



February 23, 2016

ENGROSSED SENATE BILL No. 23

DIGEST OF SB 23 (Updated February 19, 2016 9:57 am - DI 58)

Citations Affected: IC 4-35; IC 5-30; IC 5-32; IC 6-3; IC 6-3.1; IC 6-8.

Synopsis: Technical corrections. Repeals conflicting provisions contained in HEA 1019-2015 (Common construction wage and public works) concerning applicability of the requirements in HEA 1019-2015. The provisions that would be repealed were added by HEA 1019-2015 and repealed by SEA 441-2015 during the 2015 legislative session. Clarifies that the principal amount of money contributed by an employer to a medical care savings account (MSA) for which no state or federal tax exemption for the employee applies may be withdrawn from the MSA account for any purpose without the employee incurring taxable income based on the principal contribution. Provides a
(Continued next page)

Effective: Upon passage; July 1, 2015 (retroactive); January 1, 2016 (retroactive).

Hershman, Holdman,
Randolph Lonnie M
(HOUSE SPONSOR — GUTWEIN)

January 5, 2016, read first time and referred to Committee on Tax & Fiscal Policy.
January 12, 2016, reported favorably — Do Pass.
January 14, 2016, read second time, ordered engrossed. Engrossed.
January 19, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Ways and Means.
February 22, 2016, amended, reported — Do Pass.

ES 23—LS 6088/DI 120



Digest Continued

resolution to the conflicts in IC 4-35-7-12 that were caused by four laws enacted during the 2015 Legislative Session. Specifies the following resolution for the two conflicts that were substantive in nature (HEA 1540-2015 and HEA 1001-2015): (1) That the term "slot machine" wagering is stricken in favor of "gambling game" wagering (the HEA 1540-2015 version). (2) That \$150,000 is to be annually deposited into the gaming integrity fund to pay the cost of taking and analyzing equine specimens instead of being distributed to the horse racing industry (the HEA 1001-2015 version). Incorporates the changes that became law that were not in substantive conflict. Corrects a reference in the definition of corporate adjusted gross income to incorporate a change made in SEA 441-2015 that changed the term directly related intangible interest expenses to be directly related interest expenses. Makes technical corrections and conforming changes to SEA 441-2015. (The introduced version of this bill was prepared by the code revision commission.)

ES 23—LS 6088/DI 120



February 23, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 23

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.181-2015,
2 SECTION 6, AND AS AMENDED BY P.L.213-2015, SECTION 52,
3 AND AS AMENDED BY P.L.255-2015, SECTION 40, AND AS
4 AMENDED BY P.L.256-2015, SECTION 9, IS CORRECTED AND
5 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
6 PASSAGE]: Sec. 12. (a) The Indiana horse racing commission shall
7 enforce the requirements of this section.
8 (b) A licensee shall before the fifteenth day of each month distribute
9 the following amounts for the support of the Indiana horse racing
10 industry:
11 (1) An amount equal to fifteen percent (15%) of the adjusted
12 gross receipts of the slot machine wagering from the previous
13 month at each casino operated by the licensee with respect to
14 adjusted gross receipts received after June 30, 2013, and before
15 January 1, 2014.
16 (2) The percentage of the adjusted gross receipts of the slot
17 machine wagering from the previous month at each casino

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1 operated by the licensee that is determined under section 16 or 17
 2 of this chapter with respect to adjusted gross receipts received
 3 after December 31, 2013, and before July 1, 2015.

4 *(3) Subject to section 12.5 of this chapter, the percentage of the*
 5 *adjusted gross receipts of the slot machine gambling game*
 6 *wagering from the previous month at each casino operated by the*
 7 *licensee that is determined under section 16 or 17 of this chapter*
 8 *with respect to adjusted gross receipts received after June 30,*
 9 *2015.*

10 (c) The Indiana horse racing commission may not use any of the
 11 money distributed under this section for any administrative purpose or
 12 other purpose of the Indiana horse racing commission.

13 (d) A licensee shall distribute the money devoted to horse racing
 14 purses and to horsemen's associations under this subsection as follows:

15 (1) Five-tenths percent (0.5%) shall be transferred to horsemen's
 16 associations for equine promotion or welfare according to the
 17 ratios specified in subsection (g).

18 (2) Two and five-tenths percent (2.5%) shall be transferred to
 19 horsemen's associations for backside benevolence according to
 20 the ratios specified in subsection (g).

21 (3) Ninety-seven percent (97%) shall be distributed to promote
 22 horses and horse racing as provided in subsection (f).

23 (e) A horsemen's association shall expend the amounts distributed
 24 to the horsemen's association under subsection (d)(1) through (d)(2) for
 25 a purpose promoting the equine industry or equine welfare or for a
 26 benevolent purpose that the horsemen's association determines is in the
 27 best interests of horse racing in Indiana for the breed represented by the
 28 horsemen's association. Expenditures under this subsection are subject
 29 to the regulatory requirements of subsection (h).

30 (f) A licensee shall distribute the amounts described in subsection
 31 (d)(3) as follows:

32 (1) Forty-six percent (46%) for thoroughbred purposes as follows:

33 (A) *Sixty Five* percent ~~(60%)~~ (55%) for the following
 34 purposes:

35 (i) Ninety-seven percent (97%) for thoroughbred purses.

36 (ii) Two and four-tenths percent (2.4%) to the horsemen's
 37 association representing thoroughbred owners and trainers.

38 (iii) Six-tenths percent (0.6%) to the horsemen's association
 39 representing thoroughbred owners and breeders.

40 (B) *Forty* percent ~~(40%)~~ (45%) to the breed
 41 development fund established for thoroughbreds under
 42 IC 4-31-11-10.



1 (2) Forty-six percent (46%) for standardbred purposes as follows:

2 (A) Three hundred seventy-five thousand dollars (\$375,000)
3 to the state fair commission to be used by the state fair
4 commission to support standardbred racing and facilities at the
5 state fairgrounds.

