

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 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1544

AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.1-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-11.6, IC 4-4-21, IC 4-13.5, IC 5-1-16, IC 5-1-16.5, **IC 5-1-17.5**, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, and IC 14-14.

SECTION 2. IC 4-4-11-2, AS AMENDED BY P.L.235-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The legislature makes the following findings of fact:

- (1) That there currently exists in certain areas of the state critical conditions of unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.
- (2) That in some areas of the state such conditions are chronic and



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of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, inadequate drinking water, inadequate wastewater and storm water management, or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

- (A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;
- (B) the promotion and stimulation of international exports; and
- (C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose the provision of safe drinking water, the provision of wastewater and storm water management, the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, insurance companies, other financial institutions, and individuals into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in

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the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects and carrying out the purposes of IC 13-18-13 and IC 13-18-21 promoting a substantial likelihood of opportunities for:

- (A) gainful employment;
- (B) business opportunities;
- (C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);
- (D) the abatement, reduction, or prevention of pollution;
- (E) the provision of safe drinking water;
- (F) the provision of wastewater and storm water management;
- (G) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

(H) increased options for and availability of child care; will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana finance authority shall exist and operate for the public purposes of:

- (1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the

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state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the promotion and development of industrial development projects; and

(B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21; ~~and~~

(7) promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities; ~~and~~

(8) carrying out the purposes of IC 5-1-17.5 concerning a motorsports investment district.

SECTION 3. IC 4-4-11-15.6, AS AMENDED BY P.L. 182-2009(ss), SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17;

(2) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1; ~~and~~

(3) after December 31, 2009, issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by either the

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commuter rail service board established under IC 8-24-5 or the regional demand and scheduled bus service board established under IC 8-24-6;

(4) enter into leases and issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to carry out the purposes of IC 5-1-17.5 within a motorsports investment district; and

(5) perform any other functions determined by the authority to be necessary or appropriate to carry out the purposes of IC 5-1-17.5 within a motorsports investment district.

SECTION 4. IC 4-10-23 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 23. Motorsports Investment District Credits

Sec. 1. This chapter applies to a motorsports investment district established under IC 5-1-17.5.

Sec. 2. As used in this chapter, "commission" refers to the Indiana motorsports commission created under IC 5-1-17.5.

Sec. 3. As used in this chapter, "credit" refers to a credit provided to the owner or owners of the qualified motorsports facility for the preceding state fiscal year under section 12 of this chapter.

Sec. 4. As used in this chapter, "district" refers to a motorsports investment district established under IC 5-1-17.5.

Sec. 5. As used in this chapter, "gross retail base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by a taxpayer with respect to its operations in a district during the full state fiscal year that precedes the date on which the commission adopts a resolution designating the district.

Sec. 6. As used in this chapter, "gross retail incremental amount" means the remainder of:

- (1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by a taxpayer with respect to its operations in a district during a state fiscal year; minus**
- (2) the gross retail base period amount.**

Sec. 7. As used in this chapter, "income tax base period amount" means the aggregate amount of state adjusted gross income taxes paid by or on behalf of a taxpayer with respect to income earned or attributable to the taxpayer's activities in the district for the state fiscal year that precedes the date on which the commission adopts a resolution designating the district.

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Sec. 8. As used in this chapter, "income tax incremental amount" means the remainder of:

- (1) the aggregate amount of state adjusted gross income taxes paid with respect to income earned or attributable to the taxpayer's activities in the district; minus
- (2) the income tax base period amount.

Sec. 9. As used in this chapter, "qualified motorsports facility" has the meaning set forth in IC 5-1-17.5-14.

Sec. 10. (a) Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for the district.

(b) Businesses operating in the district shall report, in the manner and in the form prescribed by the department of state revenue, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

(c) It is the intent of this section to identify all sales, use, and income taxes of all taxpayers that are apportionable to the taxpayer's activities in the district. This section shall be broadly construed by the department of state revenue in order to achieve the purposes of IC 5-1-17.5.

Sec. 11. Before the first business day in November of each year, the department of state revenue shall determine the sum of the following amounts for the preceding state fiscal year for the district:

- (1) The income tax incremental amount.
- (2) The gross retail incremental amount.
- (3) The amount of admissions fees deposited in the state general fund under IC 6-8-14.

Sec. 12. The department of state revenue shall notify the Indiana finance authority, the commission, the budget agency, and the owner or owners of a qualified motorsports facility of the amount determined under section 11 of this chapter, which amount shall be credited to the obligations of the owner or owners of a qualified motorsports facility in accordance with the provisions of IC 5-1-17.5.

SECTION 5. IC 5-1-17.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17.5. Motorsports Investment District

Sec. 1. The general assembly finds the following:

- (1) Marion County and certain surrounding counties and

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municipalities located in those counties face unique and distinct challenges and opportunities related to the economic development issues associated with the maintenance of a world-class motorsports facility in the town of Speedway.

