



February 29, 2016

ENGROSSED

SENATE BILL No. 309

DIGEST OF SB 309 (Updated February 28, 2016 2:54 pm - DI 58)

Citations Affected: IC 5-10; IC 5-20; IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-8.1; IC 6-9; IC 8-15.5; IC 36-1; IC 36-2; IC 36-3; IC 36-7; noncode.

Synopsis: State and local taxation. Eliminates the property tax deduction for residential rehabilitation of a dwelling. Eliminates the property tax deduction for rehabilitation of a structure over 50 years old. Restricts but does not eliminate the exemption for property taxes for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing. Defines "facilitator" as a person who: (1) contracts with a person who rents or furnishes lodgings for consideration to market the lodgings through the Internet; and (2) accepts payment from the consumer for the lodging. Provides that a facilitator is a retail merchant making a retail transaction when the facilitator accepts payment from the consumer for lodgings rented or furnished in Indiana. Provides that a facilitator shall provide to the consumer of lodging an itemized statement separately stating any taxes collected by the facilitator. Provides that a penalty of \$25 is imposed on a facilitator for each transaction in which the facilitator fails to separately state the taxes collected on the transaction. Provides that if an ordinance has been adopted requiring the payment
(Continued next page)

Effective: Upon passage; January 1, 2010 (retroactive); January 1, 2016 (retroactive); July 1, 2016; January 1, 2017.

Hershman, Holdman

(HOUSE SPONSOR — BROWN T, HUSTON, THOMPSON)

January 7, 2016, read first time and referred to Committee on Tax & Fiscal Policy.
January 28, 2016, amended, reported favorably — Do Pass.
February 2, 2016, read second time, amended, ordered engrossed.
February 3, 2016, engrossed. Read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Ways and Means.
February 29, 2016, amended, reported — Do Pass.

ES 309—LS 6893/DI 73



of innkeeper's tax to the county treasurer instead of the department, the county treasurer has the same rights and powers with respect to refunding the innkeeper's tax as the department. Provides that the use tax is imposed on a contractor's conversion of construction material into real property if that construction material was purchased by the contractor. Specifies, however, that the use tax does not apply to conversions of construction material if: (1) the sales or use tax has been previously imposed on the contractor's acquisition or use of that construction material; (2) the person for whom the construction material is being converted could have purchased the construction material exempt from the sales and use tax (as evidenced by an exemption certificate) if that person had directly purchased the material from a retail merchant in a retail transaction; or (3) the conversion of the construction material into real property is governed by a time and material contract. Provides that a contractor is a retail merchant making a retail transaction when the contractor disposes of tangible personal property or converts tangible personal property into real property under a time and material contract. Updates the definition of the Internal Revenue Code to incorporate changes made by Congress through January 1, 2016. Provides that for taxable years beginning after December 31, 2017, a taxpayer may claim the \$1,500 additional dependent deduction for a dependent child for whom the taxpayer is the legal guardian. Sets forth criteria for determining the date on which a taxpayer has made a contribution to a 529 plan. Provides that if a partnership, a trust, or an estate fails to withhold and pay any amount of tax required to be withheld and thereafter the tax is paid by the partners of the partnership (or the beneficiaries in the case of a trust or estate), the amount of tax paid by partners (or the beneficiaries in the case of a trust or estate) may not be collected from the partnership, trust, or estate. Specifies that the partnership, trust, or estate remains liable for interest or penalty based on the failure to withhold the tax. Provides that if the department issues to a person a demand notice for the payment of a tax, the person has 20 days (rather than 10 days, under current law) to either pay the amount demanded or show reasonable cause for not paying the amount demanded. Repeals, effective January 1, 2017, the provision in current law that provides that the cutting of steel bars into billets is to be treated as processing of tangible personal property for purposes of the double direct sales tax exemption for certain manufacturing activities. Adds a provision that would apply retroactively the same sales tax exemption related to the cutting of steel bars into billets (that was enacted effective January 1, 2016) to taxable year beginning January 1, 2011. Provides, however, that a taxpayer predominantly engaged in the business of cutting steel bars owned by others into billets is not entitled to a refund of state gross retail or use taxes paid for any tax period beginning after December 31, 2010, and before January 1, 2016, based on that provision. Provides that a public-private agreement for communications systems infrastructure may be entered into using the procedures that apply to requests for proposals by the Indiana finance authority (IFA) or using a request for information and entering into negotiations with a single offeror. Provides that the IFA may set user fees as part of the public-private agreement. Specifies that any improvements on any real property interests may be owned by the IFA, a governmental entity, an operator, or a private entity instead of having to be owned in the name of the state or by a governmental entity. Provides that local planning and zoning laws do not restrict or regulate the exercise of the power of eminent domain by the IFA or the use of property owned or occupied by the IFA. Directs the auditor of state, as administrator of the state employees' deferred compensation plan (Hoosier S.T.A.R.T.), to: (1) study the issues involved with the development of a multiple employer plan for private sector employers located in Indiana; and (2) report to the budget committee and the legislative council not later than December 31, 2016. Makes technical corrections.



February 29, 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. 309

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

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

1 SECTION 1. IC 5-10-1.1-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 10. (a) It is the policy of the general assembly to
4 provide a legal and regulatory environment that is conducive to the
5 growth of small business and the recruitment, hiring, and retention
6 of productive and responsible employees. In furtherance of this
7 policy, it is the intent of the general assembly to foster an
8 environment that encourages small businesses to provide
9 retirement savings opportunities to their employees by facilitating
10 access to efficient, cost effective, employer based retirement
11 savings plans.**
12 **(b) The auditor of state, as administrator of the state employees'
13 deferred compensation plan, is directed to:**
14 **(1) study the issues involved with the development of a
15 multiple employer plan for private sector employers located**

ES 309—LS 6893/DI 73



1 **in Indiana consistent with:**

2 **(A) the Interpretive Bulletin (80 FR 71936, amending 29**
 3 **CFR Part 2509) issued by the Employee Benefits Security**
 4 **Administration of the United States Department of Labor**
 5 **on November 18, 2015; and**

6 **(B) applicable Internal Revenue Service legal authorities;**
 7 **and**

8 **(2) report on the findings of the study described in subdivision**

9 **(1) not later than December 31, 2016, to:**

10 **(A) the budget committee; and**

11 **(B) the legislative council in an electronic format under**
 12 **IC 5-14-6.**

13 **(c) This section expires July 1, 2017.**

14 SECTION 2. IC 5-20-5-15.5, AS AMENDED BY P.L.211-2007,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2017]: Sec. 15.5. (a) The governing body of an eligible
 17 entity that receives a grant under this chapter shall, by resolution,
 18 establish an affordable housing fund to be administered, subject to the
 19 terms of the resolution, by a department, a division, or an agency
 20 designated by the governing body.

21 (b) The affordable housing fund consists of:

22 (1) payments in lieu of taxes deposited in the fund under
 23 IC 36-1-8-14.2 **(before its expiration);**

24 (2) gifts and grants to the fund;

25 (3) investment income earned on the fund's assets;

26 (4) money deposited in the fund under IC 36-2-7-10; and

27 (5) other funds from sources approved by the commission.

28 (c) The governing body shall, by resolution, establish uses for the
 29 affordable housing fund. However, the uses must be limited to:

30 (1) providing financial assistance to those individuals and
 31 families whose income is at or below eighty percent (80%) of the
 32 county's median income for individuals and families, respectively,
 33 to enable those individuals and families to purchase or lease
 34 residential units within the county;

35 (2) paying expenses of administering the fund;

36 (3) making grants, loans, and loan guarantees for the
 37 development, rehabilitation, or financing of affordable housing
 38 for individuals and families whose income is at or below eighty
 39 percent (80%) of the county's median income for individuals and
 40 families, respectively, including the elderly, persons with
 41 disabilities, and homeless individuals and families; and

42 (4) providing technical assistance to nonprofit developers of



1 affordable housing.

2 (d) The county treasurer shall invest the money in the fund not
3 currently needed to meet the obligations of the fund in the same
4 manner as other public funds may be invested.

5 SECTION 3. IC 6-1.1-10-16.7, AS AMENDED BY P.L.181-2006,
6 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2016]: Sec. 16.7. **(a) Except as otherwise provided in this
8 section,** all or part of real property is exempt from property taxation if:

9 (1) the improvements on the real property were constructed,
10 rehabilitated, or acquired for the purpose of providing housing to
11 income eligible persons under the federal low income housing tax
12 credit program under 26 U.S.C. 42;

13 (2) the real property is subject to an extended use agreement
14 under 26 U.S.C. 42 as administered by the Indiana housing and
15 community development authority; and

16 (3) the owner of the property has entered into an agreement to
17 make payments in lieu of taxes under IC 36-1-8-14.2 **(before its
18 expiration), IC 36-2-6-22 (before its expiration), or
19 IC 36-3-2-11 (before its expiration).**

20 **(b) For assessment dates after December 31, 2017, all or part of
21 real property is exempt from property taxation if:**

22 **(1) the conditions specified in subsection (a)(1) through (a)(3)
23 are met; and**

24 **(2) before January 1, 2018:**

25 **(A) the real property was exempt from property taxation
26 under this section for one (1) or more assessment dates;**

27 **(B) a person filed an application seeking bond financing
28 with a political subdivision with respect to the real
29 property;**

30 **(C) a person filed an application with the Indiana housing
31 and community development authority seeking tax credits
32 under 26 U.S.C. 42 with respect to the real property; or**

33 **(D) the real property was the subject of a resolution for
34 affordable housing adopted by a political subdivision.**

35 **(c) This section may not be construed in such a way as to:**

36 **(1) alter the terms of an agreement with the holders of any
37 outstanding notes, bonds, or other obligations of an issuing
38 body;**

39 **(2) authorize the issuing body to alter the terms of an
40 agreement described in subdivision (1); or**

41 **(3) impair, or authorize the issuing body to impair, the rights
42 and remedies of any creditor of the issuing body.**



1 SECTION 4. IC 6-1.1-12-18, AS AMENDED BY P.L.247-2015,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 18. **(a) This section applies only to
 4 rehabilitation of residential real property that occurs before
 5 January 2, 2017.**

6 ~~(a)~~ **(b)** If the assessed value of residential real property described in
 7 subsection ~~(d)~~ **(e)** is increased because it has been rehabilitated, the
 8 owner may have deducted from the assessed value of the property an
 9 amount not to exceed the lesser of:

- 10 (1) the total increase in assessed value resulting from the
 11 rehabilitation **(excluding an increase in assessed value that
 12 occurs after January 1, 2017)**; or
 13 (2) eighteen thousand seven hundred twenty dollars (\$18,720) per
 14 rehabilitated dwelling unit.

15 The owner is entitled to this deduction annually for a five (5) year
 16 period, or if subsection ~~(e)~~ **(f)** applies, the period established under
 17 subsection ~~(e)~~: **(f)**.

18 ~~(b)~~ **(c)** For purposes of this section, the term "rehabilitation" means
 19 significant repairs, replacements, or improvements to an existing
 20 structure which are intended to increase the livability, utility, safety, or
 21 value of the property under rules adopted by the department of local
 22 government finance.

23 ~~(e)~~ **(d)** For the purposes of this section, the term "owner" or
 24 "property owner" includes any person who has the legal obligation, or
 25 has otherwise assumed the obligation, to pay the real property taxes on
 26 the rehabilitated property.

27 ~~(d)~~ **(e)** The deduction provided by this section applies only:

28 (1) for the rehabilitation of residential real property which is
 29 located within this state and which is described in one (1) of the
 30 following classifications:

31 (A) A single family dwelling if before rehabilitation the
 32 assessed value (excluding any exemptions or deductions) of
 33 the improvements does not exceed thirty-seven thousand four
 34 hundred forty dollars (\$37,440).

35 (B) A two (2) family dwelling if before rehabilitation the
 36 assessed value (excluding exemptions or deductions) of the
 37 improvements does not exceed forty-nine thousand nine
 38 hundred twenty dollars (\$49,920).

39 (C) A dwelling with more than two (2) family units if before
 40 rehabilitation the assessed value (excluding any exemptions or
 41 deductions) of the improvements does not exceed eighteen
 42 thousand seven hundred twenty dollars (\$18,720) per dwelling



- 1 unit; and
 2 (2) if the property owner:
 3 (A) owns the residential real property; or
 4 (B) is buying the residential real property under contract;
 5 on the assessment date of the year in which an application must
 6 be filed under section 20 of this chapter.
- 7 ~~(e)~~ (f) A county, city, or town fiscal body may adopt an ordinance
 8 to establish a deduction period that is longer than five (5) years but not
 9 to exceed fifteen (15) years for any rehabilitated property covered by
 10 this section that has also been determined to be abandoned or vacant
 11 for purposes of IC 6-1.1-24.
- 12 **(g) This section expires January 1, 2023.**
 13 SECTION 5. IC 6-1.1-12-19, AS AMENDED BY P.L.112-2012,
 14 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2016]: Sec. 19. (a) The deduction from assessed value
 16 provided by section 18 of this chapter (**before its expiration**) is first
 17 available in the year in which the increase in assessed value resulting
 18 from the rehabilitation occurs and shall continue for the following four
 19 (4) years. In the sixth (6th) year, the county auditor shall add the
 20 amount of the deduction to the assessed value of the real property. A:
 21 (1) general reassessment of real property under IC 6-1.1-4-4; or
 22 (2) reassessment under a county's reassessment plan prepared
 23 under IC 6-1.1-4-4.2;
 24 which occurs within the five (5) year period of the deduction does not
 25 affect the amount of the deduction.
- 26 **(b) This section expires January 1, 2023.**
 27 SECTION 6. IC 6-1.1-12-20, AS AMENDED BY P.L.1-2009,
 28 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2016]: Sec. 20. (a) A property owner who desires to obtain the
 30 deduction provided by section 18 of this chapter (**before its**
 31 **expiration**) must file a certified deduction application, on forms
 32 prescribed by the department of local government finance, with the
 33 auditor of the county in which the rehabilitated property is located. The
 34 application may be filed in person or by mail. If mailed, the mailing
 35 must be postmarked on or before the last day for filing. Except as
 36 provided in subsection (b) and subject to section 45 of this chapter, the
 37 application must be filed in the year in which the addition to assessed
 38 value is made.
- 39 (b) If notice of the addition to assessed value for any year is not
 40 given to the property owner before December 1 of that year, the
 41 application required by this section may be filed not later than thirty
 42 (30) days after the date such a notice is mailed to the property owner



1 at the address shown on the records of the township or county assessor.

2 (c) The application required by this section shall contain the
3 following information:

4 (1) A description of the property for which a deduction is claimed
5 in sufficient detail to afford identification.

6 (2) Statements of the ownership of the property.

7 (3) The assessed value of the improvements on the property
8 before rehabilitation.

9 (4) The number of dwelling units on the property.

10 (5) The number of dwelling units rehabilitated.

11 (6) The increase in assessed value resulting from the
12 rehabilitation.

13 (7) The amount of deduction claimed.

14 (d) A deduction application filed under this section is applicable for
15 the year in which the increase in assessed value occurs and for the
16 immediately following four (4) years without any additional application
17 being filed.

18 (e) On verification of an application by the assessor of the township
19 in which the property is located, or the county assessor if there is no
20 township assessor for the township, the county auditor shall make the
21 deduction.

