First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1472

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 4-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** No agency, except as provided in this chapter, shall have any right to name, appoint, employ, or hire any attorney or special or general counsel to represent it or perform any legal service in behalf of ~~such~~ **the** agency and the state without the written consent of the attorney general.

(b) An attorney employed by an agency is subject to IC 34-46-3-1 and Trial Rule 26(B) of the Indiana Rules of Trial Procedure, commonly referred to as the attorney-client and work product privileges, if the requirements to assert the protection and privilege have been satisfied.

SECTION 2. IC 6-1.1-3-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7.3. (a) A county fiscal body may adopt an ordinance to impose a local service fee on each person that files an annual certification with the county assessor under section 7.2 of this chapter stating that the person's business personal property in the county is exempt from taxation under section 7.2 of this chapter for an assessment date after December 31, 2015.**

(b) The county fiscal body shall specify the amount of the local service fee in the ordinance. A local service fee imposed on a

person under this section may not exceed fifty dollars ($50).

(c) A local service fee imposed for an assessment date is due and payable at the same time that property taxes for that assessment date are due and payable. A county may collect a delinquent local service fee in the same manner as delinquent property taxes are collected.

(d) The revenue from a local service fee:

(1) shall be allocated in the same manner and proportion and at the same time as property taxes are allocated to each taxing unit in the county; and

(2) may be used by a taxing unit for any lawful purpose of the taxing unit.

SECTION 3. IC 6-1.1-18.5-22.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 22.3. (a) This section applies only to Brown County due to unique circumstances regarding the approval of budgets and the resulting property tax levies for various county funds in 2013 through 2014.**

(b) If the county fiscal body adopts an ordinance before October 1, 2015, to impose a property tax levy in 2016 and in 2017 under this section, the department shall permit the county to impose the levy in each of those years. The property tax levy:

(1) is not subject to the maximum permissible ad valorem property tax levy limits otherwise applicable to the county under this chapter; and

(2) may not be considered in calculating the maximum permissible ad valorem property tax levy limits otherwise applicable to the county under this chapter.

(c) The amount of the property tax levy that may be imposed by the county each year under this section in 2016 and in 2017 is four hundred seventy-eight thousand one hundred fifteen dollars ($478,115) in each of those years.

(d) The money received from a property tax levy under this section must be deposited in a separate fund. The money in the fund may be used by the county only to make transfers to the county funds that were affected in 2013 through 2014 by the unique circumstances regarding the approval of budgets and the resulting property tax levies, in the amounts determined to be appropriate by the department.

(e) This section expires June 30, 2020.

SECTION 4. IC 6-1.1-18.5-23.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2015]: **Sec. 23.2. (a) This section applies to the following townships in Hancock County:**

(1) Brown Township.

(2) Jackson Township.

(3) Blue River Township.

(b) The executive of a township listed in subsection (a) may, after approval by the fiscal body of the township, submit a petition to the department of local government finance requesting an increase in the maximum permissible ad valorem property tax levy for the township's general fund.

(c) If the executive of a township submits a petition under subsection (b), the department of local government finance shall increase the maximum permissible ad valorem property tax levy for the township's general fund for property taxes first due and payable after December 31, 2015, by an amount equal to the lesser of the following:

(1) Twenty-five thousand dollars ($25,000).

(2) The sum of the following:

(A) The amount necessary to make the maximum permissible ad valorem property tax levy for the township's general fund equal to the maximum permissible ad valorem property tax levy that would have applied to the township's general fund under section 3 of this chapter for property taxes first due and payable after December 31, 2015, if in each year, beginning in 2003 and ending in 2015, the township had imposed the maximum permissible ad valorem property tax levy for the township's general fund in each of those years (regardless of whether the township did impose the entire amount of the maximum permissible ad valorem property tax levy for the township's general fund).

(B) The amount necessary to make the maximum permissible ad valorem property tax levy under section 3 of this chapter for the township's firefighting fund under IC 36-8-13 equal to the maximum permissible ad valorem property tax levy under section 3 of this chapter that would have applied to the township's firefighting fund for property taxes first due and payable after December 31, 2015, if in each year, beginning in 2003 and ending in 2015, the township had imposed the maximum permissible ad valorem property tax levy for the township's firefighting fund in each of those years (regardless of whether the

township did impose the entire amount of the maximum permissible ad valorem property tax levy for the township's firefighting fund).

SECTION 5. IC 6-2.5-1-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 21.5. "Licensed practitioner" means an individual who is a doctor, dentist, veterinarian, or other practitioner licensed to prescribe, dispense, and administer drugs to human beings or animals in the course of the practitioner's professional practice of treating patients.**

SECTION 6. IC 6-2.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 1. For purposes of this chapter:

(a) "Use" means the exercise of any right or power of ownership over tangible personal property.

(b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except ~~the subsequent use of that property solely outside Indiana.~~ **temporary storage.**

(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property or services for use, storage, or consumption in Indiana and who:

(1) maintains an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by the retail merchant or through a representative, agent, or subsidiary;

(2) maintains a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary of the retail merchant, sells, delivers, installs, repairs, assembles, sets up, accepts returns of, bills, invoices, or takes orders for sales of tangible personal property or services to be used, stored, or consumed in Indiana;

(3) is otherwise required to register as a retail merchant under IC 6-2.5-8-1; or

(4) may be required by the state to collect tax under this article to the extent allowed under the Constitution of the United States and federal law.

(d) "Temporary storage" means the keeping or retention of tangible personal property in Indiana for a period of not more than

one hundred eighty (180) days and only for the purpose of the subsequent use of that property solely outside Indiana.

~~(d)~~ **(e)** Notwithstanding any other provision of this section, tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a commercial printer for printing; and

(2) located at the premises of the commercial printer;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any way by the person. A commercial printer with which a person has contracted for printing shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

SECTION 7. IC 6-2.5-5-5.1, AS AMENDED BY P.L.137-2012, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

~~(c) A refund claim based on the exemption provided by this section for electrical energy, natural or artificial gas, water, steam, and steam heat may not cover transactions that occur more than thirty-six (36) months before the date of the refund claim.~~

SECTION 8. IC 6-2.5-5-18, AS AMENDED BY P.L.265-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. **(a) As used in this section, "legend drug" means a drug (as defined in IC 6-2.5-1-17) that is also a legend drug for purposes of IC 16-18-2-199.**

(b) As used in this section, "nonlegend drug" means a drug (as defined in IC 6-2.5-1-17) that is not a legend drug.

(c) Transactions involving the following are exempt from the state gross retail tax if the end user acquires the property upon a prescription or drug order (as defined in IC 16-42-19-3) that is required by law for the transaction from a licensed practitioner:

~~(a)~~ **(1)** ~~Sales or rentals of~~ Durable medical equipment **(including a repair or a replacement part).**

(2) Mobility enhancing equipment **(including a repair or replacement part).**

(3) Prosthetic devices, **including** artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, **and** contact lenses **(and including a repair or a replacement part).**

~~and other medical supplies and devices are exempt from the state gross retail tax, if the sales or rentals are prescribed by a person licensed to issue the prescription.~~

(4) Other medical supplies or devices that are used exclusively for medical treatment of a medically diagnosed condition, including a medically diagnosed condition due to:

(A) injury;

(B) bodily dysfunction; or

(C) surgery.

~~(b)~~ **(5)** ~~Sales of~~ Hearing ~~aids~~ **aid devices** ~~are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax. For purposes of this subsection, a hearing aid is a device which is~~ **that are** worn on the body and ~~which is~~ designed to aid, improve, or correct defective human hearing, **including:**

(A) parts;

(B) attachments;

(C) batteries; or

(D) accessories;

reasonably necessary for use of a hearing aid device.

~~(c) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.~~

~~(d) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.~~

(6) Legend drugs and nonlegend drugs, if:

(A) a registered pharmacist makes the sale to a patient upon the prescription of a licensed practitioner; or

(B) a licensed practitioner makes the sale to a patient.

(7) A nonlegend drug, if:

(A) the nonlegend drug is dispensed upon an original prescription or a drug order (as defined in IC 16-42-19-3); and

(B) the ultimate user of the drug is a person confined to a hospital or health care facility.

(8) Food, food ingredients, and dietary supplements that are sold by a licensed practitioner or pharmacist.

(d) Transactions involving the following are exempt from the state gross retail tax if the patient acquires the property for the patient's own use without a prescription or drug order:

(1) Hearing aid devices that are:

(A) worn on the body and designed to aid, improve, or correct defective human hearing, including:

(i) parts;

(ii) attachments;

(iii) batteries; or

(iv) accessories;

reasonably necessary for the use of a hearing aid device; and

(B) fitted or dispensed by a person licensed or registered for that purpose.

(2) Colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags.

(3) Devices and equipment used to administer insulin.

(4) Insulin, oxygen, blood, and blood plasma, if purchased for medical purposes.

SECTION 9. IC 6-2.5-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) As used in this section, "legend drug" means a drug as defined in IC 6-2.5-1-17 that is also a legend drug for purposes of IC 16-18-2-199.

(b) As used in this section, "nonlegend drug" means a drug (as defined in IC 6-2.5-1-17) that is not a legend drug.