(2) A unique approach is required to ensure that such a motorsports facility can be maintained to allow these counties and municipalities to meet these challenges and opportunities.

(3) The powers and responsibilities provided to the Indiana motorsports commission created by this chapter and the Indiana finance authority are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and maintaining a world-class motorsports facility in the town of Speedway.

(4) Encouragement of economic development in central Indiana will:

(A) generate significant economic activity, a substantial part of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in central Indiana;

(B) promote central Indiana to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to central Indiana;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in central Indiana and in Indiana.

(5) Marion County faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax-exempt properties located in Marion County, because Indianapolis is the seat of state government and Marion County government, and because Marion County is home to multiple institutions of higher education and the site of numerous state and regional nonprofit corporations.

(6) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

Sec. 2. As used in this chapter, "admissions fees" means the admissions fees under IC 6-8-14.

Sec. 3. As used in this chapter, "affected statutes" has the meaning set forth in IC 4-4-10.9-1.2.



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Sec. 4. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 5. As used in this chapter, "board" refers to the board of directors of the commission.

Sec. 6. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

Sec. 7. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1-3.

Sec. 8. As used in this chapter, "budget committee" means the budget committee established by IC 4-12-1-3.

Sec. 9. As used in this chapter, "commission" refers to the Indiana motorsports commission created by this chapter.

Sec. 10. As used in this chapter, "department" refers to the department of state revenue.

Sec. 11. As used in this chapter, "motorsports investment district" means the geographic area established as a motorsports investment district under this chapter.

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

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

Sec. 14. (a) As used in this chapter, "qualified motorsports facility" means a facility that:

- (1) is located in Indiana;
- (2) is used for professional motorsports racing events;
- (3) has a motorsports racetrack that is greater than two (2) miles in length; and
- (4) holds at least two (2) professional motorsports racing events annually at which the combined admissions total at least two hundred thousand (200,000).

(b) For purposes of this section, a professional motorsports racing event includes a professional motorsports racing practice session that is open to the general public.

Sec. 15. The Indiana motorsports commission is created in Indiana as a separate body corporate and politic, as an instrumentality of the state, to finance and lease real and personal property improvements for the benefit of an owner of a qualified motorsports facility within a motorsports investment district.

Sec. 16. (a) The board of directors of the commission is composed of the following five (5) directors, who serve at the pleasure of the governor and must be residents of Indiana:

- (1) The budget director, or the budget director's designee,

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who shall serve as chair of the commission.

(2) Four (4) directors appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a director under this subdivision.

(b) The commission shall be governed by the board. The directors may not be elected public officials of the state or any political subdivision. Except for the budget director, the directors first appointed continue in office for terms expiring on July 1, 2014, July 1, 2015, July 1, 2016, and July 1, 2017, and until their respective successors are duly appointed and qualified.

(c) Except for the budget director, the term of any director first appointed must be designated by the governor. If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new director. The successor of each such director is appointed for a term of four (4) years, except that any person appointed to fill a vacancy is appointed to serve only for the unexpired term and until a successor is duly appointed and qualified. A director is eligible for reappointment.

(d) The directors shall hold an initial organizational meeting within thirty (30) days after the board's appointment and after public notice given by the budget director in accordance with IC 5-3-1-4. As soon as practicable after January 15 of each year, the board shall hold its annual organizational meeting. The board shall elect one (1) of the directors as vice-chair and another director as secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. Special meetings may be called by the chair or any two (2) directors of the board.

(e) Three (3) directors constitute a quorum of the commission, and the affirmative vote of at least three (3) directors is necessary for any official action taken by the board. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

(f) Except for the budget director, the directors are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Directors are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.

(g) All expenses incurred in carrying out the provisions of this

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chapter shall be payable solely from funds provided under this chapter or from the proceeds of bonds issued by the authority under this chapter, and no liability or obligation shall be incurred by the commission or the authority under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

(h) The board:

- (1) is responsible for implementing the powers and duties of the commission under this chapter;
- (2) may adopt bylaws for the regulation of the affairs of the board, the conduct of the business of the commission, and the safeguarding of the funds and property entrusted to the commission; and
- (3) shall, without complying with IC 4-22-2, adopt the code of ethics specified in executive order 05-12 for its members and employees.

Sec. 17. The commission is authorized and empowered to do the following:

- (1) To sue and be sued, and to plead and be impleaded in the name of the commission.
- (2) To receive and accept from any federal agency grants and to receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.
- (3) To hold, use, administer, and expend such sum or sums as may at any time be appropriated or transferred to the commission.
- (4) To purchase, acquire, or hold debt securities or other investments for the commission's own account at prices and in a manner the commission considers advisable, and to sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the commission considers advisable.
- (5) To lease real or personal property as lessor or lessee from or to the authority or any person under this chapter.
- (6) To do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 18. The authority shall provide staff support for the commission and pay all expenses of the commission from funds transferred to the commission from the motorsports investment district fund established under section 30 of this chapter. In



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providing such staff, the authority may employ, without the approval of the attorney general or any other state officer, any accounting and technical experts, attorneys, and other officers, employees, and agents, permanent or temporary, as may be necessary in the authority's judgment to carry out the efficient operation of the commission, including professionals who can prepare a report on the matters to be considered in making the findings of the board set forth in section 24 of this chapter, and the commission may fix their compensation and title. Employees of the authority employed under this section shall not be considered employees of the state.

