Reprinted
January 29, 2014

SENATE BILL No. 1

DIGEST OF SB 1 (Updated January 28, 2014 3:33 pm - DI 73)

Citations Affected: IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5; IC 36-7; noncode.

Synopsis: State and local taxation. Provides that if the value of a taxpayer's business personal property in a county that would otherwise be subject to taxation is less than $25,000 for a particular assessment date: (1) the taxpayer is not required to file a personal property return for the taxpayer's business personal property in the county for that assessment date; and (2) the taxpayer's business personal property in the county is exempt from taxation for that assessment date. Requires the taxpayer to file an annual certification with the county assessor. Provides that the tax rate for certain tax increment financing areas shall be calculated as if this exemption were not in effect. Provides that if a county or municipality receives a reimbursement, repayment, or penalty from a taxpayer on account of the taxpayer's failure to comply

(Continued next page)

Effective: Upon passage; July 1, 2014; January 1, 2015.

Hershman, Kenley, Holdman,
Smith J, Landske

January 14, 2014, read first time and referred to Committee on Tax and Fiscal Policy.
January 23, 2014, amended, reported favorably — Do Pass.
January 28, 2014, read second time, amended, ordered engrossed.

with the statement of benefits provided by the taxpayer as part of a property tax abatement or on account of the taxpayer's failure to comply with any other requirement to receive a property tax abatement, the county or municipal fiscal officer shall distribute the amount of the reimbursement, repayment, or penalty on a pro rata basis to each taxing unit that contains the property that was subject to the abatement deduction. Phases down the corporate income tax rate from 6.5% in 2015 to 4.9% in 2019. Phases down the financial institutions tax rate to 4.9% in 2022. Reduces the research and development tax credit percentage by half for qualified research expense incurred after 2014. Provides that a taxpayer is not entitled to: (1) a college contribution tax credit for contributions made in a taxable year beginning after 2014; (2) a riverboat building tax credit for qualified investments made in a taxable year beginning after 2014; (3) a biodiesel tax credit for the production or distribution of biodiesel or blended biodiesel in a taxable year beginning after 2014; (4) an ethanol production tax credit for the production of ethanol in a taxable year beginning after 2014; and (5) a new employer tax credit for wages paid in a taxable year beginning after 2014. Repeals the voluntary remediation tax credit statute. (Under current law, tax credits may not be awarded for taxable years after 2007, and the carryforward period has expired.) Repeals the energy savings tax credit. (Under current law, the tax credit may not be awarded for costs incurred after December 31, 2011, and may not be carried forward.) Provides that a retail merchant engaged in selling bulk propane at retail in Indiana shall claim a credit in April of 2014 equal to the sales tax paid by the retail merchant's customers after December 31, 2013, and before April 1, 2014, on that portion of the price of bulk propane that exceeded $2.50 per gallon. Requires such a retail merchant to provide a credit to customers of the retail merchant on their next purchases of bulk propane occurring after March 31, 2014. Establishes the commission on business personal property and business taxation to study certain issues during the 2014 legislative interim. Requires the commission on state tax and financing policy to study income tax deductions and exemptions during the 2014 and 2015 legislative interims.

Reprinted
January 29, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 1

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

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

SECTION 1. IC 6-1.1-3-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 7.2. (a) This section applies to assessment dates after February 28, 2015.**

(b) As used in this section, "business personal property" means personal property that:

(1) is otherwise subject to assessment and taxation under this article; and

(2) is used in a trade or business or otherwise held, used, or consumed in connection with the production of income.

The term does not include mobile homes assessed under IC 6-1.1-7 or personal property held as an investment.

(c) Notwithstanding section 7 of this chapter, if the value of a taxpayer's business personal property as determined under subsection (e):

(1) in a county; and
(2) that otherwise would be subject to taxation under this article;

is less than twenty-five thousand dollars ($25,000) for a particular assessment date, the taxpayer's business personal property in the county for that assessment date is exempt from taxation.

(d) A taxpayer that is eligible for the exemption under this section is not required to file a personal property return for the taxpayer's business personal property in the county for that assessment date. However, the taxpayer must, before the end of the calendar year containing the assessment date, file with the county assessor an annual certification stating that the taxpayer's business personal property in the county is exempt from taxation under this section for that assessment date. If a taxpayer that is required to file an annual certification under this subsection does not file the annual certification by the due date for the annual certification, the taxpayer must pay to the county assessor a penalty of fifty dollars ($50). The county assessor shall deposit any such penalty collected into the county general fund.