~~(c) Sales of legend drugs and sales of nonlegend drugs are exempt from the state gross retail tax if:~~

~~(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to prescribe, dispense, and administer those drugs to human beings or animals in the course of his professional practice; or~~

~~(2) the licensed practitioner makes the sales.~~

~~(d) Sales of a nonlegend drug are exempt from the state gross retail tax, if:~~

~~(1) the nonlegend drug is dispensed upon an original prescription or a drug order (as defined in IC 16-42-19-3); and~~

~~(2) the ultimate user of the drug is a person confined to a hospital~~

~~or health care facility.~~

~~(e) Sales of insulin, oxygen, blood, or blood plasma are exempt from the state gross retail tax, if the purchaser purchases the insulin, oxygen, blood, or plasma for medical purposes.~~

~~(f) Sales of drugs, insulin, oxygen, blood, and blood plasma are exempt from the state gross retail tax if:~~

~~(1) the purchaser is a practitioner licensed to prescribe, dispense, and administer drugs to human beings or animals; and~~

~~(2) the purchaser buys the items for:~~

(c) Transactions involving drugs, insulin, oxygen, blood, and blood plasma are exempt from the state gross retail tax if purchased by a licensed practitioner (as defined in IC 6-2.5-1-21.5) or a health care facility (as defined in IC 16-18-2-161(a)) for the purpose of:

~~(A)~~ **(1)** direct consumption in ~~his practice;~~ **treating patients;** or

~~(B)~~ **(2)** resale to a patient that the practitioner is treating, in the case of sales of legend or nonlegend drugs.

SECTION 10. IC 6-2.5-5-21.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 21.5. Sales of food and food ingredients prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the state gross retail tax if:~~

~~(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to practice medicine in Indiana; or~~

~~(2) the licensed practitioner makes the sale of the food and food ingredients described in this section.~~

SECTION 11. IC 6-2.5-5-40, AS AMENDED BY P.L.288-2013, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 40. (a) As used in this section, "research and development activities" **includes design, refinement, and testing of prototypes of new or improved commercial products before sales have begun for the purpose of determining facts, theories, or principles, or for the purpose of increasing scientific knowledge that may lead to new or enhanced products. The term** does not include any of the following:

(1) Efficiency surveys.

(2) Management studies.

(3) Consumer surveys.

(4) Economic surveys.

(5) Advertising or promotions.

(6) Research in connection with **nontechnical activities, including** literary, historical, **social sciences, economics,**

humanities, psychology, or similar projects.

(7) Testing for purposes of quality control.

(8) Market and sales research.

(9) Product market testing, including product testing by product consumers or through consumer surveys for evaluation of consumer product performance or consumer product usability.

(10) The acquisition, investigation, or evaluation of another's patent, model, process, or product for the purpose of investigating or evaluating the value of a potential investment.

(11) The providing of sales services or any other service, whether technical or nontechnical in nature.

(b) As used in this section, "research and development equipment" means tangible personal property that:

(1) consists of or is a combination of:

(A) laboratory equipment;

(B) computers;

(C) computer software;

(D) telecommunications equipment; or

(E) testing equipment;

(2) has not previously been used in Indiana for any purpose; and

(3) is acquired by the purchaser for the purpose of research and development activities devoted directly to experimental or laboratory research and development for:

(A) new products;

(B) new uses of existing products; or

(C) improving or testing existing products.

(c) As used in this section, "research and development property" means tangible personal property that:

(1) has not previously been used in Indiana for any purpose; and

(2) is acquired by the purchaser for the purpose of research and development activities devoted to experimental or laboratory research and development for:

(A) new products;

(B) new uses of existing products; or

(C) improving or testing existing products.

(d) For purposes of subsection (c)(2), a research and development activity is devoted to experimental or laboratory research and development if the activity is considered essential and integral to experimental or laboratory research and development. The term does not include activities incidental to experimental or laboratory research and development.

(e) For purposes of subsection (c)(2), an activity is not considered to be devoted to experimental or laboratory research and development if the activity involves:

(1) heating, cooling, or illumination of office buildings;

(2) capital improvements to real property;

(3) janitorial services;

(4) personnel services or accommodations;

(5) inventory control functions;

(6) management or supervisory functions;

(7) marketing;

(8) training;

(9) accounting or similar administrative functions; or

(10) any other function that is incidental to experimental or laboratory research and development.

~~(d)~~ **(f)** A retail transaction:

(1) involving research and development equipment; and

(2) occurring after June 30, 2007, and before July 1, 2013;

is exempt from the state gross retail tax.

~~(e)~~ **(g)** A retail transaction:

(1) involving research and development property; and

(2) occurring after June 30, 2013;

is exempt from the state gross retail tax.

~~(f)~~ **(h)** The exemption provided by subsection ~~(e)~~ **(g)** applies regardless of whether the person that acquires the research and development property is a manufacturer or seller of the new or existing products specified in subsection (c)(2).

~~(g)~~ **(i)** For purposes of this section, a retail transaction shall be considered as having occurred after June 30, 2013, to the extent that delivery of the property constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2013, to the extent that the agreement of the parties to the transaction is entered into before July 1, 2013, and payment for the property furnished in the transaction is made before July 1, 2013, notwithstanding the delivery of the property after June 30, 2013. This subsection expires January 1, 2017.

SECTION 12. IC 6-2.5-5-45.8, AS ADDED BY P.L.137-2012, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 45.8. (a) For purposes of this section, IC 6-2.5-4-5, and section 30 of this chapter, the following definitions apply:

(1) "Recycling" means the processing of recycling materials and

other tangible personal property into a product for sale if the product is predominantly composed of recycling materials. The term does not include the following:

(A) The demolition of improvements to real estate.

(B) The processing of tangible personal property primarily for disposal in a licensed solid waste disposal facility rather than for sale.

(C) The collection of recycling materials. ~~by licensed motor vehicles.~~

(2) "Recycling materials" means tangible personal property, including metal, paper, glass, plastic, textile, or rubber, that:

(A) is considered "scrap" by industry standards or has no more than scrap value;

(B) is a byproduct of another person's manufacturing or production process;

(C) was previously manufactured or incorporated into a product;

(D) would otherwise reasonably be expected to be destined for disposal in a licensed solid waste disposal facility; or

(E) has been removed or diverted from the solid waste stream for sale, use, or reuse as raw materials, regardless of whether or not the materials require subsequent processing or separation from each other.

(3) "Processing of recycling materials" means:

(A) ~~the activities involved in collecting or otherwise~~ receiving recycling materials and other tangible personal property; and

(B) creating a product for sale by changing the original form, use, or composition of the property (whether manually, mechanically, chemically, or otherwise) through weighing, sorting, grading, separating, shredding, crushing, compacting, breaking, cutting, baling, shearing, torching, wire-stripping, or other means.

(4) "Occupationally engaged in the business of recycling" means to engage in recycling with the intention of doing so at a profit.

(5) "Recycling cart" means a manually propelled container with a capacity of not more than one hundred (100) gallons of recycling materials.

~~(b) Transactions involving machinery, tools, and equipment are exempt from the state gross retail tax if:~~

~~(1) the person acquiring that property acquires it for direct use in the direct processing of recycling materials; and~~

~~(2) the person acquiring that property is occupationally engaged in recycling~~.

~~(c)~~ **(b)** Transactions involving recycling materials and other tangible personal property ~~to be consumed in the processing of recycling materials or to become a part of the product produced by the processing of recycling materials~~ are exempt from the state gross retail tax if:

(1) the person acquiring that property acquires it for **the person's** direct use in the ~~direct~~ processing of recycling materials; and

(2) the person acquiring that property is occupationally engaged in **the business of** recycling.

(c) Notwithstanding subsection (a)(1)(C), transactions involving a recycling cart are exempt from the state gross retail tax if the person acquiring the recycling cart is occupationally engaged in the business of recycling.

SECTION 13. IC 6-2.5-8-7, AS AMENDED BY P.L.196-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection. Good cause for revocation may include the following:

~~(1) Sale or solicitation of a sale involving a synthetic drug (as defined in IC 35-31.5-2-321) or a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5).~~

~~(2) Failure to collect sales tax on a sale involving a synthetic drug or a synthetic drug lookalike substance.~~

(1) Failure to:

(A) file a return required under this chapter or for any tax collected for the state in trust; or

(B) remit any tax collected for the state in trust.

(2) Being charged with a violation of any provision under IC 35.

(3) Being subject to a court order under IC 7.1-2-6-7, IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.

The department may revoke a certificate before a criminal adjudication or without a criminal charge being filed. If the department gives notice of an intent to revoke based on an alleged violation of subdivision ~~(1) or~~ (2), the department shall hold a public hearing to determine whether good cause exists. If the department finds in a public hearing by a preponderance of the evidence that a person has committed a violation described in subdivision ~~(1) or~~ (2), the department shall proceed in accordance with subsection (i) (if the

violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

(1) file the returns required by IC 6-2.5-6-1; or

(2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and

(2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

(1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and

(2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and

(2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3,

IC 35-45-5-3.5, or IC 35-45-5-4.

(h) If a person makes a payment for the certificate under section 1 or 3 of this chapter with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment of the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, the department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has five (5) days after the notice is mailed to pay the fee in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the five (5) day period, the department shall revoke the certificate.

(i) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of IC 35-48-4-10.5 and the conviction involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and

(2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(j) If the department finds in a public hearing by a preponderance of the evidence that a person has a judgment for a violation of IC 35-48-4-10.5 as an infraction and the violation involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) may suspend the registered retail merchant certificate for the place of business for six (6) months; and

(2) may withhold issuance of another retail merchant certificate under section 1 of this chapter for six (6) months to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

SECTION 14. IC 6-2.5-8-8, AS AMENDED BY P.L.145-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) A person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. The person shall issue the certificate on forms and in the manner prescribed by the department. A seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail or use tax on that purchase.

(b) The following are the only persons authorized to issue exemption certificates:

(1) Retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter.

(2) Organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter. ~~and~~

(3) Persons who are exempt from the state gross retail tax under IC 6-2.5-4-5 and who receive an exemption certificate from the department.

~~(3)~~ **(4)** Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

(c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

(d) A seller that accepts an incomplete exemption certificate under subsection (a) is not relieved of the duty to collect gross retail or use

tax on the sale unless the seller obtains:

(1) a fully completed exemption certificate; or

(2) the relevant data to complete the exemption certificate;

within ninety (90) days after the sale.