22 **(f) This section expires January 1, 2023.**

23 SECTION 7. IC 6-1.1-12-22, AS AMENDED BY P.L.247-2015,
24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2016]: Sec. 22. **(a) This section applies only to
26 rehabilitation of property that occurs before January 2, 2017.**

27 ~~(a)~~ **(b)** If the assessed value of property is increased because it has
28 been rehabilitated and the owner has paid at least ten thousand dollars
29 (\$10,000) for the rehabilitation, the owner is entitled to have deducted
30 from the assessed value of the property an amount equal to fifty percent
31 (50%) of the increase in assessed value resulting from the rehabilitation
32 **(excluding an increase in assessed value that occurs from
33 rehabilitation after January 1, 2017)**. The owner is entitled to this
34 deduction annually for a five (5) year period, or if subsection ~~(e)~~ **(f)**
35 applies, the period established under subsection ~~(e)~~: **(f)**. However, the
36 maximum deduction which a property owner may receive under this
37 section for a particular year is:

38 (1) one hundred twenty-four thousand eight hundred dollars
39 (\$124,800) for a single family dwelling unit; or

40 (2) three hundred thousand dollars (\$300,000) for any other type
41 of property.

42 ~~(b)~~ **(c)** For purposes of this section, the term "property" means a



1 building or structure which was erected at least fifty (50) years before
 2 the date of application for the deduction provided by this section. The
 3 term "property" does not include land.

4 ~~(c)~~ **(d)** For purposes of this section, the term "rehabilitation" means
 5 significant repairs, replacements, or improvements to an existing
 6 structure that are intended to increase the livability, utility, safety, or
 7 value of the property under rules adopted by the department of local
 8 government finance.

9 ~~(d)~~ **(e)** The deduction provided by this section applies only if the
 10 property owner:

11 (1) owns the property; or

12 (2) is buying the property under contract;

13 on the assessment date of the year in which an application must be filed
 14 under section 24 of this chapter.

15 ~~(e)~~ **(f)** A county, city, or town fiscal body may adopt an ordinance
 16 to establish a deduction period that is longer than five (5) years but not
 17 to exceed seven (7) years for any rehabilitated property covered by this
 18 section that has also been determined to be abandoned or vacant for
 19 purposes of IC 6-1.1-24.

20 **(g) This section expires January 1, 2025.**

21 SECTION 8. IC 6-1.1-12-23, AS AMENDED BY P.L.112-2012,
 22 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 23. **(a)** The deduction from assessed value
 24 provided by section 22 of this chapter **(before its expiration)** is first
 25 available after the first assessment date following the rehabilitation and
 26 shall continue for the taxes first due and payable in the following five
 27 (5) years. In the sixth (6th) year, the county auditor shall add the
 28 amount of the deduction to the assessed value of the property. Any:

29 (1) general reassessment of real property under IC 6-1.1-4-4; or

30 (2) reassessment under a county's reassessment plan prepared
 31 under IC 6-1.1-4-4.2;

32 which occurs within the five (5) year period of the deduction does not
 33 affect the amount of the deduction.

34 **(b) This section expires January 1, 2023.**

35 SECTION 9. IC 6-1.1-12-24, AS AMENDED BY P.L.113-2010,
 36 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 24. (a) A property owner who desires to obtain the
 38 deduction provided by section 22 of this chapter **(before its**
 39 **expiration)** must file a certified deduction application, on forms
 40 prescribed by the department of local government finance, with the
 41 auditor of the county in which the property is located. The application
 42 may be filed in person or by mail. If mailed, the mailing must be



1 postmarked on or before the last day for filing. Except as provided in
 2 subsection (b) and subject to section 45 of this chapter, the application
 3 must be filed in the year in which the addition to assessed valuation is
 4 made.

5 (b) If notice of the addition to assessed valuation for any year is not
 6 given to the property owner before December 1 of that year, the
 7 application required by this section may be filed not later than thirty
 8 (30) days after the date such a notice is mailed to the property owner
 9 at the address shown on the records of the township or county assessor.

10 (c) The application required by this section shall contain the
 11 following information:

12 (1) The name of the property owner.

13 (2) A description of the property for which a deduction is claimed
 14 in sufficient detail to afford identification.

15 (3) The assessed value of the improvements on the property
 16 before rehabilitation.

17 (4) The increase in the assessed value of improvements resulting
 18 from the rehabilitation.

19 (5) The amount of deduction claimed.

20 (d) A deduction application filed under this section is applicable for
 21 the year in which the addition to assessed value is made and in the
 22 immediate following four (4) years without any additional application
 23 being filed.

24 (e) On verification of the correctness of an application by the
 25 assessor of the township in which the property is located, or the county
 26 assessor if there is no township assessor for the township, the county
 27 auditor shall make the deduction.

28 **(f) This section expires January 1, 2023.**

29 SECTION 10. IC 6-1.1-12-25 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 25. **(a)** For repairs or
 31 improvements made to a particular building or structure, a person may
 32 receive either the deduction provided by section 18 of this chapter
 33 **(before its expiration)** or the deduction provided by section 22 of this
 34 chapter **(before its expiration)**. ~~He~~ **A person** may not receive
 35 deductions under both sections for the repairs or improvements.

36 **(b) This section expires January 1, 2025.**

37 SECTION 11. IC 6-1.1-12-46, AS AMENDED BY P.L.250-2015,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2016]: Sec. 46. (a) This section applies to real property for an
 40 assessment date in 2011 or a later year if:

41 (1) the real property is not exempt from property taxation for the
 42 assessment date;



1 (2) title to the real property is transferred after the assessment date
 2 and on or before the December 31 that next succeeds the
 3 assessment date;

4 (3) the transferee of the real property applies for an exemption
 5 under IC 6-1.1-11 for the next succeeding assessment date; and

6 (4) the county property tax assessment board of appeals
 7 determines that the real property is exempt from property taxation
 8 for that next succeeding assessment date.

9 (b) For the assessment date referred to in subsection (a)(1), real
 10 property is eligible for any deductions for which the transferor under
 11 subsection (a)(2) was eligible for that assessment date under the
 12 following:

13 (1) IC 6-1.1-12-1.

14 (2) IC 6-1.1-12-9.

15 (3) IC 6-1.1-12-11.

16 (4) IC 6-1.1-12-13.

17 (5) IC 6-1.1-12-14.

18 (6) IC 6-1.1-12-16.

19 (7) IC 6-1.1-12-17.4 (before its expiration).

20 (8) IC 6-1.1-12-18 **(before its expiration)**.

21 (9) IC 6-1.1-12-22 **(before its expiration)**.

22 (10) IC 6-1.1-12-37.

23 (11) IC 6-1.1-12-37.5.

24 (c) For the payment date applicable to the assessment date referred
 25 to in subsection (a)(1), real property is eligible for the credit for
 26 excessive residential property taxes under IC 6-1.1-20.6 for which the
 27 transferor under subsection (a)(2) would be eligible for that payment
 28 date if the transfer had not occurred.

29 SECTION 12. IC 6-1.1-12.1-6 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) A property owner
 31 may not receive a deduction under this chapter for repairs or
 32 improvements to real property if ~~he~~ **the property owner** receives a
 33 deduction under either IC 6-1.1-12-18 **(before its expiration)** or
 34 IC 6-1.1-12-22 **(before its expiration)** for those same repairs or
 35 improvements. **This subsection expires January 1, 2033.**

36 (b) A property owner may not receive a deduction under this chapter
 37 if the property owner receives a deduction under IC 6-1.1-12-28.5 for
 38 the same property.

39 SECTION 13. IC 6-1.1-42-22 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. (a) The designating
 41 body shall determine whether to approve a deduction.

42 (b) A designating body may not grant a deduction for a facility



1 described in IC 6-1.1-12.1-3(e).

2 (c) A property owner may not receive a deduction under this chapter
3 for repairs or improvements to real property if the owner receives a
4 deduction under either IC 6-1.1-12.1, IC 6-1.1-12-18 (**before its**
5 **expiration**), IC 6-1.1-12-22 (**before its expiration**), or
6 IC 6-1.1-12-28.5 for the same property.

7 (d) A designating body may approve a deduction only if the
8 following findings are made in the affirmative:

9 (1) The applicant:

10 (A) has never had an ownership interest in an entity that
11 contributed; and

12 (B) has not contributed;

13 a contaminant (as defined in IC 13-11-2-42) that is the subject of
14 the voluntary remediation, as determined under the written
15 standards adopted by the department of environmental
16 management.

17 (2) The proposed improvement or property will be located in a
18 zone.

19 (3) The estimate of the value of the remediation and
20 redevelopment is reasonable for projects of that nature.

21 (4) The estimate of the number of individuals who will be
22 employed or whose employment will be retained can be
23 reasonably expected to result from the proposed described
24 remediation and redevelopment.

25 (5) The estimate of the annual salaries of those individuals who
26 will be employed or whose employment will be retained can be
27 reasonably expected to result from the proposed described
28 remediation and redevelopment.

29 (6) Any other benefits about which information was requested are
30 benefits that can be reasonably expected to result from the
31 proposed described remediation and redevelopment.

32 (7) The totality of benefits is sufficient to justify the deduction.

33 SECTION 14. IC 6-2.5-1-14.7 IS ADDED TO THE INDIANA
34 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 14.7.**
36 **"Construction material" means any tangible personal property to**
37 **be converted into real property.**

38 SECTION 15. IC 6-2.5-1-14.9 IS ADDED TO THE INDIANA
39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 14.9.**
41 **"Contractor" means any person engaged in converting**
42 **construction material into real property on behalf of another**



1 **person. The term includes, but is not limited to, general or prime**
 2 **contractors, subcontractors, and specialty contractors.**

3 SECTION 16. IC 6-2.5-1-27.7 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 27.7.**
 6 **"Time and material contract" means a contract in which the cost**
 7 **of construction material and the cost of labor or other charges are**
 8 **stated separately.**

9 SECTION 17. IC 6-2.5-3-2, AS AMENDED BY P.L.13-2013,
 10 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) An excise tax,
 12 known as the use tax, is imposed on the storage, use, or consumption
 13 of tangible personal property in Indiana if the property was acquired in
 14 a retail transaction, regardless of the location of that transaction or of
 15 the retail merchant making that transaction.

16 (b) The use tax is also imposed on the storage, use, or consumption
 17 of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or
 18 watercraft:

19 (1) is acquired in a transaction that is an isolated or occasional
 20 sale; and

21 (2) is required to be titled, licensed, or registered by this state for
 22 use in Indiana.

23 (c) The use tax is imposed on ~~the addition of tangible personal~~
 24 ~~property to a structure or facility; if, after its addition, the property~~
 25 ~~becomes part of the real estate on which the structure or facility is~~
 26 ~~located: a contractor's conversion of construction material into real~~
 27 ~~property if that construction material was purchased by the~~
 28 ~~contractor. However, the use tax does not apply to additions~~
 29 ~~conversions of tangible personal property construction material~~
 30 ~~described in this subsection, if:~~

31 (1) the state gross retail or use tax has been previously imposed
 32 on the ~~sale contractor's acquisition~~ or use of that ~~property; or~~
 33 **construction material;**

34 (2) ~~the ultimate purchaser or recipient of that property would have~~
 35 ~~been~~ **person for whom the construction material is being**
 36 **converted could have purchased the material** exempt from the
 37 state gross retail and use taxes, **as evidenced by a properly**
 38 **issued exemption certificate**, if that ~~purchaser or recipient~~
 39 **person** had directly purchased the ~~property from the supplier for~~
 40 ~~addition to the structure or facility: construction material from~~
 41 **a retail merchant in a retail transaction; or**

42 (3) **the conversion of the construction material into real**



- 1 **property is governed by a time and material contract as**
 2 **described in IC 6-2.5-4-9(b).**
 3 (d) The use tax is imposed on a person who:
 4 (1) manufactures, fabricates, or assembles tangible personal
 5 property from materials either within or outside Indiana; and
 6 (2) uses, stores, distributes, or consumes tangible personal
 7 property in Indiana.
 8 (e) Notwithstanding any other provision of this section, the use tax
 9 is not imposed on the keeping, retaining, or exercising of any right or
 10 power over tangible personal property, if:
 11 (1) the property is delivered into Indiana by or for the purchaser
 12 of the property;
 13 (2) the property is delivered in Indiana for the sole purpose of
 14 being processed, printed, fabricated, or manufactured into,
 15 attached to, or incorporated into other tangible personal property;
 16 and
 17 (3) the property is subsequently transported out of state for use
 18 solely outside Indiana.
 19 (f) As used in subsection (g) and IC 6-2.5-5-42:
 20 (1) "completion work" means the addition of tangible personal
 21 property to or reconfiguration of the interior of an aircraft, if the
 22 work requires the issuance of an airworthiness certificate from
 23 the:
 24 (A) Federal Aviation Administration; or
 25 (B) equivalent foreign regulatory authority;
 26 due to the change in the type certification basis of the aircraft
 27 resulting from the addition to or reconfiguration of the interior of
 28 the aircraft;
 29 (2) "delivery" means the physical delivery of the aircraft
 30 regardless of who holds title; and
 31 (3) "prepurchase evaluation" means an examination of an aircraft
 32 by a potential purchaser for the purpose of obtaining information
 33 relevant to the potential purchase of the aircraft.
 34 (g) Notwithstanding any other provision of this section, the use tax
 35 is not imposed on the keeping, retaining, or exercising of any right or
 36 power over an aircraft, if:
 37 (1) the aircraft is or will be titled, registered, or based (as defined
 38 in IC 6-6-6.5-1(m)) in another state or country;
 39 (2) the aircraft is delivered to Indiana by or for a nonresident
 40 owner or purchaser of the aircraft;
 41 (3) the aircraft is delivered to Indiana for the sole purpose of
 42 being repaired, refurbished, remanufactured, or subjected to



1 completion work or a prepurchase evaluation; and
 2 (4) after completion of the repair, refurbishment, remanufacture,
 3 completion work, or prepurchase evaluation, the aircraft is
 4 transported to a destination outside Indiana.

5 (h) The amendments made to this section by P.L.153-2012 shall be
 6 interpreted to specify and not to change the general assembly's intent
 7 with respect to this section.

8 SECTION 18. IC 6-2.5-4-4.2 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2016]: **Sec. 4.2. (a) As used in this section,**
 11 **"facilitator" means a person who:**

- 12 **(1) contracts or otherwise enters into an agreement:**
 13 **(A) with a person who rents or furnishes rooms, lodgings,**
 14 **or accommodations for consideration; and**
 15 **(B) to market the room, lodging, or accommodation**
 16 **through the Internet; and**
 17 **(2) accepts payment from the consumer for the room, lodging,**
 18 **or accommodation.**

19 **The term does not include a licensee (as defined in**
 20 **IC 25-34.1-1-2(6)) under the real estate broker licensing act**
 21 **(IC 25-34.1) or the owner of the room, lodging, or accommodation.**

22 **(b) A facilitator shall give to the consumer of the room, lodging,**
 23 **or accommodation an itemized statement separately stating any**
 24 **amount collected by the person renting or furnishing the room,**
 25 **lodging, or accommodation for:**

- 26 **(1) the state gross retail or use tax; and**
 27 **(2) any innkeeper's tax due under IC 6-9.**

28 **(c) A penalty of twenty-five dollars (\$25) is imposed for each**
 29 **transaction described in subsection (b) in which a facilitator fails**
 30 **to separately state:**

- 31 **(1) the state gross retail or use tax; and**
 32 **(2) any innkeeper's tax due under IC 6-9.**

33 SECTION 19. IC 6-2.5-4-9 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
 35 Sec. 9. (a) A person is a retail merchant making a retail transaction
 36 when the person sells tangible personal property which:

- 37 (1) is to be added to a structure or facility by the purchaser; and
 38 (2) after its addition to the structure or facility, would become a
 39 part of the real estate on which the structure or facility is located.