Sec. 19. (a) Except as provided in subsection (b), each director of the board shall execute a surety bond in the penal sum of fifty thousand dollars (\$50,000). To the extent an individual described in this section is already covered by a bond required by state law, the individual is not required to obtain another bond, so long as the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the commission.

(b) Instead of a bond, the chair may execute a blanket surety bond covering each director.

(c) Each surety bond must be conditioned upon the faithful performance of the individual's duties and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each individual described in this section shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the commission.

Sec. 20. The directors of the board are not subject to personal liability or accountability by reason of any act authorized by this chapter with respect to the:

- (1)** issuance of any obligations;
- (2)** execution of any lease or sublease; or
- (3)** execution of any other agreement under this chapter.

Sec. 21. The commission shall cause an audit or review of its books and accounts to be made at least once each year by certified public accountants.

Sec. 22. The commission shall, following the close of each fiscal year of the commission, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the legislative council. An annual report submitted under this section to the legislative council must be in an electronic format under

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IC 5-14-6. Each report must set forth a complete operating and financial statement for the commission during the fiscal year the report covers.

Sec. 23. (a) A director of the commission who knowingly has an interest:

- (1) in any contract with the commission; or
- (2) in the sale or lease of any real or personal property to the commission;

commits a Class A misdemeanor. All such contracts or leases are void.

(b) This section does not apply to contracts for purchases of property, real or personal, between the commission and:

- (1) the authority;
- (2) any political subdivision; or
- (3) any department or agency of the state.

Sec. 24. (a) The commission may, after a public hearing, adopt a resolution establishing a motorsports investment district. Notice of the public hearing must be provided in accordance with IC 5-3-1.

(b) In establishing the motorsports investment district, the commission must make the following findings:

- (1) There are improvements that will be undertaken in the motorsports investment district that will have a positive effect on the activities of a qualified motorsports facility.
- (2) The improvements that will be undertaken in the motorsports investment district will benefit the public health and welfare and will be of public utility and benefit.
- (3) The improvements that will be undertaken in the motorsports investment district will protect or increase state and local tax bases and tax revenues.

(c) A motorsports investment district consists of:

- (1) the geographic area that is included within the qualified motorsports facility;
- (2) adjacent property that is:
 - (A) related to the operation of the qualified motorsports facility; and
 - (B) owned by the owner of the qualified motorsports facility or a subsidiary or affiliate of the qualified motorsports facility;
- (3) property on which activities related to the qualified motorsports facility occur; and
- (4) other public property specified by the commission;

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as determined in the resolution adopted by the commission.

Sec. 25. A resolution establishing a motorsports investment district must provide for the allocation to the motorsports investment district fund established under section 30 of this chapter of the money appropriated to the commission. The resolution must state an expiration date for the motorsports investment district, which must be the later of:

- (1) the date that is thirty (30) years after the date of the adoption of the resolution; or
- (2) the date on which the owner or owners of a qualified motorsports facility no longer have a financial liability to the commission.

Subject to section 24(c) of this chapter, the commission shall specify in the resolution the geographic area that is included within the motorsports investment district.

Sec. 26. (a) A taxpayer operating in the motorsports investment district that files a consolidated return with the department also shall file annually an informational return with the department for each business location of the taxpayer within the motorsports investment district.

(b) If the department is unable to determine the extent to which taxes remitted by a taxpayer are gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23, the department shall use the best information available in calculating those incremental amounts.

(c) The department shall adopt guidelines to govern its responsibilities under this chapter.

Sec. 27. Upon adoption by the commission of a resolution establishing a motorsports investment district under this chapter, the commission shall submit the resolution to the budget agency.

Sec. 28. The budget agency, after review by the budget committee, shall approve the resolution establishing the motorsports investment district if the budget agency finds that the improvements to be made within the qualified motorsports facility are economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the motorsports investment district.

Sec. 29. (a) If the commission adopts a resolution establishing a motorsports investment district, the commission shall notify the department in an electronic format approved by the department of the adoption of the resolution and shall include with the notification a complete list of the following:

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(1) Employers and vendors with a responsibility to remit taxes in the motorsports investment district.

(2) Street names and the range of street numbers of each street in the motorsports investment district.

(b) The commission shall update the list prepared under subsection (a) before July 1 of each year.