6 (B) One hundred twenty-five thousand dollars (\$125,000) to
7 the state fair commission to be used by the state fair
8 commission to make grants to county fairs *and the department*
9 *of parks and recreation in Johnson County* to support
10 standardbred racing and facilities at county fair *and county*
11 *park tracks*. The state fair commission shall establish a review
12 committee to include the standardbred association board, the
13 Indiana horse racing commission, ~~and~~ the Indiana county fair
14 association, *and a member of the board of directors of a*
15 *county park established under IC 36-10 that provides or*
16 *intends to provide facilities to support standardbred racing,*
17 to make recommendations to the state fair commission on
18 grants under this clause. *A grant may be provided to the*
19 *Johnson County fair or department of parks and recreation*
20 *under this clause only if the county fair or department*
21 *provides matching funds equal to one dollar (\$1) for every*
22 *three dollars (\$3) of grant funds provided.*

23 (3) Eight percent (8%) for quarter horse purposes as follows:

24 (A) Seventy percent (70%) for the following purposes:

25 (i) Ninety-five percent (95%) for quarter horse purses.

26 (ii) Five percent (5%) to the horsemen's association
27 representing quarter horse owners and trainers.

28 (B) Thirty percent (30%) to the breed development fund
29 established for quarter horses under IC 4-31-11-10.

30 Expenditures under this subsection are subject to the regulatory
31 requirements of subsection (h).

32 (g) Money distributed under subsection (d)(1) and (d)(2) shall be
33 allocated as follows:

34 (1) Forty-six percent (46%) to the horsemen's association
35 representing thoroughbred owners and trainers.

36 (2) Forty-six percent (46%) to the horsemen's association
37 representing standardbred owners and trainers.

38 (3) Eight percent (8%) to the horsemen's association representing
39 quarter horse owners and trainers.

40 (h) Money distributed under this section may not be expended
41 unless the expenditure is for a purpose authorized in this section and is
42 either for a purpose promoting the equine industry or equine welfare or



1 is for a benevolent purpose that is in the best interests of horse racing
 2 in Indiana or the necessary expenditures for the operations of the
 3 horsemen's association required to implement and fulfill the purposes
 4 of this section. The Indiana horse racing commission may review any
 5 expenditure of money distributed under this section to ensure that the
 6 requirements of this section are satisfied. The Indiana horse racing
 7 commission shall adopt rules concerning the review and oversight of
 8 money distributed under this section and shall adopt rules concerning
 9 the enforcement of this section. The following apply to a horsemen's
 10 association receiving a distribution of money under this section:

11 (1) The horsemen's association must annually file a report with
 12 the Indiana horse racing commission concerning the use of the
 13 money by the horsemen's association. The report must include
 14 information as required by the commission.

15 (2) The horsemen's association must register with the Indiana
 16 horse racing commission.

17 The state board of accounts shall ~~annually~~ audit the accounts, books,
 18 and records of the Indiana horse racing commission, each horsemen's
 19 association, a licensee, and any association for backside benevolence
 20 containing any information relating to the distribution of money under
 21 this section.

22 (i) The commission shall provide the Indiana horse racing
 23 commission with the information necessary to enforce this section.

24 (j) The Indiana horse racing commission shall investigate any
 25 complaint that a licensee has failed to comply with the horse racing
 26 purse requirements set forth in this section. If, after notice and a
 27 hearing, the Indiana horse racing commission finds that a licensee has
 28 failed to comply with the purse requirements set forth in this section,
 29 the Indiana horse racing commission may:

30 (1) issue a warning to the licensee;

31 (2) impose a civil penalty that may not exceed one million dollars
 32 (\$1,000,000); or

33 (3) suspend a meeting permit issued under IC 4-31-5 to conduct
 34 a pari-mutuel wagering horse racing meeting in Indiana.

35 (k) A civil penalty collected under this section must be deposited in
 36 the state general fund.

37 SECTION 2. IC 5-30-8-7 IS REPEALED [EFFECTIVE JULY 1,
 38 2015 (RETROACTIVE)]. ~~Sec. 7. IC 5-16-13 and IC 5-16-14 apply to~~
 39 ~~a contract awarded under this article.~~

40 SECTION 3. IC 5-32-1-4 IS REPEALED [EFFECTIVE JULY 1,
 41 2015 (RETROACTIVE)]. ~~Sec. 4. IC 5-16-13 and IC 5-16-14 apply to~~
 42 ~~a contract awarded under this article, regardless of which applicable~~



1 ~~public works statute applies to the contract:~~

2 SECTION 4. IC 6-3-1-3.5, AS AMENDED BY P.L.250-2015,
3 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 3.5. When used in this
5 article, the term "adjusted gross income" shall mean the following:

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

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

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

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

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

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

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

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

27 (5) Subtract:

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

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

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

38 (6) Subtract any amounts included in federal adjusted gross
39 income under Section 111 of the Internal Revenue Code as a
40 recovery of items previously deducted as an itemized deduction
41 from adjusted gross income.

