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# HOUSE BILL No. 1088

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-4-17; IC 6-3.5; IC 6-8.1.

**Synopsis:** County and municipal income taxes. Allows a county to use an additional county adjusted gross income tax rate or county option income tax rate to reduce all property tax levies imposed by the county by granting property tax replacement credits against those property tax levies to all taxpayers. Allows a municipality to adopt a municipal income tax if the municipality is located in such a county. Requires an adopting municipality to provide property tax relief for property owners in the municipality by freezing the levy or providing general property tax replacement credits, homestead credits, or local property tax replacement credits for residential property, or any combination of the permitted forms of relief. Provides that the maximum municipal option income tax rate is the rate specified for the reduction of the county levies. Provides that the combined municipal and county rates may not exceed 1%. Requires the department of state revenue to include on the adjusted gross income tax return a requirement that the taxpayer identify the city or town, if any, where the taxpayer's principal place of residence is located.

**Effective:** July 1, 2012.

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## Thompson

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January 9, 2012, read first time and referred to Committee on Ways and Means.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## HOUSE BILL No. 1088



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

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

- 1 SECTION 1. IC 6-3-4-17, AS AMENDED BY P.L.42-2011,
- 2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 17. **(a)** Beginning after December 31, 2010, the
- 4 department and the office of management and budget shall:
- 5 (1) develop a quarterly report that summarizes the amount
- 6 reported to and processed by the department under section 4.1(h)
- 7 of this chapter, section 15.7(a)(3) of this chapter,
- 8 IC 6-3.5-1.1-18(c), IC 6-3.5-6-22(c), and IC 6-3.5-7-18(c) for
- 9 each county; and
- 10 (2) make the quarterly report available to county auditors within
- 11 forty-five (45) days after the end of the calendar quarter.
- 12 **(b) Beginning after December 31, 2013, the department and the**
- 13 **office of management and budget shall:**
- 14 **(1) develop a quarterly report that summarizes the amount**
- 15 **reported to and processed by the department under**
- 16 **IC 6-3.5-10-22(c) for each city and town; and**
- 17 **(2) make the quarterly report available to city and town fiscal**



- 1           **officers within forty-five (45) days after the end of the**  
 2           **calendar quarter.**
- 3           SECTION 2. IC 6-3.5-1.1-26, AS AMENDED BY P.L.172-2011,  
 4           SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5           JULY 1, 2012]: Sec. 26. (a) A county council may impose a tax rate  
 6           under this section to provide property tax relief to taxpayers in the  
 7           county. A county council is not required to impose any other tax before  
 8           imposing a tax rate under this section.
- 9           (b) A tax rate under this section may be imposed in increments of  
 10          five hundredths of one percent (0.05%) determined by the county  
 11          council. **Except as provided in subsection (f)(5), a tax rate under this**  
 12          **section may not exceed one percent (1%). The sum of the tax rates**  
 13          **imposed:**
- 14                **(1) by a county under this section; and**  
 15                **(2) by a municipality located in the county under IC 6-3.5-10;**  
 16          **may not exceed one percent (1%).**
- 17          (c) A tax rate under this section is in addition to any other tax rates  
 18          imposed under this chapter and does not affect the purposes for which  
 19          other tax revenue under this chapter may be used.
- 20          (d) If a county council adopts an ordinance to impose or increase a  
 21          tax rate under this section, the county auditor shall send a certified  
 22          copy of the ordinance to the department and the department of local  
 23          government finance by certified mail.
- 24          (e) A tax rate under this section may be imposed, increased,  
 25          decreased, or rescinded by a county council at the same time and in the  
 26          same manner that the county council may impose or increase a tax rate  
 27          under section 24 of this chapter.
- 28          (f) Tax revenue attributable to a tax rate under this section may be  
 29          used for any combination of the following purposes, as specified by  
 30          ordinance of the county council:
- 31                (1) Except as provided in subsection (j), the tax revenue may be  
 32                used to provide local property tax replacement credits at a  
 33                uniform rate to all taxpayers in the county. The local property tax  
 34                replacement credits shall be treated for all purposes as property  
 35                tax levies. The county auditor shall determine the local property  
 36                tax replacement credit percentage for a particular year based on  
 37                the amount of tax revenue that will be used under this subdivision  
 38                to provide local property tax replacement credits in that year. A  
 39                county council may not adopt an ordinance determining that tax  
 40                revenue shall be used under this subdivision to provide local  
 41                property tax replacement credits at a uniform rate to all taxpayers  
 42                in the county unless the county council has done the following:

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(A) Made available to the public the county council's best estimate of the amount of property tax replacement credits to be provided under this subdivision to homesteads, other residential property, commercial property, industrial property, and agricultural property.

(B) Adopted a resolution or other statement acknowledging that some taxpayers in the county that do not pay the tax rate under this section will receive a property tax replacement credit that is funded with tax revenue from the tax rate under this section.

(2) The tax revenue may be used to uniformly provide the homestead credit percentage in the county. The homestead credits shall be treated for all purposes as property tax levies. The homestead credits do not reduce the basis for determining any state homestead credit. The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1. The county auditor shall determine the homestead credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide homestead credits in that year.