40 **(b) A contractor is a retail merchant making a retail transaction**
 41 **when the contractor:**

- 42 **(1) disposes of tangible personal property; or**



1 **(2) converts tangible personal property into real property;**
 2 **under a time and material contract. As such a retail merchant, a**
 3 **contractor described in this subsection shall collect, as an agent of**
 4 **the state, the state gross retail tax on the resale of the construction**
 5 **material and remit the state gross retail tax as provided in this**
 6 **article.**

7 ~~(b)~~ **(c)** Notwithstanding ~~subsection (a);~~ **subsections (a) and (b)**, a
 8 transaction described in subsection (a) **or (b)** is not a retail transaction,
 9 if the ultimate purchaser or recipient of the property to be added to ~~the~~
 10 **a** structure or facility would be exempt from the state gross retail and
 11 use taxes if that purchaser or recipient had directly purchased the
 12 property from the supplier for addition to the structure or facility.

13 SECTION 20. IC 6-2.5-5-3, AS AMENDED BY P.L.250-2015,
 14 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JANUARY 1, 2017]: Sec. 3. (a) For purposes of this section:

16 (1) the:

17 (A) retreading of tires; **and**

18 ~~(B)~~ **cutting of steel bars into billets; and**

19 ~~(C)~~ **(B)** felling of trees for further use in production or for sale
 20 in the ordinary course of business;

21 shall be treated as the processing of tangible personal property;
 22 and

23 (2) commercial printing shall be treated as the production and
 24 manufacture of tangible personal property.

25 (b) Except as provided in subsection (c), transactions involving
 26 manufacturing machinery, tools, and equipment are exempt from the
 27 state gross retail tax if the person acquiring that property acquires it for
 28 direct use in the direct production, manufacture, fabrication, assembly,
 29 extraction, mining, processing, refining, or finishing of other tangible
 30 personal property, including material handling equipment purchased
 31 for the purpose of transporting materials into such activities from an
 32 onsite location.

33 (c) The exemption provided in subsection (b) does not apply to
 34 transactions involving distribution equipment or transmission
 35 equipment acquired by a public utility engaged in generating
 36 electricity.

37 SECTION 21. IC 6-3-1-3.5, AS AMENDED BY SEA 23-2016,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JANUARY 1, 2017]: Sec. 3.5. When used in this article, the term
 40 "adjusted gross income" shall mean the following:

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



- 1 follows:
- 2 (1) Subtract income that is exempt from taxation under this article
- 3 by the Constitution and statutes of the United States.
- 4 (2) Add an amount equal to any deduction or deductions allowed
- 5 or allowable pursuant to Section 62 of the Internal Revenue Code
- 6 for taxes based on or measured by income and levied at the state
- 7 level by any state of the United States.
- 8 (3) Subtract one thousand dollars (\$1,000), or in the case of a
- 9 joint return filed by a husband and wife, subtract for each spouse
- 10 one thousand dollars (\$1,000).
- 11 (4) Subtract one thousand dollars (\$1,000) for:
- 12 (A) each of the exemptions provided by Section 151(c) of the
- 13 Internal Revenue Code;
- 14 (B) each additional amount allowable under Section 63(f) of
- 15 the Internal Revenue Code; and
- 16 (C) the spouse of the taxpayer if a separate return is made by
- 17 the taxpayer and if the spouse, for the calendar year in which
- 18 the taxable year of the taxpayer begins, has no gross income
- 19 and is not the dependent of another taxpayer.
- 20 (5) Subtract:
- 21 (A) one thousand five hundred dollars (\$1,500) for each of the
- 22 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 23 Revenue Code (as effective January 1, 2004); ~~and~~
- 24 **(B) for taxable years beginning after December 31, 2017,**
- 25 **one thousand five hundred dollars (\$1,500) for each**
- 26 **exemption allowed under Section 151(c) of the Internal**
- 27 **Revenue Code for an individual:**
- 28 **(i) who is less than nineteen (19) years of age or is a**
- 29 **full-time student who is less than twenty-four (24) years**
- 30 **of age;**
- 31 **(ii) for whom the taxpayer is the legal guardian; and**
- 32 **(iii) for whom the taxpayer does not claim an exemption**
- 33 **under clause (A); and**
- 34 ~~(B)~~ (C) five hundred dollars (\$500) for each additional amount
- 35 allowable under Section 63(f)(1) of the Internal Revenue Code
- 36 if the adjusted gross income of the taxpayer, or the taxpayer
- 37 and the taxpayer's spouse in the case of a joint return, is less
- 38 than forty thousand dollars (\$40,000).
- 39 This amount is in addition to the amount subtracted under
- 40 subdivision (4).
- 41 (6) Subtract any amounts included in federal adjusted gross
- 42 income under Section 111 of the Internal Revenue Code as a



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



- 1 under Section 168(k) of the Internal Revenue Code to apply bonus
2 depreciation to the property in the year that it was placed in
3 service.
- 4 (16) Add an amount equal to any deduction allowed under
5 Section 172 of the Internal Revenue Code.
- 6 (17) Add or subtract the amount necessary to make the adjusted
7 gross income of any taxpayer that placed Section 179 property (as
8 defined in Section 179 of the Internal Revenue Code) in service
9 in the current taxable year or in an earlier taxable year equal to
10 the amount of adjusted gross income that would have been
11 computed had an election for federal income tax purposes not
12 been made for the year in which the property was placed in
13 service to take deductions under Section 179 of the Internal
14 Revenue Code in a total amount exceeding twenty-five thousand
15 dollars (\$25,000).
- 16 (18) Add an amount equal to the amount that a taxpayer claimed
17 as a deduction for domestic production activities for the taxable
18 year under Section 199 of the Internal Revenue Code for federal
19 income tax purposes.
- 20 (19) Subtract an amount equal to the amount of the taxpayer's
21 qualified military income that was not excluded from the
22 taxpayer's gross income for federal income tax purposes under
23 Section 112 of the Internal Revenue Code.
- 24 (20) Subtract income that is:
- 25 (A) exempt from taxation under IC 6-3-2-21.7; and
26 (B) included in the individual's federal adjusted gross income
27 under the Internal Revenue Code.
- 28 (21) Add an amount equal to any income not included in gross
29 income as a result of the deferral of income arising from business
30 indebtedness discharged in connection with the reacquisition after
31 December 31, 2008, and before January 1, 2011, of an applicable
32 debt instrument, as provided in Section 108(i) of the Internal
33 Revenue Code. Subtract the amount necessary from the adjusted
34 gross income of any taxpayer that added an amount to adjusted
35 gross income in a previous year to offset the amount included in
36 federal gross income as a result of the deferral of income arising
37 from business indebtedness discharged in connection with the
38 reacquisition after December 31, 2008, and before January 1,
39 2011, of an applicable debt instrument, as provided in Section
40 108(i) of the Internal Revenue Code.
- 41 (22) Add the amount excluded from federal gross income under
42 Section 103 of the Internal Revenue Code for interest received on



- 1 an obligation of a state other than Indiana, or a political
2 subdivision of such a state, that is acquired by the taxpayer after
3 December 31, 2011.
- 4 (b) In the case of corporations, the same as "taxable income" (as
5 defined in Section 63 of the Internal Revenue Code) adjusted as
6 follows:
- 7 (1) Subtract income that is exempt from taxation under this article
8 by the Constitution and statutes of the United States.
- 9 (2) Add an amount equal to any deduction or deductions allowed
10 or allowable pursuant to Section 170 of the Internal Revenue
11 Code.
- 12 (3) Add an amount equal to any deduction or deductions allowed
13 or allowable pursuant to Section 63 of the Internal Revenue Code
14 for taxes based on or measured by income and levied at the state
15 level by any state of the United States.
- 16 (4) Subtract an amount equal to the amount included in the
17 corporation's taxable income under Section 78 of the Internal
18 Revenue Code.
- 19 (5) Add or subtract the amount necessary to make the adjusted
20 gross income of any taxpayer that owns property for which bonus
21 depreciation was allowed in the current taxable year or in an
22 earlier taxable year equal to the amount of adjusted gross income
23 that would have been computed had an election not been made
24 under Section 168(k) of the Internal Revenue Code to apply bonus
25 depreciation to the property in the year that it was placed in
26 service.
- 27 (6) Add an amount equal to any deduction allowed under Section
28 172 of the Internal Revenue Code.
- 29 (7) Add or subtract the amount necessary to make the adjusted
30 gross income of any taxpayer that placed Section 179 property (as
31 defined in Section 179 of the Internal Revenue Code) in service
32 in the current taxable year or in an earlier taxable year equal to
33 the amount of adjusted gross income that would have been
34 computed had an election for federal income tax purposes not
35 been made for the year in which the property was placed in
36 service to take deductions under Section 179 of the Internal
37 Revenue Code in a total amount exceeding twenty-five thousand
38 dollars (\$25,000).
- 39 (8) Add an amount equal to the amount that a taxpayer claimed as
40 a deduction for domestic production activities for the taxable year
41 under Section 199 of the Internal Revenue Code for federal
42 income tax purposes.



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



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



- 1 arising from business indebtedness discharged in connection with
 2 the reacquisition after December 31, 2008, and before January 1,
 3 2011, of an applicable debt instrument, as provided in Section
 4 108(i) of the Internal Revenue Code.
- 5 (11) Add an amount equal to any exempt insurance income under
 6 Section 953(e) of the Internal Revenue Code that is active
 7 financing income under Subpart F of Subtitle A, Chapter 1,
 8 Subchapter N of the Internal Revenue Code.
- 9 (12) Add the amount excluded from federal gross income under
 10 Section 103 of the Internal Revenue Code for interest received on
 11 an obligation of a state other than Indiana, or a political
 12 subdivision of such a state, that is acquired by the taxpayer after
 13 December 31, 2011.
- 14 (d) In the case of insurance companies subject to tax under Section
 15 831 of the Internal Revenue Code and organized under Indiana law, the
 16 same as "taxable income" (as defined in Section 832 of the Internal
 17 Revenue Code), adjusted as follows:
- 18 (1) Subtract income that is exempt from taxation under this article
 19 by the Constitution and statutes of the United States.
- 20 (2) Add an amount equal to any deduction allowed or allowable
 21 under Section 170 of the Internal Revenue Code.
- 22 (3) Add an amount equal to a deduction allowed or allowable
 23 under Section 805 or Section 832(c) of the Internal Revenue Code
 24 for taxes based on or measured by income and levied at the state
 25 level by any state.
- 26 (4) Subtract an amount equal to the amount included in the
 27 company's taxable income under Section 78 of the Internal
 28 Revenue Code.
- 29 (5) Add or subtract the amount necessary to make the adjusted
 30 gross income of any taxpayer that owns property for which bonus
 31 depreciation was allowed in the current taxable year or in an
 32 earlier taxable year equal to the amount of adjusted gross income
 33 that would have been computed had an election not been made
 34 under Section 168(k) of the Internal Revenue Code to apply bonus
 35 depreciation to the property in the year that it was placed in
 36 service.
- 37 (6) Add an amount equal to any deduction allowed under Section
 38 172 of the Internal Revenue Code.
- 39 (7) Add or subtract the amount necessary to make the adjusted
 40 gross income of any taxpayer that placed Section 179 property (as
 41 defined in Section 179 of the Internal Revenue Code) in service
 42 in the current taxable year or in an earlier taxable year equal to



1 the amount of adjusted gross income that would have been
 2 computed had an election for federal income tax purposes not
 3 been made for the year in which the property was placed in
 4 service to take deductions under Section 179 of the Internal
 5 Revenue Code in a total amount exceeding twenty-five thousand
 6 dollars (\$25,000).

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

11 (9) Subtract income that is:

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

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

15 (10) Add an amount equal to any income not included in gross
 16 income as a result of the deferral of income arising from business
 17 indebtedness discharged in connection with the reacquisition after
 18 December 31, 2008, and before January 1, 2011, of an applicable
 19 debt instrument, as provided in Section 108(i) of the Internal
 20 Revenue Code. Subtract from the adjusted gross income of any
 21 taxpayer that added an amount to adjusted gross income in a
 22 previous year the amount necessary to offset the amount included
 23 in federal gross income as a result of the deferral of income
 24 arising from business indebtedness discharged in connection with
 25 the reacquisition after December 31, 2008, and before January 1,
 26 2011, of an applicable debt instrument, as provided in Section
 27 108(i) of the Internal Revenue Code.

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

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

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

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

42 (2) Subtract an amount equal to the amount of a September 11



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



1 the reacquisition after December 31, 2008, and before January 1,
 2 2011, of an applicable debt instrument, as provided in Section
 3 108(i) of the Internal Revenue Code.

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

9 SECTION 22. IC 6-3-1-11, AS AMENDED BY P.L.242-2015,
 10 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 11. (a) The term "Internal
 12 Revenue Code" means the Internal Revenue Code of 1986 of the
 13 United States as amended and in effect on January 1, ~~2015~~ **2016**.

14 (b) Whenever the Internal Revenue Code is mentioned in this
 15 article, the particular provisions that are referred to, together with all
 16 the other provisions of the Internal Revenue Code in effect on January
 17 1, ~~2015~~ **2016**, that pertain to the provisions specifically mentioned,
 18 shall be regarded as incorporated in this article by reference and have
 19 the same force and effect as though fully set forth in this article. To the
 20 extent the provisions apply to this article, regulations adopted under
 21 Section 7805(a) of the Internal Revenue Code and in effect on January
 22 1, ~~2015~~ **2016**, shall be regarded as rules adopted by the department
 23 under this article, unless the department adopts specific rules that
 24 supersede the regulation.

25 (c) An amendment to the Internal Revenue Code made by an act
 26 passed by Congress before January 1, ~~2015~~ **2016**, that is effective for
 27 any taxable year that began before January 1, ~~2015~~ **2016**, and that
 28 affects:

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

41 is also effective for that same taxable year for purposes of determining
 42 adjusted gross income under section 3.5 of this chapter.



1 (d) This subsection applies to a taxable year ending before January
 2 1, 2013. The following provisions of the Internal Revenue Code that
 3 were amended by the Tax Relief Act, Unemployment Insurance
 4 Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are
 5 treated as though they were not amended by the Tax Relief Act,
 6 Unemployment Insurance Reauthorization, and Job Creation Act of
 7 2010 (P.L. 111-312):

8 (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to
 9 an adjustment of basis of the stock of shareholders.

10 (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal
 11 Revenue Code pertaining the treatment of certain dividends of
 12 regulated investment companies.

13 (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code
 14 pertaining to regulated investment companies qualified entity
 15 treatment.

16 (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code
 17 pertaining to the modification of tax treatment of certain
 18 payments to controlling exempt organizations.

19 (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code
 20 pertaining to the limitations on percentage depletion in the case
 21 of oil and gas wells.

