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# SENATE BILL No. 440

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5-1.1; IC 6-3.5-7-5.

**Synopsis:** Adjusted gross income tax for Wayne County. Allows Wayne County to impose the county adjusted gross income tax at a rate of 1.25%. Provides that the county adjusted gross income tax revenue in Wayne County that is derived from the additional 0.25% tax rate may be used only to pay the costs of constructing, improving, or renovating the county jail and related buildings and parking facilities. Authorizes the county council to pledge the tax revenue from the additional 0.25% tax rate to pay bonds issued for the construction, improvement, or renovation.

**Effective:** Upon passage.

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January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## SENATE BILL No. 440

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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 6-3.5-1.1-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county  
3 council of any county in which the county option income tax will not  
4 be in effect on July 1 of a year under an ordinance adopted during a  
5 previous calendar year may impose the county adjusted gross income  
6 tax on the adjusted gross income of county taxpayers of its county  
7 effective July 1 of that year.

8 (b) Except as provided in section 2.5, **2.7**, or 3.5 of this chapter, the  
9 county adjusted gross income tax may be imposed at a rate of one-half  
10 of one percent (0.5%), three-fourths of one percent (0.75%), or one  
11 percent (1%) on the adjusted gross income of resident county taxpayers  
12 of the county. Any county imposing the county adjusted gross income  
13 tax must impose the tax on the nonresident county taxpayers at a rate  
14 of one-fourth of one percent (0.25%) on their adjusted gross income.  
15 If the county council elects to decrease the county adjusted gross  
16 income tax, the county council may decrease the county adjusted gross  
17 income tax rate in increments of one-tenth of one percent (0.1%).

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1 (c) To impose the county adjusted gross income tax, the county  
2 council must, after January 1 but before April 1 of a year, adopt an  
3 ordinance. The ordinance must substantially state the following:

4 "The \_\_\_\_\_ County Council imposes the county adjusted  
5 gross income tax on the county taxpayers of \_\_\_\_\_ County.  
6 The county adjusted gross income tax is imposed at a rate of  
7 \_\_\_\_\_ percent (\_\_\_\_%) on the resident county taxpayers of the  
8 county and one-fourth of one percent (0.25%) on the nonresident  
9 county taxpayers of the county. This tax takes effect July 1 of this  
10 year."

11 (d) Any ordinance adopted under this section takes effect July 1 of  
12 the year the ordinance is adopted.

13 (e) The auditor of a county shall record all votes taken on  
14 ordinances presented for a vote under the authority of this section and  
15 immediately send a certified copy of the results to the department by  
16 certified mail.

17 (f) If the county adjusted gross income tax had previously been  
18 adopted by a county under IC 6-3.5-1 (before its repeal on March 15,  
19 1983) and that tax was in effect at the time of the enactment of this  
20 chapter, then the county adjusted gross income tax continues in that  
21 county at the rates in effect at the time of enactment until the rates are  
22 modified or the tax is rescinded in the manner prescribed by this  
23 chapter. If a county's adjusted gross income tax is continued under this  
24 subsection, then the tax shall be treated as if it had been imposed under  
25 this chapter and is subject to rescission or reduction as authorized in  
26 this chapter.

27 SECTION 2. IC 6-3.5-1.1-2.7 IS ADDED TO THE INDIANA  
28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
29 [EFFECTIVE UPON PASSAGE]: **Sec. 2.7. (a) This section applies  
30 only to a county having a population of more than sixty-eight  
31 thousand (68,000) but less than seventy-three thousand (73,000).**

32 **(b) The county council of a county described in subsection (a)  
33 may, by ordinance, determine that additional county adjusted  
34 gross income tax revenue is needed in the county to finance,  
35 construct, improve, or renovate the county jail and related  
36 buildings and parking facilities, including costs related to the  
37 demolition of existing buildings and the acquisition of land.**

38 **(c) Notwithstanding section 2 of this chapter, if the county  
39 council adopts an ordinance under subsection (b), the county  
40 council may impose the county adjusted gross income tax at a rate  
41 of one and twenty-five hundredths percent (1.25%) on adjusted  
42 gross income. However, a county may impose the county adjusted**



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1 gross income tax at a rate of one and twenty-five hundredths  
2 percent (1.25%) only until the later of:

- 3 (1) the time the construction, improvement, or renovation  
4 under subsection (b) is completed; or  
5 (2) the time any bonds issued or loans obtained to finance the  
6 construction, improvement, or renovation under subsection  
7 (b) are paid.

