

SENATE BILL No. 448

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-10; IC 6-2.5-5-25; IC 6-3; IC 6-3.1; IC 6-8.1; IC 16-21; IC 23-0.5-2-13.

Synopsis: Nonprofit hospital local investment requirement. Requires a nonprofit hospital in Indiana to invest 30% of the hospital's unrestricted, board designated investment assets (unrestricted assets) in local investments in the service area of the hospital. Requires a hospital to report the amount of unrestricted assets that are reserved for local investments and the amount of actual investments in local investments as a separate line item on the hospital's annual audited financial statement to the state department of health. Requires a hospital to submit with its biennial report to the Indiana secretary of state a copy of the hospital's audited financial statements for the preceding two fiscal years (this requirement initially begins after the hospital has completed two full fiscal years following the date on which the local investment requirement is effective on July 1, 2020). Provides that, if a nonprofit hospital fails to submit a copy of its audited financial statements with its biennial report to the secretary of state, or if the audited financial statements submitted indicate that the hospital failed to meet the local investment requirement during one or both of the fiscal years, the following apply: (1) The nonprofit hospital shall be considered as operating as a for-profit entity for purposes of state income taxes. (2) The nonprofit hospital shall be ineligible for a state sales and use tax exemption for purchases made by the hospital. (3) The nonprofit hospital shall be ineligible for certain property tax exemptions that would otherwise apply. Makes conforming changes.

Effective: July 1, 2020.

Holdman

January 15, 2020, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 448

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 6-1.1-10-16, AS AMENDED BY P.L.85-2019,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]: Sec. 16. (a) **Except as provided in subsection (q)**, all
- 4 or part of a building is exempt from property taxation if it is owned,
- 5 occupied, and used by a person for educational, literary, scientific,
- 6 religious, or charitable purposes.
- 7 (b) A building is exempt from property taxation if it is owned,
- 8 occupied, and used by a town, city, township, or county for educational,
- 9 literary, scientific, fraternal, or charitable purposes.
- 10 (c) A tract of land, including the campus and athletic grounds of an
- 11 educational institution, is exempt from property taxation if:
- 12 (1) a building that is exempt under subsection (a) or (b) is situated
- 13 on it;
- 14 (2) a parking lot or structure that serves a building referred to in
- 15 subdivision (1) is situated on it; or
- 16 (3) the tract:
- 17 (A) is owned by a nonprofit entity established for the purpose



- 1 of retaining and preserving land and water for their natural
 2 characteristics;
 3 (B) does not exceed five hundred (500) acres; and
 4 (C) is not used by the nonprofit entity to make a profit.
- 5 (d) A tract of land is exempt from property taxation if:
 6 (1) it is purchased for the purpose of erecting a building that is to
 7 be owned, occupied, and used in such a manner that the building
 8 will be exempt under subsection (a) or (b); and
 9 (2) not more than four (4) years after the property is purchased,
 10 and for each year after the four (4) year period, the owner
 11 demonstrates substantial progress and active pursuit towards the
 12 erection of the intended building and use of the tract for the
 13 exempt purpose. To establish substantial progress and active
 14 pursuit under this subdivision, the owner must prove the existence
 15 of factors such as the following:
 16 (A) Organization of and activity by a building committee or
 17 other oversight group.
 18 (B) Completion and filing of building plans with the
 19 appropriate local government authority.
 20 (C) Cash reserves dedicated to the project of a sufficient
 21 amount to lead a reasonable individual to believe the actual
 22 construction can and will begin within four (4) years.
 23 (D) The breaking of ground and the beginning of actual
 24 construction.
 25 (E) Any other factor that would lead a reasonable individual to
 26 believe that construction of the building is an active plan and
 27 that the building is capable of being completed within eight (8)
 28 years considering the circumstances of the owner.
- 29 If the owner of the property sells, leases, or otherwise transfers a tract
 30 of land that is exempt under this subsection, the owner is liable for the
 31 property taxes that were not imposed upon the tract of land during the
 32 period beginning January 1 of the fourth year following the purchase
 33 of the property and ending on December 31 of the year of the sale,
 34 lease, or transfer. The county auditor of the county in which the tract
 35 of land is located may establish an installment plan for the repayment
 36 of taxes due under this subsection. The plan established by the county
 37 auditor may allow the repayment of the taxes over a period of years
 38 equal to the number of years for which property taxes must be repaid
 39 under this subsection.
- 40 (e) **Subject to subsection (q)**, personal property is exempt from
 41 property taxation if it is owned and used in such a manner that it would
 42 be exempt under subsection (a) or (b) if it were a building.



1 (f) **Subject to subsection (q)**, a hospital's property that is exempt
 2 from property taxation under subsection (a), (b), or (e) shall remain
 3 exempt from property taxation even if the property is used in part to
 4 furnish goods or services to another hospital whose property qualifies
 5 for exemption under this section.

6 (g) Property owned by a shared hospital services organization that
 7 is exempt from federal income taxation under Section 501(c)(3) or
 8 501(e) of the Internal Revenue Code is exempt from property taxation
 9 if it is owned, occupied, and used exclusively to furnish goods or
 10 services to a hospital whose property is exempt from property taxation
 11 under subsection (a), (b), or (e).

12 (h) This section does not exempt from property tax an office or a
 13 practice of a physician or group of physicians that is owned by a
 14 hospital licensed under IC 16-21-2 or other property that is not
 15 substantially related to or supportive of the inpatient facility of the
 16 hospital unless the office, practice, or other property:

- 17 (1) provides or supports the provision of charity care (as defined
 18 in IC 16-18-2-52.5), including providing funds or other financial
 19 support for health care services for individuals who are indigent
 20 (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
 21 (2) provides or supports the provision of community benefits (as
 22 defined in IC 16-21-9-1), including research, education, or
 23 government sponsored indigent health care (as defined in
 24 IC 16-21-9-2).

25 However, participation in the Medicaid or Medicare program alone
 26 does not entitle an office, practice, or other property described in this
 27 subsection to an exemption under this section.

