SENATE BILL No. 242

DIGEST OF SB 242 (Updated February 5, 2018 2:50 pm - DI 120)

Citations Affected:  IC 4-30; IC 4-33; IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-8.1; IC 10-13.

Synopsis: Tax issues. Provides that the lottery commission must obtain a tax clearance statement from the department of state revenue (DOR) for a retailer before the lottery commission may enter into a contract with that retailer. (Current law requires the retailer to provide the tax clearance statement to the lottery commission.) Requires the riverboat supplemental wagering tax and wagering tax to be paid on the twenty-fourth calendar day of each month (rather than one day before the last business day of each month, under current law). Eliminates the maritime opportunity district property tax deduction for new manufacturing equipment installed in a district after June 30, 2018. Provides that the reduced tax rate for a corporation in a qualified military enhancement area (area) applies only to a corporation that locates all or part of its operations in an area before January 1, 2019. Provides that the "double direct" sales tax exemption for property acquired for direct use in the direct production or processing of other tangible personal property applies to the following equipment purchased and used by a person that manufactures hot mix asphalt at an asphalt plant: (1) Trucks that are used to transport hot mix asphalt from that person's asphalt plant to a job site. (2) Pavers that are used to spread that person's hot mix asphalt. (3) Hot mix asphalt plant (Continued next page)

Effective: Upon passage; January 1, 2018 (retroactive); July 1, 2018; January 1, 2019.

Holdman, Randolph Lonnie M

equipment. (4) Fuel used to operate trucks, pavers, or equipment. (5) Repair parts installed on trucks, pavers, or equipment. Provides that the DOR may require that certain information be provided or updated before the issuance or renewal of a registered retail merchant's certificate. Specifies that if for any taxable year a taxpayer is subject to different corporate income tax rates, the calculation is based on the number of days (rather than months, under current law) that each of the different tax rates is in effect. Provides that if the due date for a federal income tax return is extended by the Internal Revenue Service to a date that is later than the date otherwise required for a state income tax return, the DOR may extend the due date of the state return to the due date permitted for the federal return. Authorizes the DOR to issue refunds in certain circumstances without a taxpayer filing a refund claim. Requires state and local employees whose duties include access to confidential tax information to submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential tax information, and requires these employees to submit to such criminal history background checks at least once every 10 years thereafter. Requires each contractor or subcontractor whose contract or subcontract grants access to confidential tax information to submit to a fingerprint based criminal history background check of both national and state records data bases at least once every 10 years before being granted access to the confidential tax information. Provides that: (1) an income tax return preparer may not provide tax preparation services for income tax returns unless the income tax return preparer provides a preparer tax identification number (PTIN) when submitting and signing an income tax return; and (2) the DOR shall require each income tax return preparer to include the income tax return preparer's PTIN on any income tax return that the income tax return preparer prepares and files with the DOR. Specifies that the DOR: (1) may develop and implement a program using PTINs as an oversight mechanism; and (2) may establish formal and regular communication protocols with the Commissioner of the Internal Revenue Service to share and exchange PTIN information for income tax return preparers who are suspected of fraud, who have been disciplined, or who are barred from filing tax returns with the DOR or the Internal Revenue Service. Provides that the DOR may establish additional communication protocols with other states to exchange similar enforcement or discipline information. Provides that the DOR may impose a penalty on any income tax return preparer who fails to provide a PTIN. Provides that the DOR: (1) may investigate the actions of any income tax return preparer filing income tax returns; and (2) after a hearing, may bar or suspend an income tax return preparer from filing returns with the department for good cause.
Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 242

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

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

SECTION 1. IC 4-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 7. Before the commission may enter into a contract with a retailer, the retailer must provide commission must obtain a tax clearance statement from the department of state revenue that certifies that the retailer does not owe delinquent state taxes.

SECTION 2. IC 4-33-12-4, AS AMENDED BY P.L.268-2017, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A licensed owner must report the admissions and supplemental wagering taxes collected to the department. The licensed owner must report the taxes collected each day for the preceding day's admissions.

(b) A licensed owner shall pay the admissions and supplemental wagering taxes collected to the department one (1) day before the last business on the twenty-fourth calendar day of each month for the admissions and supplemental wagering taxes collected that month. Any
taxes collected during the month but after the day on which the taxes are required to be paid to the department shall be paid to the department at the same time the following month's taxes are due.

(c) The payment of the tax under this section must be on a form prescribed by the department.

(d) The payment of the tax under this section must be an electronic funds transfer by automated clearinghouse.

SECTION 3. IC 4-33-13-1.5, AS AMENDED BY P.L.268-2017, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This subsection applies only to a riverboat that received at least seventy-five million dollars ($75,000,000) of adjusted gross receipts during the preceding state fiscal year. A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars ($25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars ($25,000,000) but not exceeding fifty million dollars ($50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars ($50,000,000) but not exceeding seventy-five million dollars ($75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars ($75,000,000) but not exceeding one hundred fifty million dollars ($150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars ($150,000,000) but not exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(6) Forty percent (40%) of all adjusted gross receipts exceeding six hundred million dollars ($600,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

SB 242—LS 6683/DI 73
(b) This subsection applies only to a riverboat that received less than
seventy-five million dollars ($75,000,000) of adjusted gross receipts
during the preceding state fiscal year. A graduated tax is imposed on
the adjusted gross receipts received from gambling games authorized
under this article as follows:

(1) Five percent (5%) of the first twenty-five million dollars
($25,000,000) of adjusted gross receipts received during the
period beginning July 1 of each year and ending June 30 of the
following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess
of twenty-five million dollars ($25,000,000) but not exceeding
fifty million dollars ($50,000,000) received during the period
beginning July 1 of each year and ending June 30 of the following
year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in
excess of fifty million dollars ($50,000,000) but not exceeding
seventy-five million dollars ($75,000,000) received during the
period beginning July 1 of each year and ending June 30 of the
following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess
of seventy-five million dollars ($75,000,000) but not exceeding
one hundred fifty million dollars ($150,000,000) received during
the period beginning July 1 of each year and ending June 30 of the
following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in
excess of one hundred fifty million dollars ($150,000,000) but not
exceeding six hundred million dollars ($600,000,000) received
during the period beginning July 1 of each year and ending June
30 of the following year.

