue Code is mentioned in this
 19 article, the particular provisions that are referred to, together with all
 20 the other provisions of the Internal Revenue Code in effect on January
 21 1, 2011, that pertain to the provisions specifically mentioned, shall be
 22 regarded as incorporated in this article by reference and have the same
 23 force and effect as though fully set forth in this article. To the extent
 24 the provisions apply to this article, regulations adopted under Section
 25 7805(a) of the Internal Revenue Code and in effect on January 1, 2011,
 26 shall be regarded as rules adopted by the department under this article,
 27 unless the department adopts specific rules that supersede the
 28 regulation.

29 (c) An amendment to the Internal Revenue Code made by an act
 30 passed by Congress before January 1, 2011, that is effective for any
 31 taxable year that began before January 1, 2011, and that affects:

- 32 (1) individual adjusted gross income (as defined in Section 62 of
- 33 the Internal Revenue Code);
- 34 (2) corporate taxable income (as defined in Section 63 of the
- 35 Internal Revenue Code);
- 36 (3) trust and estate taxable income (as defined in Section 641(b)
- 37 of the Internal Revenue Code);
- 38 (4) life insurance company taxable income (as defined in Section
- 39 801(b) of the Internal Revenue Code);
- 40 (5) mutual insurance company taxable income (as defined in
- 41 Section 821(b) of the Internal Revenue Code); or
- 42 (6) taxable income (as defined in Section 832 of the Internal

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1 Revenue Code);
 2 is also effective for that same taxable year for purposes of determining
 3 adjusted gross income under section 3.5 of this chapter.
 4 (d) The following provisions of the Internal Revenue Code that were
 5 amended by the Tax Relief Act, Unemployment Insurance
 6 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 7 treated as though they were not amended by the Tax Relief Act,
 8 Unemployment Insurance Reauthorization, and Job Creation Act of
 9 2010 (P.L. 111-312):
 10 (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to
 11 an adjustment of basis of the stock of shareholders.
 12 (2) Section ~~871(k)(1)(e)~~ **871(k)(1)(C)** and 871(k)(2)(C) of the
 13 Internal Revenue Code pertaining the treatment of certain
 14 dividends of regulated investment companies.
 15 (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code
 16 pertaining to regulated investment companies qualified entity
 17 treatment.
 18 (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code
 19 pertaining to the modification of tax treatment of certain
 20 payments to controlling exempt organizations.
 21 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code
 22 pertaining to the limitations on percentage depletion in the case
 23 of oil and gas wells.
 24 (6) Section 451(i)(3) of the Internal Revenue Code pertaining to
 25 special rule for sales or dispositions to implement Federal Energy
 26 Regulatory Commission or state electric restructuring policy for
 27 qualified electric utilities.
 28 (7) Section 954(c)(6) of the Internal Revenue Code pertaining to
 29 the look-through treatment of payments between related
 30 controlled foreign corporation under foreign personal holding
 31 company rules.
 32 The department shall develop forms and adopt any necessary rules
 33 under IC 4-22-2 to implement this subsection.
 34 SECTION 14. IC 6-3-4-1 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JANUARY 1, 2013]: Sec. 1. Returns with respect to
 36 taxes imposed by this act shall be made by the following:
 37 (1) Every resident individual having for the taxable year gross
 38 income in an amount greater than the modifications provided
 39 under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4).
 40 (2) Every nonresident individual having for the taxable year any
 41 gross income from sources within the state of Indiana, except for
 42 a team member (as defined in IC 6-3-2-2.7) who is covered by a

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composite return filed under IC 6-3-2-2.7.
(3) Every corporation having for the taxable year any gross income from sources within the state of Indiana.
(4) For taxable years beginning after December 31, 2012, every resident estate having for the taxable year any gross income from sources within the state of Indiana **exceeding the amount provided in Section 6012(a)(3) of the Internal Revenue Code.**
(5) For taxable years beginning after December 31, 2012, every resident trust having for the taxable year any gross income from sources within the state of Indiana **exceeding the amount provided in Section 6012(a)(4) of the Internal Revenue Code.**
(6) For taxable years beginning after December 31, 2012, every nonresident estate having for the taxable year any gross income from sources within the state of Indiana **exceeding the amount provided in Section 6012(a)(3) of the Internal Revenue Code.**
(7) For taxable years beginning after December 31, 2012, every nonresident trust having for the taxable year any gross income from sources within the state of Indiana **exceeding the amount provided in Section 6012(a)(4) of the Internal Revenue Code.**

SECTION 15. IC 6-3-4-8, AS AMENDED BY P.L.172-2011, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 8. (a) Except as provided in subsection (d), every employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department. The department shall base its withholding instructions on the adjusted gross income tax rate for persons, on the total rates of any income taxes that the taxpayer is subject to under IC 6-3.5, and on the total amount of exclusions the taxpayer is entitled to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the withholding instructions on the adjusted gross income of a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) are to be based on applying not more than one (1) withholding exclusion, regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year. Such employer making payments of any wages:

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1 (1) shall be liable to the state of Indiana for the payment of the tax
 2 required to be deducted and withheld under this section and shall
 3 not be liable to any individual for the amount deducted from the
 4 individual's wages and paid over in compliance or intended
 5 compliance with this section; and

6 (2) shall make return of and payment to the department monthly
 7 of the amount of tax which under this article and IC 6-3.5 the
 8 employer is required to withhold.

9 (b) An employer shall pay taxes withheld under subsection (a)
 10 during a particular month to the department no later than thirty (30)
 11 days after the end of that month. However, in place of monthly
 12 reporting periods, the department may permit an employer to report and
 13 pay the tax for

14 ~~(1)~~ a calendar year reporting period, if the average monthly
 15 amount of all tax required to be withheld by the employer in the
 16 previous calendar year does not exceed ~~ten dollars (\$10);~~

17 ~~(2) a six (6) month reporting period; if the average monthly~~
 18 ~~amount of all tax required to be withheld by the employer in the~~
 19 ~~previous calendar year does not exceed twenty-five dollars (\$25);~~
 20 ~~or~~

21 ~~(3) a three (3) month reporting period; if the average monthly~~
 22 ~~amount of all tax required to be withheld by the employer in the~~
 23 ~~previous calendar year does not exceed seventy-five dollars (\$75);~~
 24 **one thousand dollars (\$1,000).**

25 An employer using a reporting period (other than a monthly reporting
 26 period) must file the employer's return and pay the tax for a reporting
 27 period no later than the last day of the month immediately following
 28 the close of the reporting period. ~~If an employer files a combined sales~~
 29 ~~and withholding tax report, the reporting period for the combined~~
 30 ~~report is the shortest period required under this section; section 8-1 of~~
 31 ~~this chapter; or IC 6-2.5-6-1.~~

32 (c) For purposes of determining whether an employee is subject to
 33 taxation under IC 6-3.5, an employer is entitled to rely on the statement
 34 of an employee as to the employee's county of residence as represented
 35 by the statement of address in forms claiming exemptions for purposes
 36 of withholding, regardless of when the employee supplied the forms.
 37 Every employee shall notify the employee's employer within five (5)
 38 days after any change in the employee's county of residence.