28 (i) A tract of land or a tract of land plus all or part of a structure on
 29 the land is exempt from property taxation if:

- 30 (1) the tract is acquired for the purpose of erecting, renovating, or
 31 improving a single family residential structure that is to be given
 32 away or sold:
 33 (A) in a charitable manner;
 34 (B) by a nonprofit organization; and
 35 (C) to low income individuals who will:
 36 (i) use the land as a family residence; and
 37 (ii) not have an exemption for the land under this section;
 38 (2) the tract does not exceed three (3) acres; and
 39 (3) the tract of land or the tract of land plus all or part of a
 40 structure on the land is not used for profit while exempt under this
 41 section.

42 (j) An exemption under subsection (i) terminates when the property



1 is conveyed by the nonprofit organization to another owner.

2 (k) When property that is exempt in any year under subsection (i) is
 3 conveyed to another owner, the nonprofit organization receiving the
 4 exemption must file a certified statement with the auditor of the county,
 5 notifying the auditor of the change not later than sixty (60) days after
 6 the date of the conveyance. The county auditor shall immediately
 7 forward a copy of the certified statement to the county assessor. A
 8 nonprofit organization that fails to file the statement required by this
 9 subsection is liable for the amount of property taxes due on the
 10 property conveyed if it were not for the exemption allowed under this
 11 chapter.

12 (l) If property is granted an exemption in any year under subsection
 13 (i) and the owner:

14 (1) fails to transfer the tangible property within eight (8) years
 15 after the assessment date for which the exemption is initially
 16 granted; or

17 (2) transfers the tangible property to a person who:

18 (A) is not a low income individual; or

19 (B) does not use the transferred property as a residence for at
 20 least one (1) year after the property is transferred;

21 the person receiving the exemption shall notify the county recorder and
 22 the county auditor of the county in which the property is located not
 23 later than sixty (60) days after the event described in subdivision (1) or
 24 (2) occurs. The county auditor shall immediately inform the county
 25 assessor of a notification received under this subsection.

26 (m) If subsection (l)(1) or (l)(2) applies, the owner shall pay, not
 27 later than the date that the next installment of property taxes is due, an
 28 amount equal to the sum of the following:

29 (1) The total property taxes that, if it were not for the exemption
 30 under subsection (i), would have been levied on the property in
 31 each year in which an exemption was allowed.

32 (2) Interest on the property taxes at the rate of ten percent (10%)
 33 per year.

34 (n) The liability imposed by subsection (m) is a lien upon the
 35 property receiving the exemption under subsection (i). An amount
 36 collected under subsection (m) shall be collected as an excess levy. If
 37 the amount is not paid, it shall be collected in the same manner that
 38 delinquent taxes on real property are collected.

39 (o) Property referred to in this section shall be assessed to the extent
 40 required under IC 6-1.1-11-9.

41 (p) A for-profit provider of early childhood education services to
 42 children who are at least four (4) but less than six (6) years of age on



1 the annual assessment date may receive the exemption provided by this
 2 section for property used for educational purposes only if all the
 3 requirements of section 46 of this chapter are satisfied. A for-profit
 4 provider of early childhood education services that provides the
 5 services only to children younger than four (4) years of age may not
 6 receive the exemption provided by this section for property used for
 7 educational purposes.

8 **(q) A nonprofit hospital described in IC 16-21-15-4 may not**
 9 **receive the exemption provided by this section.**

10 SECTION 2. IC 6-1.1-10-18.5, AS AMENDED BY P.L.197-2011,
 11 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2020]: Sec. 18.5. (a) This section does not exempt from
 13 property tax an office or a practice of a physician or group of
 14 physicians that is owned by a hospital licensed under IC 16-21-2 or
 15 other property that is not substantially related to or supportive of the
 16 inpatient facility of the hospital unless the office, practice, or other
 17 property:

- 18 (1) provides or supports the provision of charity care (as defined
 19 in IC 16-18-2-52.5), including funds or other financial support for
 20 health care services for individuals who are indigent (as defined
 21 in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
 22 (2) provides or supports the provision of community benefits (as
 23 defined in IC 16-21-9-1), including research, education, or
 24 government sponsored indigent health care (as defined in
 25 IC 16-21-9-2).

26 However, participation in the Medicaid or Medicare program, alone,
 27 does not entitle an office, a practice, or other property described in this
 28 subsection to an exemption under this section.

29 **(b) Except as provided in subsection (d),** tangible property is
 30 exempt from property taxation if it is:

- 31 (1) owned by an Indiana nonprofit corporation; and
 32 (2) used by that corporation in the operation of a hospital licensed
 33 under IC 16-21, a health facility licensed under IC 16-28, ~~or~~ in the
 34 operation of a residential facility for the aged and licensed under
 35 IC 16-28, or in the operation of a Christian Science home or
 36 sanatorium.

37 (c) Property referred to in this section shall be assessed to the extent
 38 required under IC 6-1.1-11-9.

39 **(d) A nonprofit hospital described in IC 16-21-15-4 may not**
 40 **receive the exemption provided by this section.**

41 SECTION 3. IC 6-2.5-5-25, AS AMENDED BY P.L.293-2013(ts),
 42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 25. (a) Transactions involving tangible personal
 2 property, accommodations, or service are exempt from the state gross
 3 retail tax, if the person acquiring the property, accommodations, or
 4 service:

5 (1) is an organization described in section 21(b)(1) of this
 6 chapter;

7 (2) primarily uses the property, accommodations, or service to
 8 carry on or to raise money to carry on its not-for-profit purpose;
 9 and

10 (3) is not an organization operated predominantly for social
 11 purposes.

12 **However, a nonprofit hospital described in IC 16-21-15-4 may not**
 13 **receive an exemption from the state gross retail tax.**

14 (b) Transactions involving tangible personal property or service are
 15 exempt from the state gross retail tax, if the person acquiring the
 16 property or service:

17 (1) is a fraternity, sorority, or student cooperative housing
 18 organization described in section 21(b)(1)(A) of this chapter; and

19 (2) uses the property or service to carry on its ordinary and usual
 20 activities and operations as a fraternity, sorority, or student
 21 cooperative housing organization.

22 SECTION 4. IC 6-3-1-35, AS ADDED BY P.L.182-2009(ss),
 23 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2020]: Sec. 35. As used in this article, "pass
 25 through entity" means:

26 (1) a corporation that is exempt from the adjusted gross income
 27 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;

28 (2) a partnership;

29 (3) a trust;

30 (4) a limited liability company; or

31 (5) a limited liability partnership.

