

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:

- 1 Page 1, line 9, delete "\$ 7,500" and insert "**\$5,000**".
- 2 Page 1, line 10, delete "\$ 6,000" and insert "**\$4,000**".
- 3 Page 1, line 11, delete "\$ 6,000" and insert "**\$4,000**".
- 4 Page 1, line 13, delete "\$ 4,950" and insert "**\$3,300**".
- 5 Page 1, line 14, delete "\$4,800" and insert "**\$3,200**".
- 6 Page 1, line 15, delete "\$3,900" and insert "**\$2,600**".
- 7 Page 2, line 2, delete "\$3,750" and insert "**\$2,500**".
- 8 Page 2, line 3, delete "\$2,250" and insert "**\$1,500**".
- 9 Page 2, line 4, delete "\$3,000" and insert "**\$2,000**".
- 10 Page 2, line 6, delete "\$1,950" and insert "**\$1,300**".
- 11 Page 2, line 7, delete "\$3,000" and insert "**\$2,000**".
- 12 Page 2, line 9, delete "\$1,950" and insert "**\$1,300**".
- 13 Page 2, line 10, delete "\$2,400" and insert "**\$1,600**".
- 14 Page 2, line 12, delete "\$1,500" and insert "**\$1,000**".
- 15 Page 2, line 13, delete "\$2,400" and insert "**\$1,600**".
- 16 Page 2, line 14, delete "\$1,500" and insert "**\$1,000**".
- 17 Page 2, between lines 25 and 26, begin a new paragraph and insert:
- 18 "SECTION 3. IC 6-1.1-12-26.1 IS ADDED TO THE INDIANA
- 19 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
- 20 [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: **Sec. 26.1. (a)**

1 **This section applies only to a solar power device that is installed**
 2 **after December 31, 2011.**

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

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

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

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

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

23 **(1) the assessed value of the real property with the solar**
 24 **power device included; minus**

25 **(2) the assessed value of the real property without the solar**
 26 **power device.**

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

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

29 **(2) personal property;**

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

32 SECTION 4. IC 6-1.1-12-27.1, AS AMENDED BY P.L.113-2010,
 33 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 27.1. Except as provided
 35 in sections 36 and 44 of this chapter and subject to section 45 of this
 36 chapter, a person who desires to claim the deduction provided by
 37 section 26 **or 26.1** of this chapter must file a certified statement in
 38 duplicate, on forms prescribed by the department of local government

1 finance, with the auditor of the county in which the real property, or
 2 mobile home, **manufactured home, or solar power device** is subject
 3 to assessment. With respect to real property **or a solar power device**
 4 **that is assessed as distributable property under IC 6-1.1-8 or as**
 5 **personal property**, the person must file the statement during the year
 6 for which the person desires to obtain the deduction. Except as
 7 provided in sections 36 and 44 of this chapter and subject to section 45
 8 of this chapter, with respect to a mobile home which is not assessed as
 9 real property, the person must file the statement during the twelve (12)
 10 months before March 31 of each year for which the person desires to
 11 obtain the deduction. The person must:

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

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

16 **(3) be leasing the real property from the real property owner**
 17 **and be subject to assessment and property taxation with**
 18 **respect to the solar power device;**

19 on the date the statement is filed under this section. The statement may
 20 be filed in person or by mail. If mailed, the mailing must be postmarked
 21 on or before the last day for filing. On verification of the statement by
 22 the assessor of the township in which the real property, **or** mobile
 23 home, **manufactured home, or solar power device** is subject to
 24 assessment, or the county assessor if there is no township assessor for
 25 the township, the county auditor shall allow the deduction."

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

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

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

1 property used in commercial printing.

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

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

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

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

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

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

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

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

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

23 (C) **will be sold by that owner either in the same form or as**
24 **a part of other tangible personal property produced by**
25 **that owner in the owner's business of manufacturing,**
26 **assembling, constructing, refining, or processing."**

27 Page 5, delete lines 18 through 42.

28 Delete page 6.

29 Page 7, delete lines 1 through 11.

30 Page 34, delete lines 8 through 42.

31 Delete pages 35 through 43.

32 Page 44, delete lines 1 through 19.

33 Page 45, line 10, delete "JULY 1, 2012]:" and insert "JANUARY 1,
34 2013]:".

35 Page 53, delete line 42.

36 Delete pages 54 through 57.

37 Page 58, delete lines 1 through 4.

38 Page 58, delete lines 26 through 35.

1 Page 59, delete lines 5 through 42.

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

4 "SECTION 46. 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 47. 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

1 tax credit is available, that equals at least one hundred twenty-five
2 percent (125%) of the average county wage in the county in which
3 the integrated coal gasification powerplant is located.