(c) At the request of the department, the commission, the owner or owners of a motorsports facility located in the district, and any political subdivision in which all or a part of the district is located shall disclose to the department the names of the employers described in subsection (a) and such other information that may assist in the determination of the gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23.

(d) At the request of the department, a political subdivision in which the qualified motorsports facility is located shall provide to the department information requested by the department concerning permits issued by the political subdivision to vendors operating within the motorsports investment district.

Sec. 30. (a) If a motorsports investment district is established under this chapter, the commission shall establish a motorsports investment district fund for the motorsports investment district. The fund shall be administered by the commission. Except as provided in subsection (f), money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The commission shall deposit amounts appropriated to the commission in the motorsports investment district fund as provided in this chapter.

(c) The commission shall request that the general assembly make an appropriation not to exceed five million dollars (\$5,000,000) to the commission for deposit in the motorsports investment district fund in each state fiscal year following the creation of the motor sports investment district fund, until the earlier of:

(1) the date that is twenty-two (22) years after the date on which appropriations are first deposited in the motorsports investment district fund; or

(2) the date on which all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

The commission may use money in the motorsports investment district fund for the purposes of this chapter.

(d) Amounts held in the motorsports investment district fund may be distributed to a trustee of any bonds that are issued or to

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be issued by the authority under section 37 of this chapter and that are secured by rent to be paid by the commission under a lease entered into with the authority under section 32 of this chapter.

(e) Money in the motorsports investment district fund may be used by the commission or a trustee for the following:

(1) Payment of the rent due under leases of structures or other capital improvements that are located within a motorsports investment district.

(2) Payment of all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter, including those incurred in connection with the establishment of the motorsports investment district.

(f) On the date that all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining on deposit in the motorsports investment district fund reverts to the state general fund.

Sec. 31. The authority may do any of the following:

(1) Finance the improvement, construction, reconstruction, renovation, and acquisition of real and personal property improvements within a qualified motorsports facility.

(2) Exercise the authority's powers under IC 4-4-11 within a qualified motorsports facility.

Sec. 32. (a) The commission may lease all or any part of structures and capital improvements located within a qualified motorsports facility from the authority, and the authority may lease all or any part of structures and capital improvements located within a qualified motorsports facility to the commission. Any property subject to such a lease is not exempt from taxation under the laws of the state solely by reason of it being subject to such a lease. In a lease from the authority to the commission, the commission may pledge:

(1) amounts appropriated to the commission and deposited in the motorsports investment district fund;

(2) any other rental payments, receipts, and income from the leased structures and capital improvements; or

(3) any other money legally available to the commission for the payment of rent under such a lease.

(b) The amount of any such rent may include the amount

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necessary to pay the principal of, redemption premium, and interest on any bonds issued by the authority under section 37 of this chapter, when due, the amount of any necessary reserves, and the amount of any expenses incurred by the authority or the commission in connection with the exercise of its duties and obligations set forth in this chapter.

(c) A lease from the authority to the commission under subsection (a):

(1) must set forth the terms and conditions of the use and occupancy, if applicable, under the lease;

(2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy, if applicable, under the lease;

(3) must provide that the commission is not obligated to continue to pay for the use and occupancy, if applicable, under the lease, but is instead required to vacate the equipment, structures, and capital improvements subject to the lease, if it is shown that the terms and conditions of such use and occupancy and the amount to be paid for such use and occupancy are unjust and unreasonable considering the value of the services, equipment, structures, and capital improvements thereby afforded;

(4) must provide that the commission is required to vacate such equipment, structures, and capital improvements if funds are not available to pay any sum agreed to be paid for such use and occupancy when due; and

(5) may contain any other provisions agreed upon by the authority and the commission.

(d) If the commission enters into such a lease with the authority, it may sublease the structures and capital improvements subject to the lease to the owner or owners of the qualified motorsports facility.

(e) The commission may, in anticipation of the acquisition, construction, reconstruction, renovation, or equipping of any such structures or capital improvements, including any equipment or necessary appurtenances, enter into a lease with the authority before any such construction, reconstruction, renovation, or equipping. Such a lease must require the payment of lease rental by the commission to begin when the equipment, structures, or improvements have been acquired or completed and are ready for use and occupancy, if applicable, but not before that time.

(f) If necessary to enter into a lease under subsection (a):

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(1) the commission may lease structures and capital improvements located within a motorsports investment district from the owner or owners of the qualified motorsports facility and sublease all or any part of such structures and capital improvements to the authority for a nominal rent; and

(2) the authority may lease all or any part of such structures and capital improvements from the commission for a nominal rent.

Sec. 33. A lease from the authority to the commission under section 32 of this chapter may provide the commission with an option to renew the lease for the same term or a shorter term, on the conditions provided in the lease.

Sec. 34. (a) A lease from the authority to the commission under section 32 of this chapter shall give the commission an option to purchase the leased property before the expiration of the term of the lease:

(1) on the date or dates in each year that are fixed by the lease; and

(2) at a price to be computed by a method set forth in the lease.