32 SECTION 5. IC 6-3-2-2.8, AS AMENDED BY P.L.129-2014,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2020]: Sec. 2.8. **(a)** Notwithstanding any provision of IC 6-3-1
 35 through IC 6-3-7 **and except as provided in subsection (b)**, there shall
 36 be no tax on the adjusted gross income of the following:

37 (1) Any organization described in Section 501(a) of the Internal
 38 Revenue Code, except that any income of such organization
 39 which is subject to income tax under the Internal Revenue Code
 40 shall be subject to the tax under IC 6-3-1 through IC 6-3-7.

41 (2) Any corporation which is exempt from income tax under
 42 Section 1363 of the Internal Revenue Code and which complies



1 with the requirements of IC 6-3-4-13. However, income of a
 2 corporation described under this subdivision that is subject to
 3 income tax under the Internal Revenue Code is subject to the tax
 4 under IC 6-3-1 through IC 6-3-7. A corporation will not lose its
 5 exemption under this section because it fails to comply with
 6 IC 6-3-4-13 but it will be subject to the penalties provided by
 7 IC 6-8.1-10.

8 (3) Banks and trust companies, national banking associations,
 9 savings banks, building and loan associations, and savings and
 10 loan associations.

11 (4) Insurance companies subject to tax under any of the following:

12 (A) IC 27-1-18-2, including a domestic insurance company
 13 that elects to be taxed under IC 27-1-18-2.

14 (B) IC 27-1-2-2.3.

15 (5) International banking facilities (as defined in Regulation D of
 16 the Board of Governors of the Federal Reserve System (12 CFR
 17 204)).

18 **(b) The exemption under subsection (a)(1) does not apply to a**
 19 **nonprofit hospital described in IC 16-21-15-4(1) that is required to**
 20 **remit tax on adjusted gross income as if it were operating as a**
 21 **for-profit entity under IC 6-3-7-6.**

22 SECTION 6. IC 6-3-2-3.1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3.1. (a) Except as
 24 otherwise provided in subsection (b), income is not exempt from the
 25 adjusted gross income tax under section ~~2-8(1)~~ **2.8(a)(1)** of this chapter
 26 if the income is derived by the exempt organization from an unrelated
 27 trade or business, as defined in Section 513 of the Internal Revenue
 28 Code.

29 (b) This section does not apply to:

30 (1) the United States government;

31 (2) an agency or instrumentality of the United States government;

32 (3) this state;

33 (4) a state agency, as defined in IC 34-6-2-141;

34 (5) a political subdivision, as defined in IC 34-6-2-110; or

35 (6) a county solid waste management district or a joint solid waste
 36 management district established under IC 13-21 or IC 13-9.5-2
 37 (before its repeal).

38 SECTION 7. IC 6-3-2-8, AS AMENDED BY P.L.86-2018,
 39 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 8. (a) For purposes of this section, "qualified
 41 employee" means an individual who is employed by a taxpayer, a pass
 42 through entity, an employer exempt from adjusted gross income tax



1 (IC 6-3-1 through IC 6-3-7) under section ~~2.8(3)~~; **2.8(a)(3)**, ~~2.8(4)~~;
 2 **2.8(a)(4)**, or ~~2.8(5)~~ **2.8(a)(5)** of this chapter, a nonprofit entity, the
 3 state, a political subdivision of the state, or the United States
 4 government and who:

5 (1) has the employee's principal place of residence in the
 6 enterprise zone in which the employee is employed;

7 (2) performs services for the taxpayer, the employer, the nonprofit
 8 entity, the state, the political subdivision, or the United States
 9 government, ninety percent (90%) of which are directly related to:

10 (A) the conduct of the taxpayer's or employer's trade or
 11 business; or

12 (B) the activities of the nonprofit entity, the state, the political
 13 subdivision, or the United States government;

14 that is located in an enterprise zone; and

15 (3) performs at least fifty percent (50%) of the employee's service
 16 for the taxpayer or employer during the taxable year in the
 17 enterprise zone.

18 (b) Except as provided in subsection (c), a qualified employee is
 19 entitled to a deduction from the employee's adjusted gross income in
 20 each taxable year in the amount of the lesser of:

21 (1) one-half (1/2) of the employee's adjusted gross income for the
 22 taxable year that the employee earns as a qualified employee; or

23 (2) seven thousand five hundred dollars (\$7,500).

24 (c) No qualified employee is entitled to a deduction under this
 25 section for a taxable year that begins after the termination of the
 26 enterprise zone in which the employee resides.

27 SECTION 8. IC 6-3-4-13, AS AMENDED BY P.L.197-2016,
 28 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2020]: Sec. 13. (a) Every corporation which is exempt from
 30 tax under IC 6-3 pursuant to ~~IC 6-3-2-2.8(2)~~ **IC 6-3-2-2.8(a)(2)** shall,
 31 at the time that it pays or credits amounts to any of its nonresident
 32 shareholders as dividends or as their share of the corporation's
 33 undistributed taxable income, withhold the amount prescribed by the
 34 department. Such corporation so paying or crediting any nonresident
 35 shareholder:

36 (1) shall be liable to the state of Indiana for the payment of the tax
 37 required to be withheld under this section and shall not be liable
 38 to such shareholder for the amount withheld and paid over in
 39 compliance or intended compliance with this section; and

40 (2) when the aggregate amount due under IC 6-3 and IC 6-3.6
 41 exceeds one hundred fifty dollars (\$150) per quarter, then such
 42 corporation shall make return and payment to the department



1 quarterly, on such dates and in such manner as the department
2 shall prescribe, of the amount of tax which, under IC 6-3 and
3 IC 6-3.6, it is required to withhold.

4 (b) Every corporation 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
8 shareholders, the amount withheld in accordance with the provisions
9 of this section, and such other information as the department may
10 require. Every corporation withholding as provided in this section shall
11 furnish to its nonresident shareholders annually, but not later than the
12 fifteenth day of the third month after the end of its taxable year, a
13 record of the amount of tax withheld on behalf of such shareholders on
14 forms to be prescribed by the department.

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

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

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

39 (f) This section shall in no way relieve any nonresident shareholder
40 from the shareholder's obligation of filing a return or returns at the time
41 required under IC 6-3 or IC 6-3.6, and any unpaid tax shall be paid at
42 the time prescribed by section 5 of this chapter.