39 (d) A county that makes payments of wages subject to tax under this
 40 article:

41 (1) to a precinct election officer (as defined in IC 3-5-2-40.1); and

42 (2) for the performance of the duties of the precinct election

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1 officer imposed by IC 3 that are performed on election day;
 2 is not required, at the time of payment of the wages, to deduct and
 3 retain from the wages the amount prescribed in withholding
 4 instructions issued by the department.

5 (e) Every employer shall, at the time of each payment made by the
 6 employer to the department, deliver to the department a return upon the
 7 form prescribed by the department showing:

- 8 (1) the total amount of wages paid to the employer's employees;
 9 (2) the amount deducted therefrom in accordance with the
 10 provisions of the Internal Revenue Code;
 11 (3) the amount of adjusted gross income tax deducted therefrom
 12 in accordance with the provisions of this section;
 13 (4) the amount of income tax, if any, imposed under IC 6-3.5 and
 14 deducted therefrom in accordance with this section; and
 15 (5) any other information the department may require.

16 Every employer making a declaration of withholding as provided in this
 17 section shall furnish the employer's employees annually, but not later
 18 than thirty (30) days after the end of the calendar year, a record of the
 19 total amount of adjusted gross income tax and the amount of each
 20 income tax, if any, imposed under IC 6-3.5, withheld from the
 21 employees, on the forms prescribed by the department.

22 (f) All money deducted and withheld by an employer shall
 23 immediately upon such deduction be the money of the state, and every
 24 employer who deducts and retains any amount of money under the
 25 provisions of this article shall hold the same in trust for the state of
 26 Indiana and for payment thereof to the department in the manner and
 27 at the times provided in this article. Any employer may be required to
 28 post a surety bond in the sum the department determines to be
 29 appropriate to protect the state with respect to money withheld pursuant
 30 to this section.

31 (g) The provisions of IC 6-8.1 relating to additions to tax in case of
 32 delinquency and penalties shall apply to employers subject to the
 33 provisions of this section, and for these purposes any amount deducted
 34 or required to be deducted and remitted to the department under this
 35 section shall be considered to be the tax of the employer, and with
 36 respect to such amount the employer shall be considered the taxpayer.
 37 In the case of a corporate or partnership employer, every officer,
 38 employee, or member of such employer, who, as such officer,
 39 employee, or member is under a duty to deduct and remit such taxes
 40 shall be personally liable for such taxes, penalties, and interest.

41 (h) Amounts deducted from wages of an employee during any
 42 calendar year in accordance with the provisions of this section shall be

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1 considered to be in part payment of the tax imposed on such employee
 2 for the employee's taxable year which begins in such calendar year, and
 3 a return made by the employer under subsection (b) shall be accepted
 4 by the department as evidence in favor of the employee of the amount
 5 so deducted from the employee's wages. Where the total amount so
 6 deducted exceeds the amount of tax on the employee as computed
 7 under this article and IC 6-3.5, the department shall, after examining
 8 the return or returns filed by the employee in accordance with this
 9 article and IC 6-3.5, refund the amount of the excess deduction.
 10 However, under rules promulgated by the department, the excess or any
 11 part thereof may be applied to any taxes or other claim due from the
 12 taxpayer to the state of Indiana or any subdivision thereof. No refund
 13 shall be made to an employee who fails to file the employee's return or
 14 returns as required under this article and IC 6-3.5 within two (2) years
 15 from the due date of the return or returns. In the event that the excess
 16 tax deducted is less than one dollar (\$1), no refund shall be made.

17 (i) This section shall in no way relieve any taxpayer from the
 18 taxpayer's obligation of filing a return or returns at the time required
 19 under this article and IC 6-3.5, and, should the amount withheld under
 20 the provisions of this section be insufficient to pay the total tax of such
 21 taxpayer, such unpaid tax shall be paid at the time prescribed by
 22 section 5 of this chapter.

23 (j) Notwithstanding subsection (b), an employer of a domestic
 24 service employee that enters into an agreement with the domestic
 25 service employee to withhold federal income tax under Section 3402
 26 of the Internal Revenue Code may withhold Indiana income tax on the
 27 domestic service employee's wages on the employer's Indiana
 28 individual income tax return in the same manner as allowed by Section
 29 3510 of the Internal Revenue Code.

30 (k) To the extent allowed by Section 1137 of the Social Security
 31 Act, an employer of a domestic service employee may report and remit
 32 state unemployment insurance contributions on the employee's wages
 33 on the employer's Indiana individual income tax return in the same
 34 manner as allowed by Section 3510 of the Internal Revenue Code.

35 (l) A person who knowingly fails to remit trust fund money as set
 36 forth in this section commits a Class D felony.

37 SECTION 16. IC 6-3-4-8.1, AS AMENDED BY P.L.182-2009(ss),
 38 SECTION 199, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JANUARY 1, 2013]: Sec. 8.1. (a) Any entity that is
 40 required to file a monthly return and make a monthly remittance of
 41 taxes under sections 8, 12, 13, and 15 of this chapter shall file those
 42 returns and make those remittances twenty (20) days (rather than thirty

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1 (30) days) after the end of each month for which those returns and
 2 remittances are filed, if that entity's average monthly remittance for the
 3 immediately preceding calendar year exceeds one thousand dollars
 4 (\$1,000).

5 (b) The department may require any entity to make the entity's
 6 monthly remittance and file the entity's monthly return twenty (20) days
 7 (rather than thirty (30) days) after the end of each month for which a
 8 return and payment are made if the department estimates that the
 9 entity's average monthly payment for the current calendar year will
 10 exceed one thousand dollars (\$1,000).

11 (c) If the department determines that a withholding agent is not
 12 withholding, reporting, or remitting an amount of tax in accordance
 13 with this chapter, the department may require the withholding agent:

- 14 (1) to make periodic deposits during the reporting period; and
 15 (2) to file an informational return with each periodic deposit.

16 ~~(d) If a person files a combined sales and withholding tax report and~~
 17 ~~either this section or IC 6-2.5-6-1 requires the sales or withholding tax~~
 18 ~~report to be filed and remittances to be made within twenty (20) days~~
 19 ~~after the end of each month, then the person shall file the combined~~
 20 ~~report and remit the sales and withholding taxes due within twenty (20)~~
 21 ~~days after the end of each month.~~

22 ~~(e) (d)~~ If the department determines that an entity's:

- 23 (1) estimated monthly withholding tax remittance for the current
 24 year; or
 25 (2) average monthly withholding tax remittance for the preceding
 26 year;

27 exceeds five thousand dollars (\$5,000), the entity shall remit the
 28 monthly withholding taxes due by electronic fund transfer (as defined
 29 in IC 4-8.1-2-7) or by delivering in person or by overnight courier a
 30 payment by cashier's check, certified check, or money order to the
 31 department. The transfer or payment shall be made on or before the
 32 date the remittance is due.

33 ~~(f) (e)~~ An entity that registers to withhold **withholds** taxes after
 34 ~~December 31, 2009~~; shall file the withholding tax report and remit
 35 withholding taxes electronically through the department's online tax
 36 filing program.