(e) If a seller has accepted an incomplete exemption certificate under subsection (a) and the department requests that the seller substantiate the exemption, within one hundred twenty (120) days after the department makes the request the seller shall:

(1) obtain a fully completed exemption certificate; or

(2) prove by other means that the transaction was not subject to state gross retail or use tax.

(f) A power subsidiary (as defined in IC 6-2.5-4-5) or a person selling the services or commodities listed in IC 6-2.5-4-5(b) who accepts an exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 is relieved from the duty to collect state gross retail or use tax on the sale of the services or commodities listed in IC 6-2.5-4-5(b) until notified by the department that the exemption certificate has expired or has been revoked. If the department notifies a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b) that a person's exemption certificate has expired or has been revoked, the power subsidiary or person selling the services or commodities listed in IC 6-2.5-4-5(b) shall begin collecting state gross retail tax on the sale of the services or commodities listed in IC 6-2.5-4-5(b) to the person whose exemption certificate has expired or been revoked not later than thirty (30) days after the date of the department's notice. An exemption certificate issued by the department to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 remains valid for that person regardless of any subsequent one (1) for one (1) meter number changes with respect to that person that are required, made, or initiated by a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b). Within thirty (30) days after the final day of each calendar year quarter, a power subsidiary or a person selling the services or commodities listed in IC 6-2.5-4-5(b) shall report to the department any meter number changes made during the immediately preceding calendar year quarter and distinguish between the one (1) for one (1) meter changes and the one (1) for multiple meter changes made during the calendar year quarter. Except for a person to whom a blanket utility exemption applies, any meter number changes not involving a one (1) to one (1)

relationship will no longer be exempt and will require the person to submit a new utility exemption application for the new meters. Until an application for a new meter is approved, the new meter is subject to the state gross retail tax and the power subsidiary or the person selling the services or commodities listed in IC 6-2.5-4-5(b) is required to collect the state gross retail tax from the date of the meter change.

SECTION 15. IC 6-3-1-11, AS AMENDED BY P.L.205-2013, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2013.~~ **2015.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2011,~~ **2015,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2011,~~ **2015,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2013,~~ **2015,** that is effective for any taxable year that began before January 1, ~~2013,~~ **2015,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

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

(d) This subsection applies to a taxable year ending before January

1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

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

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

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

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

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

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

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

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

SECTION 16. IC 6-3-4-6, AS AMENDED BY P.L.172-2011, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which the taxpayer has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification **as provided in subsection (c)** of:

(1) a federal income tax return filed by the taxpayer after January 1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year

which begins after December 31, 1977.

The taxpayer shall file the notice on the form prescribed by the department within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.

(c) For purposes of subsection (b), a modification occurs on the date on which a:

(1) taxpayer files an amended federal income tax return;

(2) final determination is made concerning an assessment of deficiency;

(3) final determination is made concerning a claim for a refund;

(4) taxpayer waives the restrictions on assessment and collection of all, or any part, of an underpayment of federal income tax by signing a federal Form 870, or any other Form prescribed by the Internal Revenue Service for that purpose. For purposes of this subdivision:

(A) a final determination does not occur with respect to any part of the underpayment that is not covered by the waiver; and

(B) if the signature of an authorized representative of the Internal Revenue Service is required to execute a waiver, the date of the final determination is the date of signing by the authorized representative of the Internal Revenue Service;

(5) taxpayer enters into a closing agreement with the Internal Revenue Service concerning the taxpayer's tax liability under Section 7121 of the Internal Revenue Code that is a final determination. The date the taxpayer enters into a closing agreement under this subdivision is the date the closing agreement is signed by an authorized representative of the Internal Revenue Service; or

(6) modification or alteration in an amount of tax is otherwise made that is a final determination;

for a taxable year, regardless of whether a modification results in an underpayment or overpayment of tax.

(d) For purposes of subsection (c)(2) through (c)(6), a final determination means an action or decision by a taxpayer, the Internal Revenue Service (including the Appeals Division), the United States Tax Court, or any other United States federal court concerning any disputed tax issue that:

(1) is final and conclusive; and

(2) cannot be reopened or appealed by a taxpayer or the Internal Revenue Service as a matter of law.

~~(c)~~ **(e)** If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made if the modification was made before January 1, 2011, and one hundred eighty (180) days after the modification is made if the modification is made after December 31, 2010.

SECTION 17. IC 6-3-4-8, AS AMENDED BY P.L.158-2013, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), every employer making payments of wages subject to tax under this article, regardless of the place where such payment is made, who is required under the provisions of the Internal Revenue Code to withhold, collect, and pay over income tax on wages paid by such employer to such employee, shall, at the time of payment of such wages, deduct and retain therefrom the amount prescribed in withholding instructions issued by the department. The department shall base its withholding instructions on the adjusted gross income tax rate for persons, on the total rates of any income taxes that the taxpayer is subject to under IC 6-3.5, and on the total amount of exclusions the taxpayer is entitled to under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4). However, the withholding instructions on the adjusted gross income of a nonresident alien (as defined in Section 7701 of the Internal Revenue Code) are to be based on applying not more than one (1) withholding exclusion, regardless of the total number of exclusions that IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4) permit the taxpayer to apply on the taxpayer's final return for the taxable year. Such employer making payments of any wages:

(1) shall be liable to the state of Indiana for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from the individual's wages and paid over in compliance or intended compliance with this section; and

(2) shall make return of and payment to the department monthly of the amount of tax which under this article and IC 6-3.5 the employer is required to withhold.

(b) An employer shall pay taxes withheld under subsection (a) during a particular month to the department no later than thirty (30) days after the end of that month. However, in place of monthly

reporting periods, the department may permit an employer to report and pay the tax for a calendar year reporting period, if the average monthly amount of all tax required to be withheld by the employer in the previous calendar year does not exceed one thousand dollars ($1,000). An employer using a reporting period (other than a monthly reporting period) must file the employer's return and pay the tax for a reporting period no later than the last day of the month immediately following the close of the reporting period.

(c) For purposes of determining whether an employee is subject to taxation under IC 6-3.5, an employer is entitled to rely on the statement of an employee as to the employee's county of residence as represented by the statement of address in forms claiming exemptions for purposes of withholding, regardless of when the employee supplied the forms. Every employee shall notify the employee's employer within five (5) days after any change in the employee's county of residence.

(d) A county that makes payments of wages subject to tax under this article:

(1) to a precinct election officer (as defined in IC 3-5-2-40.1); and

(2) for the performance of the duties of the precinct election officer imposed by IC 3 that are performed on election day;

is not required, at the time of payment of the wages, to deduct and retain from the wages the amount prescribed in withholding instructions issued by the department.

(e) Every employer shall, at the time of each payment made by the employer to the department, deliver to the department a return upon the form prescribed by the department showing:

(1) the total amount of wages paid to the employer's employees;

(2) the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code;

(3) the amount of adjusted gross income tax deducted therefrom in accordance with the provisions of this section;

(4) the amount of income tax, if any, imposed under IC 6-3.5 and deducted therefrom in accordance with this section; and

(5) any other information the department may require.

Every employer making a declaration of withholding as provided in this section shall furnish the employer's employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the total amount of adjusted gross income tax and the amount of each income tax, if any, imposed under IC 6-3.5, withheld from the employees, on the forms prescribed by the department. **In addition, the employer shall file Form WH-3 annual withholding tax reports with the department not later than thirty-one (31) days after the**

end of the calendar year.

(f) All money deducted and withheld by an employer shall immediately upon such deduction be the money of the state, and every employer who deducts and retains any amount of money under the provisions of this article shall hold the same in trust for the state of Indiana and for payment thereof to the department in the manner and at the times provided in this article. Any employer may be required to post a surety bond in the sum the department determines to be appropriate to protect the state with respect to money withheld pursuant to this section.

(g) The provisions of IC 6-8.1 relating to additions to tax in case of delinquency and penalties shall apply to employers subject to the provisions of this section, and for these purposes any amount deducted or required to be deducted and remitted to the department under this section shall be considered to be the tax of the employer, and with respect to such amount the employer shall be considered the taxpayer. In the case of a corporate or partnership employer, every officer, employee, or member of such employer, who, as such officer, employee, or member is under a duty to deduct and remit such taxes, shall be personally liable for such taxes, penalties, and interest.

(h) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for the employee's taxable year which begins in such calendar year, and a return made by the employer under subsection (b) shall be accepted by the department as evidence in favor of the employee of the amount so deducted from the employee's wages. Where the total amount so deducted exceeds the amount of tax on the employee as computed under this article and IC 6-3.5, the department shall, after examining the return or returns filed by the employee in accordance with this article and IC 6-3.5, refund the amount of the excess deduction. However, under rules promulgated by the department, the excess or any part thereof may be applied to any taxes or other claim due from the taxpayer to the state of Indiana or any subdivision thereof. ~~No refund shall be made to an employee who fails to file the employee's return or returns as required under this article and IC 6-3.5 within two (2) years from the due date of the return or returns.~~ In the event that the excess tax deducted is less than one dollar ($1), no refund shall be made.

(i) This section shall in no way relieve any taxpayer from the taxpayer's obligation of filing a return or returns at the time required under this article and IC 6-3.5, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such

taxpayer, such unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(j) Notwithstanding subsection (b), an employer of a domestic service employee that enters into an agreement with the domestic service employee to withhold federal income tax under Section 3402 of the Internal Revenue Code may withhold Indiana income tax on the domestic service employee's wages on the employer's Indiana individual income tax return in the same manner as allowed by Section 3510 of the Internal Revenue Code.