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

11 (h) If a distribution will be made with property other than money or
12 a gain is realized without the payment of money, the corporation shall
13 not release the property or credit the gain until it has funds sufficient
14 to enable it to pay the tax required to be withheld under this section. If
15 necessary, the corporation shall obtain such funds from the
16 shareholders.

17 (i) If a corporation fails to withhold and pay any amount of tax
18 required to be withheld under this section and thereafter the tax is paid
19 by the shareholders, such amount of tax as paid by the shareholders
20 shall not be collected from the corporation but it shall not be relieved
21 from liability for interest or penalty otherwise due in respect to such
22 failure to withhold under IC 6-8.1-10.

23 (j) A corporation described in subsection (a) shall file a composite
24 adjusted gross income tax return on behalf of all nonresident
25 shareholders. The composite return must include each nonresident
26 shareholder regardless of whether or not the nonresident shareholder
27 has other Indiana source income.

28 (k) If a corporation described in subsection (a) does not include all
29 nonresident shareholders in the composite return, the corporation is
30 subject to the penalty imposed under IC 6-8.1-10-2.1(j).

31 (l) For taxable years beginning after December 31, 2013, the
32 department may not impose a late payment penalty on a corporation for
33 the failure to file a return, pay the full amount of the tax shown on the
34 corporation's return, or pay the deficiency of the withholding taxes due
35 under this section if the corporation pays the department before the
36 fifteenth day of the fourth month after the end of the partnership's
37 taxable year at least:

- 38 (1) eighty percent (80%) of the withholding tax due for the
39 current year; or
40 (2) one hundred percent (100%) of the withholding tax due for the
41 preceding year.

42 (m) Notwithstanding subsection (l), a corporation is subject to a late



1 payment penalty for the failure to file a return, pay the full amount of
 2 the tax shown on the corporation's return, or pay the deficiency of the
 3 withholding taxes due under this section for any amounts of
 4 withholding tax, including any interest under IC 6-8.1-10-1, reported
 5 or paid after the due date of the return, as adjusted by any extension
 6 under IC 6-8.1-6-1.

7 (n) For purposes of this section, a "nonresident shareholder" is:

- 8 (1) an individual who does not reside in Indiana;
- 9 (2) a trust that does not reside in Indiana; or
- 10 (3) an estate that does not reside in Indiana.

11 SECTION 9. IC 6-3-7-6 IS ADDED TO THE INDIANA CODE AS
 12 A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
 13 **2020]: Sec. 6. A nonprofit hospital described in IC 16-21-15-4(1)**
 14 **shall file with the department the applicable forms that are**
 15 **required of a for-profit entity for purposes of this article and shall**
 16 **remit tax on adjusted gross income as if it were operating as a**
 17 **for-profit entity during all or part of each taxable year in which**
 18 **IC 16-21-15-4(1) applies.**

19 SECTION 10. IC 6-3.1-4-1, AS AMENDED BY P.L.242-2015,
 20 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 1. As used in this chapter:

22 "Base amount" means base amount (as defined in Section 41(c) of
 23 the Internal Revenue Code) modified by considering only Indiana
 24 qualified research expenses and gross receipts attributable to Indiana
 25 in the calculation of the taxpayer's:

- 26 (1) fixed base percentage; and
- 27 (2) average annual gross receipts.

28 "Indiana qualified research expense" means qualified research
 29 expense that is incurred for research conducted in Indiana.

30 "Qualified research expense" means qualified research expense (as
 31 defined in Section 41(b) of the Internal Revenue Code).

32 "Pass through entity" means:

- 33 (1) a corporation that is exempt from the adjusted gross income
 34 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 35 (2) a partnership;
- 36 (3) a limited liability company; or
- 37 (4) a limited liability partnership.

38 "Research expense tax credit" means a credit provided under this
 39 chapter against any tax otherwise due and payable under IC 6-3.

40 "Taxpayer" means an individual, a corporation, a limited liability
 41 company, a limited liability partnership, a trust, or a partnership that
 42 has any tax liability under IC 6-3 (adjusted gross income tax).



1 SECTION 11. IC 6-3.1-7-1, AS AMENDED BY P.L.4-2005,
 2 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 1. As used in this chapter:

4 "Enterprise zone" means an enterprise zone created under
 5 IC 5-28-15.

6 "Pass through entity" means a:

- 7 (1) corporation that is exempt from the adjusted gross income tax
 8 under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 9 (2) partnership;
- 10 (3) trust;
- 11 (4) limited liability company; or
- 12 (5) limited liability partnership.

13 "Qualified loan" means a loan made to an entity that uses the loan
 14 proceeds for:

- 15 (1) a purpose that is directly related to a business located in an
 16 enterprise zone;
- 17 (2) an improvement that increases the assessed value of real
 18 property located in an enterprise zone; or
- 19 (3) rehabilitation, repair, or improvement of a residence.

20 "State tax liability" means a taxpayer's total tax liability that is
 21 incurred under:

- 22 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 23 (2) IC 27-1-18-2 (the insurance premiums tax); and
- 24 (3) IC 6-5.5 (the financial institutions tax);

25 as computed after the application of the credits that, under
 26 IC 6-3.1-1-2, are to be applied before the credit provided by this
 27 chapter.

28 "Taxpayer" means any person, corporation, limited liability
 29 company, partnership, or other entity that has any state tax liability.
 30 The term includes a pass through entity.

31 SECTION 12. IC 6-3.1-9-3 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) Subject to the
 33 limitations provided in subsection (b) and sections 4, 5, and 6 of this
 34 chapter, the department shall grant a tax credit against any state tax
 35 liability due equal to fifty percent (50%) of the amount invested by a
 36 business firm or person in a program the proposal for which was
 37 approved under section 2 of this chapter.

38 (b) The credit provided by this chapter shall only be applied against
 39 any state tax liability owed by the taxpayer after the application of any
 40 credits, which under IC 6-3.1-1-2 must be applied before the credit
 41 provided by this chapter. In addition, the tax credit which a taxpayer
 42 receives under this chapter may not exceed twenty-five thousand



1 dollars (\$25,000) for any taxable year of the taxpayer.

2 (c) If a business firm that is:

3 (1) exempt from adjusted gross income tax (IC 6-3-1 through
4 IC 6-3-7) under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**; or

5 (2) a partnership;

6 does not have any tax liability against which the credit provided by this
7 section may be applied, a shareholder or a partner of the business firm
8 is entitled to a credit against the shareholder's or the partner's liability
9 under the adjusted gross income tax.