(3) The tax revenue may be used to provide local property tax replacement credits at a uniform rate for all qualified residential property (as defined in IC 6-1.1-20.6-4 before January 1, 2009, and as defined in section 1 of this chapter after December 31, 2008) in the county. The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year.

(4) This subdivision applies only to Lake County. The Lake County council may adopt an ordinance providing that the tax revenue from the tax rate under this section is used for any of the following:

(A) To reduce all property tax levies imposed by the county by the granting of property tax replacement credits against those property tax levies.

(B) To provide local property tax replacement credits in Lake County in the following manner:

(i) The tax revenue under this section that is collected from

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1 taxpayers within a particular municipality in Lake County  
 2 (as determined by the department based on the department's  
 3 best estimate) shall be used only to provide a local property  
 4 tax credit against property taxes imposed by that  
 5 municipality.

6 (ii) The tax revenue under this section that is collected from  
 7 taxpayers within the unincorporated area of Lake County (as  
 8 determined by the department) shall be used only to provide  
 9 a local property tax credit against property taxes imposed by  
 10 the county. The local property tax credit for the  
 11 unincorporated area of Lake County shall be available only  
 12 to those taxpayers within the unincorporated area of the  
 13 county.

14 (C) To provide property tax credits in the following manner:

15 (i) Sixty percent (60%) of the tax revenue under this section  
 16 shall be used as provided in clause (B).

17 (ii) Forty percent (40%) of the tax revenue under this section  
 18 shall be used to provide property tax replacement credits  
 19 against property tax levies of the county and each township  
 20 and municipality in the county. The percentage of the tax  
 21 revenue distributed under this item that shall be used as  
 22 credits against the county's levies or against a particular  
 23 township's or municipality's levies is equal to the percentage  
 24 determined by dividing the population of the county,  
 25 township, or municipality by the sum of the total population  
 26 of the county, each township in the county, and each  
 27 municipality in the county.

28 The Lake County council shall determine whether the credits  
 29 under clause (A), (B), or (C) shall be provided to homesteads, to  
 30 all qualified residential property, or to all taxpayers. The  
 31 department of local government finance, with the assistance of the  
 32 budget agency, shall certify to the county auditor and the fiscal  
 33 body of the county and each township and municipality in the  
 34 county the amount of property tax credits under this subdivision.  
 35 Except as provided in subsection (g), the tax revenue under this  
 36 section that is used to provide credits under this subdivision shall  
 37 be treated for all purposes as property tax levies.

38 **(5) The tax revenue may be used to reduce all property tax**  
 39 **levies imposed by the county by granting property tax**  
 40 **replacement credits against those property tax levies to all**  
 41 **taxpayers. The tax revenue under this section that is used to**  
 42 **provide property tax replacement credits under this**

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1           **subdivision shall be treated for all purposes as property tax**  
 2           **levies. The following apply if a county uses tax revenue to**  
 3           **provide property tax replacement credits under this**  
 4           **subdivision:**

5           **(A) The additional tax rate that may be used for this**  
 6           **purpose must be specified by the ordinance of the county**  
 7           **council.**

8           **(B) The additional tax rate that may be used for this**  
 9           **purpose may not exceed five-tenths of one percent (0.5%).**

10           **(C) The sum of all additional tax rates imposed under this**  
 11           **section for all purposes permitted by this subsection may**  
 12           **not exceed five-tenths of one percent (0.5%).**

13           The county council may adopt an ordinance changing the purposes for  
 14           which tax revenue attributable to a tax rate under this section shall be  
 15           used in the following year.

16           (g) The tax rate under this section and the tax revenue attributable  
 17           to the tax rate under this section shall not be considered for purposes  
 18           of computing:

19           (1) the maximum income tax rate that may be imposed in a county  
 20           under section 2 of this chapter or any other provision of this  
 21           chapter;

22           (2) the maximum permissible property tax levy under  
 23           IC 6-1.1-18.5-3; or

24           (3) the credit under IC 6-1.1-20.6.

25           (h) Tax revenue under this section shall be treated as a part of the  
 26           receiving civil taxing unit's or school corporation's property tax levy for  
 27           that year for purposes of fixing the budget of the civil taxing unit or  
 28           school corporation and for determining the distribution of taxes that are  
 29           distributed on the basis of property tax levies. To the extent the county  
 30           auditor determines that there is income tax revenue remaining from the  
 31           tax under this section after providing the property tax replacement  
 32           credits, the excess shall be credited to a dedicated county account and  
 33           may be used only for property tax replacement credits under this  
 34           section in subsequent years.

35           (i) The department of local government finance and the department  
 36           of state revenue may take any actions necessary to carry out the  
 37           purposes of this section.

38           (j) A taxpayer that owns an industrial plant located in Jasper County  
 39           is ineligible for a local property tax replacement credit under this  
 40           section against the property taxes due on the industrial plant if the  
 41           assessed value of the industrial plant as of March 1, 2006, exceeds  
 42           twenty percent (20%) of the total assessed value of all taxable property

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1 in the county on that date. The general assembly finds that the  
 2 provisions of this subsection are necessary because the industrial plant  
 3 represents such a large percentage of Jasper County's assessed  
 4 valuation.