42 (7) Subtract any amounts included in federal adjusted gross



- 1 income under the Internal Revenue Code which amounts were
2 received by the individual as supplemental railroad retirement
3 annuities under 45 U.S.C. 231 and which are not deductible under
4 subdivision (1).
- 5 (8) Subtract an amount equal to the amount of federal Social
6 Security and Railroad Retirement benefits included in a taxpayer's
7 federal gross income by Section 86 of the Internal Revenue Code.
- 8 (9) In the case of a nonresident taxpayer or a resident taxpayer
9 residing in Indiana for a period of less than the taxpayer's entire
10 taxable year, the total amount of the deductions allowed pursuant
11 to subdivisions (3), (4), and (5) shall be reduced to an amount
12 which bears the same ratio to the total as the taxpayer's income
13 taxable in Indiana bears to the taxpayer's total income.
- 14 (10) In the case of an individual who is a recipient of assistance
15 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
16 subtract an amount equal to that portion of the individual's
17 adjusted gross income with respect to which the individual is not
18 allowed under federal law to retain an amount to pay state and
19 local income taxes.
- 20 (11) In the case of an eligible individual, subtract the amount of
21 a Holocaust victim's settlement payment included in the
22 individual's federal adjusted gross income.
- 23 (12) Subtract an amount equal to the portion of any premiums
24 paid during the taxable year by the taxpayer for a qualified long
25 term care policy (as defined in IC 12-15-39.6-5) for the taxpayer
26 or the taxpayer's spouse, or both.
- 27 (13) Subtract an amount equal to the lesser of:
28 (A) two thousand five hundred dollars (\$2,500); or
29 (B) the amount of property taxes that are paid during the
30 taxable year in Indiana by the individual on the individual's
31 principal place of residence.
- 32 (14) Subtract an amount equal to the amount of a September 11
33 terrorist attack settlement payment included in the individual's
34 federal adjusted gross income.
- 35 (15) Add or subtract the amount necessary to make the adjusted
36 gross income of any taxpayer that owns property for which bonus
37 depreciation was allowed in the current taxable year or in an
38 earlier taxable year equal to the amount of adjusted gross income
39 that would have been computed had an election not been made
40 under Section 168(k) of the Internal Revenue Code to apply bonus
41 depreciation to the property in the year that it was placed in
42 service.



- 1 (16) Add an amount equal to any deduction allowed under
2 Section 172 of the Internal Revenue Code.
- 3 (17) Add or subtract the amount necessary to make the adjusted
4 gross income of any taxpayer that placed Section 179 property (as
5 defined in Section 179 of the Internal Revenue Code) in service
6 in the current taxable year or in an earlier taxable year equal to
7 the amount of adjusted gross income that would have been
8 computed had an election for federal income tax purposes not
9 been made for the year in which the property was placed in
10 service to take deductions under Section 179 of the Internal
11 Revenue Code in a total amount exceeding twenty-five thousand
12 dollars (\$25,000).
- 13 (18) Add an amount equal to the amount that a taxpayer claimed
14 as a deduction for domestic production activities for the taxable
15 year under Section 199 of the Internal Revenue Code for federal
16 income tax purposes.
- 17 (19) Subtract an amount equal to the amount of the taxpayer's
18 qualified military income that was not excluded from the
19 taxpayer's gross income for federal income tax purposes under
20 Section 112 of the Internal Revenue Code.
- 21 (20) Subtract income that is:
- 22 (A) exempt from taxation under IC 6-3-2-21.7; and
23 (B) included in the individual's federal adjusted gross income
24 under the Internal Revenue Code.
- 25 (21) Add an amount equal to any income not included in gross
26 income as a result of the deferral of income arising from business
27 indebtedness discharged in connection with the reacquisition after
28 December 31, 2008, and before January 1, 2011, of an applicable
29 debt instrument, as provided in Section 108(i) of the Internal
30 Revenue Code. Subtract the amount necessary from the adjusted
31 gross income of any taxpayer that added an amount to adjusted
32 gross income in a previous year to offset the amount included in
33 federal gross income as a result of the deferral of income arising
34 from business indebtedness discharged in connection with the
35 reacquisition after December 31, 2008, and before January 1,
36 2011, of an applicable debt instrument, as provided in Section
37 108(i) of the Internal Revenue Code.
- 38 (22) Add the amount excluded from federal gross income under
39 Section 103 of the Internal Revenue Code for interest received on
40 an obligation of a state other than Indiana, or a political
41 subdivision of such a state, that is acquired by the taxpayer after
42 December 31, 2011.



1 (b) In the case of corporations, the same as "taxable income" (as
2 defined in Section 63 of the Internal Revenue Code) adjusted as
3 follows:

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

6 (2) Add an amount equal to any deduction or deductions allowed
7 or allowable pursuant to Section 170 of the Internal Revenue
8 Code.

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

13 (4) Subtract an amount equal to the amount included in the
14 corporation's taxable income under Section 78 of the Internal
15 Revenue Code.

16 (5) Add or subtract the amount necessary to make the adjusted
17 gross income of any taxpayer that owns property for which bonus
18 depreciation was allowed in the current taxable year or in an
19 earlier taxable year equal to the amount of adjusted gross income
20 that would have been computed had an election not been made
21 under Section 168(k) of the Internal Revenue Code to apply bonus
22 depreciation to the property in the year that it was placed in
23 service.

24 (6) Add an amount equal to any deduction allowed under Section
25 172 of the Internal Revenue Code.

26 (7) Add or subtract the amount necessary to make the adjusted
27 gross income of any taxpayer that placed Section 179 property (as
28 defined in Section 179 of the Internal Revenue Code) in service
29 in the current taxable year or in an earlier taxable year equal to
30 the amount of adjusted gross income that would have been
31 computed had an election for federal income tax purposes not
32 been made for the year in which the property was placed in
33 service to take deductions under Section 179 of the Internal
34 Revenue Code in a total amount exceeding twenty-five thousand
35 dollars (\$25,000).

36 (8) Add an amount equal to the amount that a taxpayer claimed as
37 a deduction for domestic production activities for the taxable year
38 under Section 199 of the Internal Revenue Code for federal
39 income tax purposes.