10 (d) The amount of the credit provided by this section is equal to:

11 (1) the tax credit determined for the business firm for the taxable
12 year under subsection (a); multiplied by

13 (2) the percentage of the business firm's distributive income to
14 which the shareholder or the partner is entitled.

15 The credit provided by this section is in addition to any credit to which
16 a shareholder or partner is otherwise entitled under this chapter.
17 However, a business firm and a shareholder or partner of that business
18 firm may not claim a credit under this chapter for the same investment.

19 SECTION 13. IC 6-3.1-10-1.7 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1.7. As used in this
21 chapter, "pass through entity" means:

22 (1) a corporation that is exempt from the adjusted gross income
23 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;

24 (2) a partnership;

25 (3) a limited liability company; or

26 (4) a limited liability partnership.

27 SECTION 14. IC 6-3.1-13-7 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. As used in this
29 chapter, "pass through entity" means a:

30 (1) corporation that is exempt from the adjusted gross income tax
31 under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;

32 (2) partnership;

33 (3) trust;

34 (4) limited liability company; or

35 (5) limited liability partnership.

36 SECTION 15. IC 6-3.1-18-4 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. As used in this
38 chapter, "pass through entity" means:

39 (1) a corporation that is exempt from the adjusted gross income
40 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;

41 (2) a partnership;

42 (3) a limited liability company; or



- 1 (4) a limited liability partnership.
- 2 SECTION 16. IC 6-3.1-19-1.5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1.5. As used in this
- 4 chapter, "pass through entity" means:
- 5 (1) a corporation that is exempt from the adjusted gross income
- 6 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 7 (2) a partnership;
- 8 (3) a limited liability company; or
- 9 (4) a limited liability partnership.
- 10 SECTION 17. IC 6-3.1-24-1 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. As used in this
- 12 chapter, "pass through entity" means:
- 13 (1) a corporation that is exempt from the adjusted gross income
- 14 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 15 (2) a partnership;
- 16 (3) a limited liability company; or
- 17 (4) a limited liability partnership.
- 18 SECTION 18. IC 6-3.1-26-7 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. As used in this
- 20 chapter, "pass through entity" means a:
- 21 (1) corporation that is exempt from the adjusted gross income tax
- 22 under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 23 (2) partnership;
- 24 (3) trust;
- 25 (4) limited liability company; or
- 26 (5) limited liability partnership.
- 27 SECTION 19. IC 6-3.1-29-9, AS ADDED BY P.L.191-2005,
- 28 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2020]: Sec. 9. As used in this chapter, "pass through entity"
- 30 means:
- 31 (1) a corporation that is exempt from the adjusted gross income
- 32 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 33 (2) a partnership;
- 34 (3) a limited liability company;
- 35 (4) a limited liability partnership;
- 36 (5) a corporation organized under IC 8-1-13; or
- 37 (6) a corporation organized under IC 23-17-1 that is an electric
- 38 cooperative and that has at least one (1) member that is a
- 39 corporation organized under IC 8-1-13.
- 40 SECTION 20. IC 6-3.1-30-3, AS ADDED BY P.L.193-2005,
- 41 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2020]: Sec. 3. As used in this chapter, "pass through entity"



- 1 means:
- 2 (1) a corporation that is exempt from the adjusted gross income
- 3 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 4 (2) a partnership;
- 5 (3) a limited liability company; or
- 6 (4) a limited liability partnership.
- 7 SECTION 21. IC 6-3.1-34-4, AS ADDED BY P.L.158-2019,
- 8 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2020]: Sec. 4. As used in this chapter, "pass through entity"
- 10 means a:
- 11 (1) corporation that is exempt from the adjusted gross income tax
- 12 under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 13 (2) partnership;
- 14 (3) trust;
- 15 (4) limited liability company; or
- 16 (5) limited liability partnership.
- 17 SECTION 22. IC 6-3.1-34.6-4, AS ADDED BY P.L.277-2013,
- 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2020]: Sec. 4. As used in this chapter, "pass through entity"
- 20 means:
- 21 (1) a corporation that is exempt from the adjusted gross income
- 22 tax under ~~IC 6-3-2-2.8(2)~~; **IC 6-3-2-2.8(a)(2)**;
- 23 (2) a partnership;
- 24 (3) a limited liability company; or
- 25 (4) a limited liability partnership.
- 26 SECTION 23. IC 6-8.1-9-2, AS AMENDED BY P.L.242-2015,
- 27 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2020]: Sec. 2. (a) If the department finds that a person has
- 29 paid more tax for a taxable year than is legally due, the department
- 30 shall apply the amount of the excess against any amount of that same
- 31 tax that is assessed and is currently due. The department may then
- 32 apply any remaining excess against any of the listed taxes that have
- 33 been assessed against the person and that are currently due. Subject to
- 34 subsection (c), if any excess remains after the department has applied
- 35 the overpayment against the person's tax liabilities, the department
- 36 shall either refund the amount to the person or, at the person's request,
- 37 credit the amount to the person's future tax liabilities.
- 38 (b) Subject to subsection (c), if a court determines that a person has
- 39 paid more tax for a taxable year than is legally due, the department
- 40 shall refund the excess amount to the person.
- 41 (c) As used in this subsection, "pass through entity" means a
- 42 corporation that is exempt from the adjusted gross income tax under



1 ~~IC 6-3-2-2.8(2)~~, **IC 6-3-2-2.8(a)(2)**, a partnership, a limited liability
 2 company, or a limited liability partnership and "pass through income"
 3 means a person's distributive share of adjusted gross income for a
 4 taxable year attributable to the person's interest in a pass through entity.
 5 This subsection applies to a person's overpayment of adjusted gross
 6 income tax for a taxable year if:

7 (1) the person has filed a timely claim for refund with respect to
 8 the overpayment under IC 6-8.1-9-1;

9 (2) the overpayment:

10 (A) is with respect to a taxable year beginning before January
 11 1, 2009;

12 (B) is attributable to amounts paid to the department by:

13 (i) a nonresident shareholder, partner, or member of a pass
 14 through entity;

15 (ii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 16 on behalf of a nonresident shareholder, partner, or member
 17 of the pass through entity; or

18 (iii) a pass through entity under IC 6-3-4-12 or IC 6-3-4-13
 19 on behalf of a nonresident shareholder, partner, or member
 20 of another pass through entity; and

21 (3) the overpayment arises from a determination by the
 22 department or a court that the person's pass through income is not
 23 includible in the person's adjusted gross income derived from
 24 sources within Indiana as a result of the application of
 25 IC 6-3-2-2(a)(5) and IC 6-3-2-2.2(g).