37 SECTION 17. IC 6-3-4-12, AS AMENDED BY P.L.211-2007,
 38 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2012]: Sec. 12. (a) Every partnership shall, at the time that the
 40 partnership pays or credits amounts to any of its nonresident partners
 41 on account of their distributive shares of partnership income, for a
 42 taxable year of the partnership, deduct and retain therefrom the amount

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1 prescribed in the withholding instructions referred to in section 8 of
 2 this chapter. Such partnership so paying or crediting any nonresident
 3 partner:

4 (1) shall be liable to the state of Indiana for the payment of the tax
 5 required to be deducted and retained under this section and shall
 6 not be liable to such partner for the amount deducted from such
 7 payment or credit and paid over in compliance or intended
 8 compliance with this section; and

9 (2) shall make return of and payment to the department monthly
 10 whenever the amount of tax due under IC 6-3 and IC 6-3.5
 11 exceeds an aggregate amount of fifty dollars (\$50) per month with
 12 such payment due on the thirtieth day of the following month,
 13 unless an earlier date is specified by section 8.1 of this chapter.

14 Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not
 15 exceed fifty dollars (\$50) per month, then such partnership shall make
 16 return and payment to the department quarterly, on such dates and in
 17 such manner as the department shall prescribe, of the amount of tax
 18 which, under IC 6-3 and IC 6-3.5, it is required to withhold.

19 (b) Every partnership shall, at the time of each payment made by it
 20 to the department pursuant to this section, deliver to the department a
 21 return upon such form as shall be prescribed by the department
 22 showing the total amounts paid or credited to its nonresident partners,
 23 the amount deducted therefrom in accordance with the provisions of
 24 this section, and such other information as the department may require.
 25 Every partnership making the deduction and retention provided in this
 26 section shall furnish to its nonresident partners annually, but not later
 27 than ~~thirty (30) days~~ **the fifteenth day of the third month** after the end
 28 of its taxable year, a record of the amount of tax deducted and retained
 29 from such partners on forms to be prescribed by the department.

30 (c) All money deducted and retained by the partnership, as provided
 31 in this section, shall immediately upon such deduction be the money of
 32 the state of Indiana and every partnership which deducts and retains
 33 any amount of money under the provisions of IC 6-3 shall hold the
 34 same in trust for the state of Indiana and for payment thereof to the
 35 department in the manner and at the times provided in IC 6-3. Any
 36 partnership may be required to post a surety bond in such sum as the
 37 department shall determine to be appropriate to protect the state of
 38 Indiana with respect to money deducted and retained pursuant to this
 39 section.

40 (d) The provisions of IC 6-8.1 relating to additions to tax in case of
 41 delinquency and penalties shall apply to partnerships subject to the
 42 provisions of this section, and for these purposes any amount deducted,

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1 or required to be deducted and remitted to the department under this
 2 section, shall be considered to be the tax of the partnership, and with
 3 respect to such amount it shall be considered the taxpayer.

4 (e) Amounts deducted from payments or credits to a nonresident
 5 partner during any taxable year of the partnership in accordance with
 6 the provisions of this section shall be considered to be in part payment
 7 of the tax imposed on such nonresident partner for **his the nonresident**
 8 **partner's** taxable year within or with which the partnership's taxable
 9 year ends. A return made by the partnership under subsection (b) shall
 10 be accepted by the department as evidence in favor of the nonresident
 11 partner of the amount so deducted for **his the nonresident partner's**
 12 distributive share.

13 (f) This section shall in no way relieve any nonresident partner from
 14 **his the nonresident partner's** obligations of filing a return or returns
 15 at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall
 16 be paid at the time prescribed by section 5 of this chapter.

17 (g) Instead of the reporting periods required under subsection (a),
 18 the department may permit a partnership to file one (1) return and
 19 payment each year if the partnership pays or credits amounts to its
 20 nonresident partners only one (1) time each year. The return and
 21 payment are due ~~not more than thirty (30) days on or before the~~
 22 **fifteenth day of the fourth month** after the end of the year.

23 (h) A partnership shall file a composite adjusted gross income tax
 24 return on behalf of all nonresident individual partners. The composite
 25 return must include each nonresident individual partner regardless of
 26 whether or not the nonresident individual partner has other Indiana
 27 source income.

28 (i) If a partnership does not include all nonresident partners in the
 29 composite return, the partnership is subject to the penalty imposed
 30 under IC 6-8.1-10-2.1(j).

31 SECTION 18. IC 6-3-4-13, AS AMENDED BY P.L.211-2007,
 32 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 13. (a) Every corporation which is exempt from
 34 tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it
 35 pays or credits amounts to any of its nonresident shareholders as
 36 dividends or as their share of the corporation's undistributed taxable
 37 income, withhold the amount prescribed by the department. Such
 38 corporation so paying or crediting any nonresident shareholder:

39 (1) shall be liable to the state of Indiana for the payment of the tax
 40 required to be withheld under this section and shall not be liable
 41 to such shareholder for the amount withheld and paid over in
 42 compliance or intended compliance with this section; and

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1 (2) when the aggregate amount due under IC 6-3 and IC 6-3.5
2 exceeds one hundred fifty dollars (\$150) per quarter, then such
3 corporation shall make return and payment to the department
4 quarterly, on such dates and in such manner as the department
5 shall prescribe, of the amount of tax which, under IC 6-3 and
6 IC 6-3.5, it is required to withhold.

7 (b) Every corporation shall, at the time of each payment made by it
8 to the department pursuant to this section, deliver to the department a
9 return upon such form as shall be prescribed by the department
10 showing the total amounts paid or credited to its nonresident
11 shareholders, the amount withheld in accordance with the provisions
12 of this section, and such other information as the department may
13 require. Every corporation withholding as provided in this section shall
14 furnish to its nonresident shareholders annually, but not later than the
15 fifteenth day of the third month after the end of its taxable year, a
16 record of the amount of tax withheld on behalf of such shareholders on
17 forms to be prescribed by the department.

18 (c) All money withheld by a corporation, pursuant to this section,
19 shall immediately upon being withheld be the money of the state of
20 Indiana and every corporation which withholds any amount of money
21 under the provisions of this section shall hold the same in trust for the
22 state of Indiana and for payment thereof to the department in the
23 manner and at the times provided in IC 6-3. Any corporation may be
24 required to post a surety bond in such sum as the department shall
25 determine to be appropriate to protect the state of Indiana with respect
26 to money withheld pursuant to this section.

27 (d) The provisions of IC 6-8.1 relating to additions to tax in case of
28 delinquency and penalties shall apply to corporations subject to the
29 provisions of this section, and for these purposes any amount withheld,
30 or required to be withheld and remitted to the department under this
31 section, shall be considered to be the tax of the corporation, and with
32 respect to such amount it shall be considered the taxpayer.

33 (e) Amounts withheld from payments or credits to a nonresident
34 shareholder during any taxable year of the corporation in accordance
35 with the provisions of this section shall be considered to be a part
36 payment of the tax imposed on such nonresident shareholder for his
37 taxable year within or with which the corporation's taxable year ends.
38 A return made by the corporation under subsection (b) shall be
39 accepted by the department as evidence in favor of the nonresident
40 shareholder of the amount so withheld from the shareholder's
41 distributive share.

42 (f) This section shall in no way relieve any nonresident shareholder

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1 from the shareholder's obligation of filing a return or returns at the time
2 required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at
3 the time prescribed by section 5 of this chapter.