(e) For the purposes of subsection (c), the value of a taxpayer's business personal property shall be determined based on the value of that property as reflected on the books and records of the taxpayer at the adjusted cost reported by the taxpayer for federal income tax purposes.

SECTION 2. IC 6-1.1-12.1-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 12.5. Except as provided in section 12(f) of this chapter, if a county or municipality receives a reimbursement, repayment, or penalty from a taxpayer on account of the taxpayer's failure to comply with the statement of benefits provided by the taxpayer or on account of the taxpayer's failure to comply with any other requirement to receive a deduction under this chapter, the county or municipal fiscal officer shall distribute the amount of the reimbursement, repayment, or penalty on a pro rata basis to each taxing unit that contains the property that was subject to the deduction. The amount to be distributed to each taxing unit that contains the property that was subject to the deduction shall be determined according to the following formula:**

STEP ONE: Determine the total aggregate property tax rate imposed in the preceding year by the taxing unit.

STEP TWO: Determine the sum of the STEP ONE amounts for all taxing units that contain the property that was subject

to the deduction.

STEP THREE: Divide the STEP ONE amount by the sum determined under STEP TWO.

STEP FOUR: Multiply the amount of the reimbursement, repayment, or penalty by the STEP THREE quotient.

SECTION 3. IC 6-2.5-5-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 49.5. (a) This section applies to a retail merchant engaged in selling bulk propane at retail in Indiana.**

(b) A retail merchant shall claim a credit against the state gross retail or use tax on the retail merchant's return filed in April of 2014 under IC 6-2.5-6-1 for March of 2014.

(c) The amount of the credit is equal the result determined under the following STEPS:

STEP ONE: Determine (for each customer to whom the retail merchant sold bulk propane after December 31, 2013, and before April 1, 2014) the greater of zero (0) or the result of:

(A) the amount of state gross retail tax collected by the retail merchant after December 31, 2013, and before April 1, 2014, on the retail sale of bulk propane to the customer; minus

(B) the amount of state gross retail tax that would have been collected by the retail merchant after December 31, 2013, and before April 1, 2014, on the retail sale of bulk propane to the customer if the cost of that bulk propane had been two dollars and fifty cents ($2.50) per gallon.

STEP TWO: Determine the sum of the STEP ONE amounts for all customers of the retail merchants.

(d) A retail merchant that claims a credit under subsection (c) shall provide a credit to each customer of the retail merchant for whom an amount was determined under STEP ONE of subsection (c). The credit is equal to the amount determined under STEP ONE of subsection (c) for that customer. The credit under this subsection shall be applied to the next purchase of bulk propane by the customer from the retail merchant occurring after March 31, 2014.

(e) The department may audit credits claimed by a retail merchant under subsection (c) and the credits provided by a retail merchant under subsection (d).

(f) This section expires December 31, 2017.

SECTION 4. IC 6-3-2-1, AS AMENDED BY P.L.205-2013,

SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 1. (a) Each taxable year, a tax at the following rate of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person:

(1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4%).

(2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3%).

(3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23%).

(b) Except as provided in section 1.5 of this chapter, each taxable year, a tax at the following rate of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation:

(1) Before July 1, 2012, eight and five-tenths percent (8.5%).

(2) After June 30, 2012, and before July 1, 2013, eight percent (8.0%).

(3) After June 30, 2013, and before July 1, 2014, seven and five-tenths percent (7.5%).

(4) After June 30, 2014, and before July 1, 2015, seven percent (7.0%).

(5) After June 30, 2015, **and before July 1, 2016,** six and five-tenths percent (6.5%).

(6) After June 30, 2016, and before July 1, 2017, six percent (6.0%).

(7) After June 30, 2017, and before July 1, 2018, five and five-tenths percent (5.5%).

(8) After June 30, 2018, and before July 1, 2019, five percent (5.0%).

(9) After June 30, 2019, four and nine-tenths percent (4.9%).

(c) If for any taxable year a taxpayer is subject to different tax rates under subsection (b), the taxpayer's tax rate for that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede the month the rate changed by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow the month before the rate changed by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under

STEPS ONE and TWO by twelve (12).

However, the rate determined under this subsection shall be rounded to the nearest one-hundredth of one percent (0.01%).

SECTION 5. IC 6-3-3-5, AS AMENDED BY P.L.2-2007, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) At the election of the taxpayer, there shall be allowed, as a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during such year to postsecondary educational institutions located within Indiana (including any of its associated colleges in Indiana) or to any corporation or foundation organized and operated solely for the benefit of any postsecondary educational institution.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed one hundred dollars ($100) in the case of a single return or two hundred dollars ($200) in the case of a joint return.