(6) Forty percent (40%) of all adjusted gross receipts exceeding
six hundred million dollars ($600,000,000) received during the
period beginning July 1 of each year and ending June 30 of the
following year.

(c) The licensed owner or operating agent of a riverboat taxed under
subsection (b) shall pay an additional tax of two million five hundred
thousand dollars ($2,500,000) in any state fiscal year in which the
riverboat's adjusted gross receipts exceed seventy-five million dollars
($75,000,000). The additional tax imposed under this subsection is due
before July 1 of the following state fiscal year.

(d) The licensed owner or operating agent shall remit the tax
imposed by this chapter to the department before the close of the
business day one (1) day before the last business on the twenty-fourth
calendar day of each month for the wagering taxes collected that
month. Any taxes collected during the month but after the day on which
the taxes are required to be paid to the department shall be paid to the
department at the same time the following month's taxes are due.

(e) The payment of the tax under this section must be an electronic
funds transfer by automated clearinghouse.

(f) If the department requires taxes to be remitted under this chapter
through electronic funds transfer, the department may allow the
licensed owner or operating agent to file a monthly report to reconcile
the amounts remitted to the department.

(g) The department may allow taxes remitted under this section to
be reported on the same form used for taxes paid under IC 4-33-12.

SECTION 4. IC 6-1.1-40-4, AS AMENDED BY P.L.154-2006,
SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2018]: Sec. 4. As used in this chapter, "new manufacturing
equipment" means any tangible personal property that an applicant for
the deduction under section 11 of this chapter:

1. installs in a district before July 1, 2018;
2. uses in the direct production, manufacture, fabrication,
   assembly, extraction, mining, processing, refining, or finishing of
   other tangible personal property;
3. acquires in an arms length transaction from an entity that is
   not an affiliate of the applicant for use as described in subdivision
   (2); and
4. never used for any purpose in Indiana before the installation
described in subdivision (1).

SECTION 5. IC 6-1.1-40-9, AS AMENDED BY P.L.146-2008,
SECTION 299, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2018]: Sec. 9. (a) Before a person acquires new
manufacturing equipment for which the person wishes to claim a
deduction under this chapter, the person must submit to the
commission a statement of benefits, in a form prescribed by the
department of local government finance. The statement of benefits
must include the following information:

1. A description of the new manufacturing equipment that the
   person proposes to acquire.
2. An estimate of the number of individuals who will be
   employed or whose employment will be retained by the person as
   a result of the installation of the new manufacturing equipment
   and an estimate of the annual salaries of these individuals.
3. An estimate of the cost of the new manufacturing equipment.

(b) The statement of benefits may contain any other information

SB 242—LS 6683/DI 73
required by the commission. If the person is requesting or will be requesting the designation of a district, the statement of benefits must be submitted at the same time as the request for designation is submitted.

(c) The commission shall review the statement of benefits if required under subsection (b) and subject to subsection (d). The commission shall make findings determining whether the estimate of:

(1) the number of individuals who will be employed or whose employment will be retained;
(2) the annual salaries of those individuals;
(3) the value of the new manufacturing equipment; and
(4) any other benefits about which the commission requires information;

are benefits that can be reasonably expected to result from the installation of the new manufacturing equipment.

(d) The commission shall not review a statement of benefits for new manufacturing equipment installed in a district after June 30, 2018.

SECTION 6. IC 6-1.1-40-10, AS AMENDED BY P.L.146-2008, SECTION 300, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) The deduction under this section applies only to new manufacturing equipment installed before July 1, 2018.

(b) Subject to subsection (c), an owner of new manufacturing equipment whose statement of benefits is approved is entitled to a deduction from the assessed value of that equipment for a period of ten (10) years. Except as provided in subsections (b) and (c) and (d), and subject to subsection (c) and section 14 of this chapter, for the first five (5) years, the amount of the deduction for new manufacturing equipment that an owner is entitled to for a particular year equals the assessed value of the new manufacturing equipment.

Subject to subsection (c) and section 14 of this chapter, for the sixth through the tenth year, the amount of the deduction equals the product of:

(1) the assessed value of the new manufacturing equipment; multiplied by
(2) the percentage prescribed in the following table:

<table>
<thead>
<tr>
<th>YEAR OF DEDUCTION</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>6th</td>
<td>100%</td>
</tr>
<tr>
<td>7th</td>
<td>95%</td>
</tr>
<tr>
<td>8th</td>
<td>80%</td>
</tr>
<tr>
<td>9th</td>
<td>65%</td>
</tr>
</tbody>
</table>

SB 242—LS 6683/DI 73
(b) (c) A deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located to be less than the assessed value of all of the personal property of the owner in that taxing district in the immediately preceding year.

(c) (d) If a deduction is not fully allowed under subsection (b) (c) in the first year the deduction is claimed, then the percentages specified in subsection (a) (b) apply in the subsequent years to the amount of deduction that was allowed in the first year.