(k) To the extent allowed by Section 1137 of the Social Security Act, an employer of a domestic service employee may report and remit state unemployment insurance contributions on the employee's wages on the employer's Indiana individual income tax return in the same manner as allowed by Section 3510 of the Internal Revenue Code.

(l) A person who knowingly fails to remit trust fund money as set forth in this section commits a Level 6 felony.

SECTION 18. IC 6-3-4-12, AS AMENDED BY P.L.293-2013(ts), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 12. (a) Every partnership shall, at the time that the partnership pays or credits amounts to any of its nonresident partners on account of their distributive shares of partnership income, for a taxable year of the partnership, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. Such partnership so paying or crediting any nonresident partner:

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

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

Where the aggregate amount due under IC 6-3 and IC 6-3.5 does not exceed fifty dollars ($50) per month, then such partnership shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every partnership shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a

return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident partners, the amount deducted therefrom in accordance with the provisions of this section, and such other information as the department may require. Every partnership making the deduction and retention provided in this section shall furnish to its nonresident partners annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax deducted and retained from such partners on forms to be prescribed by the department.

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

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

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

(f) This section shall in no way relieve any nonresident partner from the nonresident partner's obligations of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

(g) Instead of the reporting periods required under subsection (a), the department may permit a partnership to file one (1) return and payment each year if the partnership pays or credits amounts to its nonresident partners only one (1) time each year. The return and

payment are due on or before the fifteenth day of the fourth month after the end of the year. **However, if a partnership is permitted an extension to file its income tax return under IC 6-8.1-6-1, the return and payment due under this subsection shall be allowed the same treatment as an extended income tax return with respect to due dates, interest, and penalties under IC 6-8.1-6-1.**

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

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

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

(1) eighty percent (80%) of the withholding tax due for the current year; or

(2) one hundred percent (100%) of the withholding tax due for the preceding year. ~~before the fifteenth day of the fourth month after the end of the partnership's taxable year.~~

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

(1) is a publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code;

(2) meets the exception for partnerships under Section 7704(c) of the Internal Revenue Code; and

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

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

(l) Notwithstanding subsection (j), a partnership is subject to a late payment penalty for the failure to file a return, pay the full

amount of the tax shown on the partnership's return, or pay the deficiency of the withholding taxes due under this section for any amounts of withholding tax, including any interest under IC 6-8.1-10-1, reported or paid after the due date of the return, as adjusted by any extension under IC 6-8.1-6-1.

(m) For purposes of this section, a "nonresident partner" is:

(1) an individual who does not reside in Indiana;

(2) a trust that does not reside in Indiana;

(3) an estate that does not reside in Indiana;

(4) a partnership not domiciled in Indiana;

(5) a C corporation not domiciled in Indiana; or

(6) an S corporation not domiciled in Indiana.

SECTION 19. IC 6-3-4-13, AS AMENDED BY P.L.293-2013(ts), SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 13. (a) Every corporation which is exempt from tax under IC 6-3 pursuant to IC 6-3-2-2.8(2) shall, at the time that it pays or credits amounts to any of its nonresident shareholders as dividends or as their share of the corporation's undistributed taxable income, withhold the amount prescribed by the department. Such corporation so paying or crediting any nonresident shareholder:

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

(2) when the aggregate amount due under IC 6-3 and IC 6-3.5 exceeds one hundred fifty dollars ($150) per quarter, then such corporation shall make return and payment to the department quarterly, on such dates and in such manner as the department shall prescribe, of the amount of tax which, under IC 6-3 and IC 6-3.5, it is required to withhold.

(b) Every corporation shall, at the time of each payment made by it to the department pursuant to this section, deliver to the department a return upon such form as shall be prescribed by the department showing the total amounts paid or credited to its nonresident shareholders, the amount withheld in accordance with the provisions of this section, and such other information as the department may require. Every corporation withholding as provided in this section shall furnish to its nonresident shareholders annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such shareholders on forms to be prescribed by the department.

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

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

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

(f) This section shall in no way relieve any nonresident shareholder from the shareholder's obligation of filing a return or returns at the time required under IC 6-3 or IC 6-3.5, and any unpaid tax shall be paid at the time prescribed by section 5 of this chapter.

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

(h) If a distribution will be made with property other than money or a gain is realized without the payment of money, the corporation shall not release the property or credit the gain until it has funds sufficient

to enable it to pay the tax required to be withheld under this section. If necessary, the corporation shall obtain such funds from the shareholders.

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

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

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

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

(1) eighty percent (80%) of the withholding tax due for the current year; or

(2) one hundred percent (100%) of the withholding tax due for the preceding year. ~~before the fifteenth day of the fourth month after the end of the corporation's taxable year.~~

(m) Notwithstanding subsection (l), a corporation is subject to a late payment penalty for the failure to file a return, pay the full amount of the tax shown on the corporation's return, or pay the deficiency of the withholding taxes due under this section for any amounts of withholding tax, including any interest under IC 6-8.1-10-1, reported or paid after the due date of the return, as adjusted by any extension under IC 6-8.1-6-1.

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

(1) an individual who does not reside in Indiana;

(2) a trust that does not reside in Indiana; or

(3) an estate that does not reside in Indiana.

SECTION 20. IC 6-3-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]:

Sec. 15. (a) A trust or estate shall, at the time that it distributes income (except income attributable to interest or dividends) to a nonresident beneficiary, deduct and retain therefrom the amount prescribed in the withholding instructions referred to in section 8 of this chapter. The trust or estate so distributing income to a nonresident beneficiary:

(1) is liable to this state for the tax which it is required to deduct and retain under this section and is not liable to the beneficiary for the amount deducted from the distribution and paid to the department in compliance, or intended compliance, with this section; and

(2) shall pay the amount deducted to the department before the thirtieth day of the month following the distribution, unless an earlier date is specified by section 8.1 of this chapter.

(b) A trust or estate shall, at the time that it makes a payment to the department under this section, deliver to the department a return which shows the total amounts distributed to the trust's or estate's nonresident beneficiaries, the amount deducted from the distributions under this section, and any other information required by the department. The trust or estate shall file the return on the form prescribed by the department. A trust or estate which makes the deduction and retention required by this section shall furnish to its nonresident beneficiaries annually, but not later than thirty (30) days after the end of the trust's or estate's taxable year, a record of the amount of tax deducted and retained from the beneficiaries. The trust or estate shall furnish the information on the form prescribed by the department.

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

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

(e) Amounts deducted from distributions to nonresident beneficiaries under this section during a taxable year of the trust or estate are considered a partial payment of the tax imposed on the

nonresident beneficiary for his taxable year within or with which the trust's or estate's taxable year ends. The department shall accept a return made by the trust or estate under subsection (b) as evidence of the amount of tax deducted from the income distributed to a nonresident beneficiary.

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

(g) A trust or estate shall file a composite adjusted gross income tax return on behalf of all nonresident beneficiaries. The composite return must include each nonresident beneficiary regardless of whether the nonresident beneficiary has other Indiana source income.

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

(1) an individual who does not reside in Indiana;

(2) a trust that does not reside in Indiana;

(3) an estate that does not reside in Indiana;

(4) a partnership that is not domiciled in Indiana;

(5) a C corporation that is not domiciled in Indiana; or

(6) an S corporation that is not domiciled in Indiana.

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

SECTION 21. IC 6-3.1-4-1, AS AMENDED BY P.L.193-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 1. As used in this chapter:

"Base amount" means base amount (as defined in Section 41(c) of the Internal Revenue Code) ~~as in effect on January 1, 2001),~~ modified by considering only Indiana qualified research expenses and gross receipts attributable to Indiana in the calculation of the taxpayer's:

(1) fixed base percentage; and

(2) average annual gross receipts.

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

"Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code). ~~as in effect on January 1, 2001).~~

"Pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income

tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

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

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

SECTION 22. IC 6-3.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2016]: Sec. 4. The provisions of Section 41 of the Internal Revenue Code ~~as in effect on January 1, 2001,~~ and the regulations promulgated in respect to those provisions ~~and in effect on January 1, 2001,~~ are applicable to the interpretation and administration by the department of the credit provided by this chapter, including the allocation and pass through of the credit to various taxpayers and the transitional rules for determination of the base period.

SECTION 23. IC 6-3.1-21-6, AS AMENDED BY P.L.229-2011, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Except as provided by subsection (b), an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), is eligible for a credit under this chapter equal to nine percent (9%) of the amount of the federal earned income tax credit that the individual:

(1) is eligible to receive in the taxable year; and

(2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code as it existed before being amended by the Tax Relief. Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

(1) the amount determined under subsection (a); multiplied by

(2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

(c) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess ~~less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess,~~ shall be refunded to the taxpayer.

SECTION 24. IC 6-3.1-21-8, AS AMENDED BY P.L.172-2011, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. To obtain a credit under this chapter, a taxpayer must claim the ~~advance payment or~~ credit in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter.

SECTION 25. IC 6-3.5-1.1-2, AS AMENDED BY P.L.261-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on December 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county.

(b) Except as provided in section 2.3, 2.5, 2.7, 2.8, 2.9, 3.3, **3.4,** 3.5, 3.6, **3.7,** 24, 25, or 26 of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must adopt an ordinance. The ordinance must substantially state the following:

> "The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (_____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county.".

(d) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department, the director of the budget agency, and the commissioner of the department of local government finance in an electronic format approved by the director of the budget agency.

(e) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 26. IC 6-3.5-1.1-2.8, AS AMENDED BY P.L.119-2012, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) This section applies to the following counties:

(1) Elkhart County.

(2) Marshall County.