22 (6) Section 451(i)(3) of the Internal Revenue Code pertaining to
 23 special rule for sales or dispositions to implement Federal Energy
 24 Regulatory Commission or state electric restructuring policy for
 25 qualified electric utilities.

26 (7) Section 954(c)(6) of the Internal Revenue Code pertaining to
 27 the look-through treatment of payments between related
 28 controlled foreign corporation under foreign personal holding
 29 company rules.

30 The department shall develop forms and adopt any necessary rules
 31 under IC 4-22-2 to implement this subsection.

32 SECTION 23. IC 6-3-3-12, AS AMENDED BY P.L.182-2009(ss),
 33 SECTION 198, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) As used in this section,
 35 "account" has the meaning set forth in IC 21-9-2-2.

36 (b) As used in this section, "account beneficiary" has the meaning
 37 set forth in IC 21-9-2-3.

38 (c) As used in this section, "account owner" has the meaning set
 39 forth in IC 21-9-2-4.

40 (d) As used in this section, "college choice 529 education savings
 41 plan" refers to a college choice 529 investment plan established under
 42 IC 21-9.



1 (e) As used in this section, "contribution" means the amount of
 2 money directly provided to a college choice 529 education savings plan
 3 account by a taxpayer. A contribution does not include any of the
 4 following:

5 (1) Money credited to an account as a result of bonus points or
 6 other forms of consideration earned by the taxpayer that result in
 7 a transfer of money to the account.

8 (2) Money transferred from any other qualified tuition program
 9 under Section 529 of the Internal Revenue Code or from any other
 10 similar plan.

11 (f) As used in this section, "nonqualified withdrawal" means a
 12 withdrawal or distribution from a college choice 529 education savings
 13 plan that is not a qualified withdrawal.

14 (g) As used in this section, "qualified higher education expenses"
 15 has the meaning set forth in IC 21-9-2-19.5.

16 (h) As used in this section, "qualified withdrawal" means a
 17 withdrawal or distribution from a college choice 529 education savings
 18 plan that is made:

19 (1) to pay for qualified higher education expenses, excluding any
 20 withdrawals or distributions used to pay for qualified higher
 21 education expenses if the withdrawals or distributions are made
 22 from an account of a college choice 529 education savings plan
 23 that is terminated within twelve (12) months after the account is
 24 opened;

25 (2) as a result of the death or disability of an account beneficiary;

26 (3) because an account beneficiary received a scholarship that
 27 paid for all or part of the qualified higher education expenses of
 28 the account beneficiary, to the extent that the withdrawal or
 29 distribution does not exceed the amount of the scholarship; or

30 (4) by a college choice 529 education savings plan as the result of
 31 a transfer of funds by a college choice 529 education savings plan
 32 from one (1) third party custodian to another.

33 A qualified withdrawal does not include a rollover distribution or
 34 transfer of assets from a college choice 529 education savings plan to
 35 any other qualified tuition program under Section 529 of the Internal
 36 Revenue Code or to any other similar plan.

37 (i) As used in this section, "taxpayer" means:

38 (1) an individual filing a single return; or

39 (2) a married couple filing a joint return.

40 (j) A taxpayer is entitled to a credit against the taxpayer's adjusted
 41 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
 42 year equal to the least of the following:



1 (1) Twenty percent (20%) of the amount of the total contributions
 2 made by the taxpayer to an account or accounts of a college
 3 choice 529 education savings plan during the taxable year.

4 (2) One thousand dollars (\$1,000).

5 (3) The amount of the taxpayer's adjusted gross income tax
 6 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 7 reduced by the sum of all credits (as determined without regard to
 8 this section) allowed by IC 6-3-1 through IC 6-3-7.

9 **(k) A taxpayer who makes a contribution to a college choice 529**
 10 **education savings plan is considered to have made the contribution**
 11 **on the date that:**

12 **(1) the taxpayer's contribution is postmarked or accepted by**
 13 **a delivery service, for contributions that are submitted to a**
 14 **college choice 529 education savings plan by mail or delivery**
 15 **service;**

16 **(2) the taxpayer's electronic funds transfer is initiated, for**
 17 **contributions that are submitted to a college choice 529**
 18 **education savings plan by electronic funds transfer; or**

19 **(3) the taxpayer unambiguously issues instructions or executes**
 20 **an action that is reasonably sufficient to result in a**
 21 **contribution to a college choice 529 education savings plan, if**
 22 **subdivisions (1) and (2) do not apply.**

23 ~~(l)~~ **(l)** A taxpayer is not entitled to a carryback, carryover, or refund
 24 of an unused credit.

25 ~~(m)~~ **(m)** A taxpayer may not sell, assign, convey, or otherwise
 26 transfer the tax credit provided by this section.

27 ~~(n)~~ **(n)** To receive the credit provided by this section, a taxpayer
 28 must claim the credit on the taxpayer's annual state tax return or returns
 29 in the manner prescribed by the department. The taxpayer shall submit
 30 to the department all information that the department determines is
 31 necessary for the calculation of the credit provided by this section.

32 ~~(o)~~ **(o)** An account owner of an account of a college choice 529
 33 education savings plan must repay all or a part of the credit in a taxable
 34 year in which any nonqualified withdrawal is made from the account.
 35 The amount the taxpayer must repay is equal to the lesser of:

36 (1) twenty percent (20%) of the total amount of nonqualified
 37 withdrawals made during the taxable year from the account; or

38 (2) the excess of:

39 (A) the cumulative amount of all credits provided by this
 40 section that are claimed by any taxpayer with respect to the
 41 taxpayer's contributions to the account for all prior taxable
 42 years beginning on or after January 1, 2007; over



1 (B) the cumulative amount of repayments paid by the account
 2 owner under this subsection for all prior taxable years
 3 beginning on or after January 1, 2008.

4 (o) (p) Any required repayment under subsection (o) shall be
 5 reported by the account owner on the account owner's annual state
 6 income tax return for any taxable year in which a nonqualified
 7 withdrawal is made.

8 (p) (q) A nonresident account owner who is not required to file an
 9 annual income tax return for a taxable year in which a nonqualified
 10 withdrawal is made shall make any required repayment on the form
 11 required under IC 6-3-4-1(2). If the nonresident account owner does
 12 not make the required repayment, the department shall issue a demand
 13 notice in accordance with IC 6-8.1-5-1.

14 (q) (r) The executive director of the Indiana education savings
 15 authority shall submit or cause to be submitted to the department a
 16 copy of all information returns or statements issued to account owners,
 17 account beneficiaries, and other taxpayers for each taxable year with
 18 respect to:

19 (1) nonqualified withdrawals made from accounts of a college
 20 choice 529 education savings plan for the taxable year; or

21 (2) account closings for the taxable year.

22 SECTION 24. IC 6-3-4-12, AS AMENDED BY P.L.242-2015,
 23 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2016]: Sec. 12. (a) Every partnership shall, at the time that the
 25 partnership pays or credits amounts to any of its nonresident partners
 26 on account of their distributive shares of partnership income, for a
 27 taxable year of the partnership, deduct and retain therefrom the amount
 28 prescribed in the withholding instructions referred to in section 8 of
 29 this chapter. Such partnership so paying or crediting any nonresident
 30 partner:

31 (1) shall be liable to the state of Indiana for the payment of the tax
 32 required to be deducted and retained under this section and shall
 33 not be liable to such partner for the amount deducted from such
 34 payment or credit and paid over in compliance or intended
 35 compliance with this section; and

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

41 Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not
 42 exceed fifty dollars (\$50) per month, then such partnership shall make



1 return and payment to the department quarterly, on such dates and in
2 such manner as the department shall prescribe, of the amount of tax
3 which, under IC 6-3 and IC 6-3.5, it is required to withhold.

4 (b) Every partnership shall, at the time of each payment made by it
5 to the department pursuant to this section, deliver to the department a
6 return upon such form as shall be prescribed by the department
7 showing the total amounts paid or credited to its nonresident partners,
8 the amount deducted therefrom in accordance with the provisions of
9 this section, and such other information as the department may require.
10 Every partnership making the deduction and retention provided in this
11 section shall furnish to its nonresident partners annually, but not later
12 than the fifteenth day of the third month after the end of its taxable
13 year, a record of the amount of tax deducted and retained from such
14 partners on forms to be prescribed by the department.

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

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

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

40 (f) This section shall in no way relieve any nonresident partner from
41 the nonresident partner's obligations of filing a return or returns at the
42 time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid



1 at the time prescribed by section 5 of this chapter.

2 (g) Instead of the reporting periods required under subsection (a),
 3 the department may permit a partnership to file one (1) return and
 4 payment each year if the partnership pays or credits amounts to its
 5 nonresident partners only one (1) time each year. The return and
 6 payment are due on or before the fifteenth day of the fourth month after
 7 the end of the year. However, if a partnership is permitted an extension
 8 to file its income tax return under IC 6-8.1-6-1, the return and payment
 9 due under this subsection shall be allowed the same treatment as an
 10 extended income tax return with respect to due dates, interest, and
 11 penalties under IC 6-8.1-6-1.

12 **(h) If a partnership fails to withhold and pay any amount of tax**
 13 **required to be withheld under this section and thereafter the tax is**
 14 **paid by the partners, the amounts of tax as paid by the partners**
 15 **shall not be collected from the partnership but it may not be**
 16 **relieved from liability for interest or penalty otherwise due in**
 17 **respect to the failure to withhold under IC 6-8.1-10.**

18 ~~(h)~~ (i) A partnership shall file a composite adjusted gross income tax
 19 return on behalf of all nonresident partners. The composite return must
 20 include each nonresident partner regardless of whether or not the
 21 nonresident partner has other Indiana source income.

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

25 ~~(j)~~ (k) For taxable years beginning after December 31, 2013, the
 26 department may not impose a late payment penalty on a partnership for
 27 the failure to file a return, pay the full amount of the tax shown on the
 28 partnership's return, or pay the deficiency of the withholding taxes due
 29 under this section if the partnership pays the department before the
 30 fifteenth day of the fourth month after the end of the partnership's
 31 taxable year at least:

- 32 (1) eighty percent (80%) of the withholding tax due for the
 33 current year; or
- 34 (2) one hundred percent (100%) of the withholding tax due for the
 35 preceding year.

36 ~~(k)~~ (l) Notwithstanding subsection (a) or ~~(h)~~; (i), a pass through
 37 entity is not required to withhold tax or file a composite adjusted gross
 38 income tax return for a nonresident member if the entity:

- 39 (1) is a publicly traded partnership as defined by Section 7704(b)
 40 of the Internal Revenue Code;
- 41 (2) meets the exception for partnerships under Section 7704(c) of
 42 the Internal Revenue Code; and



1 (3) has agreed to file an annual information return reporting the
 2 name, address, taxpayer identification number, and other
 3 information requested by the department of each unit holder.

4 The department may issue written guidance explaining circumstances
 5 under which limited partnerships or limited liability companies owned
 6 by a publicly traded partnership may be excluded from the withholding
 7 requirements of this section.

8 ~~(j)~~ **(m)** Notwithstanding subsection ~~(j)~~; **(k)**, a partnership is subject
 9 to a late payment penalty for the failure to file a return, pay the full
 10 amount of the tax shown on the partnership's return, or pay the
 11 deficiency of the withholding taxes due under this section for any
 12 amounts of withholding tax, including any interest under IC 6-8.1-10-1,
 13 reported or paid after the due date of the return, as adjusted by any
 14 extension under IC 6-8.1-6-1.

15 ~~(m)~~ **(n)** For purposes of this section, a "nonresident partner" is:

- 16 (1) an individual who does not reside in Indiana;
- 17 (2) a trust that does not reside in Indiana;
- 18 (3) an estate that does not reside in Indiana;
- 19 (4) a partnership not domiciled in Indiana;
- 20 (5) a C corporation not domiciled in Indiana; or
- 21 (6) an S corporation not domiciled in Indiana.

22 SECTION 25. IC 6-3-4-15, AS AMENDED BY P.L.242-2015,
 23 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2016]: Sec. 15. (a) A trust or estate shall, at the time that it
 25 distributes income (except income attributable to interest or dividends)
 26 to a nonresident beneficiary, deduct and retain therefrom the amount
 27 prescribed in the withholding instructions referred to in section 8 of
 28 this chapter. The trust or estate so distributing income to a nonresident
 29 beneficiary:

- 30 (1) is liable to this state for the tax which it is required to deduct
 31 and retain under this section and is not liable to the beneficiary for
 32 the amount deducted from the distribution and paid to the
 33 department in compliance, or intended compliance, with this
 34 section; and
- 35 (2) shall pay the amount deducted to the department before the
 36 thirtieth day of the month following the distribution, unless an
 37 earlier date is specified by section 8.1 of this chapter.

38 (b) A trust or estate shall, at the time that it makes a payment to the
 39 department under this section, deliver to the department a return which
 40 shows the total amounts distributed to the trust's or estate's nonresident
 41 beneficiaries, the amount deducted from the distributions under this
 42 section, and any other information required by the department. The



1 trust or estate shall file the return on the form prescribed by the
2 department. A trust or estate which makes the deduction and retention
3 required by this section shall furnish to its nonresident beneficiaries
4 annually, but not later than thirty (30) days after the end of the trust's
5 or estate's taxable year, a record of the amount of tax deducted and
6 retained from the beneficiaries. The trust or estate shall furnish the
7 information on the form prescribed by the department.

8 (c) The money deducted and retained by a trust or estate under this
9 section is money of this state. Every trust or estate which deducts and
10 retains any money under this section shall hold the money in trust for
11 this state until it pays the money to the department in the manner and
12 at the time provided in this section. The department may require a trust
13 or estate to post a surety bond to protect this state with respect to
14 money deducted and retained by the trust or estate under this section.
15 The department shall determine the amount of the surety bond.

16 (d) The provisions of IC 6-8.1 relating to penalties or to additions to
17 tax in case of a delinquency apply to trusts and estates which are
18 subject to this section. For purposes of this subsection, any amount
19 deducted, or required to be deducted and remitted to the department,
20 under this section is considered the tax of the trust or estate, and with
21 respect to that amount, it is considered the taxpayer.

22 (e) Amounts deducted from distributions to nonresident
23 beneficiaries under this section during a taxable year of the trust or
24 estate are considered a partial payment of the tax imposed on the
25 nonresident beneficiary for his taxable year within or with which the
26 trust's or estate's taxable year ends. The department shall accept a
27 return made by the trust or estate under subsection (b) as evidence of
28 the amount of tax deducted from the income distributed to a
29 nonresident beneficiary.

30 (f) This section does not relieve a nonresident beneficiary of his
31 duty to file a return at the time required under IC 6-3. The nonresident
32 beneficiary shall pay any unpaid tax at the time prescribed by section
33 5 of this chapter.

34 **(g) If a trust or estate fails to withhold and pay any amount of**
35 **tax required to be withheld under this section and thereafter the**
36 **tax is paid by the beneficiaries, the amount of tax paid by the**
37 **beneficiaries may not be collected from the trust or estate but it**
38 **may not be relieved from liability for interest or penalty otherwise**
39 **due in respect to the failure to withhold under IC 6-8.1-10.**

40 ~~(g)~~ **(h)** A trust or estate shall file a composite adjusted gross income
41 tax return on behalf of all nonresident beneficiaries. The composite
42 return must include each nonresident beneficiary regardless of whether



1 the nonresident beneficiary has other Indiana source income.