4 (6) For a project involving a qualified investment in an integrated
5 coal gasification powerplant, a requirement that the taxpayer will
6 maintain at the location where the qualified investment is made,
7 during the term of the tax credit, a total payroll that is at least
8 equal to the payroll that existed on the date that the taxpayer
9 placed the integrated coal gasification powerplant into service.

10 (7) A requirement that:

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

12 (i) at the integrated coal gasification powerplant, for a
13 project involving a qualified investment in an integrated
14 coal gasification powerplant; or

15 (ii) as fuel in a fluidized bed combustion unit, in a project
16 involving a qualified investment in a fluidized bed
17 combustion technology, if the unit is dedicated primarily to
18 serving Indiana retail electric utility consumers;

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

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

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

33 (A) the construction of the taxpayer's integrated coal
34 gasification powerplant, in the case of a project involving a
35 qualified investment in an integrated coal gasification
36 powerplant; or

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

1 in a fluidized bed combustion technology.
 2 (b) A taxpayer must comply with the terms of the agreement
 3 described in subsection (a) to receive an annual installment of the tax
 4 credit awarded under this chapter. The corporation shall annually
 5 determine whether the taxpayer is in compliance with the agreement.
 6 If the corporation determines that the taxpayer is in compliance, the
 7 corporation shall issue a certificate of compliance to the taxpayer."

8 Page 61, delete lines 19 through 42.

9 Delete page 62.

10 Page 63, delete lines 1 through 32.

11 Page 67, delete lines 33 through 42.

12 Page 68, delete lines 1 through 13.

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

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

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

24 SECTION 61. [EFFECTIVE UPON PASSAGE] (a) **During the
 25 2012 and 2013 legislative interims, the commission on state tax and
 26 financing policy (IC 2-5-3) shall study all income tax credits using
 27 a schedule that provides for approximately half the credits to be
 28 studied each year and for the credits to be studied in the order they
 29 were enacted. The commission shall prepare a report that covers
 30 each credit and that includes the following:**

31 (1) **A review of the original scope and purpose of the credit
 32 and whether the scope or purpose has changed since the
 33 credit's enactment.**

34 (2) **The economic parameters of the credit, including the
 35 credit percentage and credit limits, and whether these
 36 parameters have changed since the credit's enactment.**

37 (3) **A description of the taxpayers that qualify for the credit
 38 and how effective the credit has been in assisting these**

- 1 **targeted taxpayers.**
- 2 **(4) The type of activities on which the credit is based and how**
- 3 **effective the credit has been in promoting these targeted**
- 4 **activities.**
- 5 **(5) The amount of the credits granted over time.**
- 6 **(6) A determination of the dollar amount of credits granted**
- 7 **but not taken that can be carried forward.**
- 8 **(7) A summary of audit findings for each credit and whether**
- 9 **there has been any misuse of the credit.**
- 10 **(8) Suggested changes in the law with regard to each credit,**
- 11 **including whether the credit should be retained or not.**
- 12 **(9) Any other issues related to these income tax credits, as**
- 13 **determined by the commission.**

14 **The commission on state tax and financing policy shall issue the**

15 **report in two (2) parts, in an electronic format under IC 5-14-6, to**

16 **the legislative council, not later than November 1, 2012, and**

17 **November 1, 2013, respectively.**

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

19 SECTION 62. [EFFECTIVE JULY 1, 2012] **(a) The general**

20 **assembly urges the legislative council to assign to an interim or a**

21 **statutory study committee during the 2012 legislative interim the**

22 **topic of more clearly defining what is included in instructional**

23 **spending by school corporations and what is included in**

24 **noninstructional spending by school corporations for purposes of**

25 **IC 20-42.5-3-5.**

26 **(b) If the topic described in subsection (a) is assigned to an**

27 **interim or a statutory study committee under subsection (a), the**

28 **study committee shall issue a final report, in an electronic format**

29 **under IC 5-14-6, to the legislative council containing the study**

30 **committee's findings and recommendations, including any**

31 **recommended legislation concerning the topic, not later than**

- 1 **November 1, 2012.**
- 2 **(c) This SECTION expires December 31, 2012."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 344 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 3.

Hershman

Chairperson