40 (9) Add to the extent required by IC 6-3-2-20 the amount of
41 intangible expenses (as defined in IC 6-3-2-20) and any directly
42 related intangible interest expenses (as defined in IC 6-3-2-20) for



- 1 the taxable year that reduced the corporation's taxable income (as
 2 defined in Section 63 of the Internal Revenue Code) for federal
 3 income tax purposes.
- 4 (10) Add an amount equal to any deduction for dividends paid (as
 5 defined in Section 561 of the Internal Revenue Code) to
 6 shareholders of a captive real estate investment trust (as defined
 7 in section 34.5 of this chapter).
- 8 (11) Subtract income that is:
- 9 (A) exempt from taxation under IC 6-3-2-21.7; and
 10 (B) included in the corporation's taxable income under the
 11 Internal Revenue Code.
- 12 (12) Add an amount equal to any income not included in gross
 13 income as a result of the deferral of income arising from business
 14 indebtedness discharged in connection with the reacquisition after
 15 December 31, 2008, and before January 1, 2011, of an applicable
 16 debt instrument, as provided in Section 108(i) of the Internal
 17 Revenue Code. Subtract from the adjusted gross income of any
 18 taxpayer that added an amount to adjusted gross income in a
 19 previous year the amount necessary to offset the amount included
 20 in federal gross income as a result of the deferral of income
 21 arising from business indebtedness discharged in connection with
 22 the reacquisition after December 31, 2008, and before January 1,
 23 2011, of an applicable debt instrument, as provided in Section
 24 108(i) of the Internal Revenue Code.
- 25 (13) Add the amount excluded from federal gross income under
 26 Section 103 of the Internal Revenue Code for interest received on
 27 an obligation of a state other than Indiana, or a political
 28 subdivision of such a state, that is acquired by the taxpayer after
 29 December 31, 2011.
- 30 (c) In the case of life insurance companies (as defined in Section
 31 816(a) of the Internal Revenue Code) that are organized under Indiana
 32 law, the same as "life insurance company taxable income" (as defined
 33 in Section 801 of the Internal Revenue Code), adjusted as follows:
- 34 (1) Subtract income that is exempt from taxation under this article
 35 by the Constitution and statutes of the United States.
- 36 (2) Add an amount equal to any deduction allowed or allowable
 37 under Section 170 of the Internal Revenue Code.
- 38 (3) Add an amount equal to a deduction allowed or allowable
 39 under Section 805 or Section 832(c) of the Internal Revenue Code
 40 for taxes based on or measured by income and levied at the state
 41 level by any state.
- 42 (4) Subtract an amount equal to the amount included in the



- 1 company's taxable income under Section 78 of the Internal
 2 Revenue Code.
- 3 (5) Add or subtract the amount necessary to make the adjusted
 4 gross income of any taxpayer that owns property for which bonus
 5 depreciation was allowed in the current taxable year or in an
 6 earlier taxable year equal to the amount of adjusted gross income
 7 that would have been computed had an election not been made
 8 under Section 168(k) of the Internal Revenue Code to apply bonus
 9 depreciation to the property in the year that it was placed in
 10 service.
- 11 (6) Add an amount equal to any deduction allowed under Section
 12 172 or Section 810 of the Internal Revenue Code.
- 13 (7) Add or subtract the amount necessary to make the adjusted
 14 gross income of any taxpayer that placed Section 179 property (as
 15 defined in Section 179 of the Internal Revenue Code) in service
 16 in the current taxable year or in an earlier taxable year equal to
 17 the amount of adjusted gross income that would have been
 18 computed had an election for federal income tax purposes not
 19 been made for the year in which the property was placed in
 20 service to take deductions under Section 179 of the Internal
 21 Revenue Code in a total amount exceeding twenty-five thousand
 22 dollars (\$25,000).
- 23 (8) Add an amount equal to the amount that a taxpayer claimed as
 24 a deduction for domestic production activities for the taxable year
 25 under Section 199 of the Internal Revenue Code for federal
 26 income tax purposes.
- 27 (9) Subtract income that is:
- 28 (A) exempt from taxation under IC 6-3-2-21.7; and
 29 (B) included in the insurance company's taxable income under
 30 the Internal Revenue Code.
- 31 (10) Add an amount equal to any income not included in gross
 32 income as a result of the deferral of income arising from business
 33 indebtedness discharged in connection with the reacquisition after
 34 December 31, 2008, and before January 1, 2011, of an applicable
 35 debt instrument, as provided in Section 108(i) of the Internal
 36 Revenue Code. Subtract from the adjusted gross income of any
 37 taxpayer that added an amount to adjusted gross income in a
 38 previous year the amount necessary to offset the amount included
 39 in federal gross income as a result of the deferral of income
 40 arising from business indebtedness discharged in connection with
 41 the reacquisition after December 31, 2008, and before January 1,
 42 2011, of an applicable debt instrument, as provided in Section



- 1 108(i) of the Internal Revenue Code.
- 2 (11) Add an amount equal to any exempt insurance income under
- 3 Section 953(e) of the Internal Revenue Code that is active
- 4 financing income under Subpart F of Subtitle A, Chapter 1,
- 5 Subchapter N of the Internal Revenue Code.
- 6 (12) Add the amount excluded from federal gross income under
- 7 Section 103 of the Internal Revenue Code for interest received on
- 8 an obligation of a state other than Indiana, or a political
- 9 subdivision of such a state, that is acquired by the taxpayer after
- 10 December 31, 2011.
- 11 (d) In the case of insurance companies subject to tax under Section
- 12 831 of the Internal Revenue Code and organized under Indiana law, the
- 13 same as "taxable income" (as defined in Section 832 of the Internal
- 14 Revenue Code), adjusted as follows:
- 15 (1) Subtract income that is exempt from taxation under this article
- 16 by the Constitution and statutes of the United States.
- 17 (2) Add an amount equal to any deduction allowed or allowable
- 18 under Section 170 of the Internal Revenue Code.
- 19 (3) Add an amount equal to a deduction allowed or allowable
- 20 under Section 805 or Section 832(c) of the Internal Revenue Code
- 21 for taxes based on or measured by income and levied at the state
- 22 level by any state.
- 23 (4) Subtract an amount equal to the amount included in the
- 24 company's taxable income under Section 78 of the Internal
- 25 Revenue Code.
- 26 (5) Add or subtract the amount necessary to make the adjusted
- 27 gross income of any taxpayer that owns property for which bonus
- 28 depreciation was allowed in the current taxable year or in an
- 29 earlier taxable year equal to the amount of adjusted gross income
- 30 that would have been computed had an election not been made
- 31 under Section 168(k) of the Internal Revenue Code to apply bonus
- 32 depreciation to the property in the year that it was placed in
- 33 service.
- 34 (6) Add an amount equal to any deduction allowed under Section
- 35 172 of the Internal Revenue Code.
- 36 (7) Add or subtract the amount necessary to make the adjusted
- 37 gross income of any taxpayer that placed Section 179 property (as
- 38 defined in Section 179 of the Internal Revenue Code) in service
- 39 in the current taxable year or in an earlier taxable year equal to
- 40 the amount of adjusted gross income that would have been
- 41 computed had an election for federal income tax purposes not
- 42 been made for the year in which the property was placed in



1 service to take deductions under Section 179 of the Internal
 2 Revenue Code in a total amount exceeding twenty-five thousand
 3 dollars (\$25,000).