2 ~~(h)~~ (i) For purposes of this section, a "nonresident beneficiary" is:

- 3 (1) an individual who does not reside in Indiana;
 4 (2) a trust that does not reside in Indiana;
 5 (3) an estate that does not reside in Indiana;
 6 (4) a partnership that is not domiciled in Indiana;
 7 (5) a C corporation that is not domiciled in Indiana; or
 8 (6) an S corporation that is not domiciled in Indiana.

9 ~~(i)~~ (j) If a trust or estate is permitted an extension to file its income
 10 tax return under IC 6-8.1-6-1, then the return and payment due under
 11 this subsection shall be allowed the same treatment as the extended
 12 income tax return with respect to due dates, interest, and penalties
 13 under IC 6-8.1-6-1.

14 SECTION 26. IC 6-8.1-8-2, AS AMENDED BY P.L.242-2015,
 15 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2016]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and
 17 sections 16 and 17 of this chapter, the department must issue a demand
 18 notice for the payment of a tax and any interest or penalties accrued on
 19 the tax, if a person files a tax return without including full payment of
 20 the tax or if the department, after ruling on a protest, finds that a person
 21 owes the tax before the department issues a tax warrant. The demand
 22 notice must state the following:

- 23 (1) That the person has ~~ten (10)~~ **twenty (20)** days from the date
 24 the department mails the notice to either pay the amount
 25 demanded or show reasonable cause for not paying the amount
 26 demanded.
 27 (2) The statutory authority of the department for the issuance of
 28 a tax warrant.
 29 (3) The earliest date on which a tax warrant may be filed and
 30 recorded.
 31 (4) The statutory authority for the department to levy against a
 32 person's property that is held by a financial institution.
 33 (5) The remedies available to the taxpayer to prevent the filing
 34 and recording of the judgment.

35 If the department files a tax warrant in more than one (1) county, the
 36 department is not required to issue more than one (1) demand notice.

37 (b) If the person does not pay the amount demanded or show
 38 reasonable cause for not paying the amount demanded within the ~~ten~~
 39 ~~(10)~~ **twenty (20)** day period, the department may issue a tax warrant
 40 for the amount of the tax, interest, penalties, collection fee, sheriff's
 41 costs, clerk's costs, and fees established under section 4(b) of this
 42 chapter when applicable. When the department issues a tax warrant, a



1 collection fee of ten percent (10%) of the unpaid tax is added to the
2 total amount due.

3 (c) When the department issues a tax warrant, it may not file the
4 warrant with the circuit court clerk of any county in which the person
5 owns property until at least twenty (20) days after the date the demand
6 notice was mailed to the taxpayer. The department may also send the
7 warrant to the sheriff of any county in which the person owns property
8 and direct the sheriff to file the warrant with the circuit court clerk:

9 (1) at least twenty (20) days after the date the demand notice was
10 mailed to the taxpayer; and

11 (2) no later than five (5) days after the date the department issues
12 the warrant.

13 (d) When the circuit court clerk receives a tax warrant from the
14 department or the sheriff, the clerk shall record the warrant by making
15 an entry in the judgment debtor's column of the judgment record,
16 listing the following:

17 (1) The name of the person owing the tax.

18 (2) The amount of the tax, interest, penalties, collection fee,
19 sheriff's costs, clerk's costs, and fees established under section
20 4(b) of this chapter when applicable.

21 (3) The date the warrant was filed with the clerk.

22 (e) When the entry is made, the total amount of the tax warrant
23 becomes a judgment against the person owing the tax. The judgment
24 creates a lien in favor of the state that attaches to all the person's
25 interest in any:

26 (1) chose in action in the county; and

27 (2) real or personal property in the county;

28 excepting only negotiable instruments not yet due.

29 (f) A judgment obtained under this section is valid for ten (10) years
30 from the date the judgment is filed. The department may renew the
31 judgment for additional ten (10) year periods by filing an alias tax
32 warrant with the circuit court clerk of the county in which the judgment
33 previously existed.

34 (g) A judgment arising from a tax warrant in a county shall be
35 released by the department:

36 (1) after the judgment, including all accrued interest to the date of
37 payment, has been fully satisfied; or

38 (2) if the department determines that the tax assessment or the
39 issuance of the tax warrant was in error.

40 (h) Subject to subsections (p) and (q), if the department determines
41 that the filing of a tax warrant was in error or if the commissioner
42 determines that the release of the judgment and expungement of the tax



1 warrant are in the best interest of the state, the department shall mail a
 2 release of the judgment to the taxpayer and the circuit court clerk of
 3 each county where the warrant was filed. The circuit court clerk of each
 4 county where the warrant was filed shall expunge the warrant from the
 5 judgment debtor's column of the judgment record. The department shall
 6 mail the release and the order for the warrant to be expunged as soon
 7 as possible but no later than seven (7) days after:

8 (1) the determination by the department that the filing of the
 9 warrant was in error; and

10 (2) the receipt of information by the department that the judgment
 11 has been recorded under subsection (d).

12 (i) If the department determines that a judgment described in
 13 subsection (h) is obstructing a lawful transaction, the department shall
 14 immediately upon making the determination mail:

15 (1) a release of the judgment to the taxpayer; and

16 (2) an order requiring the circuit court clerk of each county where
 17 the judgment was filed to expunge the warrant.

18 (j) A release issued under subsection (h) or (i) must state that the
 19 filing of the tax warrant was in error. Upon the request of the taxpayer,
 20 the department shall mail a copy of a release and the order for the
 21 warrant to be expunged issued under subsection (h) or (i) to each major
 22 credit reporting company located in each county where the judgment
 23 was filed.

24 (k) The commissioner shall notify each state agency or officer
 25 supplied with a tax warrant list of the issuance of a release under
 26 subsection (h) or (i).

27 (l) If the sheriff collects the full amount of a tax warrant, the sheriff
 28 shall disburse the money collected in the manner provided in section
 29 3(c) of this chapter. If a judgment has been partially or fully satisfied
 30 by a person's surety, the surety becomes subrogated to the department's
 31 rights under the judgment. If a sheriff releases a judgment:

32 (1) before the judgment is fully satisfied;

33 (2) before the sheriff has properly disbursed the amount collected;

34 or

35 (3) after the sheriff has returned the tax warrant to the department;
 36 the sheriff commits a Class B misdemeanor and is personally liable for
 37 the part of the judgment not remitted to the department.

38 (m) A lien on real property described in subsection (e)(2) is void if
 39 both of the following occur:

40 (1) The person owing the tax provides written notice to the
 41 department to file an action to foreclose the lien.

42 (2) The department fails to file an action to foreclose the lien not



- 1 later than one hundred eighty (180) days after receiving the
2 notice.
- 3 (n) A person who gives notice under subsection (m) by registered
4 or certified mail to the department may file an affidavit of service of the
5 notice to file an action to foreclose the lien with the circuit court clerk
6 in the county in which the property is located. The affidavit must state
7 the following:
- 8 (1) The facts of the notice.
 - 9 (2) That more than one hundred eighty (180) days have passed
10 since the notice was received by the department.
 - 11 (3) That no action for foreclosure of the lien is pending.
 - 12 (4) That no unsatisfied judgment has been rendered on the lien.
- 13 (o) Upon receipt of the affidavit described in subsection (n), the
14 circuit court clerk shall make an entry showing the release of the
15 judgment lien in the judgment records for tax warrants.
- 16 (p) The department shall adopt rules to define the circumstances
17 under which a release and expungement may be granted based on a
18 finding that the release and expungement would be in the best interest
19 of the state. The rules may allow the commissioner to expunge a tax
20 warrant in other circumstances not inconsistent with subsection (q) that
21 the commissioner determines are appropriate. Any releases or
22 expungements granted by the commissioner must be consistent with
23 these rules.
- 24 (q) The commissioner may expunge a tax warrant in the following
25 circumstances:
- 26 (1) If the taxpayer has timely and fully filed and paid all of the
27 taxpayer's state taxes, or has otherwise resolved any outstanding
28 state tax issues, for the preceding five (5) years.
 - 29 (2) If the warrant was issued more than ten (10) years prior to the
30 expungement.
 - 31 (3) If the warrant is not subject to pending litigation.
 - 32 (4) Other circumstances not inconsistent with subdivisions (1)
33 through (3) that are specified in the rules adopted under
34 subsection (p).
- 35 (r) Notwithstanding any other provision in this section, the
36 commissioner may decline to release a judgment or expunge a warrant
37 upon a finding that the warrant was issued based on the taxpayer's
38 fraudulent, intentional, or reckless conduct.
- 39 (s) The rules required under subsection (p) shall specify the process
40 for requesting that the commissioner release and expunge a tax
41 warrant.
- 42 SECTION 27. IC 6-8.1-10-2.1, AS AMENDED BY



1 P.L.293-2013(ts), SECTION 34, IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2.1. (a) Except as
 3 provided in ~~IC 6-3-4-12(j)~~ **IC 6-3-4-12(k)** and IC 6-3-4-13(l), a person
 4 that:

- 5 (1) fails to file a return for any of the listed taxes;
- 6 (2) fails to pay the full amount of tax shown on the person's return
 7 on or before the due date for the return or payment;
- 8 (3) incurs, upon examination by the department, a deficiency that
 9 is due to negligence;
- 10 (4) fails to timely remit any tax held in trust for the state; or
- 11 (5) is required to make a payment by electronic funds transfer (as
 12 defined in IC 4-8.1-2-7), overnight courier, or personal delivery
 13 and the payment is not received by the department by the due date
 14 in funds acceptable to the department;

15 is subject to a penalty.

16 (b) Except as provided in subsection (g), the penalty described in
 17 subsection (a) is ten percent (10%) of:

- 18 (1) the full amount of the tax due if the person failed to file the
 19 return;
- 20 (2) the amount of the tax not paid, if the person filed the return
 21 but failed to pay the full amount of the tax shown on the return;
- 22 (3) the amount of the tax held in trust that is not timely remitted;
- 23 (4) the amount of deficiency as finally determined by the
 24 department; or
- 25 (5) the amount of tax due if a person failed to make payment by
 26 electronic funds transfer, overnight courier, or personal delivery
 27 by the due date.

28 (c) For purposes of this section, the filing of a substantially blank or
 29 unsigned return does not constitute a return.

30 (d) If a person subject to the penalty imposed under this section can
 31 show that the failure to file a return, pay the full amount of tax shown
 32 on the person's return, timely remit tax held in trust, or pay the
 33 deficiency determined by the department was due to reasonable cause
 34 and not due to willful neglect, the department shall waive the penalty.

35 (e) A person who wishes to avoid the penalty imposed under this
 36 section must make an affirmative showing of all facts alleged as a
 37 reasonable cause for the person's failure to file the return, pay the
 38 amount of tax shown on the person's return, pay the deficiency, or
 39 timely remit tax held in trust, in a written statement containing a
 40 declaration that the statement is made under penalty of perjury. The
 41 statement must be filed with the return or payment within the time
 42 prescribed for protesting departmental assessments. A taxpayer may



1 also avoid the penalty imposed under this section by obtaining a ruling
 2 from the department before the end of a particular tax period on the
 3 amount of tax due for that tax period.

4 (f) The department shall adopt rules under IC 4-22-2 to prescribe the
 5 circumstances that constitute reasonable cause and negligence for
 6 purposes of this section.

7 (g) A person who fails to file a return for a listed tax that shows no
 8 tax liability for a taxable year, other than an information return (as
 9 defined in section 6 of this chapter), on or before the due date of the
 10 return shall pay a penalty of ten dollars (\$10) for each day that the
 11 return is past due, up to a maximum of two hundred fifty dollars
 12 (\$250).

13 (h) A:

14 (1) corporation which otherwise qualifies under IC 6-3-2-2.8(2);

15 (2) partnership; or

16 (3) trust;

17 that fails to withhold and pay any amount of tax required to be withheld
 18 under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty
 19 equal to twenty percent (20%) of the amount of tax required to be
 20 withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty
 21 shall be in addition to any penalty imposed by section 6 of this chapter.

22 (i) Subsections (a) through (c) do not apply to a motor carrier fuel
 23 tax return.

24 (j) If a partnership or an S corporation fails to include all
 25 nonresidential individual partners or nonresidential individual
 26 shareholders in a composite return as required by ~~IC 6-3-4-12(h)~~
 27 **IC 6-3-4-12(i)** or IC 6-3-4-13(j), a penalty of five hundred dollars
 28 (\$500) per partnership or S corporation is imposed on the partnership
 29 or S corporation.

30 SECTION 28. IC 6-9-29-3 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. If an ordinance has
 32 been adopted requiring the payment of the innkeeper's tax to the county
 33 treasurer instead of the department of state revenue, the county
 34 treasurer has the same rights and powers with respect to collecting **and**
 35 **refunding** the county innkeeper's tax as the department of state
 36 revenue.

37 SECTION 29. IC 8-15.5-1-2, AS AMENDED BY THE
 38 TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL
 39 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 2. (a) This article contains full and complete
 41 authority for public-private agreements between the authority, a private
 42 entity, and, where applicable, a governmental entity. Except as



1 provided in this article, no law, procedure, proceeding, publication,
 2 notice, consent, approval, order, or act by the authority or any other
 3 officer, department, agency, or instrumentality of the state or any
 4 political subdivision is required for the authority to enter into a
 5 public-private agreement with a private entity under this article, or for
 6 a project that is the subject of a public-private agreement to be
 7 constructed, acquired, maintained, repaired, operated, financed,
 8 transferred, or conveyed.

9 (b) Before the authority or the department may issue a request for
 10 proposals for or enter into a public-private agreement under this article
 11 that would authorize an operator to impose tolls for the operation of
 12 motor vehicles on all or part of a toll road project, the general assembly
 13 must adopt a statute authorizing the imposition of tolls. However,
 14 during the period beginning July 1, 2011, and ending June 30, 2021,
 15 and notwithstanding subsection (c), the general assembly is not
 16 required to enact a statute authorizing the authority or the department
 17 to issue a request for proposals or enter into a public-private agreement
 18 to authorize an operator to impose tolls for the operation of motor
 19 vehicles on all or part of the following projects:

20 (1) A project on which construction begins after June 30, 2011,
 21 not including any part of Interstate Highway 69 other than a part
 22 described in subdivision (4).

23 (2) The addition of toll lanes, including high occupancy toll lanes,
 24 to a highway, roadway, or other facility in existence on July 1,
 25 2011, if the number of nontolled lanes on the highway, roadway,
 26 or facility as of July 1, 2011, does not decrease due to the addition
 27 of the toll lanes.

28 (3) The Illiana Expressway, a limited access facility connecting
 29 Interstate Highway 65 in northwestern Indiana with an interstate
 30 highway in Illinois.

31 (4) A project that is located within a metropolitan planning area
 32 (as defined by 23 U.S.C. 134) and that connects the state of
 33 Indiana with the commonwealth of Kentucky.

34 (c) Before the authority or an operator may carry out any of the
 35 following activities under this article, the general assembly must enact
 36 a statute authorizing that activity:

37 (1) Imposing tolls on motor vehicles for use of Interstate Highway
 38 69.