(d) (e) For purposes of subsection (a), (b), the assessed value of new manufacturing equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

1. the assessed value of the equipment (excluding equipment installed after June 30, 2018) determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by
2. the quotient of:
   A. the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by
   B. the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:
      i. under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and
      ii. without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 7. IC 6-1.1-40-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. This chapter expires January 1, 2032.

SEC. 8. IC 6-2.5-5-3, AS AMENDED BY P.L.239-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) For purposes of this section:

1. the:
   A. retreading of tires; and

SB 242—LS 6683/DI 73
(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 (d), transactions involving
manufacturing machinery, tools, and equipment, including material
handling equipment purchased for the purpose of transporting materials
into activities described in this subsection from an onsite location, 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.
(c) Except as provided in subsection (d), transactions involving
manufacturing machinery, tools, and equipment, including material
handling equipment purchased for the purpose of transporting materials
into an industrial process from an onsite location, are exempt from the
state gross retail tax if the person acquiring that property:
(1) acquires it for the person's direct use in an industrial
processing service; and
(2) is an industrial processor.
(d) The exemptions provided in subsections (b) and (c) do not apply
to transactions involving distribution equipment or transmission
equipment acquired by a public utility engaged in generating
electricity.
(e) The exemption provided in subsection (b) applies to the
following equipment, fuel, and repair parts purchased and used by
a person that manufactures hot mix asphalt at an asphalt plant:
(1) Trucks that are used to transport hot mix asphalt from
that person's asphalt plant to a job site.
(2) Pavers that are used to spread that person's hot mix
asphalt.
(3) Hot mix asphalt plant equipment.
(4) Fuel used to operate trucks, pavers, or equipment
described in subdivisions (1) through (3).
(5) Repair parts installed on trucks, pavers, or equipment
described in subdivisions (1) through (3).

SECTION 9. IC 6-2.5-8-1, AS AMENDED BY P.L.245-2015,
SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2019]: Sec. 1. (a) A retail merchant may not make a
retail transaction in Indiana, unless the retail merchant has applied for
(b) A retail merchant may obtain a registered retail merchant's certificate by filing an application with the department and paying a registration fee of twenty-five dollars ($25) for each place of business listed on the application. The retail merchant shall also provide such security for payment of the tax as the department may require under IC 6-2.5-6-12.

(c) The retail merchant shall list on the application the location (including the township) of each place of business where the retail merchant makes retail transactions. However, if the retail merchant does not have a fixed place of business, the retail merchant shall list the retail merchant's residence as the retail merchant's place of business. In addition, a public utility may list only its principal Indiana office as its place of business for sales of public utility commodities or service, but the utility must also list on the application the places of business where it makes retail transactions other than sales of public utility commodities or service.

(d) Upon receiving a proper application, the correct fee, and the security for payment, if required, the department shall issue to the retail merchant a separate registered retail merchant's certificate for each place of business listed on the application. Each certificate shall bear a serial number and the location of the place of business for which it is issued.

(e) If a retail merchant intends to make retail transactions during a calendar year at a new Indiana place of business, the retail merchant must file a supplemental application and pay the fee for that place of business.

(f) Except as provided in subsection (h), a registered retail merchant's certificate is valid for two (2) years after the date the registered retail merchant's certificate is originally issued or renewed. If the retail merchant has filed all returns and remitted all taxes the retail merchant is currently obligated to file or remit, the department shall renew the registered retail merchant's certificate within thirty (30) days after the expiration date, at no cost to the retail merchant. Before issuing or renewing the registered retail merchant certification, the department may require the following to be provided:

(1) The names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transaction.

(2) The location of all of the retail merchant's places of business in Indiana, including offices and distribution houses.
(3) Any other information that the department requests.

g) The department may not renew a registered retail merchant certificate of a retail merchant who is delinquent in remitting withholding taxes required to be remitted under IC 6-3-4 or sales or use tax. The department, at least sixty (60) days before the date on which a retail merchant's registered retail merchant's certificate expires, shall notify a retail merchant who is delinquent in remitting withholding taxes required to be remitted under IC 6-3-4 or sales or use tax that the department will not renew the retail merchant's registered retail merchant's certificate.

h) If:

(1) a retail merchant has been notified by the department that the retail merchant is delinquent in remitting withholding taxes or sales or use tax in accordance with subsection (g); and

(2) the retail merchant pays the outstanding liability before the expiration of the retail merchant's registered retail merchant's certificate;

the department shall renew the retail merchant's registered retail merchant's certificate for one (1) year.

i) A retail merchant engaged in business in Indiana as defined in IC 6-2.5-3-1(c) who makes retail transactions that are only subject to the use tax must obtain a registered retail merchant's certificate before making those transactions. The retail merchant may obtain the certificate by following the same procedure as a retail merchant under subsections (b) and (c), except that the retail merchant must also include on the application:

(1) the names and addresses of the retail merchant's principal employees, agents, or representatives who engage in Indiana in the solicitation or negotiation of the retail transactions;

(2) the location of all of the retail merchant's places of business in Indiana, including offices and distribution houses; and

(3) any other information that the department requests.

The department may also require that this information be updated before renewal of a registered retail merchant's certificate.

j) The department may permit an out-of-state retail merchant to collect the use tax. However, before the out-of-state retail merchant may collect the tax, the out-of-state retail merchant must obtain a registered retail merchant's certificate in the manner provided by this section. Upon receiving the certificate, the out-of-state retail merchant becomes subject to the same conditions and duties as an Indiana retail merchant and must then collect the use tax due on all sales of tangible personal property that the out-of-state retail merchant knows is...
intended for use in Indiana.