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, or equip:

(A) jail facilities;

(B) juvenile court, detention, and probation facilities;

(C) other criminal justice facilities; and

(D) related buildings and parking facilities;

located in the county, including costs related to the demolition of existing buildings and the acquisition of land; and

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to operate or maintain:

(1) jail facilities;

(2) juvenile court, detention, and probation facilities;

(3) other criminal justice facilities; and

(4) related buildings and parking facilities;

located in the county. A county council of a county named in subsection (a)(1) or (a)(2) may make a determination under both this subsection and subsection (b).

(d) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%); or

(3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes a finding and determination set forth in subsection (b) or (c). The tax rate may not be imposed at a rate greater than is necessary to carry out the purposes described in subsections (b) and (c), as applicable.

(e) ~~This subsection applies only to Elkhart County.~~ If the county council imposes the tax under this section to pay for the purposes described in both subsections (b) and (c), when:

(1) the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed; and

(2) all bonds issued (including any refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid;

the county council shall, subject to subsection (d), establish a tax rate under this section by ordinance such that the revenue from the tax does not exceed the costs of operating and maintaining the jail facilities referred to in subsection (b)(1)(A).

(f) The tax imposed under this section may be imposed only until the last of the following dates:

(1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed.

(2) The date on which the last of any bonds issued (including any refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid.

(3) ~~If the county imposing the tax under this section is Elkhart County,~~ The date on which an ordinance adopted under subsection (c) is rescinded.

(g) The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(h) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

(i) County adjusted gross income tax revenues derived from the tax

rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

(j) Notwithstanding any other law, money remaining in the criminal justice facilities revenue fund established under subsection (h) after the tax imposed by this section is terminated under subsection (f) shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 27. IC 6-3.5-1.1-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. (a) This section applies only to Tipton County.**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance the:

(A) construction, acquisition, and equipping of the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

(B) improvement, renovation, remodeling, repair, and equipping of the courthouse to address security concerns and mitigate excess moisture in the courthouse; and

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%); or

(6) four-tenths percent (0.4%);

on the adjusted gross income of county taxpayers if the county

council makes the determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing for constructing, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) is completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed at a rate greater than is necessary to pay for the purposes described in subsection (b).

(e) The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county facilities revenue fund before making a certified distribution under sections 10 and 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible ad valorem property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).

(g) Tipton County possesses unique governmental and economic development challenges and opportunities due to:

(1) the county's heavy agricultural base;

(2) deficiencies in the current county jail, including:

(A) overcrowding;

(B) lack of program and support space for efficient jail operations;

(C) inadequate line of sight supervision of inmates, due to current jail configuration;

(D) lack of adequate housing for an increasing female inmate population and inmates with special needs;

(E) lack of adequate administrative space; and

(F) increasing maintenance demands and costs resulting from having aging facilities;

(3) the presence of a large industrial employer that offers the opportunity to expand the income tax base; and

(4) the presence of the historic Tipton County jail and sheriff's home, listed on the National Register of Historic Places.

The use of county adjusted gross income tax revenue as provided in this section is necessary for the county to provide adequate jail facilities in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this section to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b), rather than the use of property taxes, promotes those purposes.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

(1) the redemption of bonds issued; or

(2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

SECTION 28. IC 6-3.5-1.1-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.7. (a) This section applies to Rush County.**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to do the following:

(1) Finance, construct, acquire, improve, renovate, and equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(2) Repay bonds issued or leases entered into for the purposes described in subdivision (1).

(3) Operate and maintain the facilities described in subdivision (1).

(c) In addition to the rates permitted by section 2 of this chapter, if the county council makes the determination set forth in

subsection (b), the county council may adopt an ordinance to impose the county adjusted gross income tax at a rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%);

(8) five-tenths percent (0.5%);

(9) fifty-five hundredths percent (0.55%); or

(10) six-tenths percent (0.6%);

on the adjusted gross income of county taxpayers that is in addition to the rates permitted by section 2 of this chapter. The tax rate may not be greater than the rate necessary to pay for the purposes described in subsection (b).

(d) The tax rate used to pay for the purposes described in subsection (b)(1) and (b)(2) may be imposed only until the latest of the following dates:

(1) The date on which the financing, construction, acquisition, improvement, and equipping of the facilities as described in subsection (b) are completed.

(2) The date on which the last of any bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b) are fully paid.

(3) The date on which an ordinance adopted under subsection (c) is rescinded.

(e) If the county council imposes a tax under this section to pay for the purposes described in subsection (b)(1) and (b)(2), in the year before the facilities are ready for occupancy, the county council shall by ordinance establish a tax rate at a rate permitted under subsection (c) so that the revenue from the tax rate established under this subsection does not exceed the costs of operating and maintaining the facilities described in subsection (b). The tax rate under this subsection may be imposed beginning in the year following the year the ordinance is adopted and until the date on which the ordinance adopted under this subsection is rescinded.

(f) The term of a bond issued (including any refunding bond) or a lease entered into under subsection (b) may not exceed twenty-five (25) years.

(g) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under sections 10 and 11 of this chapter.

(h) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).

(i) Rush County possesses unique governmental and economic development challenges and opportunities due to the following:

(1) Deficiencies in the current county jail, including the following:

(A) Aging facilities that have not been significantly improved or renovated since the original construction.

(B) Lack of recreation and medical facilities.

(C) Inadequate line of sight supervision of inmates due to the configuration of the aging jail.

(D) Lack of adequate housing for an increasing female inmate population and for inmates with special needs.

(E) Lack of adequate administrative space.

(F) Increasing maintenance demands and costs resulting from having aging facilities.

(2) A limited industrial and commercial assessed valuation in the county.

The use of county adjusted gross income tax revenues as provided in this chapter is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b), rather than the use of property taxes, promotes those purposes.

(j) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after

the termination of the tax under this section shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

SECTION 29. IC 6-3.5-1.1-10, AS AMENDED BY P.L.137-2012, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on the first regular business day of each month of that calendar year.

(b) Except for:

(1) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.3 of this chapter;

(2) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5 of this chapter;

(3) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(4) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

(5) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

(6) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter; ~~or~~

(7) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, remodeling, equipping, operating, or maintaining buildings and facilities;

(B) debt service; or

(C) lease rentals;

under section 3.4 of this chapter;

(8) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 3.7 of this chapter; or

~~(7)~~ **(9)** revenue attributable to a tax rate under section 24, 25, or 26 of this chapter;

distributions made to a county treasurer under subsection (a) shall be treated as though they were property taxes that were due and payable during that same calendar year. Except as provided by sections 24, 25, and 26 of this chapter, the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(c) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 30. IC 6-3.5-1.1-11, AS AMENDED BY P.L.77-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.3 of this chapter;

(2) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5 of this chapter;

(3) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(4) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

(5) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

(6) revenue that must be used to pay the costs of constructing,

acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter; ~~or~~

(7) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, remodeling, equipping, operating, or maintaining buildings and facilities;

(B) debt service; or

(C) lease rentals;

under section 3.4 of this chapter;

(8) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 3.7 of this chapter; or

~~(7)~~ **(9)** revenue attributable to a tax rate under section 24, 25, or 26 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 10 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on December 1 of the calendar year that precedes the year in which the certified distribution will be received by two (2) years. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 31. IC 6-3.5-7-5, AS AMENDED BY SEA 374-2015, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. Except as provided in section 26(m) of this chapter, the entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on October 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on October 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in this section and section 28 of this chapter, the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);

(2) two-tenths percent (0.2%);

(3) twenty-five hundredths percent (0.25%);

(4) three-tenths percent (0.3%);

(5) thirty-five hundredths percent (0.35%);

(6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in this section, the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in this section, the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must adopt an ordinance.

(e) The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county.".

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department, the director of the budget agency, and the commissioner of the department of local government finance in an electronic format approved by the director of the budget agency.

(g) For Jackson County, except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(h) For Pulaski County, except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(i) For Wayne County, except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(j) This subsection applies to Randolph County. Except as provided in subsection (o), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(k) For Daviess County, except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not

exceed one and five-tenths percent (1.5%).

(l) For:

(1) Elkhart County; or

(2) Marshall County;

except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For Union County, except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) This subsection applies to Knox County. Except as provided in subsection (o), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(o) This subsection applies to a county in which an adopting entity approves the use of the certified distribution for property tax relief under section 26(c) and 26(e) of this chapter or to a county in which the county fiscal body approves the use of the certified distribution to fund a public transportation project under section 26(m) of this chapter. In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined

rates that would otherwise apply under this section.

Except as provided in section 5.5 of this chapter, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1 (repealed) before January 1, 2009, or IC 6-1.1-12-37 after December 31, 2008) or residential property (as defined in section 26 of this chapter), as appropriate under the ordinance adopted by the adopting body in the county, resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 (repealed **effective January 1, 2016)** or IC 6-1.1-12-42 or from the exclusion in 2008 of inventory from the definition of personal property in IC 6-1.1-1-11.

(p) If the county economic development income tax is imposed as authorized under subsection (o) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for a purpose provided in section 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(q) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (o), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(r) Except as provided in subsection (o), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(s) This subsection applies to Howard County. Except as provided in subsection (o), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(t) This subsection applies to Scott County. Except as provided in

subsection (o), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Jasper County. Except as provided in subsection (o), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(v) An additional county economic development income tax rate imposed under section 28 of this chapter may not be considered in calculating any limit under this section on the sum of:

(1) the county economic development income tax rate plus the county adjusted gross income tax rate; or

(2) the county economic development tax rate plus the county option income tax rate.

(w) The income tax rate limits imposed by subsection (c) or (x) or any other provision of this chapter do not apply to:

(1) a county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26; or

(2) a county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

For purposes of computing the maximum combined income tax rate under subsection (c) or (x) or any other provision of this chapter that may be imposed in a county under IC 6-3.5-1.1, IC 6-3.5-6, and this chapter, a county's county adjusted gross income tax rate or county option income tax rate for a particular year does not include the county adjusted gross income tax rate imposed under IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, or IC 6-3.5-1.1-26 or the county option income tax rate imposed under IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32.