39 (2) Imposing tolls on motor vehicles for use of a nontolled
 40 highway, roadway, or other facility in existence or under
 41 construction on July 1, 2011, including nontolled interstate
 42 highways, U.S. routes, and state routes.



1 (d) ~~Except as provided in subsection (c)(1);~~ The general assembly
 2 is not required to enact a statute authorizing the authority or the
 3 department to issue a request for proposals or enter into a
 4 public-private agreement for a freeway project.

5 (e) The authority may enter into a public-private agreement for a
 6 facility project if the general assembly, by statute, authorizes the
 7 authority to enter into a public-private agreement for the facility
 8 project.

9 (f) As permitted by subsection (e), the general assembly authorizes
 10 the authority to enter into public-private agreements for the following
 11 facility projects:

12 (1) A state park inn and related improvements in an existing state
 13 park located in a county with a population of more than two
 14 hundred thousand (200,000) and less than three hundred thousand
 15 (300,000).

16 (2) Communications systems infrastructure, including:

17 (A) towers and associated land, improvements, foundations,
 18 access roads and rights-of-way, structures, fencing, and
 19 equipment necessary, proper, or convenient to enable the
 20 towers to function as part of the communications system;

21 (B) any equipment necessary, proper, or convenient to transmit
 22 and receive voice and data communications; and

23 (C) any other necessary, proper, or convenient elements of the
 24 communications system.

25 (3) Larue D. Carter Memorial Hospital in Indianapolis.

26 (g) **The following apply to a public-private agreement for**
 27 **communications systems infrastructure under subsection (f)(2):**

28 (1) **The authority may:**

29 (A) **use the procedures set forth in IC 8-15.5-4; or**

30 (B) **at the authority's option and in its sole discretion,**
 31 **negotiate an agreement with a single offeror.**

32 **The authority must issue a request for information before**
 33 **entering into negotiations with a single offeror. If an**
 34 **agreement is negotiated with a single offeror, IC 8-15.5-4-11**
 35 **and IC 8-15.5-4-12 are the only sections in IC 8-15.5-4 that**
 36 **apply.**

37 (2) **This article, and any other applicable laws with respect to**
 38 **establishing, charging, and collecting user fees, including**
 39 **IC 8-15.5-7, do not apply, and the operator may establish,**
 40 **charge, and collect user fees as set forth in the public-private**
 41 **agreement.**

42 (3) **Notwithstanding IC 8-15.5-5-2(2) providing that all**



1 **improvements and real property must be owned by the**
 2 **authority in the name of the state or by a governmental entity,**
 3 **or both, the public-private agreement may provide that any**
 4 **improvements on any real property interests may be owned**
 5 **by the authority, a governmental entity, an operator, or a**
 6 **private entity.**

7 (4) The authority shall transfer money received from an operator
 8 under a ~~lease~~ **public-private** agreement for ~~communications~~
 9 **systems infrastructure** under subdivision ~~(f)(2)~~ to the state
 10 bicentennial capital account established under IC 4-12-1-14.9.

11 SECTION 30. IC 8-15.5-4-0.5 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. If a public-private**
 14 **agreement for communications systems infrastructure is**
 15 **negotiated with a single offeror under IC 8-15.5-1-2(g)(1)(B), the**
 16 **requirements of this chapter, except sections 11 and 12 of this**
 17 **chapter, do not apply.**

18 SECTION 31. IC 8-15.5-4-11, AS AMENDED BY P.L.205-2013,
 19 SECTION 148, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) After the **applicable**
 21 procedures required in this chapter have been completed, the authority
 22 shall make a determination as to whether the offeror that submitted the
 23 selected offer should be designated as the operator for the project and
 24 shall submit the authority's determination to the governor and the
 25 budget committee.

26 (b) After review of the authority's determination by the budget
 27 committee, the governor may accept or reject the determination of the
 28 authority. If the governor accepts the determination of the authority, the
 29 governor shall designate the offeror who submitted the selected offer
 30 as the operator for the project. The authority shall publish notice of the
 31 designation of the operator for the project one (1) time, in accordance
 32 with IC 5-3-1.

33 (c) After the designation of the operator for the project, the authority
 34 may execute the public-private agreement with that operator.

35 (d) The budget committee shall hold a meeting and conduct a
 36 review of the determination not later than ninety (90) days after the
 37 date the authority's determination is submitted for review.

38 SECTION 32. IC 36-1-8-14.2, AS AMENDED BY P.L.146-2008,
 39 SECTION 686, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2016]: Sec. 14.2. **(a) PILOTS may not be**
 41 **imposed under this section for an assessment date occurring after**
 42 **January 1, 2017.**



1 (a) (b) As used in this section, the following terms have the
2 meanings set forth in IC 6-1.1-1:

- 3 (1) Assessed value.
4 (2) Exemption.
5 (3) Owner.
6 (4) Person.
7 (5) Property taxation.
8 (6) Real property.
9 (7) Township assessor.

10 (b) (c) As used in this section, "PILOTS" means payments in lieu of
11 taxes.

12 (c) (d) As used in this section, "property owner" means the owner
13 of real property described in IC 6-1.1-10-16.7 **(before its expiration)**.

14 (d) (e) Subject to **subsection (a) and** the approval of a property
15 owner, the governing body of a political subdivision may adopt an
16 ordinance to require the property owner to pay PILOTS at times set
17 forth in the ordinance with respect to real property that is subject to an
18 exemption under IC 6-1.1-10-16.7 **(before its expiration)**. ~~if the~~
19 ~~improvements that qualify the real property for an exemption were~~
20 ~~begun or acquired after December 31, 2001~~. The ordinance remains in
21 full force and effect until:

- 22 (1) **the date the ordinance is** repealed or modified by the
23 governing body, subject to the approval of the property owner; **or**
24 (2) **January 1, 2017;**

25 **whichever occurs first.**

26 (e) (f) The PILOTS must be calculated so that the PILOTS are in an
27 amount equal to the amount of property taxes that would have been
28 levied by the governing body for the political subdivision upon the real
29 property described in subsection (d) (e) if the property were not subject
30 to an exemption from property taxation.

31 (f) (g) PILOTS shall be imposed as are property taxes and shall be
32 based on the assessed value of the real property described in subsection
33 (d) (e). Except as provided in subsection (j); (k), the township
34 assessor, or the county assessor if there is no township assessor for the
35 township, shall assess the real property described in subsection (d) (e)
36 as though the property were not subject to an exemption.

37 (g) (h) PILOTS collected under this section shall be deposited in the
38 unit's affordable housing fund established under IC 5-20-5-15.5 and
39 used for any purpose for which the affordable housing fund may be
40 used.

41 (h) (i) PILOTS shall be due as set forth in the ordinance and bear
42 interest, if unpaid, as in the case of other taxes on property. PILOTS



1 shall be treated in the same manner as taxes for purposes of all
2 procedural and substantive provisions of law.

3 ~~(i)~~ **(j)** This section does not apply to a county that contains a
4 consolidated city or to a political subdivision of the county.

5 ~~(j)~~ **(k)** If the duties of the township assessor have been transferred
6 to the county assessor as described in IC 6-1.1-1-24, a reference to the
7 township assessor in this section is considered to be a reference to the
8 county assessor.

9 **(l) This section expires January 1, 2020.**

10 SECTION 33. IC 36-2-6-22, AS AMENDED BY P.L.146-2008,
11 SECTION 690, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2016]: Sec. 22. **(a) PILOTS may not be**
13 **imposed under this section for an assessment date occurring after**
14 **January 1, 2017.**

15 ~~(a)~~ **(b)** As used in this section, the following terms have the
16 meanings set forth in IC 6-1.1-1:

- 17 (1) Assessed value.
- 18 (2) Exemption.
- 19 (3) Owner.
- 20 (4) Person.
- 21 (5) Property taxation.
- 22 (6) Real property.
- 23 (7) Township assessor.

24 ~~(b)~~ **(c)** As used in this section, "PILOTS" means payments in lieu of
25 taxes.

26 ~~(c)~~ **(d)** As used in this section, "property owner" means the owner
27 of real property described in IC 6-1.1-10-16.7 **(before its expiration)**
28 that is not located in a county containing a consolidated city.

29 ~~(d)~~ **(e)** Subject to **subsection (a) and** the approval of a property
30 owner, the fiscal body of a county may adopt an ordinance to require
31 the property owner to pay PILOTS at times set forth in the ordinance
32 with respect to real property that is subject to an exemption under
33 IC 6-1.1-10-16.7 **(before its expiration)**. The ordinance remains in full
34 force and effect until:

35 **(1) the date the ordinance is repealed or modified by the**
36 **legislative body, subject to the approval of the property owner; or**

37 **(2) January 1, 2017;**

38 **whichever occurs first.**

39 ~~(e)~~ **(f)** The PILOTS must be calculated so that the PILOTS are in an
40 amount equal to the amount of property taxes that would have been
41 levied upon the real property described in subsection ~~(d)~~ **(e)** if the
42 property were not subject to an exemption from property taxation.



1 ~~(f)~~ **(g)** PILOTS shall be imposed in the same manner as property
 2 taxes and shall be based on the assessed value of the real property
 3 described in subsection ~~(d)~~; **(e)**. Except as provided in subsection ~~(i)~~;
 4 **(j)**, the township assessor, or the county assessor if there is no township
 5 assessor for the township, shall assess the real property described in
 6 subsection ~~(d)~~ **(e)** as though the property were not subject to an
 7 exemption.

8 ~~(g)~~ **(h)** PILOTS collected under this section shall be distributed in
 9 the same manner as if they were property taxes being distributed to
 10 taxing units in the county.

11 ~~(h)~~ **(i)** PILOTS shall be due as set forth in the ordinance and bear
 12 interest, if unpaid, as in the case of other taxes on property. PILOTS
 13 shall be treated in the same manner as taxes for purposes of all
 14 procedural and substantive provisions of law.

15 ~~(i)~~ **(j)** If the duties of the township assessor have been transferred to
 16 the county assessor as described in IC 6-1.1-1-24, a reference to the
 17 township assessor in this section is considered to be a reference to the
 18 county assessor.

19 **(k) This section expires January 1, 2020.**

20 SECTION 34. IC 36-3-2-11, AS AMENDED BY P.L.146-2008,
 21 SECTION 702, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2016]: Sec. 11. **(a) PILOTS may not be**
 23 **imposed under this section for an assessment date occurring after**
 24 **January 1, 2017.**

25 ~~(a)~~ **(b)** As used in this section, the following terms have the
 26 meanings set forth in IC 6-1.1-1:

- 27 (1) Assessed value.
- 28 (2) Exemption.
- 29 (3) Owner.
- 30 (4) Person.
- 31 (5) Property taxation.
- 32 (6) Real property.
- 33 (7) Township assessor.

34 ~~(b)~~ **(c)** As used in this section, "PILOTS" means payments in lieu of
 35 taxes.

36 ~~(c)~~ **(d)** As used in this section, "property owner" means the owner
 37 of real property described in IC 6-1.1-10-16.7 **(before its expiration)**
 38 that is located in a county with a consolidated city.

39 ~~(d)~~ **(e)** Subject to **subsection (a) and** the approval of a property
 40 owner, the legislative body of the consolidated city may adopt an
 41 ordinance to require the property owner to pay PILOTS at times set
 42 forth in the ordinance with respect to real property that is subject to an



1 exemption under IC 6-1.1-10-16.7 **(before its expiration)**. The
 2 ordinance remains in full force and effect until:

3 **(1) the date the ordinance is** repealed or modified by the
 4 legislative body, subject to the approval of the property owner; **or**

5 **(2) January 1, 2017;**

6 **whichever occurs first.**

7 ~~(e)~~ **(f)** The PILOTS must be calculated so that the PILOTS are in an
 8 amount that is:

9 (1) agreed upon by the property owner and the legislative body of
 10 the consolidated city;

11 (2) a percentage of the property taxes that would have been levied
 12 by the legislative body for the consolidated city and the county
 13 upon the real property described in subsection ~~(d)~~ **(e)** if the
 14 property were not subject to an exemption from property taxation;
 15 and

16 (3) not more than the amount of property taxes that would have
 17 been levied by the legislative body for the consolidated city and
 18 county upon the real property described in subsection ~~(d)~~ **(e)** if the
 19 property were not subject to an exemption from property taxation.

20 ~~(f)~~ **(g)** PILOTS shall be imposed as are property taxes and shall be
 21 based on the assessed value of the real property described in subsection
 22 ~~(d)~~ **(e)**. Except as provided in subsection ~~(i)~~ **(j)**, the township assessor,
 23 or the county assessor if there is no township assessor for the township,
 24 shall assess the real property described in subsection ~~(d)~~ **(e)** as though
 25 the property were not subject to an exemption.

26 ~~(g)~~ **(h)** PILOTS collected under this section shall be deposited in the
 27 housing trust fund established under IC 36-7-15.1-35.5 and used for
 28 any purpose for which the housing trust fund may be used.

29 ~~(h)~~ **(i)** PILOTS shall be due as set forth in the ordinance and bear
 30 interest, if unpaid, as in the case of other taxes on property. PILOTS
 31 shall be treated in the same manner as taxes for purposes of all
 32 procedural and substantive provisions of law.

33 ~~(i)~~ **(j)** If the duties of the township assessor have been transferred to
 34 the county assessor as described in IC 6-1.1-1-24, a reference to the
 35 township assessor in this section is considered to be a reference to the
 36 county assessor.

37 **(k) This section expires January 1, 2020.**

38 SECTION 35. IC 36-7-4-1104 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1104. (a) As used
 40 in this section, "state agency" means all agencies, boards, commissions,
 41 departments, and institutions, including state educational institutions,
 42 of the state.

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1 (b) **ADVISORY—AREA.** This chapter does not restrict or regulate
 2 (or authorize any political subdivision, legislative body, plan
 3 commission, or board of zoning appeals to restrict or regulate) the
 4 exercise of the power of eminent domain by the state, ~~or~~ by any state
 5 agency, **or by the Indiana finance authority (IC 4-4-11-4)**, or the use
 6 of property owned or occupied by the state, ~~or~~ by any state agency, **or**
 7 **by the Indiana finance authority.**

8 SECTION 36. IC 36-7-15.1-35.5, AS AMENDED BY
 9 P.L.144-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2016]: Sec. 35.5. (a) The general assembly
 11 finds the following:

12 (1) Federal law permits the sale of a multiple family housing
 13 project that is or has been covered, in whole or in part, by a
 14 contract for project based assistance from the United States
 15 Department of Housing and Urban Development without
 16 requiring the continuation of that project based assistance.

17 (2) Such a sale displaces the former residents of a multiple family
 18 housing project described in subdivision (1) and increases the
 19 shortage of safe and affordable housing for persons of low and
 20 moderate income within the county.

21 (3) The displacement of families and individuals from affordable
 22 housing requires increased expenditures of public funds for crime
 23 prevention, public health and safety, fire and accident prevention,
 24 and other public services and facilities.

25 (4) The establishment of a supplemental housing program under
 26 this section will do the following:

27 (A) Benefit the health, safety, morals, and welfare of the
 28 county and the state.

29 (B) Serve to protect and increase property values in the county
 30 and the state.

31 (C) Benefit persons of low and moderate income by making
 32 affordable housing available to them.

33 (5) The establishment of a supplemental housing program under
 34 this section and sections 32 through 35 of this chapter is:

35 (A) necessary in the public interest; and

36 (B) a public use and purpose for which public money may be
 37 spent and private property may be acquired.