4 (g) Instead of the reporting periods required under subsection (a),
5 the department may permit a corporation to file one (1) return and
6 payment each year if the corporation pays or credits amounts to its
7 nonresident shareholders only one (1) time each year. The withholding
8 return and payment are due on or before the fifteenth day of the ~~third~~
9 **fourth** month after the end of the taxable year of the corporation.

10 (h) If a distribution will be made with property other than money or
11 a gain is realized without the payment of money, the corporation shall
12 not release the property or credit the gain until it has funds sufficient
13 to enable it to pay the tax required to be withheld under this section. If
14 necessary, the corporation shall obtain such funds from the
15 shareholders.

16 (i) If a corporation fails to withhold and pay any amount of tax
17 required to be withheld under this section and thereafter the tax is paid
18 by the shareholders, such amount of tax as paid by the shareholders
19 shall not be collected from the corporation but it shall not be relieved
20 from liability for interest or penalty otherwise due in respect to such
21 failure to withhold under IC 6-8.1-10.

22 (j) A corporation described in subsection (a) shall file a composite
23 adjusted gross income tax return on behalf of all nonresident
24 shareholders. The composite return must include each nonresident
25 individual shareholder regardless of whether or not the nonresident
26 individual shareholder has other Indiana source income.

27 (k) If a corporation described in subsection (a) does not include all
28 nonresident shareholders in the composite return, the corporation is
29 subject to the penalty imposed under IC 6-8.1-10-2.1(j).

30 SECTION 19. IC 6-3-4-16.5, AS ADDED BY P.L.113-2010,
31 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2012]: Sec. 16.5. (a) This section applies to:

- 33 (1) Form W-2 federal income tax withholding statements; ~~and~~
34 **(2) Form W-2G certain gambling winnings;**
35 **(3) Form 1099-R distributions from pensions, annuities,**
36 **retirement or profit sharing plans, IRAs, insurance contracts,**
37 **or like distributions;**
38 ~~(2)~~ **(4) Form WH-3 annual withholding tax reports; and**
39 **(5) Form WH-18 miscellaneous withholding tax statements for**
40 **nonresidents;**

41 filed with the department after December 31, ~~2010~~ **2012.**

42 (b) If an employer or any person or entity acting on behalf of an

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- employer files more than twenty-five (25):
- (1) Form W-2 federal income tax withholding statements;
- (2) **Form W-2G certain gambling winnings;**
- (3) **Form 1099-R distributions from pensions, annuities, retirement or profit sharing plans, IRAs, insurance contracts, or like distributions; or**
- (4) **Form WH-18 miscellaneous withholding tax statements for nonresidents;**

with the department in a calendar year, all ~~Form W-2 federal income tax withholding statements forms~~ and Form WH-3 annual withholding tax reports filed with the department in that calendar year by the employer or the person or entity acting on behalf of the employer must be filed in an electronic format specified by the department.

SECTION 20. IC 6-3.1-24-9, AS AMENDED BY P.L.172-2011, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed twelve million five hundred thousand dollars (\$12,500,000). The Indiana economic development corporation may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding twelve million five hundred thousand dollars (\$12,500,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under this chapter.

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, ~~2014;~~ **2016**. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, ~~2014;~~ **2016**, an unused tax credit attributable to an investment occurring before January 1, ~~2015;~~ **2017**.

SECTION 21. IC 6-3.1-26-26, AS AMENDED BY P.L.182-2009(ss), SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, ~~2013;~~ **2016**. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit

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1 attributable to a qualified investment made before January 1, ~~2014,~~
 2 **2017**, forward to a taxable year beginning after December 31, ~~2013,~~
 3 **2016**, in the manner provided by section 15 of this chapter.

4 SECTION 22. IC 6-3.1-29-6, AS AMENDED BY P.L.175-2007,
 5 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2012]: Sec. 6. As used in this chapter, "integrated coal
 7 gasification powerplant" means a facility that satisfies all the following
 8 requirements:

9 (1) The facility is located in Indiana and is a newly constructed
 10 energy generating plant.

11 (2) The facility converts coal into synthesis gas that can be used
 12 as a fuel to generate energy or as a substitute for natural gas.

13 (3) The facility uses the synthesis gas as a fuel to generate electric
 14 energy or produces synthesis gas that can be used as a substitute
 15 for natural gas.

16 (4) The facility is dedicated primarily to production of electricity
 17 or gas:

18 **(A)** for use by energy utilities serving Indiana retail electric or
 19 gas utility consumers; **or**

20 **(B) for sale to or use by the Indiana finance authority**
 21 **under IC 4-4-11.6.**

22 SECTION 23. IC 6-3.1-29-19, AS AMENDED BY
 23 P.L.182-2009(ss), SECTION 203, IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. (a) The corporation
 25 shall enter into an agreement with an applicant that is awarded a credit
 26 under this chapter. The agreement must include all the following:

27 (1) A detailed description of the project that is the subject of the
 28 agreement.

29 (2) The first taxable year for which the credit may be claimed.

30 (3) The maximum tax credit amount that will be allowed for each
 31 taxable year.

32 (4) A requirement that the taxpayer shall maintain operations at
 33 the project location for at least ten (10) years during the term that
 34 the tax credit is available.

35 (5) If the facility is an integrated coal gasification powerplant, a
 36 requirement that the taxpayer shall pay an average wage to its
 37 employees at the integrated coal gasification powerplant, other
 38 than highly compensated employees, in each taxable year that a
 39 tax credit is available, that equals at least one hundred twenty-five
 40 percent (125%) of the average county wage in the county in which
 41 the integrated coal gasification powerplant is located.

42 (6) For a project involving a qualified investment in an integrated

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1 coal gasification powerplant, a requirement that the taxpayer will
 2 maintain at the location where the qualified investment is made,
 3 during the term of the tax credit, a total payroll that is at least
 4 equal to the payroll that existed on the date that the taxpayer
 5 placed the integrated coal gasification powerplant into service.

6 (7) A requirement that:

7 (A) one hundred percent (100%) of the coal used:

8 (i) at the integrated coal gasification powerplant, for a
 9 project involving a qualified investment in an integrated
 10 coal gasification powerplant; or

11 (ii) as fuel in a fluidized bed combustion unit, in a project
 12 involving a qualified investment in a fluidized bed
 13 combustion technology, if the unit is dedicated primarily to
 14 serving Indiana retail electric utility consumers;

15 must be Indiana coal, unless the applicant wishes to assign the
 16 tax credit as allowed under section 20.5(c) of this chapter or
 17 elects to receive a refundable tax credit under section 20.7 of
 18 this chapter and the applicant certifies to the corporation that
 19 partial use of other coal **or other feedstock** is necessary to
 20 result in lower rates for Indiana retail utility customers; or

21 (B) seventy-five percent (75%) of the coal used as fuel in a
 22 fluidized bed combustion unit must be Indiana coal, in a
 23 project involving a qualified investment in a fluidized bed
 24 combustion technology, if the unit is not dedicated primarily
 25 to serving Indiana retail electric utility consumers.

26 (8) A requirement that the taxpayer obtain from the commission
 27 a determination under IC 8-1-8.5-2 that public convenience and
 28 necessity require, or will require:

29 (A) the construction of the taxpayer's integrated coal
 30 gasification powerplant, in the case of a project involving a
 31 qualified investment in an integrated coal gasification
 32 powerplant; or

33 (B) the installation of the taxpayer's fluidized bed combustion
 34 unit, in the case of a project involving a qualified investment
 35 in a fluidized bed combustion technology.