(x) This subsection applies to Monroe County. Except as provided in subsection (o), if an ordinance is adopted under IC 6-3.5-6-33, the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(y) This subsection applies to Perry County. Except as provided in subsection (o), if an ordinance is adopted under section 27.5 of this chapter, the county economic development income tax rate plus the county option income tax rate that is in effect on January 1 of a year may not exceed one and seventy-five hundredths percent (1.75%).

(z) This subsection applies to Starke County. Except as provided in subsection (o), if an ordinance is adopted under section 27.6 of this

chapter, the county economic development income tax rate plus the county adjusted gross income tax rate that is in effect on January 1 of a year may not exceed two percent (2%).

(aa) This subsection applies to Tipton County. Except as provided in subsection (o), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and sixty-five hundredths percent (1.65%).

(bb) This subsection applies to Rush County. Except as provided in subsection (o), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and eighty-five hundredths percent (1.85%).

(cc) This subsection applies to Greene County. The county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). However, if the county economic development tax rate plus the county option income tax rate in effect exceed one percent (1%), the maximum rate that may be imposed in the county for public safety purposes under IC 6-3.5-1.1-25 or IC 6-3.5-6-31 is equal to the difference between:

(1) twenty-five hundredths of one percent (0.25%); minus

(2) the amount by which the county economic development tax rate plus the county option income tax rate in effect exceeds one percent (1%).

SECTION 32. IC 6-5.5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Each taxpayer shall notify the department in writing of any alteration or modification of a federal income tax return filed with the United States Internal Revenue Service for a taxable year that begins after December 31, 1988, including any modification or alteration in the amount of tax, regardless of whether the modification or assessment results from an assessment.

(b) The taxpayer shall file the notice in the form required by the department within one hundred ~~twenty (120)~~ **eighty (180)** days after the alteration or modification is made. ~~by the taxpayer or finally determined, whichever occurs first.~~

(c) For purposes of this section, a modification or alteration occurs on the date on which a:

(1) taxpayer files an amended federal income tax return;

(2) final determination is made concerning an assessment of

deficiency;

(3) final determination is made concerning a claim for refund;

(4) taxpayer waives the restrictions on assessment and collection of all, or any part, of an underpayment of federal income tax by signing a federal Form 870, or any other Form prescribed by the Internal Revenue Service for that purpose. For purposes of this subdivision:

(A) a final determination does not occur with respect to any part of the underpayment that is not covered by the waiver; and

(B) if the signature of an authorized representative of the Internal Revenue Service is required to execute a waiver, the date of the final determination is the date of signing by the authorized representative of the Internal Revenue Service;

(5) taxpayer enters into a closing agreement with the Internal Revenue Service concerning the taxpayer's tax liability under Section 7121 of the Internal Revenue Code that is a final determination. The date the taxpayer enters into a closing agreement under this subdivision is the date the closing agreement is signed by an authorized representative of the Internal Revenue Service; or

(6) modification or alteration in an amount of tax is otherwise made that is a final determination;

for a taxable year, regardless of whether a modification or alteration results in an underpayment or overpayment of tax.

(d) For purposes of subsection (c)(2) through (c)(6), a final determination means an action or decision by a taxpayer, the Internal Revenue Service (including the Appeals Division), the United States Tax Court, or any other United States federal court concerning any disputed tax issue that:

(1) is final and conclusive; and

(2) cannot be reopened or appealed by a taxpayer or the Internal Revenue Service as a matter of law.

(e) If the federal modification or alternation results in a change in the taxpayer's federal adjusted gross income or income within Indiana, the taxpayer shall file an amended Indiana financial institutions tax return (as required by the department) and a copy of the taxpayer's amended federal income tax return with the department not later than the date that is one hundred eighty (180) days after the modification or alteration is made.

~~(c)~~ **(f)** The taxpayer shall pay an additional tax or penalty due under

this article upon notice or demand from the department.

SECTION 33. IC 6-8.1-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. (a) "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

(b) The department shall enter into an agreement with the fiscal officer of an entity that has adopted an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9 to furnish the fiscal officer annually with:

(1) the name of each business collecting the taxes listed in this subsection; and

(2) the amount of money collected from each business.

(c) The agreement must provide that the department must provide the information in an electronic format that the fiscal officer can use, as well as a paper copy.

(d) The agreement must include a provision that, unless in accordance with a judicial order, the fiscal officer, employees of the fiscal officer, former employees of the fiscal officer, counsel of the fiscal officer, agents of the fiscal officer, or any other person may not divulge the names of the businesses, the amount of taxes paid by the businesses, or any other information disclosed to the fiscal officer by the department.

(e) The department shall also enter into an agreement with the fiscal officer of a capital improvement board of managers:

(1) created under IC 36-10-8 or IC 36-10-9; and

(2) that is responsible for expenditure of funds from:

(A) an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9;

(B) the supplemental auto rental excise tax under IC 6-6-9.7; or

(C) the state gross retail taxes allocated to a professional sports development area fund, a sports and convention facilities operating fund, or other fund under IC 36-7-31 or IC 36-7-31.3;

to furnish the fiscal officer annually with the name of each business collecting the taxes listed in this subsection, and the amount of money collected from each business. An agreement with a fiscal officer under this subsection must include a nondisclosure provision the same as is required for a fiscal officer under subsection (d).

SECTION 34. IC 6-8.1-4-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5. (a) The department may deny an application under**

section 4(c) of this chapter if the applicant has had a registration revoked under section 4(f) of this chapter or any other applicable statute.

(b) The department may deny an application described in section 4(c) of this chapter if the applicant's business is operated, managed, or otherwise controlled by or affiliated with a person, including the applicant, a relative, family member, responsible officer, or shareholder, whom the department has determined is covered by any of the following:

(1) Failed to file all tax returns or information reports with the department required under IC 6, IC 8, or IC 9.

(2) Failed to pay all taxes, penalties, and interest required to the department under IC 6, IC 8, or IC 9.

(3) Failed to pay any registration or license plate fees for vehicles that were at any point owned or operated by the person or for which the person was responsible for payment.

(4) Failed to return a license plate described in subdivision (3) to the department.

(5) Has an unsatisfactory safety rating under 49 CFR Part 385.

(6) Has multiple violations of IC 9 or a rule adopted under IC 9.

(c) The department may deny any application described in section 4(c) of this chapter if the applicant is a motor carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person, including an owner, relative, family member, responsible officer, or shareholder, whom the department has determined is covered by any item listed in subsection (b).

(d) If the applicant has altered a cab card or permit, the department shall bill the carrier automatically for the violation.

SECTION 35. IC 6-8.1-5-1, AS AMENDED BY P.L.172-2011, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) As used in this section, "letter of findings" includes a supplemental letter of findings.

(b) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(c) ~~If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety.~~ The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(d) The notice shall state that the person has forty-five (45) days from the date the notice is mailed, if the notice was mailed before January 1, 2011, and sixty (60) days from the date the notice is mailed, if the notice was mailed after December 31, 2010, to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

(1) set the hearing at the department's earliest convenient time; and

(2) notify the person by United States mail of the time, date, and location of the hearing.

(e) The department may hold the hearing at the location of its choice within Indiana if that location complies with IC 6-8.1-3-8.5.

(f) ~~No later than sixty (60) days~~ After conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (b). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(g) A person that disagrees with a decision in a letter of findings may request a rehearing not more than thirty (30) days after the date on which the letter of findings is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(h) If a person disagrees with a decision in a letter of findings, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than ~~sixty (60)~~ **ninety (90)** days after the date on which:

(1) the letter of findings is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of findings; or

(2) the department issues a denial of the person's timely request

for a rehearing under subsection (g) on the letter of findings. **The ninety (90) day period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must specify a date upon which the extension will terminate and a statement that the person agrees to preserve the person's records until that specified termination date. The specified termination date agreed upon under this subsection may not be more than ninety (90) days after the expiration of the period otherwise specified by this subsection.**

(i) The tax court shall hear an appeal under subsection (h) de novo and without a jury. The tax court may do the following:

(1) Uphold or deny any part of the assessment that is appealed.

(2) Assess the court costs in a manner that the court believes to be equitable.

(3) Enjoin the collection of a listed tax under IC 33-26-6-2.

(j) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

(1) the person failed to properly respond within the ~~forty-five (45)~~ **sixty (60)** day period;

(2) the person requested a hearing but failed to appear at that hearing; or

(3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(k) The department shall make the demand for payment in the manner provided in IC 6-8.1-8-2.

(l) Subsection (b) does not apply to a motor carrier fuel tax return.

SECTION 36. IC 6-8.1-5-2, AS AMENDED BY P.L.182-2009(ss), SECTION 251, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as otherwise provided in this section, the department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or either of the following:

(1) The due date of the return.

(2) In the case of a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax, the end of the calendar year which contains the taxable period for which the return is filed.

(b) If a person files a utility receipts tax return (IC 6-2.3), an adjusted gross income tax (IC 6-3), supplemental net income tax (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1),

county option income tax (IC 6-3.5-6), or financial institutions tax (IC 6-5.5) return that understates the person's income, as that term is defined in the particular income tax law, by at least twenty-five percent (25%), the proposed assessment limitation is six (6) years instead of the three (3) years provided in subsection (a).

(c) In the case of the motor vehicle excise tax (IC 6-6-5), the tax shall be assessed as provided in IC 6-6-5-5 and IC 6-6-5-6 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5 is considered to have failed to file a return for purposes of this article.