(k) Except as provided in subsection (l), the department shall submit
to the township assessor, or the county assessor if there is no township
assessor for the township, before March 15 of each year:
   (1) the name of each retail merchant that has newly obtained a
       registered retail merchant's certificate during the preceding year
       for a place of business located in the township or county; and
   (2) the address of each place of business of the taxpayer in
       the township or county.

(l) If the duties of the township assessor have been transferred to the
county assessor as described in IC 6-1.1-1-24, the department shall
submit the information listed in subsection (k) to the county assessor.

SECTION 10. IC 6-3-2-1, AS AMENDED BY P.L.80-2014,
SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2018 (RETROACTIVE)]: Sec. 1. (a) Each taxable year,
a tax at the following rate of adjusted gross income is imposed upon the
adjusted gross income of every resident person, and on that part of the
adjusted gross income derived from sources within Indiana of every
nonresident person:
   (1) For taxable years beginning before January 1, 2015, three and
       four-tenths percent (3.4%).
   (2) For taxable years beginning after December 31, 2014, and
       before January 1, 2017, three and three-tenths percent (3.3%).
   (3) For taxable years beginning after December 31, 2016, three
       and twenty-three hundredths percent (3.23%).

   (b) Except as provided in section 1.5 of this chapter (before its
expiration), each taxable year, a tax at the following rate of adjusted
gross income is imposed on that part of the adjusted gross income
derived from sources within Indiana of every corporation:
   (1) Before July 1, 2012, eight and five-tenths percent (8.5%).
   (2) After June 30, 2012, and before July 1, 2013, eight percent
       (8.0%).
   (3) After June 30, 2013, and before July 1, 2014, seven and
       five-tenths percent (7.5%).
   (4) After June 30, 2014, and before July 1, 2015, seven percent
       (7.0%).
   (5) After June 30, 2015, and before July 1, 2016, six and
       five-tenths percent (6.5%).
   (6) After June 30, 2016, and before July 1, 2017, six and
       twenty-five hundredths percent (6.25%).
   (7) After June 30, 2017, and before July 1, 2018, six percent
       (6.0%).

SB 242—LS 6683/DI 73
(8) After June 30, 2018, and before July 1, 2019, five and seventy-five hundredths percent (5.75%).
(9) After June 30, 2019, and before July 1, 2020, five and five-tenths percent (5.5%).
(10) After June 30, 2020, and before July 1, 2021, five and twenty-five hundredths percent (5.25%).
(11) After June 30, 2021, four and nine-tenths percent (4.9%).

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

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

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

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12): the number of days in the taxpayer's tax period.

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

SECTION 11. IC 6-3-2-1.5, AS AMENDED BY P.L.288-2013, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.5. (a) As used in this section, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));
(2) a military base reuse area established under IC 36-7-30;
(3) the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)); or
(4) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection (e), subsections (e) and (h), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (g). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.

(c) In the case of a corporation that locates all or part of its
operations in a qualified military base enhancement area established under IC 36-7-34-4(1), the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:

1. The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).
2. The corporation is a United States Department of Defense contractor.
3. The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States Department of Defense.

(d) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

1. The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).
2. The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

(e) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

1. The taxpayer had existing operations in the qualified area; and
2. The operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(f) A determination under subsection (e) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(g) The department of state revenue:

1. shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and
2. may adopt other rules that the department considers necessary.
for the implementation of this chapter.

(h) The tax rate under this section applies only to a corporation
that locates all or part of its operations in a qualified area before
January 1, 2019. However, this subsection may not be construed to
prevent the tax rate from applying to succeeding taxable years of
a corporation after December 31, 2018, if the corporation locates
all or part of its operations in a qualified area before January 1,
2019.

(i) This section expires January 1, 2025.

SECTION 12. IC 6-3-2-13, AS AMENDED BY P.L.250-2015,
SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2019]: Sec. 13. (a) As used in this section, "export
income" means the gross receipts from the sale, transfer, or exchange
of tangible personal property destined for international markets that is:
(1) manufactured at a plant located within a maritime opportunity
district established under IC 6-1.1-40 (before its expiration); and
(2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient
of:
(1) the taxpayer's export income; divided by
(2) the taxpayer's gross receipts from the sale, transfer, or
exchange of tangible personal property, regardless of its
destination.

(c) As used in this section, "taxpayer" means a person or corporation
that has export income.

(d) The ports of Indiana established by IC 8-10-1-3 shall notify the
department when a maritime opportunity district is established under
IC 6-1.1-40 (before its expiration). The notice must include:
(1) the resolution passed by the commission to establish the
district; and
(2) a list of all taxpayers located in the district.

(e) The ports of Indiana shall also notify the department of any
subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted
gross income in an amount equal to the lesser of:
(1) the taxpayer's adjusted gross income; or
(2) the product of the export sales ratio multiplied by the
percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer
is entitled to deduct under this section depends upon the number of
years that the taxpayer could have taken a deduction under this section.
The percentage to be used in subsection (f) is as follows:
14

<table>
<thead>
<tr>
<th>YEAR OF DEDUCTION</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st through 4th</td>
<td>100%</td>
</tr>
<tr>
<td>5th</td>
<td>80%</td>
</tr>
<tr>
<td>6th</td>
<td>60%</td>
</tr>
<tr>
<td>7th</td>
<td>40%</td>
</tr>
<tr>
<td>8th</td>
<td>20%</td>
</tr>
<tr>
<td>9th and thereafter</td>
<td>0%</td>
</tr>
</tbody>
</table>

(h) The department shall determine, for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

(i) A taxpayer is not entitled to a deduction under this section based on export income received by the taxpayer after December 31, 2015.

(j) This section expires January 1, 2025.