4 (8) Add an amount equal to the amount that a taxpayer claimed as
 5 a deduction for domestic production activities for the taxable year
 6 under Section 199 of the Internal Revenue Code for federal
 7 income tax purposes.

8 (9) Subtract income that is:

9 (A) exempt from taxation under IC 6-3-2-21.7; and

10 (B) included in the insurance company's taxable income under
 11 the Internal Revenue Code.

12 (10) Add an amount equal to any income not included in gross
 13 income as a result of the deferral of income arising from business
 14 indebtedness discharged in connection with the reacquisition after
 15 December 31, 2008, and before January 1, 2011, of an applicable
 16 debt instrument, as provided in Section 108(i) of the Internal
 17 Revenue Code. Subtract from the adjusted gross income of any
 18 taxpayer that added an amount to adjusted gross income in a
 19 previous year the amount necessary to offset the amount included
 20 in federal gross income as a result of the deferral of income
 21 arising from business indebtedness discharged in connection with
 22 the reacquisition after December 31, 2008, and before January 1,
 23 2011, of an applicable debt instrument, as provided in Section
 24 108(i) of the Internal Revenue Code.

25 (11) Add an amount equal to any exempt insurance income under
 26 Section 953(e) of the Internal Revenue Code that is active
 27 financing income under Subpart F of Subtitle A, Chapter 1,
 28 Subchapter N of the Internal Revenue Code.

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

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

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

39 (2) Subtract an amount equal to the amount of a September 11
 40 terrorist attack settlement payment included in the federal
 41 adjusted gross income of the estate of a victim of the September
 42 11 terrorist attack or a trust to the extent the trust benefits a victim



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



1 (9) Add the amount excluded from federal gross income under
 2 Section 103 of the Internal Revenue Code for interest received on
 3 an obligation of a state other than Indiana, or a political
 4 subdivision of such a state, that is acquired by the taxpayer after
 5 December 31, 2011.

6 SECTION 5. IC 6-3-2-2, AS AMENDED BY P.L.250-2015,
 7 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 2. (a) With regard to corporations and
 9 nonresident persons, "adjusted gross income derived from sources
 10 within Indiana", for the purposes of this article, shall mean and include:

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

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



1 Section 831 of the Internal Revenue Code, only so much of the income
2 as is apportioned to Indiana under subsection (r) is considered derived
3 from sources within Indiana.

4 (b) Except as provided in subsection (l), if business income of a
5 corporation or a nonresident person is derived from sources within the
6 state of Indiana and from sources without the state of Indiana, the
7 business income derived from sources within this state shall be
8 determined by multiplying the business income derived from sources
9 both within and without the state of Indiana by the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (c) The property factor is a fraction, the numerator of which is the
38 average value of the taxpayer's real and tangible personal property
39 owned or rented and used in this state during the taxable year and the
40 denominator of which is the average value of all the taxpayer's real and
41 tangible personal property owned or rented and used during the taxable
42 year. However, with respect to a foreign corporation, the denominator



1 does not include the average value of real or tangible personal property
 2 owned or rented and used in a place that is outside the United States.
 3 Property owned by the taxpayer is valued at its original cost. Property
 4 rented by the taxpayer is valued at eight (8) times the net annual rental
 5 rate. Net annual rental rate is the annual rental rate paid by the taxpayer
 6 less any annual rental rate received by the taxpayer from subrentals.
 7 The average of property shall be determined by averaging the values at
 8 the beginning and ending of the taxable year, but the department may
 9 require the averaging of monthly values during the taxable year if
 10 reasonably required to reflect properly the average value of the
 11 taxpayer's property.

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

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

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



1 (1) the property is delivered or shipped to a purchaser that is
2 within Indiana, other than the United States government; or

3 (2) the property is shipped from an office, a store, a warehouse, a
4 factory, or other place of storage in this state and the purchaser is
5 the United States government.

6 Gross receipts derived from commercial printing as described in
7 IC 6-2.5-1-10 and from the sale of computer software shall be treated
8 as sales of tangible personal property for purposes of this chapter.

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

12 (1) the income-producing activity is performed in this state; or

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

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

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

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

25 (i) if and to the extent that the property is utilized in this state; or

26 (ii) in their entirety if the taxpayer's commercial domicile is in this
27 state and the taxpayer is not organized under the laws of or
28 taxable in the state in which the property is utilized.