(d) In the case of the commercial vehicle excise tax imposed under IC 6-6-5.5, the tax shall be assessed as provided in IC 6-6-5.5 and shall include the penalties and interest due on all listed taxes not paid by the due date. A person that fails to properly register a commercial vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.5 is considered to have failed to file a return for purposes of this article.

(e) In the case of the excise tax imposed on recreational vehicles and truck campers under IC 6-6-5.1, the tax shall be assessed as provided in IC 6-6-5.1 and must include the penalties and interest due on all listed taxes not paid by the due date. A person who fails to properly register a recreational vehicle as required by IC 9-18 and pay the tax due under IC 6-6-5.1 is considered to have failed to file a return for purposes of this article. A person who fails to pay the tax due under IC 6-6-5.1 on a truck camper is considered to have failed to file a return for purposes of this article.

(f) If a person files a fraudulent, unsigned, or substantially blank return, or if a person does not file a return, there is no time limit within which the department must issue its proposed assessment.

(g) If any part of a listed tax has been erroneously refunded by the department, the erroneous refund may be recovered through the assessment procedures established in this chapter. An assessment issued for an erroneous refund must be issued:

(1) within two (2) years after making the refund; or

(2) within five (5) years after making the refund if the refund was induced by fraud or misrepresentation.

(h) If, before the end of the time within which the department may make an assessment, the department and the person agree to extend that assessment time period, the period may be extended according to the terms of a written agreement signed by both the department and the person. The agreement must contain:

(1) the date to which the extension is made; and

(2) a statement that the person agrees to preserve the person's records until the extension terminates.

The department and a person may agree to more than one (1) extension under this subsection.

(i) If a taxpayer's **federal taxable income, federal adjusted gross income, or** federal income tax liability for a taxable year is modified due to ~~the assessment of a federal deficiency or the filing of an amended federal income tax return,~~ **a modification as provided under IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross income tax), or a modification or alteration as provided under IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial institutions tax),** then the date by which the department must issue a proposed assessment under section 1 of this chapter for tax imposed under IC 6-3 is extended to six (6) months after the date on which the notice of modification is filed with the department by the taxpayer.

SECTION 37. IC 6-8.1-7-1, AS AMENDED BY P.L.2-2014, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) a member of the general assembly or an employee of the house of representatives or the senate when acting on behalf of a taxpayer located in the member's legislative district who has provided sufficient information to the member or employee for the department to determine that the member or employee is acting on behalf of the taxpayer;

(4) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(5) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed

upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

(1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

(h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(k) may be released solely for tax collection purposes to township assessors and county assessors.

(i) The department shall notify the appropriate ~~innkeepers'~~ **innkeeper's** tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

(n) This section does not apply to:

(1) the beer excise tax, including brand and packaged type (IC 7.1-4-2);

(2) the liquor excise tax (IC 7.1-4-3);

(3) the wine excise tax (IC 7.1-4-4);

(4) the hard cider excise tax (IC 7.1-4-4.5);

(5) the malt excise tax (IC 7.1-4-5);
(6) the motor vehicle excise tax (IC 6-6-5);
(7) the commercial vehicle excise tax (IC 6-6-5.5); and
(8) the fees under IC 13-23.

(o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

(p) The name and business address of a person licensed by the department under IC 6-6 or IC 6-7 may be released for the purpose of reporting the status of the person's license.

(q) The department may release information concerning total incremental tax amounts under:

(1) IC 5-28-26;
(2) IC 36-7-13;
(3) IC 36-7-26;
(4) IC 36-7-27;
(5) IC 36-7-31;
(6) IC 36-7-31.3; or
(7) any other statute providing for the calculation of incremental state taxes that will be distributed to or retained by a political subdivision or other entity;

to the fiscal officer of the political subdivision or other entity that established the district or area from which the incremental taxes were received if that fiscal officer enters into an agreement with the department specifying that the political subdivision or other entity will use the information solely for official purposes.

(r) The department may release the information as required in IC 6-8.1-3-7.1 concerning:

(1) an innkeeper's tax, a food and beverage tax, or an admissions tax under IC 6-9;
(2) the supplemental auto rental excise tax under IC 6-6-9.7; and
(3) the covered taxes allocated to a professional sports development area fund, sports and convention facilities operating fund, or other fund under IC 36-7-31 and IC 36-7-31.3.

(s) Information concerning state gross retail tax exemption certificates that relate to a person who is exempt from the state gross retail tax under IC 6-2.5-4-5 may be disclosed to a power subsidiary (as defined in IC 6-2.5-4-5) or a person selling the services or commodities listed in IC 6-2.5-4-5(b) for the purpose of

enforcing and collecting the state gross retail and use taxes under IC 6-2.5.

SECTION 38. IC 6-8.1-8-2, AS AMENDED BY P.L.293-2013(ts), SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3 and sections 16 and 17 of this chapter, the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

(1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.

(2) The statutory authority of the department for the issuance of a tax warrant.

(3) The earliest date on which a tax warrant may be filed and recorded.

(4) The statutory authority for the department to levy against a person's property that is held by a financial institution.

(5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

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

(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the ten (10) day period, the department may issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable. When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

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

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

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

(d) When the circuit court clerk receives a tax warrant from the

department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

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

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

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

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

(1) chose in action in the county; and

(2) real or personal property in the county;

excepting only negotiable instruments not yet due.

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

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

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

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

(h) **Subject to subsections (p) and (q),** if the department determines that the filing of a tax warrant was in error **or if the commissioner determines that the release of the judgment and expungement of the tax warrant are in the best interest of the state,** the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record. The department shall mail the release and the order for the warrant to be expunged as soon as possible but no later than seven (7) days after:

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

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

(i) If the department determines that a judgment described in

subsection (h) is obstructing a lawful transaction, the department shall immediately upon making the determination mail:

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

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

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

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

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

(1) before the judgment is fully satisfied;

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

(3) after the sheriff has returned the tax warrant to the department;

the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department.

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

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

(2) The department fails to file an action to foreclose the lien not later than one hundred eighty (180) days after receiving the notice.

(n) A person who gives notice under subsection (m) by registered or certified mail to the department may file an affidavit of service of the notice to file an action to foreclose the lien with the circuit court clerk in the county in which the property is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than one hundred eighty (180) days have passed since the notice was received by the department.

(3) That no action for foreclosure of the lien is pending.

(4) That no unsatisfied judgment has been rendered on the lien.

(o) Upon receipt of the affidavit described in subsection (n), the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment records for tax warrants.

(p) The department shall adopt rules to define the circumstances under which a release and expungement may be granted based on a finding that the release and expungement would be in the best interest of the state. The rules may allow the commissioner to expunge a tax warrant in other circumstances not inconsistent with subsection (q) that the commissioner determines are appropriate. Any releases or expungements granted by the commissioner must be consistent with these rules.

(q) The commissioner may expunge a tax warrant in the following circumstances:

(1) If the taxpayer has timely and fully filed and paid all of the taxpayer's state taxes, or has otherwise resolved any outstanding state tax issues, for the preceding five (5) years.

(2) If the warrant was issued more than ten (10) years prior to the expungement.

(3) If the warrant is not subject to pending litigation.

(4) Other circumstances not inconsistent with subdivisions (1) through (3) that are specified in the rules adopted under subsection (p).

(r) Notwithstanding any other provision in this section, the commissioner may decline to release a judgment or expunge a warrant upon a finding that the warrant was issued based on the taxpayer's fraudulent, intentional, or reckless conduct.

(s) The rules required under subsection (p) shall specify the process for requesting that the commissioner release and expunge a tax warrant.

SECTION 39. IC 6-8.1-9-1, AS AMENDED BY P.L.137-2012, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections ~~(f)~~ **(j)** and ~~(g),~~ **(k),** in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax

is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the person disagrees with a part of the decision **on the claim,** the person may file a protest and request a hearing with the department. ~~The department shall mail a copy of the decision to the person who filed the protest.~~ If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

~~(c) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:~~

~~(1) the appeal is filed more than ninety (90) days after the later of the date the department mails:~~

~~(A) the decision of denial of the claim to the person; or~~

~~(B) the decision made on the protest filed under subsection (b); or~~

~~(2) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.~~

~~(d)~~ **(c)** The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under IC 33-26-6-2. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(d) The decision on the claim must state that the person has sixty (60) days from the date the decision is mailed to file a written protest. If the person files a protest and requests a hearing on the protest, the department shall:

(1) set the hearing at the department's earliest convenient time; and

(2) notify the person by United States mail of the time, date, and location of the hearing.

(e) The department may hold the hearing at the location of its choice within Indiana if that location complies with IC 6-8.1-3-8.5.

(f) After conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a memorandum of decision or order denying a refund and shall send a copy of the decision through the United States mail to the person who filed the protest. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision. The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(g) A person that disagrees with any part of the department's decision in a memorandum of decision or order denying a refund may request a rehearing not more than thirty (30) days after the date on which the memorandum of decision or order denying a refund is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(h) If the person disagrees with any part of the department's decision, the person may appeal the decision, regardless of whether or not the person protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal if:

(1) the appeal is filed more than ninety (90) days after the later of the dates on which:

(A) the memorandum of decision or order denying a refund is issued by the department, if the person does not make a timely request for a rehearing under subsection (g) on the letter of findings; or

(B) the department issues a denial of the person's timely request for a rehearing under subsection (g) on the memorandum of decision or order denying a refund; or

(2) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for a refund with the department.

The ninety (90) day period may be extended according to the terms of a written agreement signed by both the department and the

person. The agreement must specify a date upon which the extension will terminate and include a statement that the person agrees to preserve the person's records until that specified termination date. The specified termination date agreed upon under this subsection may not be more than ninety (90) days after the expiration of the period otherwise specified by this subsection.