5 SECTION 3. IC 6-3.5-1.5-4 IS ADDED TO THE INDIANA CODE  
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 7 1, 2012]: Sec. 4. (a) **This section applies to a municipality that  
 8 imposes a municipal option income tax under IC 6-3.5-10.**

9 (b) **The budget agency shall, before July 1 of each year, jointly  
 10 calculate the municipal option income tax rate (as applicable) that  
 11 must be imposed in a county to raise income tax revenue in the  
 12 following year equal to the result of:**

13 (1) **the department of local government finance's estimate of  
 14 maximum permissible ad valorem property tax levies  
 15 calculated under IC 6-1.1-18.5 for the municipality for the  
 16 ensuing calendar year; minus**

17 (2) **the maximum permissible ad valorem property tax levy  
 18 calculated under IC 6-1.1-18.5 for the municipality for the  
 19 current calendar year.**

20 (c) **In the case of a municipality that wishes to use tax revenue  
 21 received under IC 6-3.5-10 to freeze its levy for the first time, the  
 22 department of local government finance and the budget agency  
 23 shall jointly estimate the amount that will be calculated under  
 24 subsection (b) in the second year after the tax rate is first imposed.  
 25 The department of local government finance and the budget  
 26 agency shall calculate the tax rate under IC 6-3.5-10 that must be  
 27 imposed in the municipality in the second year after the tax rate is  
 28 first imposed to raise income tax revenue equal to the estimate  
 29 under this subsection.**

30 (d) **The budget agency and the department of local government  
 31 finance shall make the calculations under subsections (b) and (c)  
 32 based on the best information available at the time the calculation  
 33 is made.**

34 SECTION 4. IC 6-3.5-6-32, AS AMENDED BY P.L.172-2011,  
 35 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2012]: Sec. 32. (a) A county income tax council may impose  
 37 a tax rate under this section to provide property tax relief to taxpayers  
 38 in the county. A county income tax council is not required to impose  
 39 any other tax before imposing a tax rate under this section.

40 (b) A tax rate under this section may be imposed in increments of  
 41 five-hundredths of one percent (0.05%) determined by the county  
 42 income tax council. **Except as provided in subsection (f)(5), a tax rate**

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1 under this section may not exceed one percent (1%). **The sum of the**  
 2 **tax rates imposed:**

3 **(1) by a county under this section; and**  
 4 **(2) by a municipality located in the county under IC 6-3.5-10;**  
 5 **may not exceed one percent (1%).**

6 (c) A tax rate under this section is in addition to any other tax rates  
 7 imposed under this chapter and does not affect the purposes for which  
 8 other tax revenue under this chapter may be used.

9 (d) If a county income tax council adopts an ordinance to impose or  
 10 increase a tax rate under this section, the county auditor shall send a  
 11 certified copy of the ordinance to the department, the budget agency,  
 12 and the department of local government finance by certified mail.

13 (e) A tax rate under this section may be imposed, increased,  
 14 decreased, or rescinded at the same time and in the same manner that  
 15 the county income tax council may impose or increase a tax rate under  
 16 section 30 of this chapter.

17 (f) Tax revenue attributable to a tax rate under this section may be  
 18 used for any combination of the following purposes, as specified by  
 19 ordinance of the county income tax council:

20 (1) The tax revenue may be used to provide local property tax  
 21 replacement credits at a uniform rate to all taxpayers in the  
 22 county. The local property tax replacement credits shall be treated  
 23 for all purposes as property tax levies. The county auditor shall  
 24 determine the local property tax replacement credit percentage for  
 25 a particular year based on the amount of tax revenue that will be  
 26 used under this subdivision to provide local property tax  
 27 replacement credits in that year. A county income tax council may  
 28 not adopt an ordinance determining that tax revenue shall be used  
 29 under this subdivision to provide local property tax replacement  
 30 credits at a uniform rate to all taxpayers in the county unless the  
 31 county council has done the following:

32 (A) Made available to the public the county council's best  
 33 estimate of the amount of property tax replacement credits to  
 34 be provided under this subdivision to homesteads, other  
 35 residential property, commercial property, industrial property,  
 36 and agricultural property.

37 (B) Adopted a resolution or other statement acknowledging  
 38 that some taxpayers in the county that do not pay the tax rate  
 39 under this section will receive a property tax replacement  
 40 credit that is funded with tax revenue from the tax rate under  
 41 this section.

42 (2) The tax revenue may be used to uniformly increase (before

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1 January 1, 2011) or uniformly provide (after December 31, 2010)  
 2 the homestead credit percentage in the county. The homestead  
 3 credits shall be treated for all purposes as property tax levies. The  
 4 homestead credits do not reduce the basis for determining any  
 5 state homestead credit. The homestead credits shall be applied to  
 6 the net property taxes due on the homestead after the application  
 7 of all other assessed value deductions or property tax deductions  
 8 and credits that apply to the amount owed under IC 6-1.1. The  
 9 county auditor shall determine the homestead credit percentage  
 10 for a particular year based on the amount of tax revenue that will  
 11 be used under this subdivision to provide homestead credits in  
 12 that year.

13 (3) The tax revenue may be used to provide local property tax  
 14 replacement credits at a uniform rate for all qualified residential  
 15 property (as defined in IC 6-1.1-20.6-4 before January 1, 2009,  
 16 and as defined in section 1 of this chapter after December 31,  
 17 2008) in the county. The local property tax replacement credits  
 18 shall be treated for all purposes as property tax levies. The county  
 19 auditor shall determine the local property tax replacement credit  
 20 percentage for a particular year based on the amount of tax  
 21 revenue that will be used under this subdivision to provide local  
 22 property tax replacement credits in that year.