However, such a lease may not provide, or be construed to provide, that the commission is under an obligation to purchase the leased structures or improvements or is under an obligation respecting any creditors or bondholders of the authority.

(b) If the commission does not exercise the option to purchase the property, then upon the expiration of the lease and upon full performance by the commission, the property becomes the absolute property of the commission or the authority's leasehold interest in such property terminates, as applicable. The authority shall take the steps necessary to convey title or such leasehold interest to the commission.

(c) If the commission purchases the leased property as provided in subsection (a) or in the event described in subsection (b), the commission may convey, with or without consideration, its ownership or leasehold interest, as applicable, in such property to the owner or owners of the qualified motorsports facility. However, the commission shall not convey its ownership or leasehold interest in any such property to the owner or owners of the qualified motorsports facility until:

(1) the date on which the aggregate amount of credits provided to the owner or owners of the qualified motorsports

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facility under IC 4-10-23 equals or exceeds the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent; and

(2) all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

Sec. 35. Each lease under section 32 of this chapter must be authorized by resolution of the board, which shall be entered in the official records of the commission. Such a lease must be executed on behalf of the commission by the chair or the vice-chair and the secretary-treasurer of the commission, and on behalf of the authority by the chairman or the vice chairman of the authority and the public finance director.

Sec. 36. (a) Improvements financed under this chapter must be approved by the commission. The commission shall secure the obligations of the owner or owners of the qualified motorsports facility to the commission under a lease or sublease under this chapter with liens or security interests, which may include:

- (1) perfected security interests in personal property;
- (2) a mortgage lien on the real property; or
- (3) such other security determined to be appropriate by the commission and the authority.

(b) On the date that the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of the appropriations made to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, and all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding, the commission shall take the legal steps required to terminate each of its security interests in and mortgage liens on the improvements described in subsection (a).

(c) If a controlling ownership interest in a qualified motorsports facility is sold after the authority issues bonds under this chapter, the commission shall determine whether there exists good cause not to allow the purchaser to assume the motorsports facility's obligations under this chapter. If the commission determines that

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no such good cause exists, the commission shall be deemed to have accepted the purchaser's assumption of the motorsports facility's obligations under this chapter, and the purchaser shall be deemed to have assumed and become obligated to fully perform those obligations. If the commission determines that there exists good cause not to approve the purchaser's assumption of the motorsports facility's obligations under this chapter, the commission shall be deemed to have disapproved such assumption and the commission may require that the owner or owners of the qualified motorsports facility shall pay or cause to be paid to the commission an amount to be deposited in the motorsports investment district fund sufficient to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all expenses of the commission and the authority incurred in connection with such defeasance. For purposes of this section, the following shall not be deemed to be the sale of a controlling ownership interest:

(1) Transfers among the qualified motorsports facility and its subsidiaries and affiliates existing at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter.

(2) Transfers among the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter).

(3) Transfers between the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter) and trusts, family limited partnerships, and other entities for estate planning purposes.

(d) Money deposited in the motorsports investment district fund may be used to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all other expenses of the commission and the authority incurred in connection with such defeasance.

(e) If, after the date payments are received by the commission from the owner or owners of the qualified motorsports facility under subsection (c), all bonds issued by the authority under

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section 37 of this chapter are no longer deemed outstanding, and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining in the motorsports investment district fund reverts to the state general fund.

Sec. 37. (a) Subject to subsection (f), the authority may issue bonds for the purpose of obtaining money to pay the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility.

(b) The terms and form of the bonds must be set out either in the resolution or in a form of trust indenture approved by the resolution.

(c) The bonds must mature within twenty (20) years.

(d) The authority shall sell the bonds at public or private sale upon the terms determined by the authority.

(e) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility, or payment of the cost of refunding or refinancing outstanding bonds for which the bonds are issued. The cost may include:

- (1)** planning and development of the improvement and all buildings, facilities, structures, and improvements related to the improvement;
- (2)** acquisition of a site and clearing and preparing the site for construction;
- (3)** equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
- (4)** architectural, engineering, consultant, and attorney's fees;
- (5)** incidental expenses in connection with the issuance and sale of bonds;
- (6)** reserves for principal and interest;
- (7)** interest during construction;
- (8)** financial advisory fees;
- (9)** insurance during construction;
- (10)** bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11)** in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