36 (b) A taxpayer must comply with the terms of the agreement
 37 described in subsection (a) to receive an annual installment of the tax
 38 credit awarded under this chapter. The corporation shall annually
 39 determine whether the taxpayer is in compliance with the agreement.
 40 If the corporation determines that the taxpayer is in compliance, the
 41 corporation shall issue a certificate of compliance to the taxpayer.

42 SECTION 24. IC 6-3.1-31.9-23, AS ADDED BY P.L.223-2007,

SB 344—LS 6911/DI 58+



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1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 23. (a) This chapter applies to taxable years
3 beginning after December 31, 2006.

4 (b) Notwithstanding the other provisions of this chapter, the
5 corporation may not approve a **an alternative fuel vehicle**
6 **manufacturing** credit for a qualified investment made after December
7 31, ~~2012~~; **2016**. However, this section may not be construed to prevent
8 a taxpayer from carrying an unused tax credit attributable to a qualified
9 investment made before January 1, ~~2012~~; **2017**, forward to a taxable
10 year beginning after December 31, ~~2011~~; **2016**, in the manner provided
11 by section 13 of this chapter.

12 SECTION 25. IC 6-3.1-33-9, AS ADDED BY P.L.110-2010,
13 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2012]: Sec. 9. (a) Before January 1, ~~2013~~; **2017**, a corporation
15 or pass through entity that desires to qualify for the **new employer**
16 credit provided by this chapter may submit an application to the IEDC
17 in the form and manner specified by the IEDC.

18 (b) The IEDC shall promptly review all applications submitted to
19 the IEDC under this chapter.

20 (c) If the IEDC determines that an applicant for the tax credit
21 provided by this chapter has furnished reliable evidence, as determined
22 by the IEDC, that the applicant is reasonably capable of:

23 (1) employing at least ten (10) qualified employees in each month
24 of the period specified in section 10(b) of this chapter during the
25 taxable year; and

26 (2) meeting the requirements for the tax credit provided by this
27 chapter;

28 the IEDC may issue the applicant a certificate of approval. If a
29 certificate of approval is issued, the IEDC shall provide a copy of the
30 certificate to the department.

31 (d) In making a determination of whether an applicant is qualified
32 for a credit under this chapter, the IEDC may consider the following:

33 (1) The applicant's employment levels in previous years to
34 determine if the applicant is hiring new individuals or rehiring
35 individuals.

36 (2) Whether the applicant is the successor to part or all of the
37 assets or business operations of another corporation or pass
38 through entity that conducted business operations in Indiana in
39 the same line of business to determine if the applicant is a new
40 Indiana business under this chapter.

41 (e) If the IEDC determines that the applicant will not employ at least
42 ten (10) qualified employees in each month of the period specified in

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1 section 10(b) of this chapter during the taxable year, is not a new
 2 Indiana business, or does not meet, or is unlikely to meet, any other
 3 requirements for the tax credit provided by this chapter, the IEDC shall
 4 notify the applicant of the IEDC's determination.

5 (f) The IEDC may not issue a certificate of approval under this
 6 chapter after December 31, ~~2012~~: **2016**.

7 SECTION 26. IC 6-8.1-9-1, AS AMENDED BY P.L.172-2011,
 8 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2012]: Sec. 1. (a) If a person has paid more tax than the
 10 person determines is legally due for a particular taxable period, the
 11 person may file a claim for a refund with the department. Except as
 12 provided in subsections (f), (g), and (h), in order to obtain the refund,
 13 the person must file the claim with the department within three (3)
 14 years after the latter of the following:

15 (1) The due date of the return.

16 (2) The date of payment.

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

24 (b) After considering the claim and all evidence relevant to the
 25 claim, the department shall issue a decision on the claim, stating the
 26 part, if any, of the refund allowed and containing a statement of the
 27 reasons for any part of the refund that is denied. The department shall
 28 mail a copy of the decision to the person who filed the claim. If the
 29 person disagrees with a part of the decision, the person may file a
 30 protest and request a hearing with the department. The department
 31 shall mail a copy of the decision to the person who filed the protest. If
 32 the department allows the full amount of the refund claim, a warrant for
 33 the payment of the claim is sufficient notice of the decision.

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

40 ~~(1) the appeal is filed more than three (3) years after the date the~~
 41 ~~claim for refund was filed with the department;~~

42 ~~(2) (1) the appeal is filed more than ninety (90) days after the later~~

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- 1 of the date the department mails:
 2 (A) the decision of denial of the claim to the person; or
 3 (B) the decision made on the protest filed under subsection
 4 (b); or
 5 ~~(3)~~ (2) the appeal is filed both before the decision is issued and
 6 before the one hundred eighty-first day after the date the person
 7 files the claim for refund with the department.
 8 (d) The tax court shall hear the appeal de novo and without a jury,
 9 and after the hearing may order or deny any part of the appealed
 10 refund. The court may assess the court costs in any manner that it feels
 11 is equitable. The court may enjoin the collection of any of the listed
 12 taxes under IC 33-26-6-2. The court may also allow a refund of taxes,
 13 interest, and penalties that have been paid to and collected by the
 14 department.
 15 (e) With respect to the motor vehicle excise tax, this section applies
 16 only to penalties and interest paid on assessments of the motor vehicle
 17 excise tax. Any other overpayment of the motor vehicle excise tax is
 18 subject to IC 6-6-5.
 19 (f) If a taxpayer's federal income tax liability for a taxable year is
 20 modified by the Internal Revenue Service, and the modification would
 21 result in a reduction of the tax legally due, the due date by which the
 22 taxpayer must file a claim for refund with the department is the later of:
 23 (1) the date determined under subsection (a); or
 24 (2) the date that is one hundred eighty (180) days after the date on
 25 which the taxpayer is notified of the modification by the Internal
 26 Revenue Service.
 27 (g) If an agreement to extend the assessment time period is entered
 28 into under IC 6-8.1-5-2(h), the period during which a person may file
 29 a claim for a refund under subsection (a) is extended to the same date
 30 to which the assessment time period is extended.
 31 (h) If a taxpayer's claim for a refund of gross retail or use tax is
 32 based on:
 33 (1) IC 6-2.5-4-5(c)(3); or
 34 (2) the exemption provided by IC 6-2.5-5-5.1 for electrical
 35 energy, natural or artificial gas, water, steam, and steam heat;
 36 the person must file the claim with the department within eighteen (18)
 37 months after the date of payment.
 38 SECTION 27. IC 12-20-21-2, AS AMENDED BY P.L.169-2006,
 39 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 2. Township assistance money raised by
 41 townships **shall be deposited in a separate fund known as the**
 42 **township assistance fund and** may not be commingled.