23 (4) This subdivision applies only to Lake County. The Lake  
 24 County council may adopt an ordinance providing that the tax  
 25 revenue from the tax rate under this section is used for any of the  
 26 following:

27 (A) To reduce all property tax levies imposed by the county by  
 28 the granting of property tax replacement credits against those  
 29 property tax levies.

30 (B) To provide local property tax replacement credits in Lake  
 31 County in the following manner:

32 (i) The tax revenue under this section that is collected from  
 33 taxpayers within a particular municipality in Lake County  
 34 (as determined by the department based on the department's  
 35 best estimate) shall be used only to provide a local property  
 36 tax credit against property taxes imposed by that  
 37 municipality.

38 (ii) The tax revenue under this section that is collected from  
 39 taxpayers within the unincorporated area of Lake County (as  
 40 determined by the department) shall be used only to provide  
 41 a local property tax credit against property taxes imposed by  
 42 the county. The local property tax credit for the

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unincorporated area of Lake County shall be available only to those taxpayers within the unincorporated area of the county.

- (C) To provide property tax credits in the following manner:
  - (i) Sixty percent (60%) of the tax revenue under this section shall be used as provided in clause (B).
  - (ii) Forty percent (40%) of the tax revenue under this section shall be used to provide property tax replacement credits against property tax levies of the county and each township and municipality in the county. The percentage of the tax revenue distributed under this item that shall be used as credits against the county's levies or against a particular township's or municipality's levies is equal to the percentage determined by dividing the population of the county, township, or municipality by the sum of the total population of the county, each township in the county, and each municipality in the county.

The Lake County council shall determine whether the credits under clause (A), (B), or (C) shall be provided to homesteads, to all qualified residential property, or to all taxpayers. The department of local government finance, with the assistance of the budget agency, shall certify to the county auditor and the fiscal body of the county and each township and municipality in the county the amount of property tax credits under this subdivision. Except as provided in subsection (g), the tax revenue under this section that is used to provide credits under this subdivision shall be treated for all purposes as property tax levies.

**(5) The tax revenue may be used to reduce all property tax levies imposed by the county by granting property tax replacement credits against those property tax levies to all taxpayers. The tax revenue under this section that is used to provide property tax replacement credits under this subdivision shall be treated for all purposes as property tax levies. The following apply if a county uses tax revenue to provide property tax replacement credits under this subdivision:**

- (A) The additional tax rate that may be used for this purpose must be specified by the ordinance of the county income tax council.**
- (B) The additional tax rate that may be used for this purpose may not exceed five-tenths of one percent (0.5%).**
- (C) The sum of all additional tax rates imposed under this**

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1 **section for all purposes permitted by this subsection may**  
2 **not exceed five-tenths of one percent (0.5%).**

3 The county income tax council may adopt an ordinance changing the  
4 purposes for which tax revenue attributable to a tax rate under this  
5 section shall be used in the following year.

6 (g) The tax rate under this section shall not be considered for  
7 purposes of computing:

8 (1) the maximum income tax rate that may be imposed in a county  
9 under section 8 or 9 of this chapter or any other provision of this  
10 chapter;

11 (2) the maximum permissible property tax levy under  
12 IC 6-1.1-18.5-3; or

13 (3) the credit under IC 6-1.1-20.6.

14 (h) Tax revenue under this section shall be treated as a part of the  
15 receiving civil taxing unit's or school corporation's property tax levy for  
16 that year for purposes of fixing the budget of the civil taxing unit or  
17 school corporation and for determining the distribution of taxes that are  
18 distributed on the basis of property tax levies. To the extent the county  
19 auditor determines that there is income tax revenue remaining from the  
20 tax under this section after providing the property tax replacement, the  
21 excess shall be credited to a dedicated county account and may be used  
22 only for property tax replacement under this section in subsequent  
23 years.

24 (i) The department of local government finance, and the department  
25 of state revenue may take any actions necessary to carry out the  
26 purposes of this section.

27 (j) Notwithstanding any other provision, in Lake County the county  
28 council (and not the county income tax council) is the entity authorized  
29 to take actions concerning the tax rate under this section.

30 SECTION 5. IC 6-3.5-10 IS ADDED TO THE INDIANA CODE  
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2012]:

33 **Chapter 10. Municipal Option Income Tax**

34 **Sec. 1. This chapter applies to a municipality located in a county**  
35 **that does both of the following:**

36 **(1) Adopts an additional tax rate under one (1) of the**  
37 **following:**

38 **(A) IC 6-3.5-1.1-26.**

39 **(B) IC 6-3.5-6-32.**

40 **(2) Specifies by ordinance that all or part of the additional tax**  
41 **rate will be used for the purpose specified by one (1) of the**  
42 **following:**

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(A) IC 6-3.5-1.1-26(f)(5).

(B) IC 6-3.5-6-32(f)(5).