SECTION 13. IC 6-3-4-3, AS AMENDED BY P.L.172-2011, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 3. Returns required to be made pursuant to section 1 of this chapter shall be filed with the department on or before the later of the following:

(1) The 15th day of the fourth month following the close of the taxable year.

(2) For a corporation whose federal tax return is due on or after the date set forth in subdivision (1), as determined without regard to any extensions, weekends, or holidays, the 15th day of the month following the due date of the federal tax return.

However, if the due date for a federal income tax return is extended by the Internal Revenue Service to a date that is later than the date specified in subdivision (1) or (2) (as applicable), the department may extend the due date of a return required to be made under section 1 of this chapter to the due date permitted for the federal income tax return.

SECTION 14. IC 6-8.1-9-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1.5. (a) The department may issue a refund or credit without a taxpayer filing a refund claim in the event of:

(1) an error by the department;

(2) an error determined by the department; or

(3) a taxpayer's overpayment determined by the department under an audit or investigation.

(b) The department shall prescribe rules or guidelines to govern the circumstances under which the department may issue a refund.
or credit under this section.

(c) The department may not issue a refund or credit under this section if the period for filing a refund claim under this article has expired before the issuance of the refund or credit.

(d) Nothing in this section shall constitute a requirement that the department issue a refund or credit for an overpayment.

SECTION 15. IC 6-8.1-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]:

Chapter 16. Income Tax Return Preparers; Preparer Tax Identification Numbers

Sec. 1. As used in this chapter, "income tax return" means any of the following:

(1) An individual income tax return under IC 6-3.

(2) A corporate income tax return under IC 6-3.

(3) A financial institutions tax return under IC 6-5.5.

(4) A utility receipts tax return under IC 6-2.3.

(5) A claim for refund of any tax described in subdivisions (1) through (4).

Sec. 2. (a) As used in this chapter, "income tax return preparer" means any of the following:

(1) A person who prepares ten (10) or more income tax returns for compensation in a calendar year.

(2) A person who employs one (1) or more persons to prepare ten (10) or more income tax returns for compensation in a calendar year.

(b) A person is not an income tax return preparer if the person performs only the following acts:

(1) Furnishes typing, reproducing, or other mechanical assistance.

(2) Prepares returns or claims for refunds for:

   (A) the employer by whom the person is regularly and continuously employed; or

   (B) an affiliate of that employer.

(3) Prepares, as a fiduciary, any returns or claims for refunds for a person.

(4) Prepares claims for refund for a taxpayer in response to:

   (A) a notice of deficiency issued to the taxpayer; or

   (B) a waiver of restriction after the commencement of an audit of:

      (i) the taxpayer; or

      (ii) another taxpayer, if a determination in the audit of the
other taxpayer directly or indirectly affects the tax
liability of the taxpayer whose claim for refund the person
is preparing.

Sec. 3. As used in this chapter, "PTIN" means the preparer tax
identification number that the Internal Revenue Service issues to

Sec. 4. For purposes of this chapter, the preparation of a
substantial portion of an income tax return shall be treated as the
preparation of that income tax return.

Sec. 5. For taxable years beginning after December 31, 2018, an
income tax return preparer may not provide tax preparation
services for income tax returns unless the income tax return
preparer provides a PTIN when the income tax return preparer
submits an income tax return to the department and signs the
income tax return as a paid preparer.

Sec. 6. For taxable years beginning after December 31, 2018, the
department shall require each income tax return preparer to
include the income tax return preparer's PTIN on any income tax
return that the income tax return preparer prepares and files with
the department.

Sec. 7. (a) Except as provided in subsection (b) and in addition
to any other penalties provided by law, the department may impose
on any income tax return preparer who violates this chapter by
failing to provide the income tax return preparer's PTIN a penalty
of fifty dollars ($50) for each violation, but not to exceed
twenty-five thousand dollars ($25,000) in a calendar year.

(b) The department may not impose a penalty under this section
if the income tax return preparer's failure to provide the income
tax return preparer's PTIN is due to reasonable cause and is not
due to willful neglect, as determined by the department.

Sec. 8. The department may develop and by rule implement a
program using PTINs as an oversight mechanism to assess returns
to identify high error rates, patterns of suspected fraud, and
unsubstantiated basis for tax positions by income tax return
preparers.

Sec. 9. (a) The department:

(1) may investigate the actions of any income tax return
preparer filing income tax returns; and

(2) after a hearing, may bar or suspend an income tax return
preparer from filing returns with the department for good
cause.

(b) Notwithstanding IC 4-21.5-2-4, the department shall conduct
a hearing described in subsection (a)(2) under IC 4-21.5-3, and
judicial review of an adverse decision in a hearing described in
subsection (a)(2) shall be in accordance with IC 4-21.5-5.

Sec. 10. The department may establish formal and regular
communication protocols with the Commissioner of the Internal
Revenue Service to share and exchange PTIN information for
income tax return preparers who are suspected of fraud, who have
been disciplined, or who are barred from filing tax returns with the
department or the Internal Revenue Service. The department may
establish additional communication protocols with other states to
exchange similar enforcement or discipline information.

Sec. 11. The department may adopt rules for the administration
and enforcement of this chapter.

SECTION 16. IC 10-13-3-38.5, AS AMENDED BY P.L.155-2011,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2019]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat.
1115), the department may use an individual's fingerprints submitted
by the individual for the following purposes:

(1) Determining the individual's suitability for employment with
the state, or as an employee of a contractor of the state, in a
position:

(A) that has a job description that includes contact with, care of,
or supervision over a person less than eighteen (18) years of
age;

(B) that has a job description that includes contact with, care of,
or supervision over an endangered adult (as defined in
IC 12-10-3-2), except the individual is not required to meet the
standard for harmed or threatened with harm set forth in
IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary
of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by
IC 20-22-2-1;

(E) at the Indiana School for the Blind and Visually Impaired
established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the Indiana gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under
IC 28-11-2-3; or

(I) that has a job description that includes access to or
supervision over state financial or personnel data, including
state warrants, banking codes, or payroll information pertaining

SB 242—LS 6683/DI 73
to state employees.