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- (f) The authority may not issue bonds under this chapter unless:**
- (1) the owner or owners of the qualified motorsports facility, the authority, and the commission have entered into a written agreement concerning the terms of the financing of the improvements financed under this chapter, including the obligation of the owner or owners of the qualified motorsports facility to make payments in an amount equal to at least two million dollars (\$2,000,000) in each state fiscal year to the commission for deposit in the motorsports investment fund during the term of the agreement;**
 - (2) in connection with the issuance of such bonds, the authority has leased the equipment, structures, and capital improvements being financed with the proceeds of the bonds to the commission under a lease under section 32 of this chapter, and the commission has entered into a sublease of such equipment, structures, and capital improvements with the owner or owners of the qualified motorsports facility. Such a sublease must include the terms described in sections 34(c) and 36(c) of this chapter; and**
 - (3) as part of the written agreement concerning the terms of the financing of the improvements, the ultimate parent company of the qualified motorsports facility:**
 - (A) guarantees the full and timely performance of all of the duties, responsibilities, and obligations of the qualified motorsports facility and the owner or owners of the qualified motorsports facility; and**
 - (B) guarantees that if the aggregate amount credited to the owner or owners of the qualified motorsports facility under IC 4-10-23-12 from income tax incremental amounts, gross retail incremental amounts, and admissions fees deposited in the state general fund under IC 6-8-14 during the thirty (30) years after the date of the adoption of the resolution establishing the motorsports improvement district is less than the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, then the ultimate parent company will pay the difference to the commission.**
- (g) Each bond issued under this chapter must contain on its face**

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a statement that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond.

(h) In connection with the issuance of each series of bonds under this section, the authority (or its successor agency) and the public finance director shall be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

Sec. 38. (a) This chapter contains full and complete authority for the issuance of bonds, the improvement, construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of structures and capital improvements located within a motorsports investment district by the commission and the authority, and the leasing of such structures and capital improvements by the commission or the authority. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the commission, the authority, or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds under this chapter, to improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip structures and capital improvements located within a motorsports investment district, or to enter into any lease, except as prescribed in this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 39. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign money appropriated to the commission and to be paid as rent by the commission to the authority, but may not mortgage land or capital improvements;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority;

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(3) set forth the rights and remedies of bondholders and the trustee; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether or not they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the authority.

Sec. 40. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

Sec. 41. Improvements financed under this chapter are subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. The goal for participation by minority business enterprises shall be fifteen percent (15%), the goal for participation by women's business enterprises shall be eight percent (8%), and the goal for participation by veteran or disabled business enterprises shall be three percent (3%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals, historical precedents in the same market shall be taken into account.

Sec. 42. The department shall develop guidelines and instructions concerning the appropriate amount of adjusted gross income tax to be withheld from purse money and prizes won for racing in the motorsports investment district.

Sec. 43. The office of management and budget shall in 2023 do the following:

(1) Conduct a review of:

(A) the structures and improvement that have been financed and constructed under this chapter;

(B) the amount of:

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- (i) the gross retail incremental amounts and income tax incremental amounts remitted for purposes of IC 4-10-23; and
 - (ii) the motorsports admissions fees that have been remitted under IC 6-8-14;
 - (C) the amount and terms of outstanding debt issued by the authority under this chapter; and
 - (D) the status, economic impact, and viability of the qualified motorsports facility.
- (2) Before November 1, 2023, submit a copy of the review conducted under subdivision (1) to the budget committee and to the legislative council in an electronic format under IC 5-14-6.

SECTION 6. IC 5-28-36 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 36. Motorsports Improvement Program and Fund

Sec. 1. (a) As used in this chapter, "motorsports enterprise" means:

- (1) any race track, drag strip, or road course that is opened to the public for conducting the lawful racing of cars, trucks, motorcycles, or all terrain vehicles;
- (2) a person engaged in the business of repairing, fabricating, manufacturing, or distributing vehicles, parts, equipment, or other items used in motorsports; or
- (3) a person engaged in motorsports racing as an owner or driver.

(b) However, the term does not include:

- (1) a qualified motorsports facility (as defined in IC 5-1-17.5-14);
- (2) a facility constructed to host the home games of a professional football or basketball team;
- (3) a facility other than a facility described in subdivision (2) that is temporarily adapted for conducting a racing event;
- (4) the state fairgrounds; or
- (5) a county fairgrounds.

Sec. 2. As used in this chapter, "person" means any individual or entity.

Sec. 3. (a) The motorsports improvement fund is established within the state treasury. The fund is a revolving fund to provide low-interest loans for enhancing the development of the motorsports industry in Indiana.



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(b) The fund consists of amounts appropriated by the general assembly.

(c) The corporation shall administer the fund. In addition to loans, the following may be paid from money in the fund:

- (1) Expenses of administering the fund.
- (2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

Sec. 4. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(b) The treasurer of state shall also:

- (1) receive cash receipts belonging to the fund, deposit these amounts in the fund, and submit a monthly report to the corporation of these transactions; and
- (2) make payments on vouchers authorized by the corporation.

Sec. 5. (a) A person owning a motorsports enterprise may apply to the corporation for a low-interest loan from the fund to be used for improving the motorsports enterprise owned by the person.

(b) An amount loaned to a person is an obligation of the person and shall be repaid to the corporation within a time to be fixed by the corporation.