**Sec. 1.5. (a) A power granted by this chapter to adopt an ordinance to:**

- (1) impose, increase, decrease, or rescind a tax or tax rate; or**
- (2) grant, increase, decrease, rescind, or change a homestead credit or property tax replacement credit authorized under this chapter;**

**may be exercised at any time in a year before November 1 of that year.**

**(b) An ordinance authorized by this chapter that imposes or increases a tax or a tax rate takes effect as follows:**

- (1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect October 1 of the current year.**
- (2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.**
- (3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.**

**(c) An ordinance authorized by this chapter that decreases or rescinds a tax or a tax rate takes effect as follows:**

- (1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect on the later of October 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.**
- (2) An ordinance adopted after September 30 and before October 16 of the current year takes effect on the later of November 1 of the current year or the first day of the month in which the last increase in the tax or tax rate occurred.**
- (3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.**

**(d) An ordinance authorized by this chapter that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit authorized under this chapter takes effect for and applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.**

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1           **Sec. 2.** As used in this chapter, "adjusted gross income" has the  
2 meaning set forth in IC 6-3-1-3.5.

3           **Sec. 3.** As used in this chapter, "department" refers to the  
4 department of state revenue.

5           **Sec. 4.** As used in this chapter, "fiscal body" means:  
6           (1) the common council, for a city; and  
7           (2) the town council, for a town.

8           **Sec. 5.** As used in this chapter, "municipal option income tax"  
9 refers to the tax authorized by this chapter.

10           **Sec. 6.** As used in this chapter, "municipal taxpayer", as the  
11 term relates to a particular municipality, means any individual  
12 who resides in that municipality on the date specified in section 18  
13 of this chapter.

14           **Sec. 7.** As used in this chapter, "municipality" means a city or  
15 town.

16           **Sec. 8. (a)** The fiscal body of a municipality may adopt an  
17 ordinance to impose a municipal option income tax on the adjusted  
18 gross income of municipal taxpayers as provided in section 10 of  
19 this chapter.

20           (b) A fiscal body shall hold at least one (1) public hearing on the  
21 proposed ordinance before the public hearing at which an  
22 ordinance is adopted under subsection (a). The fiscal body shall  
23 give public notice of the public hearing under IC 5-3-1.

24           **Sec. 9. (a)** The municipal option income tax may be imposed on  
25 the adjusted gross income of municipal taxpayers in increments of  
26 five-hundredths of one percent (0.05%). However, the tax rate may  
27 not exceed the lesser of the following:

28           (1) The additional tax rate imposed by the county in which the  
29 municipality is located under either of the following:

- 30           (A) IC 6-3.5-1.1-26(f)(5).
- 31           (B) IC 6-3.5-6-32(f)(5).

32           (2) Five-tenths of one percent (0.5%).

33           (b) The sum of the tax rates imposed:

- 34           (1) by a municipality under this chapter; and
- 35           (2) by the county in which the municipality is located under  
36 IC 6-3.5-1.1-26(f)(5) or IC 6-3.5-6-32(f)(5);

37 may not exceed one percent (1%).

38           **Sec. 10.** To impose a municipal option income tax, the fiscal  
39 body of a municipality must adopt an ordinance. The ordinance  
40 must state substantially the following:

41           "The \_\_\_\_\_ (insert name of municipality) \_\_\_\_\_ (insert  
42 City or Town) Council imposes the municipal option income

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1 tax on the residents of \_\_\_\_\_ (insert name of municipality).  
2 The income tax is imposed at a rate of \_\_\_\_\_ percent  
3 (\_\_\_\_%)."

4 **Sec. 11. (a) The fiscal body of a municipality may increase or**  
5 **decrease the rate of a municipal option income tax. To increase or**  
6 **decrease the rate, the fiscal body must adopt an ordinance. The**  
7 **ordinance must state substantially the following:**

8 "The \_\_\_\_\_ (insert name of municipality) \_\_\_\_\_ (insert  
9 City or Town) Council increases (or decreases) the rate of the  
10 municipal option income tax. The tax rate is increased (or  
11 decreased) from (insert current rate) to (insert proposed  
12 rate)."

13 **(b) A fiscal body shall hold at least one (1) public hearing on the**  
14 **proposed ordinance before the public hearing at which the**  
15 **ordinance is adopted under subsection (a). The fiscal body shall**  
16 **give public notice of the public hearing under IC 5-3-1.**

17 **Sec. 12. (a) The fiscal body of a municipality may rescind the**  
18 **municipal option income tax by adopting an ordinance to rescind**  
19 **the tax.**

20 **(b) A fiscal body shall hold at least one (1) public hearing on the**  
21 **proposed ordinance before the public hearing at which the**  
22 **ordinance is adopted under subsection (a). The fiscal body shall**  
23 **give public notice of the public hearing under IC 5-3-1.**

24 **Sec. 13. A municipal option income tax remains in effect until**  
25 **the date the tax is rescinded.**

26 **Sec. 14. Immediately upon adoption of any ordinance under this**  
27 **chapter, the fiscal officer of the municipality shall send a certified**  
28 **copy of the ordinance to the department by certified mail.**

29 **Sec. 15. (a) Revenue derived from the imposition of the**  
30 **municipal option income tax shall, in the manner prescribed by this**  
31 **section, be distributed to the municipality that imposed it.**

32 **(b) Before August 2 of each calendar year, the budget agency**  
33 **shall certify to the fiscal officer of each adopting municipality the**  
34 **amount of municipal option income tax revenue that the budget**  
35 **agency determines has been:**

36 **(1) received from municipal taxpayers of that municipality for**  
37 **the taxable year ending before the calendar year in which the**  
38 **determination is made; and**

39 **(2) reported on annual returns or amended returns processed**  
40 **by the department in the state fiscal year ending before July**

41 **1 of the calendar year in which the determination is made;**  
42 **as adjusted for refunds of municipal option income tax made in the**

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1 state fiscal year plus the amount of interest in the municipality's  
 2 account that has accrued and has not been included in a  
 3 certification made in a preceding year. The amount certified is the  
 4 municipality's certified distribution for the following calendar  
 5 year.