(2) Determining the individual's suitability for employment with state or local government, or as an employee of a contractor of state or local government, in a position in which the individual's duties include access to confidential tax information obtained from the United States Internal Revenue Service under Section 6103(d) of the Internal Revenue Code or from an authorized secondary source.

(2) Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

(3) Use by the gaming commission established under IC 4-33-3-1 for licensure of a promoter (as defined in IC 4-33-22-6) under IC 4-33-22.

(4) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

(5) Identification in a request related to an individual applying for or renewing a license or certificate described in IC 25-1-1.1-4 and a conviction described in IC 25-1-1.1-2 or IC 25-1-1.1-3.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment, license, or certificate application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department, the Indiana professional licensing agency, or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

(d) Each current or new state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential
tax information. In addition to the initial criminal history background checks, each state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to such criminal history background checks at least once every ten (10) years thereafter. The appointing authority of such a state or local government employee may pay any fee charged for the cost of fingerprinting or conducting the criminal history background checks for the state or local government employee. The state or local government agency in its capacity as the individual's employer or to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(e) Each current or new contractor or subcontractor whose contract or subcontract grants access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases at least once every ten (10) years before being granted access to the confidential tax information.

(f) Each contract entered into by the state in which access to confidential tax information described in subsection (a)(2) is granted to a contractor or a subcontractor shall include:

(1) terms regarding which party is responsible for payment of any fee charged for the cost of the fingerprinting or the criminal history background checks; and

(2) terms regarding the consequences if one (1) or more disqualifying records are discovered through the criminal history background checks.

(d) (g) The department:

(1) may permanently retain an applicant's fingerprints submitted under this section; and

(2) shall retain the applicant's fingerprints separately from fingerprints collected under section 24 of this chapter.

SECTION 17. 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. 242, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 14, delete "four (4) days".
Page 1, line 15, strike "before the last business" and insert "on the twenty-fourth calendar".
Page 3, line 14, strike "before the close of the".
Page 4, line 1, strike "business day".
Page 4, line 1, delete "four (4) days".
Page 4, line 1, strike "before the last business" and insert "on the twenty-fourth calendar".
Page 4, delete lines 14 through 42.
Delete pages 5 through 8.
Page 9, delete lines 1 through 2.
Page 11, between lines 28 and 29, begin a new paragraph and insert:
"SECTION 7. IC 6-2.5-1-19.5, AS ADDED BY P.L.181-2016,
SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2018]: 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, or accommodations, or tangible personal property for consideration; and
   (B) to market the rooms, lodgings, or accommodations, or tangible personal property through the Internet; and
(2) accepts payment from the consumer for the room, lodging, or accommodation, or tangible personal property.
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, or tangible personal property.

SECTION 8. IC 6-2.5-4-4.2, AS ADDED BY P.L.181-2016,
SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2018]: Sec. 4.2. (a) A person or a facilitator who is a retail merchant making a retail transaction described in section 4 or 10(a) of this chapter, subject to section 10(c) of this chapter, shall give to the consumer of the room, lodging, or accommodation, or tangible personal property an itemized statement separately stating all 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, or tangible personal property.
(2) Any amount collected by the person renting or furnishing the room, lodging, or accommodation, or tangible personal property for:
   (A) the state gross retail or use tax; and
   (B) any innkeeper's tax due under IC 6-9;
   (C) any auto rental excise tax due under IC 6-6-9;
   (D) any Vanderburgh County supplemental auto rental excise tax due under IC 6-6-9.5; and
   (E) any Marion County supplemental auto rental excise tax due under IC 6-6-9.7;
as applicable.
(3) Any part of the gross retail income that is a fee, commission, or other charge of a facilitator.
(b) A penalty of twenty-five dollars ($25) is imposed for each transaction described in subsection (a) in which a facilitator fails to separately state the information required to be separately stated by subsection (a).

SECTION 9. IC 6-2.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) A person, other than a public utility, is a retail merchant making a retail transaction when he rents or leases tangible personal property to another person other than for subrent or sublease.
(b) A person is a retail merchant making a retail transaction when the person sells any tangible personal property which has been rented or leased in the regular course of the person's rental or leasing business.
(c) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when he rents or leases motion picture film, audio tape, or video tape to another person. However, this exclusion only applies if:
   (1) the person who pays to rent or lease the film charges admission to those who view the film; or
   (2) the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening.
(d) Except as provided in subsection (c), a facilitator is a retail merchant making a retail transaction when the facilitator accepts payment for the rental or lease of tangible personal property to another person to which subsection (a) applies, other than for subrent or sublease. Each rental or lease of tangible personal property to another person to which subsection (a) applies, other than for subrent or sublease, is a separate unitary transaction unless the facilitator provides the itemized statement described in
section 4.2(a) of this chapter.

SECTION 10. IC 6-2.5-5-3, AS AMENDED BY P.L.239-2017, 
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE 
JULY 1, 2018]: Sec. 3. (a) For purposes of this section:

(1) the:
   (A) retreading of tires; and
   (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 (d), transactions involving
manufacturing machinery, tools, and equipment, including material
handling equipment purchased for the purpose of transporting materials
into activities described in this subsection from an onsite location, 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.