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1 SECTION 28. IC 12-20-21-3, AS AMENDED BY P.L.73-2005,
 2 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 3. (a) A ~~township trustee and~~ township board may
 4 levy a specific tax for the purpose of providing money for the payment
 5 of township assistance expenses in the following year. **Beginning in**
 6 **2013, the department of local government finance shall remove the**
 7 **township assistance property tax levy from the township's total**
 8 **maximum permissible levy and treat the township assistance**
 9 **property tax levy as a separate levy for purposes of a township's**
 10 **maximum permissible ad valorem property tax levy under**
 11 **IC 6-1.1-18.5.** The tax may be sufficient to meet the entire requirement
 12 of the township in the following year or the part that is determined to
 13 be proper. **levy may not exceed the amount determined for the year**
 14 **under subsection (c).**

15 (b) If a tax levy is established under subsection (a), all proceeds
 16 derived from the tax levy shall be distributed to the township at the
 17 same time and in the same manner as proceeds from other property tax
 18 levies are distributed to the township. The proceeds of the tax levy shall
 19 be held by the township in its township assistance ~~account~~ **fund** free
 20 and available for the payment of township assistance obligations of the
 21 township. The funds are continuing funds and do not revert to any other
 22 fund at the end of the year.

23 (c) **In determining a township's maximum permissible ad**
 24 **valorem property tax levy for purposes of IC 6-1.1-18.5, the**
 25 **department of local government finance shall establish a maximum**
 26 **permissible levy for the township assistance fund by applying a tax**
 27 **rate equal to the township assistance tax rate determined under**
 28 **subsection (d), subject to being phased in as provided in subsection**
 29 **(e) for 2013 and 2014.**

30 (d) **Before August 1, 2012, the department of local government**
 31 **finance shall determine a township assistance property tax rate for**
 32 **each township that imposes a property tax for township assistance**
 33 **in 2012. The township assistance property tax rate is determined**
 34 **as follows:**

35 **STEP ONE: Determine the 2012 statewide average township**
 36 **assistance property tax rate multiplied by two (2). The 2012**
 37 **statewide average township assistance property tax rate must**
 38 **be determined by including only those townships that imposed**
 39 **a property tax for township assistance for 2012.**

40 **STEP TWO: Determine the school complexity index for 2011**
 41 **for the school corporation in the township that has the highest**
 42 **ADM for 2011, as determined under IC 20-43.**



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1 **STEP THREE: Determine the product of:**

- 2 (A) the STEP ONE amount; multiplied by
3 (B) the STEP TWO amount.

4 **STEP FOUR: Determine the lesser of:**

- 5 (A) the 2012 tax rate attributable to the township's
6 township assistance levy for 2012; or
7 (B) the STEP THREE amount.

8 A township may increase the township assistance property tax rate
9 for an ensuing year above the amount determined in STEP FOUR
10 but not by more than the rate decrease the township will make for
11 the township's general fund levy for the ensuing year.

12 (e) If the rate determined under subsection (d), STEP THREE,
13 is less than the 2012 township assistance tax rate attributable to the
14 township's township assistance levy for 2012, the following applies
15 to 2013 and 2014:

16 (1) For 2013, the department of local government finance
17 shall establish a maximum permissible levy for the township
18 assistance fund by applying a tax rate equal to the lesser of:

- 19 (A) the 2012 tax rate attributable to the township's
20 township assistance levy for 2012; or
21 (B) the clause (A) amount minus one-third (1/3) of the
22 difference between:

- 23 (i) the clause (A) amount; minus
24 (ii) the township assistance tax rate determined under
25 subsection (d).

26 (2) For 2014, the department of local government finance
27 shall establish a maximum permissible levy for the township
28 assistance fund by applying a tax rate equal to the lesser of:

- 29 (A) the 2012 tax rate attributable to the township's
30 township assistance levy for 2012; or
31 (B) the clause (A) amount minus two-thirds (2/3) of the
32 difference between:

- 33 (i) the clause (A) amount; minus
34 (ii) the township assistance tax rate determined under
35 subsection (d).

36 (f) A township that does not impose a property tax for township
37 assistance in 2012, and wants to establish a township assistance
38 fund property tax levy after 2012, shall be treated in the same
39 manner as provided in IC 6-1.1-18.5-7 for a civil taxing unit that
40 did not adopt an ad valorem property tax levy for the immediately
41 preceding calendar year. However, the levy that may be allowed to
42 a township under this subsection may not exceed the levy

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1 attributable to the maximum tax rate determined under subsection
2 (d), STEP THREE. If a township assistance fund tax rate is
3 established under this subsection for a year, the department of
4 local government finance shall reduce the township levy for the
5 township's general fund for that year by the amount of the levy
6 attributable to the township assistance fund.

7 SECTION 29. IC 36-7-37 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]:

10 **Chapter 37. Residential Historic Rehabilitation Grant Program**

11 **Sec. 1. This chapter applies to any county (in the case of the**
12 **unincorporated area of the county), city, or town in which a**
13 **Section 42 of the Internal Revenue Code low income housing tax**
14 **credit property is located.**

15 **Sec. 2. The definitions set forth in IC 6-3.1-22 apply throughout**
16 **this chapter.**

17 **Sec. 3. (a) The fiscal body of a county, city, or town may adopt**
18 **an ordinance to establish a residential historic rehabilitation grant**
19 **program.**

20 **(b) The grant program shall be administered by the**
21 **redevelopment commission of the county, city, or town.**

22 **(c) Grants may be made only to pay for qualified expenditures**
23 **of a taxpayer that qualifies for a residential historic rehabilitation**
24 **income tax credit under IC 6-3.1-22.**

25 **(d) A redevelopment commission may require a taxpayer to**
26 **apply for a grant on a form prescribed by the redevelopment**
27 **commission.**

28 **Sec. 4. (a) If the fiscal body of a county, city, or town adopts an**
29 **ordinance to establish a residential historic rehabilitation grant**
30 **program, the fiscal body shall also establish a residential historic**
31 **rehabilitation grant fund.**

32 **(b) The fund consists of money attributable to the increment**
33 **determined under section 5 of this chapter. Interest earned on**
34 **money in the fund shall be credited to the fund.**

35 **(c) Money in the fund must be appropriated by the county's,**
36 **city's, or town's fiscal body before the money may be used to**
37 **provide a grant under this chapter.**

38 **Sec. 5. (a) If the fiscal body of a county, city, or town adopts an**
39 **ordinance to establish a residential historic rehabilitation grant**
40 **program, the auditor of the county shall determine the amount of**
41 **property taxes attributable to any increase in the assessed value of**
42 **each low income housing tax credit property located in the**

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unincorporated area of the county, city, or town as a result of the repeal of IC 6-1.1-4-40.

(b) The amount of property taxes determined under subsection (a) shall be treated as a property tax levy separate from the county's, city's, or town's property tax levy and in the same manner as if the amount were a tax increment finance levy for the redevelopment commission.

(c) The amount of property taxes determined under this section shall be deposited in the county's, city's, or town's residential historic rehabilitation grant fund.

SECTION 30. [EFFECTIVE JULY 1, 2012] (a) If a township will impose a property tax levy for township assistance under IC 12-20-21 for 2013, the maximum permissible ad valorem property tax levy for 2013 under IC 6-1.1-18.5 for the township general fund shall be reduced by the amount attributable to the township's property tax levy for the township's township assistance fund for 2012.

(b) This SECTION expires January 1, 2014.

SECTION 31. [EFFECTIVE JULY 1, 2012] (a) This SECTION applies to Clark County.