(c) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed:

(1) ten percent (10%) of such corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for such year (as determined without regard to any credits against that tax); or

(2) one thousand dollars ($1,000);

whichever is less.

(d) A charitable contribution in Indiana qualifies for a credit under this section only if the charitable contribution is made to a postsecondary educational institution or a corporation or foundation organized for the benefit of a postsecondary educational institution that:

(1) normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on;

(2) regularly offers education at a level above the twelfth grade;

(3) regularly awards either associate, bachelors, masters, or doctoral degrees, or any combination thereof; and

(4) is duly accredited by the North Central Association of Colleges and Schools, the Indiana state board of education, or the American Association of Theological Schools.

(e) The credit allowed by this section shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(f) A taxpayer is not entitled to a credit under this section for contributions made in a taxable year beginning after December 31, 2014.

(g) This section expires January 1, 2015.

SECTION 6. IC 6-3.1-4-2, AS AMENDED BY P.L.182-2009(ss), SECTION 201, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 2. (a) A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year.

(b) For Indiana qualified research expense incurred before January 1, 2008, the amount of the research expense tax credit is equal to the product of ten percent (10%) multiplied by the remainder of:

(1) the taxpayer's Indiana qualified research expenses for the taxable year; minus

(2) the taxpayer's base amount.

(c) Except as provided in subsection (d), for Indiana qualified research expense incurred after December 31, 2007, the amount of the research expense tax credit is determined under STEP FOUR of the following formula:

STEP ONE: Subtract the taxpayer's base amount from the taxpayer's Indiana qualified research expense for the taxable year.

STEP TWO: Multiply the lesser of:

(A) one million dollars ($1,000,000); or

(B) the STEP ONE remainder;

by fifteen percent (15%), **for Indiana qualified research expense incurred before January 1, 2015, or seven and five-tenths percent (7.5%), for Indiana qualified research expense incurred after December 31, 2014.**

STEP THREE: If the STEP ONE remainder exceeds one million dollars ($1,000,000), multiply the amount of that excess by:

(A) ten percent (10%), **for Indiana qualified research expense incurred before January 1, 2015; or**

(B) five percent (5%), for Indiana qualified research expense incurred after December 31, 2014.

STEP FOUR: Add the STEP TWO and STEP THREE products.

(d) For Indiana qualified research expense incurred after December 31, 2009, a taxpayer may choose to have the amount of the research expense tax credit determined under this subsection rather than under subsection (c). At the election of the taxpayer, the amount of the taxpayer's research expense tax credit is equal to:

(1) ten percent (10%), **for Indiana qualified research expense incurred before January 1, 2015; or**

(2) five percent (5%), for Indiana qualified research expense incurred after December 31, 2014;

of the part of the taxpayer's Indiana qualified research expense for the taxable year that exceeds fifty percent (50%) of the taxpayer's average Indiana qualified research expense for the three (3) taxable years preceding the taxable year for which the credit is being determined. However, if the taxpayer did not have Indiana qualified research expense in any one (1) of the three (3) taxable years preceding the taxable year for which the credit is being determined, the amount of the research expense tax credit is equal to five percent (5%) of the taxpayer's Indiana qualified research expense for the taxable year.

SECTION 7. IC 6-3.1-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) The amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year.

(b) The department shall record the time of filing of each application for allowance of a credit under section 8 of this chapter and shall approve the applications, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the applications are filed in the state fiscal year.

(c) When the total credits approved under this section equal the maximum amount allowable in a state fiscal year, no application thereafter filed for that same fiscal year shall be approved. However, if an applicant for whom a credit has been approved fails to file the statement of proof of payment required under section 8 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to any subsequent applicant in the year. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) A taxpayer is not entitled to a credit under this chapter for a qualified investment made in a taxable year beginning after December 31, 2014.

(e) This chapter expires January 1, 2024.

SECTION 8. IC 6-3.1-23 IS REPEALED [EFFECTIVE JANUARY 1, 2015]. (Voluntary Remediation Tax Credit).

SECTION 9. IC 6-3.1-27-12, AS AMENDED BY P.L.191-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A credit may not be carried forward for more than six (6) taxable years following the taxable year in which the taxpayer was first entitled to claim the credit.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

(c) A taxpayer is not entitled to a credit under this chapter for the production or distribution of biodiesel or blended biodiesel in a taxable year beginning after December 31, 2014.