26 The department shall apply the overpayment to the person's liability for
 27 taxes that have been assessed and are currently due as provided in
 28 subsection (a) and apply any remaining overpayment as a credit or
 29 credits in satisfaction of the person's liability for listed taxes in taxable
 30 years beginning after December 31, 2008. If the person, including any
 31 successor to the person's interest in the overpayment, does not have
 32 sufficient liability for listed taxes against which to credit all the
 33 remaining overpayment in a taxable year beginning after December 31,
 34 2008, and ending before January 1, 2019, the taxpayer is not entitled
 35 for any taxable year ending after December 31, 2018, to have any part
 36 of the remaining overpayment applied, refunded, or credited to the
 37 person's liability for listed taxes. If an overpayment or part of an
 38 overpayment is required to be applied as a credit under this subsection
 39 to the person's liability for listed taxes for a taxable year beginning after
 40 December 31, 2008, and has not been determined by the department or
 41 a court to meet the conditions of subdivision (3) by the due date of the
 42 person's return for a listed tax for a taxable year beginning after



1 December 31, 2008, the department shall refund to the person that part
 2 of the overpayment that should have been applied as a credit for such
 3 taxable year within ninety (90) days of the date that the department or
 4 a court makes the determination that the overpayment meets the
 5 conditions of subdivision (3). However, the department may establish
 6 a program to refund small overpayment amounts that do not exceed the
 7 threshold dollar value established by the department rather than
 8 crediting the amounts against tax liability accruing for a taxable year
 9 after December 31, 2008. A person that receives a refund or credit
 10 under this subsection shall file a report with the department in the form
 11 and in the schedule specified by the department that identifies under
 12 penalties of perjury the home state or other jurisdiction where the
 13 income subject to the refund or credit was reported as income
 14 attributable to that state or jurisdiction.

15 (d) An excess tax payment that is not refunded or credited against
 16 a current or future tax liability within ninety (90) days after the date the
 17 refund claim is filed, the date the tax payment was due, or the date the
 18 tax was paid, whichever is latest, accrues interest from:

- 19 (1) the date the refund claim is filed, if the refund claim is filed
 20 before July 1, 2015; or
 21 (2) for a refund claim filed after June 30, 2015, the latest of:
 22 (A) the date the tax payment was due;
 23 (B) the date the tax was paid; or
 24 (C) July 1, 2015;

25 at the rate established under IC 6-8.1-10-1 until a date, determined by
 26 the department, that does not precede by more than thirty (30) days, the
 27 date on which the refund or credit is made. As used in this subsection,
 28 "refund claim" includes a return and an amended return that indicates
 29 an overpayment of tax. For purposes of this subsection only, the due
 30 date for the payment of the state gross retail or use tax, the oil
 31 inspection fee, and the petroleum severance tax is December 31 of the
 32 calendar year that contains the taxable period for which the payment is
 33 remitted. Notwithstanding any other provision, no interest is due for
 34 any time before the filing of a tax return for the period and tax type for
 35 which a taxpayer files a refund claim.

36 (e) A person who is liable for the payment of excise taxes under
 37 IC 7.1-4-3 or IC 7.1-4-4 is entitled to claim a credit against the person's
 38 excise tax liability in the amount of the excise taxes paid in duplicate
 39 by the person, or the person's assignors or predecessors, upon both:

- 40 (1) the receipt of the goods subject to the excise taxes, as reported
 41 by the person, or the person's assignors or predecessors, on excise
 42 tax returns filed with the department; and



1 (2) the withdrawal of the same goods from a storage facility
2 operated under 19 U.S.C. 1555(a).

3 (f) The amount of the credit under subsection (e) is equal to fifty
4 percent (50%) of the amount of excise taxes:

- 5 (1) that were paid by the person as described in subsection (e)(2);
6 (2) that are duplicative of excise taxes paid by the person as
7 described in subsection (e)(1); and
8 (3) for which the person has not previously claimed a credit.

9 The credit may be claimed by subtracting the amount of the credit from
10 the amount of the person's excise taxes reported on the person's
11 monthly excise tax returns filed under IC 7.1-4-6 with the department
12 for taxes imposed under IC 7.1-4-3 or IC 7.1-4-4. The amount of the
13 credit that may be taken monthly by the person on each monthly excise
14 tax return may not exceed ten percent (10%) of the excise tax liability
15 reported by the person on the monthly excise tax return. The credit may
16 be claimed on not more than thirty-six (36) consecutive monthly excise
17 tax returns beginning with the month in which credit is first claimed.

18 (g) The amount of the credit calculated under subsection (f) must be
19 used for capital expenditures to:

- 20 (1) expand employment; or
21 (2) assist in retaining employment within Indiana.

22 The department shall annually verify whether the capital expenditures
23 made by the person comply with this subsection.

24 SECTION 24. IC 6-8.1-10-2.1, AS AMENDED BY P.L.234-2019,
25 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2020]: Sec. 2.1. (a) Except as provided in IC 6-3-4-12(k) and
27 IC 6-3-4-13(l), a person that:

- 28 (1) fails to file a return for any of the listed taxes;
29 (2) fails to pay the full amount of tax shown on the person's return
30 on or before the due date for the return or payment;
31 (3) incurs, upon examination by the department, a deficiency that
32 is due to negligence;
33 (4) fails to timely remit any tax held in trust for the state; or
34 (5) is required to make a payment by electronic funds transfer (as
35 defined in IC 4-8.1-2-7), overnight courier, or personal delivery
36 and the payment is not received by the department by the due date
37 in funds acceptable to the department;

38 is subject to a penalty.

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

- 41 (1) the full amount of the tax due if the person failed to file the
42 return;



- 1 (2) the amount of the tax not paid, if the person filed the return
 2 but failed to pay the full amount of the tax shown on the return;
 3 (3) the amount of the tax held in trust that is not timely remitted;
 4 (4) the amount of deficiency as finally determined by the
 5 department; or
 6 (5) the amount of tax due if a person failed to make payment by
 7 electronic funds transfer, overnight courier, or personal delivery
 8 by the due date.