6 (c) The amount certified under subsection (b) shall be adjusted  
 7 under subsections (d), (e), and (f). The budget agency shall provide  
 8 each municipality's fiscal body with an informative summary of the  
 9 calculations used to determine the certified distribution. The  
 10 summary of calculations must include:

- 11 (1) the amount reported on individual income tax returns
- 12 processed by the department during the previous fiscal year;
- 13 (2) adjustments for overdistributions in prior years;
- 14 (3) adjustments for clerical or mathematical errors in prior
- 15 years;
- 16 (4) adjustments for tax rate changes; and
- 17 (5) the amount of excess account balances to be distributed
- 18 under section 16 of this chapter.

19 (d) The budget agency shall certify an amount less than the  
 20 amount determined under subsection (b) if the budget agency  
 21 determines that the reduced distribution is necessary to offset  
 22 overpayments made in a calendar year before the calendar year of  
 23 the distribution. The budget agency may reduce the amount of the  
 24 certified distribution over several calendar years so that any  
 25 overpayments are offset over several years rather than in one (1)  
 26 lump sum.

27 (e) The budget agency shall adjust the certified distribution of  
 28 a municipality to correct for any clerical or mathematical errors  
 29 made in any previous certification under this section. The budget  
 30 agency may reduce the amount of the certified distribution over  
 31 several calendar years so that any adjustment under this  
 32 subsection is offset over several years rather than in one (1) lump  
 33 sum.

34 (f) This subsection applies to a municipality that:

- 35 (1) initially imposes the municipal option income tax; or
- 36 (2) increases the municipal option income tax rate;

37 under this chapter in the same calendar year in which the budget  
 38 agency makes a certification under this section. The budget agency  
 39 shall adjust the certified distribution of a municipality to provide  
 40 for a distribution in the immediately following calendar year and  
 41 in each calendar year thereafter. The budget agency shall provide  
 42 for a full transition to certification of distributions as provided in

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1 subsection (b)(1) through (b)(2).

2 (g) On the first business day in May of each year, one-half (1/2)  
3 of each municipality's certified distribution for the calendar year  
4 shall be distributed from its account to the municipality's fiscal  
5 officer. The other one-half (1/2) shall be distributed on the first  
6 business day in November of that calendar year.

7 Sec. 16. (a) A special account within the state general fund shall  
8 be established for each municipality adopting a municipal option  
9 income tax. Revenue derived from the imposition of the municipal  
10 option income tax shall be deposited in that municipality's special  
11 account in the state general fund. Money in the special account is  
12 appropriated to make the distributions required by this chapter.

13 (b) Income earned on money held in a municipality's special  
14 account under subsection (a) becomes a part of that account.

15 (c) Revenue remaining in a municipality's special account at the  
16 end of a state fiscal year does not revert to any other account in the  
17 state general fund.

18 (d) Before October 2 of each year, the department shall submit  
19 a report to each municipality's fiscal officer indicating the balance  
20 in the municipality's special account as of the cutoff date set by the  
21 budget agency.

22 (e) If the budget agency determines that a sufficient balance  
23 exists in a municipality's account that exceeds the amount  
24 necessary, when added to other money that will be deposited in the  
25 account after the date of the determination, to make certified  
26 distributions to the municipality in the ensuing year, the budget  
27 agency shall make a supplemental distribution to the municipality  
28 from the municipality's special account. A determination under  
29 this subsection must be made before October 2.

30 (f) A supplemental distribution described in subsection (e) must  
31 be:

- 32 (1) made in January of the following calendar year; and  
33 (2) allocated in the same manner as certified distributions for  
34 deposit in a municipality's rainy day fund established under  
35 IC 36-1-8-5.1.

36 Sec. 17. A municipality may use distributions received under  
37 this chapter to provide property tax relief for property owners in  
38 the municipality using any combination of the following:

- 39 (1) Freezing the municipality's levy in an amount determined  
40 under IC 6-3.5-1.5-4.  
41 (2) Providing local property tax replacement credits at a  
42 uniform rate to all taxpayers located in the municipality.

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1 (3) Providing local homestead credits to all homesteads  
2 located in the municipality.

3 (4) Providing local property tax replacement credits at a  
4 uniform rate for all qualified residential property (as defined  
5 in IC 6-3.5-6-1) located in the municipality.