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

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

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



- 1 (i) the property had a situs in this state at the time of the sale; or
 2 (ii) the taxpayer's commercial domicile is in this state and the
 3 taxpayer is not taxable in the state in which the property had a
 4 situs.
- 5 (3) Capital gains and losses from sales of intangible personal
 6 property are allocable to this state if the taxpayer's commercial
 7 domicile is in this state.
- 8 (j) Interest and dividends are allocable to this state if the taxpayer's
 9 commercial domicile is in this state.
- 10 (k)(1) Patent and copyright royalties are allocable to this state:
 11 (i) if and to the extent that the patent or copyright is utilized by
 12 the taxpayer in this state; or
 13 (ii) if and to the extent that the patent or copyright is utilized by
 14 the taxpayer in a state in which the taxpayer is not taxable and the
 15 taxpayer's commercial domicile is in this state.
- 16 (2) A patent is utilized in a state to the extent that it is employed
 17 in production, fabrication, manufacturing, or other processing in
 18 the state or to the extent that a patented product is produced in the
 19 state. If the basis of receipts from patent royalties does not permit
 20 allocation to states or if the accounting procedures do not reflect
 21 states of utilization, the patent is utilized in the state in which the
 22 taxpayer's commercial domicile is located.
- 23 (3) A copyright is utilized in a state to the extent that printing or
 24 other publication originates in the state. If the basis of receipts
 25 from copyright royalties does not permit allocation to states or if
 26 the accounting procedures do not reflect states of utilization, the
 27 copyright is utilized in the state in which the taxpayer's
 28 commercial domicile is located.
- 29 (l) If the allocation and apportionment provisions of this article do
 30 not fairly represent the taxpayer's income derived from sources within
 31 the state of Indiana, the taxpayer may petition for or the department
 32 may require, in respect to all or any part of the taxpayer's business
 33 activity, if reasonable:
- 34 (1) separate accounting;
 35 (2) for a taxable year beginning before January 1, 2011, the
 36 exclusion of any one (1) or more of the factors, except the sales
 37 factor;
 38 (3) the inclusion of one (1) or more additional factors which will
 39 fairly represent the taxpayer's income derived from sources within
 40 the state of Indiana; or
 41 (4) the employment of any other method to effectuate an equitable
 42 allocation and apportionment of the taxpayer's income.



1 (m) In the case of two (2) or more organizations, trades, or
 2 businesses owned or controlled directly or indirectly by the same
 3 interests, the department shall distribute, apportion, or allocate the
 4 income derived from sources within the state of Indiana between and
 5 among those organizations, trades, or businesses in order to fairly
 6 reflect and report the income derived from sources within the state of
 7 Indiana by various taxpayers.

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

10 (1) in that state the taxpayer is subject to a net income tax, a
 11 franchise tax measured by net income, a franchise tax for the
 12 privilege of doing business, or a corporate stock tax; or

13 (2) that state has jurisdiction to subject the taxpayer to a net
 14 income tax regardless of whether, in fact, the state does or does
 15 not.

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

20 (1) a foreign corporation; or

21 (2) a corporation that is classified as a foreign operating
 22 corporation for the taxable year by section 2.4 of this chapter.

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

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

39 (r) This subsection applies to a corporation that is a life insurance
 40 company (as defined in Section 816(a) of the Internal Revenue Code)
 41 or an insurance company that is subject to tax under Section 831 of the
 42 Internal Revenue Code. The corporation's adjusted gross income that



1 is derived from sources within Indiana is determined by multiplying the
2 corporation's adjusted gross income by a fraction:

3 (1) the numerator of which is the direct premiums and annuity
4 considerations received during the taxable year for insurance
5 upon property or risks in the state; and

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

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

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

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

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

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

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

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

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

36 SECTION 6. IC 6-3.1-26-15, AS AMENDED BY P.L.250-2015,
37 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 15. (a) Subject to subsection (d), a taxpayer
39 may carry forward an unused credit for the number of years determined
40 by the corporation, not to exceed nine (9) consecutive taxable years,
41 beginning with the taxable year after the taxable year in which the
42 taxpayer makes the qualified investment.



1 (b) The amount that a taxpayer may carry forward to a particular
 2 taxable year under this section equals the unused part of a tax credit
 3 allowed under this chapter.

4 (c) A taxpayer may:

5 (1) claim a tax credit under this chapter for a qualified
 6 investment; and

7 (2) carry forward a remainder for one (1) or more different
 8 qualified investments;

9 in the same taxable year.

10 (d) This subsection applies only to a taxpayer that:

11 (1) is not a pass through entity;

12 (2) proposes at least five hundred million dollars (\$500,000,000)
 13 in total investment over a five (5) year period; and

14 (3) enters into a written agreement with the corporation under this
 15 subsection before January 1, 2017, and agrees to claim tax credits
 16 under this chapter for not more than one hundred seventy million
 17 dollars (\$170,000,000) of qualified investment that is made as
 18 part of the investment proposed as described in subdivision (2).

19 If a tax credit awarded under this chapter exceeds a taxpayer's state
 20 income tax liability for the taxable year, notwithstanding subsection
 21 (a), the corporation may accelerate to that taxable year the excess
 22 amount of the tax credit that could otherwise be carried forward under
 23 subsection (a). The excess amount of the tax credit accelerated under
 24 this subsection shall be discounted as determined under a written
 25 agreement entered into by the taxpayer and the corporation. The
 26 discounted amount of the excess tax credit accelerated under this
 27 subsection as determined by the corporation may be remitted to the
 28 taxpayer as provided in the written agreement between the corporation
 29 and the taxpayer. Subject to subsection (f), the total amount of qualified
 30 investments for which tax credits may be accelerated under this
 31 subsection may not exceed one hundred seventy million dollars
 32 (\$170,000,000). The ~~requirements~~ **requirement** for an agreement
 33 under section 21(11) of this chapter ~~do~~ **does** not apply to this
 34 subsection. This subsection expires December 31, 2025.

35 (e) A written agreement under subsection (d) may contain a
 36 provision for payment of liquidated damages:

37 (1) to the corporation for failure to comply with the conditions set
 38 forth in this chapter and the agreement entered into by the
 39 corporation and taxpayer under this chapter; and

40 (2) that are in addition to an assessment made by the department
 41 for noncompliance under section 23 of this chapter.

42 This subsection expires December 31, 2025.

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1 (f) The total aggregated amount of tax credits that the corporation
 2 may discount under subsection (d) and section 16(d) of this chapter in
 3 a state fiscal year may not exceed seventeen million dollars
 4 (\$17,000,000), as determined before the discount is applied. This
 5 subsection expires December 31, 2025.