(c) Except as provided in subsection (d), transactions involving
manufacturing machinery, tools, and equipment, including material
handling equipment purchased for the purpose of transporting materials
into an industrial process from an onsite location, are exempt from the
state gross retail tax if the person acquiring that property:

   (1) acquires it for the person's direct use in an industrial
   processing service; and
   (2) is an industrial processor.

(d) The exemptions provided in subsections (b) and (c) do not apply
to transactions involving distribution equipment or transmission
equipment acquired by a public utility engaged in generating
electricity.

(e) The exemption provided in subsection (b) applies to the
following equipment purchased and used by a person that
manufactures hot mix asphalt at an asphalt plant:

   (1) Trucks that are used to transport hot mix asphalt from
   that person's asphalt plant to a job site.
   (2) Pavers that are used to spread that person's hot mix
   asphalt.

Page 14, delete lines 3 through 42.
Delete pages 15 through 23.
Page 24, delete lines 1 through 40.

SB 242—LS 6683/DI 73
Page 27, delete lines 38 through 42.
Delete pages 28 through 30.
Page 31, delete lines 1 through 14.
Page 32, delete lines 20 through 42.
Delete page 33.
Page 34, delete lines 1 through 16.
Page 34, delete lines 34 through 42.
Page 35, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 16. IC 6-6-9-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.

SECTION 17. IC 6-6-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) An excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days.
(b) The auto rental excise tax imposed upon the rental of a passenger motor vehicle or truck equals four percent (4%) of the gross retail income received by the retail merchant for the rental.
(c) A facilitator who accepts payment for the rental of a passenger motor vehicle or truck to which subsection (a) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a) as an agent of the state. Each rental or lease of a passenger motor vehicle or truck to which subsection (a) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a).

SECTION 18. IC 6-6-9.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.

SECTION 19. IC 6-6-9.5-7, AS ADDED BY P.L.214-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.
(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent
(2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

(e) A facilitator who accepts payment for the rental of a passenger motor vehicle to which an ordinance adopted under subsection (a) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a) as an agent of the state. Each rental or lease of a passenger motor vehicle to which an ordinance adopted under subsection (a) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a).

SECTION 20. IC 6-6-9.7-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2.5. As used in this chapter, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5.

SECTION 21. IC 6-6-9.7-7, AS AMENDED BY P.L.205-2013, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.

(b) Except as provided in subsection (c), the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:

(1) If on December 31, 2027, there are obligations owed by the
capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:
   (A) January 1, 2041;
   (B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or
   (C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:
   (1) subsection (b) and collected after December 31, 2027; and
   (2) under subsection (c);
shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(e) After January 1, 2013, and before March 1, 2013, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax rate imposed under subsection (a) by not more than two percent (2%). The amount collected from an increase adopted under this subsection shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16. An increase in the tax rate under this subsection continues in effect unless the increase is rescinded.
However, any increase in the tax rate under this subsection may not continue in effect after February 28, 2023.

(f) If a city-county council adopts an ordinance under subsection (a), (c), or (e), the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(g) If a city-county council adopts an ordinance under subsection (a), (c), or (e) on or before the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a), (c), or (e) after the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month following the month in which the ordinance is adopted.

(h) A facilitator who accepts payment for the rental of a passenger motor vehicle or truck to which an ordinance adopted under subsection (a), (c), or (e) applies is a retail merchant who shall register with the department and collect the tax imposed under subsection (a), (c), or (e) as an agent of the state. Each rental of a passenger motor vehicle or truck to which an ordinance adopted under subsection (a), (c), or (e) applies is a separate unitary transaction unless the facilitator provides the itemized statement described in IC 6-2.5-4-4.2(a).".

Page 36, delete lines 6 through 42.
Delete pages 37 through 42.
Page 43, delete lines 1 through 6, begin a new paragraph and insert:
"SECTION 23. IC 6-8.1-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]:

Chapter 16. Income Tax Return Preparers; Preparer Tax Identification Numbers

Sec. 1. As used in this chapter, "income tax return" means any of the following:

(1) An individual income tax return under IC 6-3.
(2) A corporate income tax return under IC 6-3.
(3) A financial institutions tax return under IC 6-5.5.
(4) A utility receipts tax return under IC 6-2.3.
(5) A claim for refund of any tax described in subdivisions (1) through (4).

Sec. 2. (a) As used in this chapter, "income tax return preparer" means any of the following:

(1) A person who prepares ten (10) or more income tax
returns for compensation in a calendar year.
(2) A person who employs one (1) or more persons to prepare ten (10) or more income tax returns for compensation in a calendar year.

(b) A person is not an income tax return preparer if the person performs only the following acts:
(1) Furnishes typing, reproducing, or other mechanical assistance.
(2) Prepares returns or claims for refunds for:
   (A) the employer by whom the person is regularly and continuously employed; or
   (B) an affiliate of that employer.
(3) Prepares, as a fiduciary, any returns or claims for refunds for a person.
(4) Prepares claims for refund for a taxpayer in response to:
   (A) a notice of deficiency issued to the taxpayer; or
   (B) a waiver of restriction after the commencement of an audit of:
      (i) the taxpayer; or
      (ii) another taxpayer, if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claim for refund the person is preparing.

Sec. 3. As used in this chapter, "PTIN" means the preparer tax identification number that the Internal Revenue Service issues to identify tax return preparers under 26 U.S.C. 6109.

Sec. 4. For purposes of this chapter, the preparation of a substantial portion of an income tax return shall be treated as the preparation of that income tax return.