6 Sec. 18. (a) For purposes of this chapter, an individual shall be  
7 treated as a municipal taxpayer of the municipality in which the  
8 individual:

- 9 (1) maintains a residence, if the individual maintains only one
- 10 (1) residence in Indiana;
- 11 (2) if subdivision (1) does not apply, registers to vote;
- 12 (3) if subdivisions (1) and (2) do not apply, registers the
- 13 individual's personal automobile; or
- 14 (4) if subdivisions (1), (2), and (3) do not apply, spends the
- 15 majority of the individual's time in Indiana during the taxable
- 16 year in question.

17 (b) Whether an individual is a municipal taxpayer is determined  
18 on January 1 of the calendar year in which the individual's taxable  
19 year commences. If an individual changes the location of the  
20 individual's residence to another location in Indiana during a  
21 calendar year, the individual's liability for municipal option  
22 income tax is not affected.

23 Sec. 19. If a municipal option income tax is not in effect during  
24 an individual taxpayer's entire taxable year, the amount of  
25 municipal option income tax that the taxpayer owes for that  
26 taxable year equals the product of:

- 27 (1) the amount of the municipal option income tax the
- 28 taxpayer would owe if the tax had been imposed during the
- 29 taxpayer's entire taxable year; multiplied by
- 30 (2) a fraction, of which:
  - 31 (A) the numerator equals the number of days during the
  - 32 taxpayer's taxable year that the municipal option income
  - 33 tax was in effect; and
  - 34 (B) the denominator equals the total number of days in the
  - 35 taxpayer's taxable year.

36 Sec. 20. (a) If, for a particular taxable year, a municipal  
37 taxpayer is allowed, or a municipal taxpayer and the municipal  
38 taxpayer's spouse who file a joint return are allowed, a credit for  
39 the elderly or the totally disabled under Section 22 of the Internal  
40 Revenue Code, the municipal taxpayer is entitled, or the municipal  
41 taxpayer and the municipal taxpayer's spouse are entitled, to a  
42 credit against their municipal option income tax liability for that

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1 same taxable year. The amount of the credit equals the lesser of the  
2 following:

3 (1) The product of:

4 (A) the credit for the elderly or the totally disabled for the  
5 same taxable year; multiplied by

6 (B) a fraction, of which:

7 (i) the numerator is the municipal option income tax rate  
8 imposed against the municipal taxpayer or the municipal  
9 taxpayer and the municipal taxpayer's spouse; and

10 (ii) the denominator is fifteen-hundredths (0.15).

11 (2) The amount of municipal option income tax imposed on  
12 the municipal taxpayer or the municipal taxpayer and the  
13 municipal taxpayer's spouse.

14 (b) If a municipal taxpayer and the municipal taxpayer's spouse  
15 file a joint return and are subject to different municipal option  
16 income tax rates for the same taxable year, they shall compute the  
17 credit under this section by using the formula provided in  
18 subsection (a), except that they shall use the average of the two (2)  
19 tax rates imposed against them as the numerator referred to in  
20 subsection (a)(1)(B).

21 **Sec. 21.** If, for any taxable year, a municipal taxpayer is subject  
22 to different tax rates for the municipal option income tax imposed  
23 by a municipality, the taxpayer's municipal option income tax rate  
24 for that municipality and that taxable year is the rate determined  
25 in the last STEP of the following STEPS:

26 **STEP ONE:** Multiply the number of months in the taxpayer's  
27 taxable year that precede July 1 by the rate in effect before  
28 the rate change.

29 **STEP TWO:** Multiply the number of months in the taxpayer's  
30 taxable year that follow June 30 by the rate in effect after the  
31 rate change.

32 **STEP THREE:** Divide the sum of the amounts determined  
33 under STEPS ONE and TWO by twelve (12).

34 **Sec. 22. (a)** Except as otherwise provided in this chapter, all  
35 provisions of the adjusted gross income tax law (IC 6-3)  
36 concerning:

37 (1) definitions;

38 (2) declarations of estimated tax;

39 (3) filing of returns;

40 (4) remittances;

41 (5) incorporation of the provisions of the Internal Revenue  
42 Code;

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1           **(6) penalties and interest;**  
 2           **(7) exclusion of military pay credits for withholding; and**  
 3           **(8) exemptions and deductions;**  
 4           **apply to the imposition, collection, and administration of the**  
 5           **municipal option income tax. The municipal option income tax is**  
 6           **a listed tax and an income tax for purposes of IC 6-8.1.**

7           **(b) IC 6-3-1-3.5(a)(5), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do**  
 8           **not apply to the municipal option income tax.**

9           **(c) Each employer shall report to the department the amount of**  
 10           **withholdings attributable to the municipal taxpayers for each**  
 11           **municipality in which the municipal option income tax is in effect.**  
 12           **This report shall be submitted annually with the employer's**  
 13           **withholding report.**