6 SECTION 7. IC 6-3.1-26-16, AS AMENDED BY P.L.250-2015,
 7 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 16. (a) If a pass through entity does not have
 9 state tax liability against which the tax credit may be applied, a
 10 shareholder, member, or partner of the pass through entity is entitled
 11 to a tax credit equal to:

12 (1) the tax credit determined for the pass through entity for the
 13 taxable year; multiplied by

14 (2) the percentage of the pass through entity's distributive income
 15 to which the shareholder, member, or partner is entitled.

16 (b) Subject to subsection (d), a shareholder, member, or partner of
 17 a pass through entity that is entitled to a tax credit under this section
 18 may carry forward an unused credit for the number of years determined
 19 by the corporation, not to exceed nine (9) consecutive taxable years,
 20 beginning with the taxable year after the taxable year in which the pass
 21 through entity makes the qualified investment.

22 (c) The amount that a shareholder, member, or partner may carry
 23 forward to a particular taxable year under this section equals the
 24 unused part of a tax credit allowed under this chapter to which the
 25 shareholder, member, or partner is entitled.

26 (d) This subsection applies only to a pass through entity that:

27 (1) proposes at least five hundred million dollars (\$500,000,000)
 28 in total investment over a five (5) year period; and

29 (2) enters into a written agreement with the corporation under this
 30 subsection before January 1, 2017, and the shareholders,
 31 members, or partners of the pass through entity agree to claim tax
 32 credits under this chapter for not more than one hundred seventy
 33 million dollars (\$170,000,000) of qualified investment that is
 34 made as part of the investment proposed as described in
 35 subdivision (1).

36 Notwithstanding subsection (b), the corporation may accelerate to the
 37 current taxable year the excess tax credit amount that could otherwise
 38 be carried forward by all shareholders, members, or partners of a pass
 39 through entity under subsection (b). The excess amount of the tax
 40 credit accelerated under this subsection shall be discounted as
 41 determined under a written agreement entered into by the pass through
 42 entity and the corporation. Subject to subsection (f), the total amount



1 of qualified investments for which tax credits may be accelerated under
 2 this subsection may not exceed one hundred seventy million dollars
 3 (\$170,000,000). The discounted amount of the excess tax credit
 4 accelerated under this subsection as determined by the corporation may
 5 be remitted to the shareholders, members, or partners of the pass
 6 through entity as provided in the written agreement between the
 7 corporation and the pass through entity. The ~~requirements~~
 8 **requirement** for an agreement under section 21(11) of this chapter ~~do~~
 9 **does** not apply to this subsection. This subsection expires December
 10 31, 2025.

11 (e) A written agreement under subsection (d) may contain a
 12 provision for payment of liquidated damages:

- 13 (1) to the corporation for failure to comply with the conditions set
 14 forth in this chapter and the agreement entered into by the
 15 corporation and pass through entity under this chapter;
 16 (2) that are personally guaranteed by the shareholders, members,
 17 or partners of the pass through entity; and
 18 (3) that are in addition to an assessment made by the department
 19 for noncompliance under section 23 of this chapter.

20 This subsection expires December 31, 2025.

21 (f) The total aggregated amount of tax credits that the corporation
 22 may discount under subsection (d) and section 15(d) of this chapter in
 23 a state fiscal year may not exceed seventeen million dollars
 24 (\$17,000,000), as determined before the discount is applied. This
 25 subsection expires December 31, 2025.

26 SECTION 8. IC 6-8-11-11.5, AS ADDED BY P.L.250-2015,
 27 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 11.5. If an employer
 29 contributes money to an account under this chapter after December 31,
 30 2015, for which no exemption applies under IC 6-3-2-18(c) **and for**
 31 **which no exemption or exclusion applies under the Internal**
 32 **Revenue Code at the time of contribution:**

- 33 (1) the money may be withdrawn from the account by the
 34 employee at any time and for any purpose without a penalty; **and**
 35 (2) **the withdrawal of the principal amount contributed by the**
 36 **employer is not income to the employee that is subject to**
 37 **taxation under IC 6-3-1 through IC 6-3-7.**

38 SECTION 9. IC 6-8-11-17 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
 40 Sec. 17. (a) An employee may, under this section, withdraw money
 41 from the employee's medical care savings account for a purpose other
 42 than the purposes set forth in section 13 of this chapter.



1 (b) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this
 2 chapter, if an employee withdraws money from the employee's medical
 3 care savings account on the last business day of the account
 4 administrator's business year for a purpose not set forth in section 13
 5 of this chapter:

6 (1) the money withdrawn is income to the individual that is
 7 subject to taxation under IC 6-3-2-18(e); but

8 (2) the withdrawal does not:

9 (A) subject the employee to a penalty; or

10 (B) make the interest earned on the account during the tax year
 11 taxable as income of the employee.

12 (c) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this
 13 chapter, if an employee withdraws money for a purpose not set forth in
 14 section 13 of this chapter at any time other than the last business day
 15 of the account administrator's business year, all of the following apply:

16 (1) The amount of the withdrawal is income to the individual that
 17 is subject to taxation under IC 6-3-2-18(e).

18 (2) The administrator shall withhold and, on behalf of the
 19 employee, pay a penalty to the department of state revenue equal
 20 to ten percent (10%) of the amount of the withdrawal.

21 (3) All interest earned on the balance in the account during the tax
 22 year in which a withdrawal under this subsection is made is
 23 income to the individual that is subject to taxation under
 24 IC 6-3-2-18(f).

25 (d) Money paid to the department of state revenue as a penalty
 26 under this section shall be deposited in the local health maintenance
 27 fund established by IC 16-46-10-1.

28 SECTION 10. IC 6-8-11-23 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
 30 Sec. 23. (a) This section applies when the employment of an individual
 31 by an employer that participates in a medical care savings account
 32 program is terminated.

33 (b) If the former employer is not informed, within ninety (90) days
 34 after the former employee's final day of employment, of the name and
 35 address of an account administrator to which the former employer is
 36 transferring the former employee's medical care savings account under
 37 section 21 of this chapter, the former employer shall pay the money in
 38 the former employee's medical care savings account to the former
 39 employee under subsection (d).