(d) This chapter expires January 1, 2021.

SECTION 10. IC 6-3.1-28-9, AS AMENDED BY P.L.175-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

(c) A taxpayer is not entitled to a credit under this chapter for the production of ethanol in a taxable year beginning after December 31, 2014.

(d) This chapter expires January 1, 2024.

SECTION 11. IC 6-3.1-31.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. (Energy Savings Tax Credit).

SECTION 12. IC 6-3.1-33-9, AS AMENDED BY P.L.137-2012, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Before January 1, ~~2017,~~ **2015,** a corporation or pass through entity that desires to qualify for the new employer credit provided by this chapter may submit an application to the IEDC in the form and manner specified by the IEDC.

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

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

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

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

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

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

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

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

(e) If the IEDC determines that the applicant will not employ at least ten (10) qualified employees in each month of the period specified in section 10(b) of this chapter during the taxable year, is not a new Indiana business, or does not meet, or is unlikely to meet, any other requirements for the tax credit provided by this chapter, the IEDC shall notify the applicant of the IEDC's determination.

(f) The IEDC may not issue a certificate of approval under this chapter after December 31, ~~2016.~~ **2014.**

SECTION 13. IC 6-3.1-33-13, AS ADDED BY P.L.110-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for not more than nine (9) taxable years following the first year the credit is claimed.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

(c) A taxpayer is not entitled to a credit under this chapter for

wages paid in a taxable year beginning after December 31, 2014.

(d) This chapter expires January 1, 2024.

SECTION 14. IC 6-5.5-2-1, AS AMENDED BY P.L.93-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying the applicable rate under subsection (b) times the remainder of:

(1) the taxpayer's apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The following are the applicable tax rates to be used under subsection (a):

(1) For taxable years beginning before January 1, 2014, eight and five-tenths percent (8.5%).

(2) For taxable years beginning after December 31, 2013, and before January 1, 2015, eight percent (8.0%).

(3) For taxable years beginning after December 31, 2014, and before January 1, 2016, seven and five-tenths percent (7.5%).

(4) For taxable years beginning after December 31, 2015, and before January 1, 2017, seven percent (7.0%).

(5) For taxable years beginning after December 31, 2016, **and before January 1, 2019,** six and five-tenths percent (6.5%).

(6) For taxable years beginning after December 31, 2018, and before January 1, 2020, six percent (6%).

(7) For taxable years beginning after December 31, 2019, and before January 1, 2021, five and five-tenths percent (5.5%).

(8) For taxable years beginning after December 31, 2020, and before January 1, 2022, five percent (5%).

(9) For taxable years beginning after December 31, 2021, four and nine-tenths percent (4.9%).

(c) The amount of net operating losses deductible under subsection

(a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(d) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(e) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 15. IC 36-7-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 14.2. Tax Rate Limitation

Sec. 1. As used in this chapter, "property taxes" means:

(1) property taxes, as described in:

(A) IC 6-1.1-39-5(g);

(B) IC 36-7-14-39(a);

(C) IC 36-7-14-39.2;

(D) IC 36-7-14-39.3(c);
(E) IC 36-7-14.5-12.5;
(F) IC 36-7-15.1-26(a);
(G) IC 36-7-15.1-26.2(c);
(H) IC 36-7-15.1-53(a);
(I) IC 36-7-15.1-55(c);
(J) IC 36-7-30-25(a)(3);
(K) IC 36-7-30-26(c);
(L) IC 36-7-30.5-30; or
(M) IC 36-7-30.5-31; and

(2) for allocation areas created under IC 8-22-3.5, the taxes assessed on taxable tangible property in the allocation area.

Sec. 2. Notwithstanding any other law, for assessment dates on or after March 1, 2015, a tax rate for property taxes described in section 1 of this chapter must be calculated by including in the base assessed value (for purposes of this section only) the amount of the assessed value that would otherwise have been included in the base assessed value if the exemption under IC 6-1.1-3-7.2 were not in effect for the assessment date.

SECTION 16. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the commission on business personal property and business taxation established by subsection (b).**

(b) The commission on business personal property and business taxation is established.

(c) The commission consists of the following members:

(1) Two (2) members of the senate appointed by the president pro tempore of the senate.

(2) One (1) member of the senate appointed by the minority leader of the senate.

(3) Two (2) members of the house of representatives appointed by the speaker of the house of representatives.