Sec. 5. For taxable years beginning after December 31, 2018, an income tax return preparer may not provide tax preparation services for income tax returns unless the income tax return preparer provides a PTIN when the income tax return preparer submits an income tax return to the department and signs the income tax return as a paid preparer.

Sec. 6. For taxable years beginning after December 31, 2018, the department shall require each income tax return preparer to include the income tax return preparer's PTIN on any income tax return that the income tax return preparer prepares and files with the department.

Sec. 7. (a) Except as provided in subsection (b) and in addition to any other penalties provided by law, the department may impose
on any income tax return preparer who violates this chapter by failing to provide the income tax return preparer's PTIN a penalty of fifty dollars ($50) for each violation, but not to exceed twenty-five thousand dollars ($25,000) in a calendar year.

(b) The department may not impose a penalty under this section if the income tax return preparer's failure to provide the income tax return preparer's PTIN is due to reasonable cause and is not due to willful neglect, as determined by the department.

Sec. 8. The department may develop and by rule implement a program using PTINs as an oversight mechanism to assess returns to identify high error rates, patterns of suspected fraud, and unsubstantiated basis for tax positions by income tax return preparers.

Sec. 9. (a) The department:

(1) may investigate the actions of any income tax return preparer filing income tax returns; and

(2) after a hearing, may bar or suspend an income tax return preparer from filing returns with the department for good cause.

(b) Notwithstanding IC 4-21.5-2-4, the department shall conduct a hearing described in subsection (a)(2) under IC 4-21.5-3, and judicial review of an adverse decision in a hearing described in subsection (a)(2) shall be in accordance with IC 4-21.5-5.

Sec. 10. The department may establish formal and regular communication protocols with the Commissioner of the Internal Revenue Service to share and exchange PTIN information for income tax return preparers who are suspected of fraud, who have been disciplined, or who are barred from filing tax returns with the department or the Internal Revenue Service. The department may establish additional communication protocols with other states to exchange similar enforcement or discipline information.

Sec. 11. The department may adopt rules for the administration and enforcement of this chapter.

SECTION 24. IC 10-13-3-38.5, AS AMENDED BY P.L.155-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of,
or supervision over a person less than eighteen (18) years of age;
(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);
(C) at a state institution managed by the office of the secretary of family and social services or state department of health;
(D) at the Indiana School for the Deaf established by IC 20-22-2-1;
(E) at the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;
(F) at a juvenile detention facility;
(G) with the Indiana gaming commission under IC 4-33-3-16;
(H) with the department of financial institutions under IC 28-11-2-3; or
(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Determining the individual's suitability for employment with state or local government, or as an employee of a contractor of state or local government, in a position in which the individual's duties include access to confidential tax information obtained from the United States Internal Revenue Service under Section 6103(d) of the Internal Revenue Code or from an authorized secondary source.

(2) (3) Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

(3) (4) Use by the gaming commission established under IC 4-33-3-1 for licensure of a promoter (as defined in IC 4-33-22-6) under IC 4-33-22.

(4) (5) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

(5) (6) Identification in a request related to an individual applying for or renewing a license or certificate described in IC 25-1-1.1-4 and a conviction described in IC 25-1-1.1-2 or IC 25-1-1.1-3.

An applicant shall submit the fingerprints in an appropriate format or
on forms provided for the employment, license, or certificate application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department, the Indiana professional licensing agency, or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

(d) Each current or new state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases before being granted access to the confidential tax information. In addition to the initial criminal history background checks, each state or local government employee whose duties include access to confidential tax information described in subsection (a)(2) must submit to such criminal history background checks at least once every ten (10) years thereafter. The appointing authority of such a state or local government employee may pay any fee charged for the cost of fingerprinting or conducting the criminal history background checks for the state or local government employee. The state or local government agency in its capacity as the individual's employer or to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(e) Each current or new contractor or subcontractor whose contract or subcontract grants access to confidential tax information described in subsection (a)(2) must submit to a fingerprint based criminal history background check of both national and state records data bases at least once every ten (10) years before being granted access to the confidential tax information.

(f) Each contract entered into by the state in which access to confidential tax information described in subsection (a)(2) is granted to a contractor or a subcontractor shall include:
(1) terms regarding which party is responsible for payment of any fee charged for the cost of the fingerprinting or the criminal history background checks; and
(2) terms regarding the consequences if one (1) or more disqualifying records are discovered through the criminal history background checks.

(d) (g) The department:
(1) may permanently retain an applicant's fingerprints submitted under this section; and
(2) shall retain the applicant's fingerprints separately from fingerprints collected under section 24 of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 242 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 242 be amended to read as follows:
Page 1, line 9, delete "JANUARY 1, 2019]:" and insert "UPON PASSAGE]:".
Page 2, line 11, delete "JANUARY 1, 2019]:" and insert "UPON PASSAGE]:".
Page 6, delete lines 39 through 42.
Delete page 7.
Page 8, delete lines 1 through 21.
Page 9, line 12, after "equipment" insert ", fuel, and repair parts".
Page 9, between lines 17 and 18, begin a new line block indented and insert:
"(3) Hot mix asphalt plant equipment.
(4) Fuel used to operate trucks, pavers, or equipment described in subdivisions (1) through (3).
(5) Repair parts installed on trucks, pavers, or equipment described in subdivisions (1) through (3)."
Page 16, delete lines 11 through 42.
Delete pages 17 through 18.

SB 242—LS 6683/DI 73
Page 19, delete lines 1 through 24.
Page 19, delete lines 40 through 42.
Page 20, delete lines 1 through 2.
Page 20, line 3, delete "(f)" and insert "(d)".
Renumber all SECTIONS consecutively.

(Reference is to SB 242 as printed February 2, 2018.)

HOLDMAN