(c) The corporation shall determine interest rates for the low-interest loans to be made under this section.

(d) If a person fails to make repayment of money loaned under this section, the amount payable may be recovered in an action by the state on relation of the corporation, prosecuted by the attorney general, in the circuit or superior court of the county in which the person's motorsports enterprise is located.

(e) The corporation shall determine the following:

- (1) The application process to be used in applying for a low-interest loan from the fund.
- (2) The criteria to be used in making low-interest loans from the fund.
- (3) The terms and conditions of any low-interest loan made from the fund.

Sec. 6. This chapter expires June 30, 2017.

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SECTION 7. IC 6-3-2-2, AS AMENDED BY P.L.172-2011, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property to the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana.

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the

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state of Indiana and from sources without the state of Indiana, the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by the following:

(1) For all taxable years that begin after December 31, 2006, and before January 1, 2008, a fraction. The:

(A) numerator of the fraction is the sum of the property factor plus the payroll factor plus the product of the sales factor multiplied by three (3); and

(B) denominator of the fraction is five (5).

(2) For all taxable years that begin after December 31, 2007, and before January 1, 2009, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by four and sixty-seven hundredths (4.67); and

(B) denominator of the fraction is six and sixty-seven hundredths (6.67).

(3) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(4) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer

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less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

- (1) the individual's service is performed entirely within the state;
- (2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or
- (3) some of the service is performed in this state and:
 - (A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or
 - (B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

- (1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or
- (2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:
 - (A) the purchaser is the United States government; or

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(B) the taxpayer is not taxable in the state of the purchaser. Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than receipts from intangible property covered by subsection (e) and sales of tangible personal property, are in this state if:

- (1) the income-producing activity is performed in this state; or
- (2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

- (i) if and to the extent that the property is utilized in this state; or
- (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

- (i) the property had a situs in this state at the time of the sale; or
- (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

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(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and

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among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

- (1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or
- (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

- (1) a foreign corporation; or
- (2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

- (1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance



upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

(s) This subsection applies to receipts derived from motorsports racing.

(1) Any purse, prize money, or other amounts earned for placement or participation in a race or portion thereof, including qualification, shall be attributed to Indiana if the race is conducted in Indiana.

(2) Any amounts received from an individual or entity as a result of sponsorship or similar promotional consideration for one (1) or more races shall be in this state in the amount received, multiplied by the following fraction:

(A) The numerator of the fraction is the number of racing events for which sponsorship or similar promotional consideration has been paid in a taxable year and that occur in Indiana.

(B) The denominator of the fraction is the total number of racing events for which sponsorship or similar promotional consideration has been paid in a taxable year.

(3) Any amounts earned as an incentive for placement or participation in one (1) or more races and that are not covered under subdivisions (1) or (2) or under IC 6-3-2-3.2 shall be attributed to Indiana in the proportion of the races that occurred in Indiana.

This subsection, as enacted in 2013, is intended to be a clarification of the law and not a substantive change in the law.

SECTION 8. IC 6-3-2-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3.2. (a) The following definitions apply to this section:

(1) "Bonus for services rendered as a race team member" includes:

(A) a bonus earned as a result of participation in a racing event, such as a performance bonus or any other bonus; and

(B) a bonus paid for signing a contract, unless all of the following conditions are met:

(i) The payment of the signing bonus is not conditional

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upon the signee participating in a racing event for the team or performing any subsequent services for the team.

(ii) The signing bonus is payable separately from the salary and any other compensation.

(iii) The signing bonus is nonrefundable.

(2) "Indiana duty days" means the number of total duty days spent by a race team member within Indiana rendering a service for the race team in any manner during the taxable year, except travel days spent in Indiana that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar race team event.

(3) "Race team" includes a professional motorsports racing team that has services rendered by a race team member in Indiana or participated in a racing event at a qualified motorsports facility (as defined in IC 5-1-17.5-14).

(4) "Race team member" includes employees or independent contractors who render services on behalf of the race team. The term includes but is not limited to drivers, pit crew members, mechanics, technicians, spotters, and crew chiefs.

(5) "Total duty days" means all days during the taxable year that a race team member renders a service for the race team. The term includes:

(A) race days, practice days, qualification days, training days, testing days, days spent at team meetings, days spent with a promotional caravan, and days served with the team in which the team competes or is scheduled to compete;

(B) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the race team; and

(C) travel days that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar team event.

Total duty days for an individual who joins a race team during the season begin on the day the individual joins the team, and, for an individual who leaves a team, end on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include those days for which a team member is not compensated and is not rendering a

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service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

(6) "Total income" means the total compensation received during the taxable year for services rendered. The term includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a race team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered to the race team.

(b) For purposes of IC 6-3, Indiana income is the individual's total income during the taxable year multiplied by the following fraction:

(1) The numerator of the fraction is the individual's Indiana duty days for the taxable year.