(b) The department of local government finance shall recalculate the 2013 maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for the county by using the 2007 maximum permissible ad valorem property tax levy for the county and then increasing the 2007 levy by applying the cumulative effect of using the assessed value growth quotient applicable to the county for 2008 through 2012.

(c) Notwithstanding the expiration of this SECTION, the 2013 maximum permissible ad valorem property tax levy for the county is to be used as the county's previous year maximum permissible ad valorem property tax levy for determinations under IC 6-1.1-18.5 after 2013.

(d) This SECTION expires January 1, 2015.

SECTION 32. [EFFECTIVE JANUARY 1, 2013] (a) IC 6-2.3-4-7, as added by this act, applies to taxable years beginning after December 31, 2012.

(b) This SECTION expires January 1, 2015.

SECTION 33. [EFFECTIVE UPON PASSAGE] (a) The corrections of the references to:

- (1) Internal Revenue Code Section 62(a)(2)(D) that is being made in IC 6-3-1-3.5; and
- (2) Internal Revenue Code Section 871(k)(1)(C) that is being

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1 made in IC 6-3-1-11;
2 apply to taxable years beginning after December 31, 2010,
3 notwithstanding the July 1, 2012, effective date of the SECTIONS
4 in this act that make the corrections.

5 (b) This SECTION expires January 1, 2013.
6 SECTION 34. [EFFECTIVE JANUARY 1, 2012
7 (RETROACTIVE)] (a) IC 6-1.1-12-26.1, as added by this act,
8 applies to property taxes first due and payable after 2012. A
9 deduction statement filed before September 1, 2012, under
10 IC 6-1.1-12-27.1, as amended by this act, is considered timely filed
11 for purposes of obtaining the deduction under IC 6-1.1-12-26.1, as
12 added by this act, in 2012 for property taxes first due and payable
13 in 2013.

14 (b) This SECTION expires January 1, 2014.
15 SECTION 35. [EFFECTIVE UPON PASSAGE] (a) During the
16 2012 and 2013 legislative interims, the commission on state tax and
17 financing policy (IC 2-5-3) shall study all income tax credits using
18 a schedule that provides for approximately half the credits to be
19 studied each year and for the credits to be studied in the order they
20 were enacted. The commission shall prepare a report that covers
21 each credit and that includes the following:

- 22 (1) A review of the original scope and purpose of the credit
23 and whether the scope or purpose has changed since the
24 credit's enactment.
- 25 (2) The economic parameters of the credit, including the
26 credit percentage and credit limits, and whether these
27 parameters have changed since the credit's enactment.
- 28 (3) A description of the taxpayers that qualify for the credit
29 and how effective the credit has been in assisting these
30 targeted taxpayers.
- 31 (4) The type of activities on which the credit is based and how
32 effective the credit has been in promoting these targeted
33 activities.
- 34 (5) The amount of the credits granted over time.
- 35 (6) A determination of the dollar amount of credits granted
36 but not taken that can be carried forward.
- 37 (7) A summary of audit findings for each credit and whether
38 there has been any misuse of the credit.
- 39 (8) Suggested changes in the law with regard to each credit,
40 including whether the credit should be retained or not.
- 41 (9) Any other issues related to these income tax credits, as
42 determined by the commission.

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1 The commission on state tax and financing policy shall issue the
2 report in two (2) parts, in an electronic format under IC 5-14-6, to
3 the legislative council, not later than November 1, 2012, and
4 November 1, 2013, respectively.

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

6 SECTION 36. [EFFECTIVE JULY 1, 2012] (a) The general
7 assembly urges the legislative council to assign to an interim or a
8 statutory study committee during the 2012 legislative interim the
9 topic of more clearly defining what is included in instructional
10 spending by school corporations and what is included in
11 noninstructional spending by school corporations for purposes of
12 IC 20-42.5-3-5.

13 (b) If the topic described in subsection (a) is assigned to an
14 interim or a statutory study committee under subsection (a), the
15 study committee shall issue a final report, in an electronic format
16 under IC 5-14-6, to the legislative council containing the study
17 committee's findings and recommendations, including any
18 recommended legislation concerning the topic, not later than
19 November 1, 2012.

20 (c) This SECTION expires December 31, 2012.

21 SECTION 37. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 344, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, delete "\$ 7,500" and insert "\$5,000".

Page 1, line 10, delete "\$ 6,000" and insert "\$4,000".

Page 1, line 11, delete "\$ 6,000" and insert "\$4,000".

Page 1, line 13, delete "\$ 4,950" and insert "\$3,300".

Page 1, line 14, delete "\$4,800" and insert "\$3,200".

Page 1, line 15, delete "\$3,900" and insert "\$2,600".

Page 2, line 2, delete "\$3,750" and insert "\$2,500".

Page 2, line 3, delete "\$2,250" and insert "\$1,500".

Page 2, line 4, delete "\$3,000" and insert "\$2,000".

Page 2, line 6, delete "\$1,950" and insert "\$1,300".

Page 2, line 7, delete "\$3,000" and insert "\$2,000".

Page 2, line 9, delete "\$1,950" and insert "\$1,300".

Page 2, line 10, delete "\$2,400" and insert "\$1,600".

Page 2, line 12, delete "\$1,500" and insert "\$1,000".

Page 2, line 13, delete "\$2,400" and insert "\$1,600".

Page 2, line 14, delete "\$1,500" and insert "\$1,000".

Page 2, between lines 25 and 26, begin a new paragraph and insert:
 "SECTION 3. IC 6-1.1-12-26.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: **Sec. 26.1. (a) This section applies only to a solar power device that is installed after December 31, 2011.**

(b) This section does not apply to a solar power device that is owned or operated by a person that provides electricity at wholesale or retail for consideration other than a person that:

(1) participates in a net metering or feed-in-tariff program offered by an electric utility with respect to the solar power device; or

(2) is the owner or host of the solar power device site and a person consumes on the site the equivalent amount of electricity that is generated by the solar power device on an annual basis even if the electricity is sold to a public utility, including a solar power device directly serving a public utility's business operations site.

(c) For purposes of this section, "solar power device" means a device, such as a solar thermal, a photovoltaic, or other solar energy system, that is designed to use the radiant light or heat from



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the sun to produce electricity.

(d) The owner of real property equipped with a solar power device that is assessed as a real property improvement may have deducted annually from the assessed value of the real property an amount equal to:

- (1) the assessed value of the real property with the solar power device included; minus**
- (2) the assessed value of the real property without the solar power device.**

(e) The owner of a solar power device that is assessed as:

- (1) distributable property under IC 6-1.1-8; or**
- (2) personal property;**

may have deducted annually the assessed value of the solar power device.

SECTION 4. IC 6-1.1-12-27.1, AS AMENDED BY P.L.113-2010, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: Sec. 27.1. Except as provided in sections 36 and 44 of this chapter and subject to section 45 of this chapter, a person who desires to claim the deduction provided by section 26 **or 26.1** of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, ~~or~~ mobile home, **manufactured home, or solar power device** is subject to assessment. With respect to real property **or a solar power device that is assessed as distributable property under IC 6-1.1-8 or as personal property**, the person must file the statement during the year for which the person desires to obtain the deduction. Except as provided in sections 36 and 44 of this chapter and subject to section 45 of this chapter, with respect to a mobile home which is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The person must:

- (1) own the real property, mobile home, or manufactured home or own the solar power device; or**
- (2) be buying the real property, mobile home, or manufactured home, or solar power device under contract; or**
- (3) be leasing the real property from the real property owner and be subject to assessment and property taxation with respect to the solar power device;**

on the date the statement is filed under this section. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by

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the assessor of the township in which the real property, ~~or~~ mobile home, **manufactured home, or solar power device** is subject to assessment, or the county assessor if there is no township assessor for the township, the county auditor shall allow the deduction."