14           SECTION 6. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss),  
 15           SECTION 247, IS AMENDED TO READ AS FOLLOWS  
 16           [EFFECTIVE JULY 1, 2012]: Sec. 1. "Listed taxes" or "taxes" includes  
 17           only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the  
 18           riverboat admissions tax (IC 4-33-12); the riverboat wagering tax  
 19           (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II  
 20           gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)  
 21           (repealed); the utility receipts and utility services use taxes (IC 6-2.3);  
 22           the state gross retail and use taxes (IC 6-2.5); the adjusted gross income  
 23           tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the  
 24           county adjusted gross income tax (IC 6-3.5-1.1); the county option  
 25           income tax (IC 6-3.5-6); the county economic development income tax  
 26           (IC 6-3.5-7); **the municipal option income tax (IC 6-3.5-10)**; the auto  
 27           rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the  
 28           gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1);  
 29           the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1);  
 30           a motor fuel tax collected under a reciprocal agreement under  
 31           IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial  
 32           vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational  
 33           vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal  
 34           tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax  
 35           (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax  
 36           (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise  
 37           tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various  
 38           innkeeper's taxes (IC 6-9); the various food and beverage taxes  
 39           (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the  
 40           regional transportation improvement income tax (IC 8-24-17); the oil  
 41           inspection fee (IC 16-44-2); the emergency and hazardous chemical  
 42           inventory form fee (IC 6-6-10); the penalties assessed for oversize

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1 vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for  
 2 overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage  
 3 tank fee (IC 13-23); the solid waste management fee (IC 13-20-22);  
 4 and any other tax or fee that the department is required to collect or  
 5 administer.

6 SECTION 7. IC 6-8.1-5-2, AS AMENDED BY P.L.182-2009(ss),  
 7 SECTION 251, IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as otherwise provided  
 9 in this section, the department may not issue a proposed assessment  
 10 under section 1 of this chapter more than three (3) years after the latest  
 11 of the date the return is filed, or either of the following:

12 (1) The due date of the return.

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

18 (b) If a person files a utility receipts tax return (IC 6-2.3), an  
 19 adjusted gross income tax (IC 6-3), supplemental net income tax  
 20 (IC 6-3-8) (repealed), county adjusted gross income tax (IC 6-3.5-1.1),  
 21 county option income tax (IC 6-3.5-6), **municipal option income tax**  
 22 **(IC 6-3.5-10)**, or financial institutions tax (IC 6-5.5) return that  
 23 understates the person's income, as that term is defined in the particular  
 24 income tax law, by at least twenty-five percent (25%), the proposed  
 25 assessment limitation is six (6) years instead of the three (3) years  
 26 provided in subsection (a).

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

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

39 (e) In the case of the excise tax imposed on recreational vehicles  
 40 and truck campers under IC 6-6-5.1, the tax shall be assessed as  
 41 provided in IC 6-6-5.1 and must include the penalties and interest due  
 42 on all listed taxes not paid by the due date. A person who fails to

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1 properly register a recreational vehicle as required by IC 9-18 and pay  
 2 the tax due under IC 6-6-5.1 is considered to have failed to file a return  
 3 for purposes of this article. A person who fails to pay the tax due under  
 4 IC 6-6-5.1 on a truck camper is considered to have failed to file a return  
 5 for purposes of this article.

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

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

- 13 (1) within two (2) years after making the refund; or
- 14 (2) within five (5) years after making the refund if the refund was  
 15 induced by fraud or misrepresentation.

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

- 21 (1) the date to which the extension is made; and
- 22 (2) a statement that the person agrees to preserve the person's  
 23 records until the extension terminates.

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

26 (i) If a taxpayer's federal income tax liability for a taxable year is  
 27 modified due to the assessment of a federal deficiency or the filing of  
 28 an amended federal income tax return, then the date by which the  
 29 department must issue a proposed assessment under section 1 of this  
 30 chapter for tax imposed under IC 6-3 is extended to six (6) months after  
 31 the date on which the notice of modification is filed with the  
 32 department by the taxpayer.

33 SECTION 8. IC 6-8.1-6-8, AS ADDED BY P.L.182-2009(ss),  
 34 SECTION 253, IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) Beginning after December 31,  
 36 2010, the department in cooperation with the department of local  
 37 government finance and the budget agency shall provide information  
 38 annually that:

- 39 (1) identifies the total number of individual taxpayers that live  
 40 within a particular incorporated city or town;
- 41 (2) identifies the total individual adjusted gross income of those  
 42 taxpayers; and

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1 (3) includes any other information that:  
 2 (A) can be abstracted from the taxpayers' individual income  
 3 tax returns; and  
 4 (B) is necessary to obtain information concerning individual  
 5 income taxation under IC 6-3.5-1.1, IC 6-3.5-6, ~~and~~ IC 6-3.5-7,  
 6 **and IC 6-3.5-10;**  
 7 as agreed to by the department and the legislative services agency.  
 8 (b) As used in this subsection, "authorized agency" refers to the  
 9 legislative services agency or the budget agency. As used in this  
 10 subsection, "director" refers to the executive director of the legislative  
 11 services agency or the director of the budget agency. The department  
 12 shall provide access to the information described in subsection (a) in  
 13 electronic format to an authorized agency:  
 14 (1) upon receipt of a written request from the director of the  
 15 authorized agency; and  
 16 (2) upon the director's agreement that any information accessed  
 17 (other than aggregate data) will be kept confidential and used  
 18 solely for official purposes.  
 19 SECTION 9. IC 6-8.1-6-9 IS ADDED TO THE INDIANA CODE  
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 21 1, 2012]: **Sec. 9. Beginning with the individual adjusted gross  
 22 income tax return for taxable years beginning in 2012, the  
 23 department shall include on the adjusted gross income tax return  
 24 a requirement that the taxpayer identify the city or town, if any,  
 25 where the taxpayer's principal place of residence is located.**

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