(2) The denominator of the fraction is the individual's total duty days for the taxable year.

(c) It is presumed that this section results in a fair and equitable apportionment of the race team member's compensation. However, if the department demonstrates that the method provided under this section does not fairly and equitably apportion a team member's compensation, the department may require the team member to apportion the team member's compensation under another method that the department prescribes. The prescribed method must result in a fair and equitable apportionment. A team member may submit a proposal for an alternative method to apportion the team member's compensation if the team member demonstrates that the method provided under this section does not fairly and equitably apportion the team member's compensation. If approved by the department, the proposed method must be fully explained in the team member's nonresident personal income tax return.

(d) The department may adopt rules, guidelines, or other instructions to establish alternative methods of simplifying return filing for team members, if the team is not based in Indiana.

(e) Notwithstanding any other provision under IC 6-3-4, the department may adopt rules, guidelines, or other instructions related to withholding requirements under this chapter.

(f) This section, as enacted in 2013, is intended to be a clarification of the law and not a substantive change in the law.

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SECTION 9. IC 6-8-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]:

Chapter 14. Motorsports Admissions Fee

Sec. 1. This chapter applies to a motorsports investment district established under IC 5-1-17.5.

Sec. 2. As used in this chapter, "qualified motorsports facility" has the meaning set forth in IC 5-1-17.5-14.

Sec. 3. As used in this chapter, "race day" means a day on which a race is conducted in which a competitor may earn points toward a series championship.

Sec. 4. (a) An admissions fee is imposed on each person charged for admission to a qualified motorsports facility on a race day. The admissions fee equals:

- (1) the price of each admission to a qualified motorsports facility; multiplied by
- (2) the applicable percentage determined under subsection (b).

(b) The applicable percentage is as follows:

- (1) Six percent (6%) on any admissions charge of at least one hundred fifty dollars (\$150).
- (2) Three percent (3%) on any admissions charge of at least one hundred dollars (\$100) but less than one hundred fifty dollars (\$150).
- (3) Two percent (2%) on any admissions charge of less than one hundred dollars (\$100).

(c) The fee imposed under subsection (a) does not apply to any amount charged for parking at a qualified motorsports facility.

Sec. 5. Each person who pays a price for admission to a qualified motorsports facility on a race day is liable for the fee imposed under this chapter.

Sec. 6. The person who collects the price for admission shall also collect the admissions fee imposed with respect to the price for admission. The person shall collect the fee at the same time the price for admission is paid, regardless of whether the price paid is for a single admission, for season tickets, or for any other admission arrangement. In addition, the person shall collect the fee as an agent of the state.

Sec. 7. A person who collects an admissions fee under section 6 of this chapter shall remit the fee collections to the department of state revenue. The person shall remit the fees collected during a particular month before the fifteenth day of the following month.



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At the time the fees are remitted, the person shall file a return on the form prescribed by the department of state revenue.

Sec. 8. The department of state revenue shall deposit the fees remitted under this chapter in the state general fund.

Sec. 9. The admissions fee expires on the later of:

(1) the date on which the Indiana finance authority certifies to the Indiana motorsports commission, the department of state revenue, and the qualified motorsports facility that all bonds issued by the Indiana finance authority under IC 5-1-17.5 are no longer deemed outstanding; or

(2) the date on which the department of state revenue certifies to the Indiana finance authority, the Indiana motorsports commission, and the qualified motorsports facility that the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of the appropriations made to the Indiana motorsports commission and used to pay rent by the Indiana motorsports commission to the Indiana finance authority under any lease entered into between the Indiana finance authority and the Indiana motorsports commission under IC 5-1-17.5 and any expenses that are incurred by the Indiana finance authority or the Indiana motorsports commission under IC 5-1-17.5 and are not paid out of such rent.

SECTION 10. IC 6-8.1-5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 5.** (a) Any person or entity that conducts or sponsors a professional motorsports racing event at a qualified motorsports facility (as defined in IC 5-1-17.5-14) shall provide to the department a list of persons or entities to whom prize money, purses, or other amounts are distributed and any other such information as requested by the department.

(b) Any person or entity that directly or indirectly receives or is attributed as receiving prize money, purses, or other amounts as the result of a professional motorsports racing event at a qualified motorsports facility (as defined by IC 5-1-17.5-14) shall provide to the department a list of persons or entities that receive or are attributed as receiving prize money and purses, and any other such information as requested by the department.

SECTION 11. [EFFECTIVE JULY 1, 2013] (a) As necessary, the legislative services agency shall prepare legislation for introduction in the 2014 regular session of the general assembly to organize and

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correct statutes affected by:

- (1) the establishment of the Indiana motorsports commission;**
- (2) the establishment of the motorsports improvement program and fund; and**
- (3) amendments to IC 4-4-11 to carry out the purposes of IC 5-1-17.5.**

(b) This SECTION expires June 30, 2014.

SECTION 12. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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