(4) One (1) member of the house of representatives appointed by the minority leader of the house of representatives.

(5) The governor or the governor's designee. An individual designated by the governor under this subdivision must be a state employee.

(6) One (1) member who is nominated by the Association of Indiana Counties and is appointed jointly by the chairman and the vice chairman of the legislative council.

(7) One (1) member who is nominated by the Indiana Association of Cities and Towns and is appointed jointly by

the chairman and the vice chairman of the legislative council.

(8) One (1) member who is nominated by the Indiana State Chamber of Commerce and is appointed jointly by the chairman and the vice chairman of the legislative council.

(9) One (1) member who is nominated by the Indiana Manufacturers Association and is appointed jointly by the chairman and the vice chairman of the legislative council.

(d) The president pro tempore of the senate shall appoint a legislative member of the commission to serve as chairperson of the commission. The speaker of the house of representatives shall appoint a legislative member of the commission to serve as vice chairperson of the commission.

(e) If a vacancy occurs on the commission, the appointing authority who appointed the member whose position is vacant shall appoint an individual to fill the vacancy.

(f) The commission shall do the following:

(1) Study issues concerning the taxation of business personal property in Indiana and business taxation in general in Indiana.

(2) Study issues related to the share of the overall tax burden borne by businesses in Indiana,

(3) Study the competitive advantages and disadvantages for businesses in Indiana that result from the structure of state and local taxation of business.

(4) Study any special elements of the taxation of business personal property.

(5) Study issues related to property taxes paid by taxpayers (including individual taxpayers) other than business taxpayers, and the relative share of the overall tax burden borne by these taxpayers.

(6) Study the impact on local government of reducing business personal property taxes.

(7) Study any other topics assigned by the legislative council or as directed by the chair of the commission.

(g) The commission shall submit a final report of the results of its study and any recommendations to the legislative council before November 1, 2014. The report must be in an electronic format under IC 5-14-6.

(h) The legislative services agency shall provide staff support to the commission.

(i) The affirmative votes of a majority of the members appointed to the commission are required for the commission to

take action on any measure, including a final report.

(j) Except as otherwise specifically provided in this SECTION, the commission shall operate under the rules of the legislative council.

(k) This SECTION expires January 1, 2015.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) During the 2014 and 2015 legislative interims, the commission on state tax and financing policy (IC 2-5-3) shall study all income tax deductions and exemptions using a schedule that provides for approximately one-half (1/2) of the deductions and exemptions to be studied each year. The commission shall prepare a report that covers each deduction and exemption and includes the following:**

(1) A review of the original scope and purpose of the deduction or exemption, and whether the scope or purpose has changed since the enactment of the deduction or exemption.

(2) The economic parameters of the deduction or exemption, including the amounts, thresholds, percentages, and limits, and whether these parameters have changed since the enactment of the deduction or exemption.

(3) A description of the taxpayers that qualify for the deduction or exemption, and how effective the deduction or exemption has been in assisting these targeted taxpayers.

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

(5) The amount of the deductions and exemptions granted over time.

(6) A summary of audit findings for each deduction or exemption, and whether there has been any misuse of the deduction or exemption.

(7) Suggested changes in the law with regard to each deduction and exemption, including whether or not the deduction or exemption should be retained.

(8) Any other issues related to these deductions and exemptions, as determined by the commission.

(b) This SECTION expires January 1, 2016.

SECTION 18. **An emergency is declared for this act.**

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 1, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 13, delete "assessed".

Page 1, line 14, after "property" delete ":" and insert "**as determined under subsection (e):**".

Page 2, line 9, delete "filing" and insert "**end of the calendar year containing the assessment date, file with the county assessor an annual certification stating that the taxpayer's business personal property in the county is exempt from taxation under this section for that assessment date. If a taxpayer that is required to file an annual certification under this subsection does not file the annual certification by the due date for the annual certification, the taxpayer must pay to the county assessor a penalty of fifty dollars ($50). The county assessor shall deposit any such penalty collected into the county general fund.**

(e) For the purposes of subsection (c), the value of a taxpayer's business personal property shall be determined based on the value of that property as reflected on the books and records of the taxpayer at the adjusted cost reported by the taxpayer for federal income tax purposes.