38 (b) In addition to its other powers with respect to a housing program
 39 under sections 32 through 35 of this chapter, the commission may
 40 establish a supplemental housing program. Except as provided by this
 41 section, the commission has the same powers and duties with respect
 42 to the supplemental housing program that the commission has under



1 sections 32 through 35 of this chapter with respect to the housing
2 program.

3 (c) One (1) allocation area may be established for the supplemental
4 housing program. The commission is not required to make the findings
5 required under section 34(5) through 34(8) of this chapter with respect
6 to the allocation area. However, the commission must find that the
7 property contained within the boundaries of the allocation area consists
8 solely of one (1) or more multiple family housing projects that are or
9 have been covered, in whole or in part, by a contract for project based
10 assistance from the United States Department of Housing and Urban
11 Development or have been owned at one time by a public housing
12 agency. The allocation area need not be contiguous. The definition of
13 "base assessed value" set forth in section 35(a) of this chapter applies
14 to the special fund established under section 26(b) of this chapter for
15 the allocation area.

16 (d) The special fund established under section 26(b) of this chapter
17 for the allocation area established under this section may be used only
18 for the following purposes:

19 (1) Subject to subdivision (2), on January 1 and July 1 of each
20 year the balance of the special fund shall be transferred to the
21 housing trust fund established under subsection (e).

22 (2) The commission may provide each taxpayer in the allocation
23 area a credit for property tax replacement in the manner provided
24 by section 35(b)(7) of this chapter. Transfers made under
25 subdivision (1) shall be reduced by the amount necessary to
26 provide the credit.

27 (e) The commission shall, by resolution, establish a housing trust
28 fund to be administered, subject to the terms of the resolution, by:

29 (1) the housing division of the consolidated city; or

30 (2) the department, division, or agency that has been designated
31 to perform the public housing function by an ordinance adopted
32 under IC 36-7-18-1.

33 (f) The housing trust fund consists of:

34 (1) amounts transferred to the fund under subsection (d);

35 (2) payments in lieu of taxes deposited in the fund under
36 IC 36-3-2-11 **(before its expiration)**;

37 (3) gifts and grants to the fund;

38 (4) investment income earned on the fund's assets;

39 (5) money deposited in the fund under IC 36-2-7-10(j); and

40 (6) other funds from sources approved by the commission.

41 (g) The commission shall, by resolution, establish uses for the
42 housing trust fund. However, the uses must be limited to:



- 1 (1) providing financial assistance to those individuals and
 2 families whose income is at or below eighty percent (80%) of the
 3 county's median income for individuals and families, respectively,
 4 to enable those individuals and families to purchase or lease
 5 residential units within the county;
- 6 (2) paying expenses of administering the fund;
- 7 (3) making grants, loans, and loan guarantees for the
 8 development, rehabilitation, or financing of affordable housing
 9 for individuals and families whose income is at or below eighty
 10 percent (80%) of the county's median income for individuals and
 11 families, respectively, including the elderly, persons with
 12 disabilities, and homeless individuals and families;
- 13 (4) providing technical assistance to nonprofit developers of
 14 affordable housing; and
- 15 (5) funding other programs considered appropriate to meet the
 16 affordable housing and community development needs of lower
 17 income families (as defined in IC 5-20-4-5) and very low income
 18 families (as defined in IC 5-20-4-6), including lower income
 19 elderly individuals, individuals with disabilities, and homeless
 20 individuals.
- 21 (h) At least fifty percent (50%) of the dollars allocated for
 22 production, rehabilitation, or purchase of housing must be used for
 23 units to be occupied by individuals and families whose income is at or
 24 below fifty percent (50%) of the county's area median income for
 25 individuals and families, respectively.
- 26 (i) The low income housing trust fund advisory committee is
 27 established. The low-income housing trust fund advisory committee
 28 consists of eleven (11) members. The membership of the low income
 29 housing trust fund advisory committee is comprised of:
- 30 (1) one (1) member appointed by the mayor, to represent the
 31 interests of low income families;
- 32 (2) one (1) member appointed by the mayor, to represent the
 33 interests of owners of subsidized, multifamily housing
 34 communities;
- 35 (3) one (1) member appointed by the mayor, to represent the
 36 interests of banks and other financial institutions;
- 37 (4) one (1) member appointed by the mayor, of the department of
 38 metropolitan development;
- 39 (5) three (3) members representing the community at large
 40 appointed by the commission, from nominations submitted to the
 41 commission as a result of a general call for nominations from
 42 neighborhood associations, community based organizations, and



- 1 other social services agencies;
 2 (6) one (1) member appointed by and representing the Coalition
 3 for Homeless Intervention and Prevention of Greater Indianapolis;
 4 (7) one (1) member appointed by and representing the Local
 5 Initiatives Support Corporation;
 6 (8) one (1) member appointed by and representing the
 7 Indianapolis Coalition for Neighborhood Development; and
 8 (9) one (1) member appointed by and representing the
 9 Indianapolis Neighborhood Housing Partnership.

10 Members of the low income housing trust fund advisory committee
 11 serve for a term of four (4) years, and are eligible for reappointment. If
 12 a vacancy exists on the committee, the appointing authority who
 13 appointed the former member whose position has become vacant shall
 14 appoint an individual to fill the vacancy. A committee member may be
 15 removed at any time by the appointing authority who appointed the
 16 committee member.

17 (j) The low income housing trust fund advisory committee shall
 18 make recommendations to the commission regarding:

- 19 (1) the development of policies and procedures for the uses of the
 20 low income housing trust fund; and
 21 (2) long term sources of capital for the low income housing trust
 22 fund, including:

23 (A) revenue from:

- 24 (i) development ordinances;
 25 (ii) fees; or
 26 (iii) taxes;

27 (B) financial market based income;

28 (C) revenue derived from private sources; and

29 (D) revenue generated from grants, gifts, donations, or income
 30 in any other form, from a:

- 31 (i) government program;
 32 (ii) foundation; or
 33 (iii) corporation.

34 (k) The county treasurer shall invest the money in the fund not
 35 currently needed to meet the obligations of the fund in the same
 36 manner as other public funds may be invested.

37 **SECTION 37. [EFFECTIVE JANUARY 1, 2017] (a) IC 6-3-1-3.5,**
 38 **as amended by this act, applies to taxable years beginning after**
 39 **December 31, 2016.**

40 **(b) This SECTION expires January 1, 2019.**

41 **SECTION 38. [EFFECTIVE UPON PASSAGE] (a) For any**
 42 **taxpayer predominately engaged in the business of cutting steel**



1 bars owned by others into billets, IC 6-2.5-5-3(a)(1)(B), as amended
2 by P.L.250-2015, SECTION 10 (as in effect January 1, 2016), shall
3 be applied retroactively as if it were in effect on January 1, 2011.
4 However, a taxpayer predominantly engaged in the business of
5 cutting steel bars owned by others into billets is not entitled to a
6 refund of state gross retail or use taxes paid for any tax period
7 beginning December 31, 2010, and before January 1, 2016, if that
8 refund is based on a claim that applies IC 6-2.5-5-3(a)(1)(B).
9 (b) This SECTION expires January 1, 2020.
10 SECTION 39. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 309, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 14, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 14. IC 6-2.5-1-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 14.7. "Construction material" means any tangible personal property to be converted into real property.**

SECTION 15. IC 6-2.5-1-14.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 14.9. "Contractor" means any person engaged in converting construction material into real property on behalf of another person. The term includes, but is not limited to, general or prime contractors, subcontractors, and specialty contractors.**

SECTION 16. IC 6-2.5-1-27.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 27.7. "Time and material contract" means a contract in which the cost of construction material and the cost of labor or other charges are stated separately.**

SECTION 17. IC 6-2.5-3-2, AS AMENDED BY P.L.13-2013, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

(b) The use tax is also imposed on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft:

- (1) is acquired in a transaction that is an isolated or occasional sale; and
- (2) is required to be titled, licensed, or registered by this state for use in Indiana.

(c) The use tax is imposed on the addition of tangible personal property to a structure or facility, if, after its addition, the property



becomes part of the real estate on which the structure or facility is located. **a contractor's conversion of construction material into real property if that construction material was purchased by the contractor.** However, the use tax does not apply to **additions conversions of tangible personal property construction material** described in this subsection, if:

(1) the state gross retail or use tax has been previously imposed on the ~~sale~~ **contractor's acquisition** or use of that ~~property~~; or **construction material;**

(2) the ~~ultimate purchaser or recipient of that property would have been~~ **person for whom the construction material is being converted could have purchased the material** exempt from the state gross retail and use taxes, **as evidenced by a properly issued exemption certificate**, if that ~~purchaser or recipient person~~ had directly purchased the ~~property from the supplier for addition to the structure or facility.~~ **construction material from a retail merchant in a retail transaction; or**

(3) **the conversion of the construction material into real property is governed by a time and material contract as described in IC 6-2.5-4-9(b).**

(d) The use tax is imposed on a person who:

(1) manufactures, fabricates, or assembles tangible personal property from materials either within or outside Indiana; and

(2) uses, stores, distributes, or consumes tangible personal property in Indiana.

(e) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

(f) As used in subsection (g) and IC 6-2.5-5-42:

(1) "completion work" means the addition of tangible personal property to or reconfiguration of the interior of an aircraft, if the work requires the issuance of an airworthiness certificate from the:

(A) Federal Aviation Administration; or



(B) equivalent foreign regulatory authority; due to the change in the type certification basis of the aircraft resulting from the addition to or reconfiguration of the interior of the aircraft;

(2) "delivery" means the physical delivery of the aircraft regardless of who holds title; and

(3) "prepurchase evaluation" means an examination of an aircraft by a potential purchaser for the purpose of obtaining information relevant to the potential purchase of the aircraft.

(g) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over an aircraft, if:

(1) the aircraft is or will be titled, registered, or based (as defined in IC 6-6-6.5-1(m)) in another state or country;

(2) the aircraft is delivered to Indiana by or for a nonresident owner or purchaser of the aircraft;

(3) the aircraft is delivered to Indiana for the sole purpose of being repaired, refurbished, remanufactured, or subjected to completion work or a prepurchase evaluation; and

(4) after completion of the repair, refurbishment, remanufacture, completion work, or prepurchase evaluation, the aircraft is transported to a destination outside Indiana.

(h) The amendments made to this section by P.L.153-2012 shall be interpreted to specify and not to change the general assembly's intent with respect to this section.

SECTION 18. IC 6-2.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:
Sec. 9. (a) A person is a retail merchant making a retail transaction when the person sells tangible personal property which:

(1) is to be added to a structure or facility by the purchaser; and

(2) after its addition to the structure or facility, would become a part of the real **estate property** on which the structure or facility is located.

(b) **Notwithstanding subsection (a), a transaction described in subsection (a) is not a retail transaction, if the ultimate purchaser or recipient of the property to be added to the structure or facility would be exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility. A contractor is a retail merchant making a retail transaction when the contractor:**

(1) disposes of tangible personal property; or

(2) converts tangible personal property into real property;



under a time and material contract. As such a retail merchant, a contractor described in this subsection shall collect, as an agent of the state, the state gross retail tax on the resale of the construction material and remit the state gross retail tax as provided in this article.

SECTION 19. IC 6-2.5-5-3, AS AMENDED BY P.L.250-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 3. (a) For purposes of this section:

(1) the:

(A) retreading of tires; **and**

~~(B) cutting of steel bars into billets; and~~

~~(C) (B) felling of trees for further use in production or for sale in the ordinary course of business;~~

shall be treated as the processing of tangible personal property; and

(2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location.

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity."

Page 15, line 2, delete "or the owner of the" and insert ".".

Page 15, delete line 3.

Page 16, line 14, reset in roman "151(c)(1)(B)".

Page 16, line 14, delete "151(c)".

Page 16, line 15, delete "Code;" and insert "Code".

Page 16, line 15, reset in roman "(as effective January 1, 2004);".

Page 16, line 15, strike "and".

Page 16, between lines 15 and 16, begin a new line double block indented and insert:

"(B) one thousand five hundred dollars (\$1,500) for each exemption allowed under Section 151(c) of the Internal Revenue Code for an individual:

(i) who is less than nineteen (19) years of age or is a



full-time student who is less than twenty-four (24) years of age;
(ii) for whom the taxpayer is the legal guardian; and
(iii) for whom the taxpayer does not claim an exemption under clause (A); and".

Page 16, line 16, strike "(B)" and insert "(C)".

Page 54, delete lines 16 through 42.

Delete page 55.

Page 56, delete lines 1 through 8.

Page 66, delete lines 33 through 36, begin a new paragraph and insert:

"SECTION 72. [EFFECTIVE UPON PASSAGE] (a) For any taxpayer predominately engaged in the business of cutting steel bars owned by others into billets, IC 6-2.5-5-3(a)(1)(B), as amended by P.L.250-2015, SECTION 10 (as in effect January 1, 2016), shall be applied retroactively as if it were in effect on January 1, 2011. However, a taxpayer predominantly engaged in the business of cutting steel bars owned by others into billets is not entitled to a refund of state gross retail or use taxes paid for any tax period beginning December 31, 2010, and before January 1, 2016, if that refund is based on a claim that applies IC 6-2.5-5-3(a)(1)(B).

(b) This SECTION expires January 1, 2020."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 4.

SENATE MOTION

Madam President: I move that Senate Bill 309 be amended to read as follows:

Page 14, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 16. IC 6-2.5-1-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19.5. "Facilitator" means a person who:

(1) contracts or otherwise enters into an agreement:

(A) with a person who rents or furnishes rooms, lodgings,

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- or accommodations for consideration; and
- (B) to market the room, lodging, or accommodation through the Internet; and**
- (2) accepts payment from the consumer for the room, lodging, or accommodation.**

The term does not include a licensee (as defined in IC 25-34.1-1-2(6)) under the real estate broker licensing act (IC 25-34.1) or the owner of the room, lodging, or accommodation."

Page 16, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 19. IC 6-2.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) A person is a retail merchant making a retail transaction when the person rents or furnishes rooms, lodgings, or other accommodations, such as booths, display spaces, banquet facilities, and cubicles or spaces used for adult relaxation, massage, modeling, dancing, or other entertainment to another person:

- (1) if those rooms, lodgings, or accommodations are rented or furnished for periods of less than thirty (30) days; and
- (2) if the rooms, lodgings, and accommodations are located in:
 - (A) a hotel, motel, inn, tourist camp, tourist cabin, gymnasium, hall, coliseum, or other place, where rooms, lodgings, or accommodations are regularly furnished for consideration; or**
 - (B) a house, condominium, or apartment in which rooms, lodgings, or accommodations are rented or furnished for transient residential housing for consideration.**

(b) A facilitator is a retail merchant making a retail transaction when the facilitator accepts payment from the consumer for a room, lodging, or accommodation rented or furnished in Indiana.

~~(b)~~ **(c) Except as provided in section 4.2 of this chapter**, each rental or furnishing by a retail merchant under subsection (a) **or (b)** is a separate unitary transaction regardless of whether consideration is paid to an independent contractor or directly to the retail merchant.

~~(c)~~ **(d)** For purposes of this section, "consideration" includes a membership fee charged to a customer.