Page 4, after line 42, begin a new paragraph and insert:

"SECTION 5. IC 6-2.5-5-5.1, AS AMENDED BY P.L.172-2011, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

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

(c) A refund claim based on the exemption provided by this section for electrical energy, natural or artificial gas, water, steam, and steam heat may not cover transactions that occur more than ~~eighteen (18)~~ **thirty-six (36)** months before the date of the refund claim.

SECTION 6. IC 6-2.5-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) As used in this section, "returnable containers" means containers customarily returned by the buyer of the contents for reuse as containers.

(b) Sales of returnable containers are exempt from the state gross retail tax if the transaction constitutes selling at retail as defined in IC 6-2.5-4-1 and if the returnable containers contain contents.

(c) Sales of returnable containers are exempt from the state gross retail tax if the containers are transferred empty for the purpose of refilling.

(d) Sales of wrapping material and empty containers are exempt from the state gross retail tax if the person acquiring the material or containers acquires them for use as nonreturnable packages for:

- (1) selling the contents that ~~he~~ **the person** adds; or
- (2) **shipping or delivering tangible personal property that:**
 - (A) **is owned by another person;**
 - (B) **is processed or serviced for the owner; and**
 - (C) **will be sold by that owner either in the same form or as a part of other tangible personal property produced by that owner in the owner's business of manufacturing,**

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assembling, constructing, refining, or processing."

Page 5, delete lines 18 through 42.

Delete page 6.

Page 7, delete lines 1 through 11.

Page 34, delete lines 8 through 42.

Delete pages 35 through 43.

Page 44, delete lines 1 through 19.

Page 45, line 10, delete "JULY 1, 2012]:" and insert "JANUARY 1, 2013]:".

Page 53, delete line 42.

Delete pages 54 through 57.

Page 58, delete lines 1 through 4.

Page 58, delete lines 26 through 35.

Page 59, delete lines 5 through 42.

Page 60, delete lines 1 through 11, begin a new paragraph and insert:

"SECTION 46. IC 6-3.1-29-6, AS AMENDED BY P.L.175-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. As used in this chapter, "integrated coal gasification powerplant" means a facility that satisfies all the following requirements:

- (1) The facility is located in Indiana and is a newly constructed energy generating plant.
- (2) The facility converts coal into synthesis gas that can be used as a fuel to generate energy or as a substitute for natural gas.
- (3) The facility uses the synthesis gas as a fuel to generate electric energy or produces synthesis gas that can be used as a substitute for natural gas.
- (4) The facility is dedicated primarily to production of electricity or gas:

(A) for use by energy utilities serving Indiana retail electric or gas utility consumers; **or**

(B) for sale to or use by the Indiana finance authority under IC 4-4-11.6.

SECTION 47. IC 6-3.1-29-19, AS AMENDED BY P.L.182-2009(ss), SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.



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- (3) The maximum tax credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (5) If the facility is an integrated coal gasification powerplant, a requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one hundred twenty-five percent (125%) of the average county wage in the county in which the integrated coal gasification powerplant is located.
- (6) For a project involving a qualified investment in an integrated coal gasification powerplant, a requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the integrated coal gasification powerplant into service.
- (7) A requirement that:
- (A) one hundred percent (100%) of the coal used:
 - (i) at the integrated coal gasification powerplant, for a project involving a qualified investment in an integrated coal gasification powerplant; or
 - (ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is dedicated primarily to serving Indiana retail electric utility consumers;

must be Indiana coal, unless the applicant wishes to assign the tax credit as allowed under section 20.5(c) of this chapter or elects to receive a refundable tax credit under section 20.7 of this chapter and the applicant certifies to the corporation that partial use of other coal **or other feedstock** is necessary to result in lower rates for Indiana retail utility customers; or
 - (B) seventy-five percent (75%) of the coal used as fuel in a fluidized bed combustion unit must be Indiana coal, in a project involving a qualified investment in a fluidized bed combustion technology, if the unit is not dedicated primarily to serving Indiana retail electric utility consumers.
- (8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require:
- (A) the construction of the taxpayer's integrated coal

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gasification powerplant, in the case of a project involving a qualified investment in an integrated coal gasification powerplant; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer."

Page 61, delete lines 19 through 42.

Delete page 62.

Page 63, delete lines 1 through 32.

Page 67, delete lines 33 through 42.

Page 68, delete lines 1 through 13.

Page 70, delete lines 13 through 18, begin a new paragraph and insert:

"SECTION 60. [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)] (a) **IC 6-1.1-12-26.1, as added by this act, applies to property taxes first due and payable after 2012. A deduction statement filed before September 1, 2012, under IC 6-1.1-12-27.1, as amended by this act, is considered timely filed for purposes of obtaining the deduction under IC 6-1.1-12-26.1, as added by this act, in 2012 for property taxes first due and payable in 2013.**

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

SECTION 61. [EFFECTIVE UPON PASSAGE] (a) **During the 2012 and 2013 legislative interims, the commission on state tax and financing policy (IC 2-5-3) shall study all income tax credits using a schedule that provides for approximately half the credits to be studied each year and for the credits to be studied in the order they were enacted. The commission shall prepare a report that covers each credit and that includes the following:**

- (1) **A review of the original scope and purpose of the credit and whether the scope or purpose has changed since the credit's enactment.**
- (2) **The economic parameters of the credit, including the credit percentage and credit limits, and whether these parameters have changed since the credit's enactment.**
- (3) **A description of the taxpayers that qualify for the credit**



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and how effective the credit has been in assisting these targeted taxpayers.

(4) The type of activities on which the credit is based and how effective the credit has been in promoting these targeted activities.

(5) The amount of the credits granted over time.

(6) A determination of the dollar amount of credits granted but not taken that can be carried forward.

(7) A summary of audit findings for each credit and whether there has been any misuse of the credit.

(8) Suggested changes in the law with regard to each credit, including whether the credit should be retained or not.

(9) Any other issues related to these income tax credits, as determined by the commission.

The commission on state tax and financing policy shall issue the report in two (2) parts, in an electronic format under IC 5-14-6, to the legislative council, not later than November 1, 2012, and November 1, 2013, respectively.

(b) This SECTION expires January 1, 2014.

SECTION 62. [EFFECTIVE JULY 1, 2012] (a) The general assembly urges the legislative council to assign to an interim or a statutory study committee during the 2012 legislative interim the topic of more clearly defining what is included in instructional spending by school corporations and what is included in noninstructional spending by school corporations for purposes of IC 20-42.5-3-5.

(b) If the topic described in subsection (a) is assigned to an interim or a statutory study committee under subsection (a), the study committee shall issue a final report, in an electronic format under IC 5-14-6, to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning the topic, not later than November 1, 2012.

(c) This SECTION expires December 31, 2012."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 344 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 3.

SB 344—LS 6911/DI 58+



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