SECTION 2. IC 6-1.1-12.1-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 12.5. Except as provided in section 12(f) of this chapter, if a county or municipality receives a reimbursement, repayment, or penalty from a taxpayer on account of the taxpayer's failure to comply with the statement of benefits provided by the taxpayer or on account of the taxpayer's failure to comply with any other requirement to receive a deduction under this chapter, the county or municipal fiscal officer shall distribute the amount of the reimbursement, repayment, or penalty on a pro rata basis to each taxing unit that contains the property that was subject to the deduction. The amount to be distributed to each taxing unit that contains the property that was subject to the deduction shall be determined according to the following formula:**

STEP ONE: Determine the total aggregate property tax rate imposed in the preceding year by the taxing unit.

STEP TWO: Determine the sum of the STEP ONE amounts for all taxing units that contain the property that was subject to the deduction.

STEP THREE: Divide the STEP ONE amount by the sum determined under STEP TWO.
STEP FOUR: Multiply the amount of the reimbursement, repayment, or penalty by the STEP THREE quotient.".

Page 2, delete lines 10 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 1 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 7, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 1 be amended to read as follows:

Page 9, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 13. IC 6-5.5-2-1, AS AMENDED BY P.L.93-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying the applicable rate under subsection (b) times the remainder of:

(1) the taxpayer's apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The following are the applicable tax rates to be used under subsection (a):

(1) For taxable years beginning before January 1, 2014, eight and five-tenths percent (8.5%).

(2) For taxable years beginning after December 31, 2013, and before January 1, 2015, eight percent (8.0%).

(3) For taxable years beginning after December 31, 2014, and before January 1, 2016, seven and five-tenths percent (7.5%).

(4) For taxable years beginning after December 31, 2015, and before January 1, 2017, seven percent (7.0%).

(5) For taxable years beginning after December 31, 2016, **and before January 1, 2019,** six and five-tenths percent (6.5%).

(6) For taxable years beginning after December 31, 2018, and before January 1, 2020, six percent (6%).

(7) For taxable years beginning after December 31, 2019, and before January 1, 2021, five and five-tenths percent (5.5%).

(8) For taxable years beginning after December 31, 2020, and before January 1, 2022, five percent (5%).

(9) For taxable years beginning after December 31, 2021, four and nine-tenths percent (4.9%).

(c) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(d) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under this chapter for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(e) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to

Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).".

Renumber all SECTIONS consecutively.

(Reference is to SB 1 as printed January 24, 2014.)

HOLDMAN

SENATE MOTION

Madam President: I move that Senate Bill 1 be amended to read as follows:

Page 11, between lines 1 and 2, begin a new line block indented and insert:

"**(5) Study issues related to property taxes paid by taxpayers (including individual taxpayers) other than business taxpayers, and the relative share of the overall tax burden borne by these taxpayers.**

(6) Study the impact on local government of reducing business personal property taxes.".

Page 11, line 2, delete "(5)" and insert "**(7)**".

(Reference is to SB 1 as printed January 24, 2014.)

TALLIAN

SENATE MOTION

Madam President: I move that Senate Bill 1 be amended to read as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 3. IC 6-2.5-5-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 49.5. (a) This section applies to a retail merchant engaged in selling bulk propane at retail in**

Indiana.

(b) A retail merchant shall claim a credit against the state gross retail or use tax on the retail merchant's return filed in April of 2014 under IC 6-2.5-6-1 for March of 2014.

(c) The amount of the credit is equal the result determined under the following STEPS:

STEP ONE: Determine (for each customer to whom the retail merchant sold bulk propane after December 31, 2013, and before April 1, 2014) the greater of zero (0) or the result of:

(A) the amount of state gross retail tax collected by the retail merchant after December 31, 2013, and before April 1, 2014, on the retail sale of bulk propane to the customer; minus

(B) the amount of state gross retail tax that would have been collected by the retail merchant after December 31, 2013, and before April 1, 2014, on the retail sale of bulk propane to the customer if the cost of that bulk propane had been two dollars and fifty cents ($2.50) per gallon.

STEP TWO: Determine the sum of the STEP ONE amounts for all customers of the retail merchants.

(d) A retail merchant that claims a credit under subsection (c) shall provide a credit to each customer of the retail merchant for whom an amount was determined under STEP ONE of subsection (c). The credit is equal to the amount determined under STEP ONE of subsection (c) for that customer. The credit under this subsection shall be applied to the next purchase of bulk propane by the customer from the retail merchant occurring after March 31, 2014.

(e) The department may audit credits claimed by a retail merchant under subsection (c) and the credits provided by a retail merchant under subsection (d).

(f) This section expires December 31, 2017.".

Renumber all SECTIONS consecutively.

(Reference is to SB 1 as printed January 24, 2014.)

WATERMAN