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

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

16 (e) A person who wishes to avoid the penalty imposed under this
 17 section must make an affirmative showing of all facts alleged as a
 18 reasonable cause for the person's failure to file the return, pay the
 19 amount of tax shown on the person's return, pay the deficiency, or
 20 timely remit tax held in trust, in a written statement containing a
 21 declaration that the statement is made under penalty of perjury. The
 22 statement must be filed with the return or payment within the time
 23 prescribed for protesting departmental assessments. A taxpayer may
 24 also avoid the penalty imposed under this section by obtaining a ruling
 25 from the department before the end of a particular tax period on the
 26 amount of tax due for that tax period.

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

30 (g) A person who fails to file a return for a listed tax that shows no
 31 tax liability for a taxable year, other than an information return (as
 32 defined in section 6 of this chapter), on or before the due date of the
 33 return shall pay a penalty of ten dollars (\$10) for each day that the
 34 return is past due, up to a maximum of two hundred fifty dollars
 35 (\$250).

36 (h) A:

- 37 (1) corporation which otherwise qualifies under ~~IC 6-3-2-2.8(2);~~
 38 **IC 6-3-2-2.8(a)(2);**
 39 (2) partnership; or
 40 (3) trust;

41 that fails to withhold and pay any amount of tax required to be withheld
 42 under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15 shall pay a penalty



1 equal to twenty percent (20%) of the amount of tax required to be
 2 withheld under IC 6-3-4-12, IC 6-3-4-13, or IC 6-3-4-15. This penalty
 3 shall be in addition to any penalty imposed by section 6 of this chapter.

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

6 (j) If a partnership or an S corporation fails to include all
 7 nonresidential individual partners or nonresidential individual
 8 shareholders in a composite return as required by IC 6-3-4-12(i) or
 9 IC 6-3-4-13(j), a penalty of five hundred dollars (\$500) per partnership
 10 or S corporation is imposed on the partnership or S corporation.

11 (k) If a person subject to the penalty imposed under this section
 12 provides the department with documentation showing that the person
 13 is or has been subject to incarceration for a period of a least one
 14 hundred eighty (180) days, the department shall waive any penalty
 15 under this section and interest that accrues during the time the person
 16 was incarcerated, but not to an extent greater than the penalty or
 17 interest relief to which a person would otherwise have been entitled
 18 under the federal Servicemembers Civil Relief Act (50 U.S.C.
 19 3901-4043), if the person was in military service. Nothing in this
 20 subsection shall preclude the department from issuing a proposed
 21 assessment, demand notice, jeopardy proposed assessment, jeopardy
 22 demand notice, or warrant otherwise permitted by law.

23 SECTION 25. IC 16-21-6-3, AS AMENDED BY P.L.2-2007,
 24 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) Each hospital shall file with
 26 the state department a report for the preceding fiscal year within one
 27 hundred twenty (120) days after the end of the hospital's fiscal year.
 28 The state department shall grant an extension of the time to file the
 29 report if the hospital shows good cause for the extension. The report
 30 must contain the following:

31 (1) A copy of the hospital's balance sheet, including:

32 (A) a statement describing the hospital's total assets and total
 33 liabilities;

34 (B) **in the case of a nonprofit hospital, a separate line item**
 35 **indicating the amount of unrestricted, board designated**
 36 **investment assets that are reserved for local investments in**
 37 **the service area of the hospital and the ratio that the**
 38 **amount bears to the total unrestricted, board designated**
 39 **investment assets of the hospital; and**

40 (C) **in the case of a nonprofit hospital, a separate line item**
 41 **on the portion of the hospital's balance sheet showing**
 42 **liabilities and expenses indicating the amount of the**



- 1 **hospital's actual investments or expenditures on local**
 2 **investments that year.**
 3 (2) A copy of the hospital's income statement.
 4 (3) A statement of changes in financial position.
 5 (4) A statement of changes in fund balance.
 6 (5) Accountant notes pertaining to the report.
 7 (6) A copy of the hospital's report required to be filed annually
 8 under 42 U.S.C. 1395g, and other appropriate utilization and
 9 financial reports required to be filed under federal statutory law.
 10 (7) Net patient revenue.
 11 (8) A statement including:
 12 (A) Medicare gross revenue;
 13 (B) Medicaid gross revenue;
 14 (C) other revenue from state programs;
 15 (D) revenue from local government programs;
 16 (E) local tax support;
 17 (F) charitable contributions;
 18 (G) other third party payments;
 19 (H) gross inpatient revenue;
 20 (I) gross outpatient revenue;
 21 (J) contractual allowance;
 22 (K) any other deductions from revenue;
 23 (L) charity care provided;
 24 (M) itemization of bad debt expense; and
 25 (N) an estimation of the unreimbursed cost of subsidized
 26 health services.
 27 (9) A statement itemizing donations.
 28 (10) A statement describing the total cost of reimbursed and
 29 unreimbursed research.
 30 (11) A statement describing the total cost of reimbursed and
 31 unreimbursed education separated into the following categories:
 32 (A) Education of physicians, nurses, technicians, and other
 33 medical professionals and health care providers.
 34 (B) Scholarships and funding to medical schools, and other
 35 postsecondary educational institutions for health professions
 36 education.
 37 (C) Education of patients concerning diseases and home care
 38 in response to community needs.
 39 (D) Community health education through informational
 40 programs, publications, and outreach activities in response to
 41 community needs.
 42 (E) Other educational services resulting in education related



1 costs.

2 (b) The information in the report filed under subsection (a) must be
3 provided from reports or audits certified by an independent certified
4 public accountant or by the state board of accounts.