~~(e)~~ **(i)** With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

~~(f)~~ **(j)** If a taxpayer's **federal taxable income, federal adjusted gross income, or** federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is one hundred eighty (180) days after the date ~~on which the taxpayer is notified~~ of the modification by the Internal Revenue Service **as provided under:**

(A) IC 6-3-4-6(c) and IC 6-3-4-6(d) (for the adjusted gross income tax); or

(B) IC 6-5.5-6-6(c) and IC 6-5.5-6-6(d) (for the financial institutions tax).

~~(g)~~ **(k)** If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(h), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 40. IC 6-8.1-9-2, AS AMENDED BY P.L.293-2013(ts), SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) If the department finds that a person has paid more tax for a taxable year than is legally due, the department shall apply the amount of the excess against any amount of that same tax that is assessed and is currently due. The department may then apply any remaining excess against any of the listed taxes that have been assessed against the person and that are currently due. Subject to subsection (c), if any excess remains after the department has applied the overpayment against the person's tax liabilities, the department shall either refund the amount to the person or, at the person's request, credit the amount to the person's future tax liabilities.

(b) Subject to subsection (c), if a court determines that a person has paid more tax for a taxable year than is legally due, the department shall refund the excess amount to the person.

(c) As used in this subsection, "pass through entity" means a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2), a partnership, a limited liability company, or a limited liability partnership and "pass through income" means a person's distributive share of adjusted gross income for a taxable year attributable to the person's interest in a pass through entity. This subsection applies to a person's overpayment of adjusted gross income tax for a taxable year if:

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

(2) the overpayment:

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

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

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

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

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

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

The department shall apply the overpayment to the person's liability for taxes that have been assessed and are currently due as provided in subsection (a) and apply any remaining overpayment as a credit or credits in satisfaction of the person's liability for listed taxes in taxable years beginning after December 31, 2008. If the person, including any successor to the person's interest in the overpayment, does not have sufficient liability for listed taxes against which to credit all the remaining overpayment in a taxable year beginning after December 31, 2008, and ending before January 1, 2019, the taxpayer is not entitled for any taxable year ending after December 31, 2018, to have any part of the remaining overpayment applied, refunded, or credited to the person's liability for listed taxes. If an overpayment or part of an overpayment is required to be applied as a credit under this subsection to the person's liability for listed taxes for a taxable year beginning after December 31, 2008, and has not been determined by the department or

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

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

(1) the date the refund claim is filed, **if the refund claim is filed before July 1, 2015; or**

(2) for a refund claim filed after June 30, 2015, the latest of:

(A) the date the tax payment was due;

(B) the date the tax was paid; or

(C) July 1, 2015;

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

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

(1) the receipt of the goods subject to the excise taxes, as reported

by the person, or the person's assignors or predecessors, on excise tax returns filed with the department; and

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

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

(1) that were paid by the person as described in subsection (e)(2);

(2) that are duplicative of excise taxes paid by the person as described in subsection (e)(1); and

(3) for which the person has not previously claimed a credit.

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

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

(1) expand employment; or

(2) assist in retaining employment within Indiana.

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

SECTION 41. IC 20-46-4-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 10.5. (a) This section applies to the following school corporations:**

(1) New Durham Township School Corporation.

(2) North Vermillion Community School Corporation.

(b) The superintendent of a school corporation listed in subsection (a) may, after approval by the governing body of the school corporation, submit a petition to the department of local government finance requesting an increase in the maximum permissible ad valorem property tax levy for the school corporation's transportation fund.

(c) If a superintendent submits a petition under subsection (b), the department of local government finance shall increase the maximum permissible ad valorem property tax levy for the school corporation's transportation fund for property taxes first due and payable after December 31, 2015, by an amount equal to the lesser

of the following:

(1) Two hundred seventy-six thousand eight hundred sixty-nine dollars ($276,869) in the case of New Durham Township School Corporation, or four hundred thirty-eight thousand two hundred ninety-four dollars ($438,294) in the case of North Vermillion Community School Corporation.

(2) The amount necessary to make the maximum permissible ad valorem property tax levy for the school corporation's transportation fund equal to the maximum permissible ad valorem property tax levy that would have applied to the school corporation's transportation fund for property taxes first due and payable after December 31, 2015, if in each year, beginning in 2003 and ending in 2015, the school corporation had imposed the maximum permissible ad valorem property tax levy for the school corporation's transportation fund in each of those years (regardless of whether the school corporation did impose the entire amount of the maximum permissible ad valorem property tax levy for the school corporation's transportation fund).

SECTION 42. IC 27-1-2-2.3, AS ADDED BY P.L.129-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.3. (a) As used in this section, "captive insurer" means a foreign company or an alien company:

(1) that is supervised in the foreign or alien jurisdiction;

(2) that is owned by a person that conducts business in Indiana;

(3) whose exclusive purpose is to insure property and casualty risks of:

(A) the parent entity described in subdivision (2);

(B) affiliates of the parent entity; or

(C) a controlled unaffiliated business;

which may include reinsuring (through risk-sharing arrangements) property and casualty risks insured by other foreign companies or alien companies described in subdivision (1); and

(4) that: ~~has not more than two million dollars ($2,000,000) of annual direct written premium.~~

(A) is owned or controlled by a state educational institution (as defined by IC 21-7-13-32); or

(B) has made an election under Section 831(b) of the Internal Revenue Code if that election is in effect.

(b) As used in this section, "controlled unaffiliated business" means a business:

(1) that:

(A) is not an affiliate of; and

(B) has a contractual relationship with;

a parent entity described in subsection (a)(2) or an affiliate of the parent entity; and

(2) the risks of which are managed by a captive insurer.

(c) Except as provided in this section, this article does not apply to a captive insurer.

(d) A captive insurer that is doing business in Indiana:

(1) is not required to obtain a certificate of authority in Indiana **under IC 27-1-6 for domestic formation or under IC 27-1-17 for foreign company admission;**

(2) shall register with the commissioner; and

(3) shall, for each calendar year after 2012 in which the captive insurer is doing business in Indiana, pay into the treasury of this state a tax of two thousand five hundred dollars ($2,500).

(e) A captive insurer that is required to pay the tax imposed for a calendar year under subsection (d)(3) shall pay the tax as follows:

(1) For a tax imposed under subsection (d)(3) for calendar year 2013, the captive insurer shall pay the tax before July 1, 2014.

(2) For a tax imposed under subsection (d)(3) for a calendar year after 2013, the captive insurer shall pay the tax before April 15 of the following calendar year.

(f) The state and a political subdivision of the state shall not impose a license fee or privilege or other tax on a captive insurer, except the following:

(1) The tax described in subsection (d)(3).

(2) An applicable tax on real and tangible personal property of the captive insurer.

SECTION 43. IC 36-7-14.5-12.5, AS AMENDED BY P.L.203-2011, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the

area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.

(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any economic development area within the jurisdiction of the authority.

(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform

the duties of the authority.

(11) Exercise the power of eminent domain in the name of and within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(14) Prescribe the duties and regulate the compensation of employees of the authority.

(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).

(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.

(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:

(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.

(B) Any structure that enhances development or economic development.

(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial assistance from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39 apply to an allocation area created under this section, except that the authority shall be vested with the rights and duties of a commission as referenced in those sections, **except that the expiration date of any allocation provision for the allocation area is the later of July 1, 2016, or the expiration date determined under IC 36-7-14-39(b),** and except that, notwithstanding IC 36-7-14-39(b)(3), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for obligations payable solely or in part from allocated tax proceeds

in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it that benefits or provides for local public improvements or structures in or serving or benefiting that allocation area.

(5) Pay expenses incurred by the authority that benefit or provide for local public improvements or structures that are in the allocation area or serving or benefiting the allocation area.

(6) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in clause (B). The reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefiting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an

indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and (B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of or be employed at a place of employment located within the unit. The members shall be appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the

purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

SECTION 44. [EFFECTIVE JULY 1, 2015] **(a) The following definitions apply throughout this SECTION:**

(1) "C corporation" means a corporation subject to Internal Revenue Code Subtitle A, Chapter 1, Subchapter C (Internal Revenue Code Section 301 et seq.) for federal income tax purposes.

(2) "Listed taxes" has the meaning set forth in IC 6-8.1-1-1.

(3) "Statutory tax relief" for a calendar year after 2010 for a class of taxpayers means the amount equal to:

(A) the best estimate of the sum of all listed taxes revenue and property tax revenue that would have been received from the class of taxpayers for the calendar year if the Indiana Code in effect on January 1, 2010, were effective throughout the calendar year; minus

(B) the best estimate of the sum of all listed taxes revenue and property tax revenue received from, or anticipated to be received from, the class of taxpayers for the calendar year:

(i) under the Indiana Code in effect on January 1 of the calendar year, for a calendar year after 2010 and before 2016; or

(ii) under the Indiana Code anticipated to be in effect on January 1, 2016, for a calendar year after 2015.

(b) The legislative services agency shall conduct a study to determine:

(1) the statutory tax relief realized by C corporations for each

calendar year after 2010 and before 2015; and

(2) the statutory tax relief anticipated to be realized by C corporations for each calendar year after 2014 and before 2022.

(c) Not later than December 31, 2016, the legislative services agency shall submit a report of the study to the legislative council and the chairperson and ranking minority member of the house committee on ways and means and the senate committee on tax and fiscal policy.

(d) This SECTION expires December 31, 2016.

SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of state revenue.**

(b) The department shall, not later than December 31, 2016:

(1) conduct a study of the department's current information systems;

(2) develop a plan for modernizing the department's information systems; and

(3) submit a report of the study conducted under subdivision (1) and the plan developed under subdivision (2) to the budget committee and the legislative council.

(c) The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

(d) This SECTION expires January 1, 2017.

SECTION 46. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____