~~(d)~~ **(e)** Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction if:

- (1) the person is a promoter that rents a booth or display space to an exhibitor; and
- (2) the booth or display space is located in a facility that:
 - (A) is described in subsection (a)(2); and
 - (B) is operated by a political subdivision (including a capital



improvement board established under IC 36-10-8 or IC 36-10-9) or the state fair commission.

This subsection does not exempt from the state gross retail tax the renting of accommodations by a political subdivision or the state fair commission to a promoter or an exhibitor.

SECTION 20. IC 6-2.5-4-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 4.2. (a) A person or a facilitator who is a retail merchant making a retail transaction described in section 4 of this chapter shall give to the consumer of the room, lodging, or accommodation an itemized statement separately stating all of the following:**

- (1) The part of the gross retail income that is charged by the person for renting or furnishing the room, lodging, or accommodation.**
- (2) Any amount collected by the person renting or furnishing the room, lodging, or accommodation for:**
 - (A) the state gross retail or use tax; and**
 - (B) any innkeeper's tax due under IC 6-9.**
- (3) Any part of the gross retail income that is a fee, commission, or other charge of a facilitator."**

Page 17, delete lines 22 through 42.

Page 18, delete lines 1 through 23.

Page 59, delete lines 8 through 14.

Page 67, delete lines 36 through 39.

Renumber all SECTIONS consecutively.

(Reference is to SB 309 as printed January 29, 2016.)

WALKER

SENATE MOTION

Madam President: I move that Senate Bill 309 be amended to read as follows:

Page 27, delete lines 37 through 42.

Page 28, delete lines 1 through 34.

Page 34, delete lines 10 through 33.

Page 50, delete lines 11 through 42.

Delete pages 51 through 52.

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Page 53, delete lines 1 through 33.
 Page 59, delete lines 22 through 42.
 Page 60, delete lines 1 through 3.
 Renumber all SECTIONS consecutively.

(Reference is to SB 309 as printed January 29, 2016.)

BRODEN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 309, 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:

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

"SECTION 1. IC 5-10-1.1-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 10. (a) It is the policy of the general assembly to provide a legal and regulatory environment that is conducive to the growth of small business and the recruitment, hiring, and retention of productive and responsible employees. In furtherance of this policy, it is the intent of the general assembly to foster an environment that encourages small businesses to provide retirement savings opportunities to their employees by facilitating access to efficient, cost effective, employer based retirement savings plans.**

(b) The auditor of state, as administrator of the state employees' deferred compensation plan, is directed to:

(1) study the issues involved with the development of a multiple employer plan for private sector employers located in Indiana consistent with:

(A) the Interpretive Bulletin (80 FR 71936, amending 29 CFR Part 2509) issued by the Employee Benefits Security Administration of the United States Department of Labor on November 18, 2015; and

(B) applicable Internal Revenue Service legal authorities; and

(2) report on the findings of the study described in subdivision

(1) not later than December 31, 2016, to:

(A) the budget committee; and

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(B) the legislative council in an electronic format under IC 5-14-6.

(c) This section expires July 1, 2017."

Page 2, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-10-16.7, AS AMENDED BY P.L.181-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 16.7. **(a) Except as otherwise provided in this section,** all or part of real property is exempt from property taxation if:

- (1) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low income housing tax credit program under 26 U.S.C. 42;
- (2) the real property is subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing and community development authority; and
- (3) the owner of the property has entered into an agreement to make payments in lieu of taxes under IC 36-1-8-14.2 **(before its expiration), IC 36-2-6-22 (before its expiration), or IC 36-3-2-11 (before its expiration).**

(b) For assessment dates after December 31, 2017, all or part of real property is exempt from property taxation if:

- (1) the conditions specified in subsection (a)(1) through (a)(3) are met; and**
- (2) before January 1, 2018:**
 - (A) the real property was exempt from property taxation under this section for one (1) or more assessment dates;**
 - (B) a person filed an application seeking bond financing with a political subdivision with respect to the real property;**
 - (C) a person filed an application with the Indiana housing and community development authority seeking tax credits under 26 U.S.C. 42 with respect to the real property; or**
 - (D) the real property was the subject of a resolution for affordable housing adopted by a political subdivision.**

(c) This section may not be construed in such a way as to:

- (1) alter the terms of an agreement with the holders of any outstanding notes, bonds, or other obligations of an issuing body;**
- (2) authorize the issuing body to alter the terms of an agreement described in subdivision (1); or**
- (3) impair, or authorize the issuing body to impair, the rights**



and remedies of any creditor of the issuing body."

Delete pages 3 through 6.

Page 7, delete lines 1 through 10.

Page 14, delete lines 13 through 26.

Page 16, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 18. IC 6-2.5-4-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.2. (a) As used in this section, "facilitator" means a person who:**

(1) contracts or otherwise enters into an agreement:

(A) with a person who rents or furnishes rooms, lodgings, or accommodations for consideration; and

(B) to market the room, lodging, or accommodation through the Internet; and

(2) accepts payment from the consumer for the room, lodging, or accommodation.

The term does not include a licensee (as defined in IC 25-34.1-1-2(6)) under the real estate broker licensing act (IC 25-34.1) or the owner of the room, lodging, or accommodation.

(b) A facilitator shall give to the consumer of the room, lodging, or accommodation an itemized statement separately stating any amount collected by the person renting or furnishing the room, lodging, or accommodation for:

(1) the state gross retail or use tax; and

(2) any innkeeper's tax due under IC 6-9.

(c) A penalty of twenty-five dollars (\$25) is imposed for each transaction described in subsection (b) in which a facilitator fails to separately state:

(1) the state gross retail or use tax; and

(2) any innkeeper's tax due under IC 6-9."

Delete page 17.

Page 18, delete lines 1 through 22, begin a new paragraph and insert:

"SECTION 19. IC 6-2.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 9. (a) A person is a retail merchant making a retail transaction when the person sells tangible personal property which:

(1) is to be added to a structure or facility by the purchaser; and

(2) after its addition to the structure or facility, would become a part of the real estate on which the structure or facility is located.

(b) A contractor is a retail merchant making a retail transaction



when the contractor:

(1) disposes of tangible personal property; or
(2) converts tangible personal property into real property;
under a time and material contract. As such a retail merchant, a contractor described in this subsection shall collect, as an agent of the state, the state gross retail tax on the resale of the construction material and remit the state gross retail tax as provided in this article.

~~(b)~~ **(c)** Notwithstanding ~~subsection (a)~~, **subsections (a) and (b)**, a transaction described in subsection (a) **or (b)** is not a retail transaction, if the ultimate purchaser or recipient of the property to be added to ~~the~~ **a** structure or facility would be exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility."

Page 19, line 5, delete "P.L.250-2015," and insert "SEA 23-2016, SECTION 4,".

Page 19, line 6, delete "SECTION 12,".

Page 19, line 34, after "(B)" insert "**for taxable years beginning after December 31, 2017,**".

Page 23, line 12, delete "intangible".

Page 28, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 24. IC 6-3-1-11, AS AMENDED BY P.L.242-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2015~~. **2016**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2015~~, **2016**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2015~~, **2016**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2015~~, **2016**, that is effective for any taxable year that began before January 1, ~~2015~~, **2016**, and that affects:

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- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies.
- (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.
- (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.
- (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.
- (6) Section 451(i)(3) of the Internal Revenue Code pertaining to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.
- (7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding



company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection.

SECTION 25. IC 6-3-3-12, AS AMENDED BY P.L.182-2009(ss), SECTION 198, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) As used in this section, "account" has the meaning set forth in IC 21-9-2-2.

(b) As used in this section, "account beneficiary" has the meaning set forth in IC 21-9-2-3.

(c) As used in this section, "account owner" has the meaning set forth in IC 21-9-2-4.

(d) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

(e) As used in this section, "contribution" means the amount of money directly provided to a college choice 529 education savings plan account by a taxpayer. A contribution does not include any of the following:

- (1) Money credited to an account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the account.
- (2) Money transferred from any other qualified tuition program under Section 529 of the Internal Revenue Code or from any other similar plan.

(f) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is not a qualified withdrawal.

(g) As used in this section, "qualified higher education expenses" has the meaning set forth in IC 21-9-2-19.5.

(h) As used in this section, "qualified withdrawal" means a withdrawal or distribution from a college choice 529 education savings plan that is made:

- (1) to pay for qualified higher education expenses, excluding any withdrawals or distributions used to pay for qualified higher education expenses if the withdrawals or distributions are made from an account of a college choice 529 education savings plan that is terminated within twelve (12) months after the account is opened;
- (2) as a result of the death or disability of an account beneficiary;
- (3) because an account beneficiary received a scholarship that paid for all or part of the qualified higher education expenses of the account beneficiary, to the extent that the withdrawal or



distribution does not exceed the amount of the scholarship; or
 (4) by a college choice 529 education savings plan as the result of
 a transfer of funds by a college choice 529 education savings plan
 from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or
 transfer of assets from a college choice 529 education savings plan to
 any other qualified tuition program under Section 529 of the Internal
 Revenue Code or to any other similar plan.

(i) As used in this section, "taxpayer" means:

- (1) an individual filing a single return; or
- (2) a married couple filing a joint return.

(j) A taxpayer is entitled to a credit against the taxpayer's adjusted
 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable
 year equal to the least of the following:

- (1) Twenty percent (20%) of the amount of the total contributions
 made by the taxpayer to an account or accounts of a college
 choice 529 education savings plan during the taxable year.
- (2) One thousand dollars (\$1,000).
- (3) The amount of the taxpayer's adjusted gross income tax
 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 reduced by the sum of all credits (as determined without regard to
 this section) allowed by IC 6-3-1 through IC 6-3-7.

**(k) A taxpayer who makes a contribution to a college choice 529
 education savings plan is considered to have made the contribution
 on the date that:**

- (1) the taxpayer's contribution is postmarked or accepted by
 a delivery service, for contributions that are submitted to a
 college choice 529 education savings plan by mail or delivery
 service;**
- (2) the taxpayer's electronic funds transfer is initiated, for
 contributions that are submitted to a college choice 529
 education savings plan by electronic funds transfer; or**
- (3) the taxpayer unambiguously issues instructions or executes
 an action that is reasonably sufficient to result in a
 contribution to a college choice 529 education savings plan, if
 subdivisions (1) and (2) do not apply.**

~~(k)~~ **(l)** A taxpayer is not entitled to a carryback, carryover, or refund
 of an unused credit.

~~(l)~~ **(m)** A taxpayer may not sell, assign, convey, or otherwise
 transfer the tax credit provided by this section.

~~(m)~~ **(n)** To receive the credit provided by this section, a taxpayer
 must claim the credit on the taxpayer's annual state tax return or returns



in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

~~(n)~~ (o) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- (2) the excess of:
 - (A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable years beginning on or after January 1, 2007; over
 - (B) the cumulative amount of repayments paid by the account owner under this subsection for all prior taxable years beginning on or after January 1, 2008.

~~(o)~~ (p) Any required repayment under subsection (o) shall be reported by the account owner on the account owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

~~(p)~~ (q) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

~~(q)~~ (r) The executive director of the Indiana education savings authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to account owners, account beneficiaries, and other taxpayers for each taxable year with respect to:

- (1) nonqualified withdrawals made from accounts of a college choice 529 education savings plan for the taxable year; or
- (2) account closings for the taxable year."

Page 33, delete lines 35 through 42.

Delete pages 34 through 48.

Page 49, delete lines 1 through 11.

Page 49, run in lines 40 through 41.

Page 54, delete lines 35 through 37, begin a new paragraph and insert:

"SECTION 58. IC 8-15.5-1-2, AS AMENDED BY THE



TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority, a private entity, and, where applicable, a governmental entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Before the authority or the department may issue a request for proposals for or enter into a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a toll road project, the general assembly must adopt a statute authorizing the imposition of tolls. However, during the period beginning July 1, 2011, and ending June 30, 2021, and notwithstanding subsection (c), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement to authorize an operator to impose tolls for the operation of motor vehicles on all or part of the following projects:

- (1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).
- (2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.
- (3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.
- (4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

(c) Before the authority or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

- (1) Imposing tolls on motor vehicles for use of Interstate Highway



69.

(2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

(d) ~~Except as provided in subsection (c)(1);~~ The general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement for a freeway project.

(e) The authority may enter into a public-private agreement for a facility project if the general assembly, by statute, authorizes the authority to enter into a public-private agreement for the facility project.

(f) As permitted by subsection (e), the general assembly authorizes the authority to enter into public-private agreements for the following facility projects:

(1) A state park inn and related improvements in an existing state park located in a county with a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000).

(2) Communications systems infrastructure, including:

(A) towers and associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the towers to function as part of the communications system;

(B) any equipment necessary, proper, or convenient to transmit and receive voice and data communications; and

(C) any other necessary, proper, or convenient elements of the communications system.

(3) Larue D. Carter Memorial Hospital in Indianapolis.

(g) The following apply to a public-private agreement for communications systems infrastructure under subsection (f)(2):

(1) The authority may:

(A) use the procedures set forth in IC 8-15.5-4; or

(B) at the authority's option and in its sole discretion, negotiate an agreement with a single offeror.

The authority must issue a request for information before entering into negotiations with a single offeror. If an agreement is negotiated with a single offeror, IC 8-15.5-4-11 and IC 8-15.5-4-12 are the only sections in IC 8-15.5-4 that apply.

(2) This article, and any other applicable laws with respect to



establishing, charging, and collecting user fees, including IC 8-15.5-7, do not apply, and the operator may establish, charge, and collect user fees as set forth in the public-private agreement.

(3) Notwithstanding IC 8-15.5-5-2(2) providing that all improvements and real property must be owned by the authority in the name of the state or by a governmental entity, or both, the public-private agreement may provide that any improvements on any real property interests may be owned by the authority, a governmental entity, an operator, or a private entity.

(4) The authority shall transfer money received from an operator under a ~~lease~~ **public-private** agreement for ~~communications systems infrastructure under subdivision (f)(2)~~ to the state bicentennial capital account established under IC 4-12-1-14.9.

SECTION 59. IC 8-15.5-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. If a public-private agreement for communications systems infrastructure is negotiated with a single offeror under IC 8-15.5-1-2(g)(1)(B), the requirements of this chapter, except sections 11 and 12 of this chapter, do not apply.**

SECTION 60. IC 8-15.5-4-11, AS AMENDED BY P.L.205-2013, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) After the **applicable** procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the project. The authority shall publish notice of the designation of the operator for the project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the project, the authority may execute the public-private agreement with that operator.

(d) The budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the authority's determination is submitted for review."



Page 58, between lines 37 and 38, begin a new paragraph and insert:
"SECTION 65. IC 36-7-4-1104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1104. (a) As used in this section, "state agency" means all agencies, boards, commissions, departments, and institutions, including state educational institutions, of the state.

(b) **ADVISORY—AREA.** This chapter does not restrict or regulate (or authorize any political subdivision, legislative body, plan commission, or board of zoning appeals to restrict or regulate) the exercise of the power of eminent domain by the state, ~~or~~ by any state agency, **or by the Indiana finance authority (IC 4-4-11-4)**, or the use of property owned or occupied by the state, ~~or~~ by any state agency, **or by the Indiana finance authority."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as reprinted February 3, 2016.)

BROWN T

Committee Vote: yeas 18, nays 2.