5 SECTION 26. IC 16-21-15 IS ADDED TO THE INDIANA CODE
6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2020]:

8 **Chapter 15. Local Investment Requirements for Nonprofit**
9 **Hospitals**

10 **Sec. 1. This chapter applies after June 30, 2020.**

11 **Sec. 2. A nonprofit hospital in Indiana shall invest or expend not**
12 **less than thirty percent (30%) of the hospital's unrestricted, board**
13 **designated investment assets in local investments in the service**
14 **area of the hospital during each fiscal year of the nonprofit**
15 **hospital, which must be actual investments or expenditures as**
16 **reported on the hospital's balance sheet under**
17 **IC 16-21-6-3(a)(1)(C).**

18 **Sec. 3. This section applies after the end of a nonprofit hospital's**
19 **first two (2) full fiscal years that succeed the date on which the**
20 **requirement in section 2 of this chapter applies. A nonprofit**
21 **hospital shall submit as an attachment with its biennial report to**
22 **the secretary of state under IC 23-0.5-2-13(g) a copy of the**
23 **hospital's audited financial statement for each of the two (2)**
24 **immediately preceding fiscal years of the nonprofit hospital that**
25 **demonstrate the nonprofit hospital's compliance with the**
26 **investment requirement in section 2 of this chapter during each of**
27 **those fiscal years.**

28 **Sec. 4. The following apply if a nonprofit hospital fails to submit**
29 **a copy of its audited financial statements under IC 23-0.5-2-13(g),**
30 **or if the audited financial statements submitted with its biennial**
31 **report indicate that the nonprofit hospital failed to meet the local**
32 **investment requirement in section 2 of this chapter:**

33 **(1) The nonprofit hospital shall be considered as operating as**
34 **a for-profit entity for purposes of the state adjusted gross**
35 **income tax imposed under IC 6-3. This subdivision shall apply**
36 **beginning on the date contained in the certified notice under**
37 **IC 23-0.5-2-13(h) and shall end, if applicable, on the date**
38 **contained in a certificate of compliance issued under**
39 **IC 23-0.5-2-13(i).**

40 **(2) The nonprofit hospital shall not be eligible for an**
41 **exemption from the state gross retail tax imposed under**
42 **IC 6-2.5 for purchases made by the hospital. This subdivision**



1 shall apply beginning on the date contained in the certified
 2 notice under IC 23-0.5-2-13(h) and shall end, if applicable, on
 3 the date contained in a certificate of compliance issued under
 4 IC 23-0.5-2-13(i).

5 (3) The nonprofit hospital shall not be eligible for the
 6 property tax exemptions under IC 6-1.1-10-16 and
 7 IC 6-1.1-10-18.5. This subdivision shall apply to assessment
 8 dates occurring after the date contained in the certified notice
 9 under IC 23-0.5-2-13(h), but shall not apply to assessment
 10 dates occurring after the date contained in a certificate of
 11 compliance issued under IC 23-0.5-2-13(i), if any.

12 However, nothing in this section may be construed to prevent,
 13 preclude, or in any way affect the nonprofit hospital's eligibility for
 14 tax exempt financing, or otherwise affect consideration or
 15 application of the nonprofit hospital's federal exempt status for
 16 purposes of any other provision of the Indiana Code not
 17 specifically referenced in subdivisions (1) through (3).

18 SECTION 27. IC 23-0.5-2-13, AS AMENDED BY P.L.52-2018,
 19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 13. (a) A domestic filing entity or registered
 21 foreign entity shall deliver to the secretary of state for filing a biennial
 22 report that states:

23 (1) the name of the entity and, if a registered foreign entity, its
 24 jurisdiction of formation;

25 (2) the information required by IC 23-0.5-4-3(b);

26 (3) the street address of the entity's principal office;

27 (4) for a corporation, the names and business addresses of its
 28 directors, secretary, and the highest executive office of the
 29 corporation; and

30 (5) for a nonprofit corporation, the names and business or resident
 31 addresses of its directors, secretary, and highest executive office.

32 (b) Information in a biennial report must be current as of the date
 33 the report is signed by the entity.

34 (c) The biennial report must be delivered to the secretary of state for
 35 filing every two (2) calendar years on a schedule determined by the
 36 secretary of state. The secretary of state may accept biennial reports
 37 during the ninety (90) days before the month in which the biennial
 38 report is due.

39 (d) If a biennial report does not contain the information required by
 40 ~~this section~~, **subsection (a)**, the secretary of state promptly shall notify
 41 the reporting entity in a record and return the report for correction. If
 42 the report is corrected to contain the information required by this



1 section and delivered to the secretary of state within thirty (30) days
 2 after the effective date of notice, the report is considered to be timely
 3 filed.

4 (e) If a biennial report contains information required by
 5 IC 23-0.5-4-3(b) which differs from the information shown in the
 6 records of the secretary of state immediately before the report becomes
 7 effective, the differing information is considered a statement of change
 8 under IC 23-0.5-4-7.

9 (f) A biennial report filed under this section may not specify a future
 10 effective date.

11 **(g) A nonprofit hospital shall submit as an attachment with its**
 12 **biennial report under this section a copy of the hospital's audited**
 13 **financial statement for each of the two (2) immediately preceding**
 14 **full fiscal years of the nonprofit hospital as set forth in**
 15 **IC 16-21-15-3.**

16 (h) If a nonprofit hospital fails to submit a copy of the audited
 17 financial statements with its biennial report under subsection (g),
 18 or if the audited financial statements submitted by the nonprofit
 19 hospital indicate that the hospital failed to meet the local
 20 investment requirement in IC 16-21-15-2 during one (1) or both of
 21 the fiscal years, the secretary of state shall immediately provide
 22 notice of the noncompliance to:

- 23 (1) the department of state revenue;
- 24 (2) the auditor of the county in which the nonprofit hospital
- 25 is located; and
- 26 (3) the nonprofit hospital to which the notice applies.

27 **The notice under this subsection shall be certified and dated by the**
 28 **secretary of state.**

29 (i) **A nonprofit hospital that has received a notice of**
 30 **noncompliance under subsection (h)(3) may, with any subsequent**
 31 **biennial report submitted under this section, attach a copy of the**
 32 **hospital's audited financial statements as required under**
 33 **subsection (g) and request the secretary of state to issue a**
 34 **certificate of compliance for that biennial report. If the secretary**
 35 **of state receives a request to issue a certificate of compliance under**
 36 **this subsection and determines that the nonprofit hospital's audited**
 37 **financial statements indicate that the hospital met the local**
 38 **investment requirement in IC 16-21-15-2 during both of the fiscal**
 39 **years, the secretary of state shall issue a certificate of compliance**
 40 **and immediately provide a copy of the certificate to:**

- 41 (1) the department of state revenue;
- 42 (2) the auditor of the county in which the nonprofit hospital



1 **is located; and**
2 **(3) the nonprofit hospital to which the certificate applies.**