40 (c) If:

41 (1) the former employee, under section 22(2) of this chapter,
 42 requests in writing that the former employer's account



1 administrator remain the administrator of the individual's medical
2 care savings account; and
3 (2) the account administrator does not agree to retain the account;
4 the former employer shall, within ninety (90) days after the former
5 employee's final day of employment, pay the money in the former
6 employee's medical care savings account to the former employee under
7 subsection (d).
8 (d) An employer that is required under this section to pay the money
9 in a former employee's medical care savings account to the former
10 employee shall mail to the former employee, at the former employee's
11 last known address, a check for the balance in the account on the
12 ninety-first day after the employee's final day of employment.
13 (e) Except as provided in ~~section~~ **sections 11(b) and 11.5** of this
14 chapter, money that is paid to a former employee under subsection (d):
15 (1) is subject to taxation under IC 6-3-1 through IC 6-3-7 as
16 income of the individual; but
17 (2) is not subject to the penalty referred to in section 17(c)(2) of
18 this chapter.
19 **SECTION 11. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Tax & Fiscal Policy, to which was referred Senate Bill No. 23, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 23 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 23, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.181-2015, SECTION 6, AND AS AMENDED BY P.L.213-2015, SECTION 52, AND AS AMENDED BY P.L.255-2015, SECTION 40, AND AS AMENDED BY P.L.256-2015, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) A licensee shall before the fifteenth day of each month distribute the following amounts for the support of the Indiana horse racing industry:

- (1) An amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at each casino operated by the licensee with respect to adjusted gross receipts received after June 30, 2013, and before January 1, 2014.
- (2) The percentage of the adjusted gross receipts of the slot machine wagering from the previous month at each casino operated by the licensee that is determined under section 16 or 17 of this chapter with respect to adjusted gross receipts received



after December 31, 2013, and before July 1, 2015.

(3) Subject to section 12.5 of this chapter, the percentage of the adjusted gross receipts of the ~~slot machine~~ gambling game wagering from the previous month at each casino operated by the licensee that is determined under section 16 or 17 of this chapter with respect to adjusted gross receipts received after June 30, 2015.

(c) The Indiana horse racing commission may not use any of the money distributed under this section for any administrative purpose or other purpose of the Indiana horse racing commission.

(d) A licensee shall distribute the money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (g).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (g).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (f).

(e) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (d)(1) through (d)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (h).

(f) A licensee shall distribute the amounts described in subsection (d)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:
(A) ~~Sixty~~ Fifty-five percent (~~60%~~) (55%) for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) ~~Forty~~ Forty-five percent (~~40%~~) (45%) to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Three hundred seventy-five thousand dollars (\$375,000)



to the state fair commission to be used by the state fair commission to support standardbred racing and facilities at the state fairgrounds.

(B) One hundred twenty-five thousand dollars (\$125,000) to the state fair commission to be used by the state fair commission to make grants to county fairs *and the department of parks and recreation in Johnson County* to support standardbred racing and facilities at county fair *and county park* tracks. The state fair commission shall establish a review committee to include the standardbred association board, the Indiana horse racing commission, ~~and~~ the Indiana county fair association, *and a member of the board of directors of a county park established under IC 36-10 that provides or intends to provide facilities to support standardbred racing*, to make recommendations to the state fair commission on grants under this clause. *A grant may be provided to the Johnson County fair or department of parks and recreation under this clause only if the county fair or department provides matching funds equal to one dollar (\$1) for every three dollars (\$3) of grant funds provided.*

- (3) Eight percent (8%) for quarter horse purposes as follows:
- (A) Seventy percent (70%) for the following purposes:
 - (i) Ninety-five percent (95%) for quarter horse purses.
 - (ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.
 - (B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (h).

(g) Money distributed under subsection (d)(1) and (d)(2) shall be allocated as follows:

- (1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.
- (2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.
- (3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(h) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the



horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

- (1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.
- (2) The horsemen's association must register with the Indiana horse racing commission.

The state board of accounts shall ~~annually~~ audit the accounts, books, and records of the Indiana horse racing commission, each horsemen's association, a licensee, and any association for backside benevolence containing any information relating to the distribution of money under this section.

(i) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(j) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

- (1) issue a warning to the licensee;
- (2) impose a civil penalty that may not exceed one million dollars (\$1,000,000); or
- (3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(k) A civil penalty collected under this section must be deposited in the state general fund."

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 6-3-1-3.5, AS AMENDED BY P.L.250-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

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



- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
 - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
 - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
 - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
- (5) Subtract:
 - (A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and
 - (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).
- (6) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (7) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (8) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (9) In the case of a nonresident taxpayer or a resident taxpayer



residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), and (5) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(10) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(11) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(12) Subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(13) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(14) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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

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

(17) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not



been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(18) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(19) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(20) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

(21) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract the amount necessary from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

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

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

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

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



- (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related ~~intangible~~ interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.
- (10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).
- (11) Subtract income that is:



(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the corporation's taxable income under the Internal Revenue Code.

(12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

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

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

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

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

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

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

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



depreciation to the property in the year that it was placed in service.

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

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

(12) Add the amount excluded from federal gross income under Section 103 of the Internal Revenue Code for interest received on an obligation of a state other than Indiana, or a political



subdivision of such a state, that is acquired by the taxpayer after December 31, 2011.

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

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

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

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 832(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

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

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

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

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Subtract income that is:



(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the insurance company's taxable income under the Internal Revenue Code.

(10) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.

(11) Add an amount equal to any exempt insurance income under Section 953(e) of the Internal Revenue Code that is active financing income under Subpart F of Subtitle A, Chapter 1, Subchapter N of the Internal Revenue Code.

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

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

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

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

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



service.

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the taxpayer's taxable income under the Internal Revenue Code.

(8) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the Internal Revenue Code.



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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 23 as printed January 13, 2016.)

BROWN T

Committee Vote: yeas 19, nays 1.