8 After the county has imposed the county adjusted gross income tax  
9 at a rate of one and twenty-five hundredths percent (1.25%) for the  
10 period allowed by this subsection, the rate is reduced to one  
11 percent (1%). If the county council imposes the county adjusted  
12 gross income tax at a rate of one and twenty-five hundredths  
13 percent (1.25%), the county council may decrease the rate or  
14 rescind the tax in the manner provided under this chapter.

15 (d) If a county imposes the county adjusted gross income tax at  
16 a rate of one and twenty-five hundredths percent (1.25%) under  
17 this section, the revenue derived from a tax rate of twenty-five  
18 hundredths percent (0.25%) on adjusted gross income:

- 19 (1) shall be paid to the county treasurer;  
20 (2) may be used only for the purposes described in subsection  
21 (b);  
22 (3) may not be considered by the state board of tax  
23 commissioners in determining the county's maximum  
24 permissible property tax levy limit under IC 6-1.1-18.5; and  
25 (4) may be pledged by the county council to pay bonds issued  
26 or loans obtained by the county for the purposes described in  
27 subsection (b).

28 (e) A pledge under subsection (d):

- 29 (1) applies only to bonds, loans, lease payments, or obligations  
30 that are issued, obtained, or incurred after the date the  
31 additional tax rate of twenty-five hundredths percent (0.25%)  
32 on adjusted gross income is imposed under this section; and  
33 (2) is enforceable under IC 5-1-14-4.

34 (f) With respect to obligations for which a pledge has been made  
35 under subsection (d), the general assembly covenants with the  
36 holders of the obligations that this chapter will not be repealed or  
37 amended in a manner that will adversely affect the imposition or  
38 collection of the additional tax rate of twenty-five hundredths  
39 percent (0.25%) on adjusted gross income tax imposed under this  
40 section if the payment of any of the obligations is outstanding.

41 SECTION 3. IC 6-3.5-1.1-10 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-half

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1 (1/2) of each adopting county's certified distribution for a calendar year  
 2 shall be distributed from its account established under section 8 of this  
 3 chapter to the appropriate county treasurer on May 1 and the other  
 4 one-half (1/2) on November 1 of that calendar year.

5 (b) Except for revenue that must be used to pay the costs of  
 6 operating a jail and juvenile detention center under section 2.5(d) of  
 7 this chapter, **revenue that must be used to pay the costs of**  
 8 **construction, improvement, or renovation of a jail under section**  
 9 **2.7 of this chapter**, or revenue that must be used to pay the costs of  
 10 operating and maintaining a jail and justice center under section 3.5(d)  
 11 of this chapter, distributions made to a county treasurer under  
 12 subsection (a) shall be treated as though they were property taxes that  
 13 were due and payable during that same calendar year. The certified  
 14 distribution shall be distributed and used by the taxing units and school  
 15 corporations as provided in sections 11 through 15 of this chapter.

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

19 SECTION 4. IC 6-3.5-1.1-11 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for  
 21 revenue that must be used to pay the costs of operating a jail and  
 22 juvenile detention center under section 2.5(d) of this chapter, **revenue**  
 23 **that must be used to pay the costs of construction, improvement, or**  
 24 **renovation of a jail under section 2.7 of this chapter**, or revenue that  
 25 must be used to pay the costs of operating and maintaining a jail and  
 26 justice center under section 3.5(d) of this chapter, the certified  
 27 distribution received by a county treasurer shall, in the manner  
 28 prescribed in this section, be allocated, distributed, and used by the  
 29 civil taxing units and school corporations of the county as certified  
 30 shares and property tax replacement credits.

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

COUNTY	PROPERTY TAX
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	ADJUSTED GROSS INCOME TAX RATE	REPLACEMENT CREDITS	CERTIFIED SHARES
1			
2			
3	0.5%	50%	50%
4	0.75%	33 1/3%	66 2/3%
5	1%	25%	75%

6 (c) The part of a certified distribution that constitutes property tax  
7 replacement credits shall be distributed as provided under sections 12,  
8 13, and 14 of this chapter.

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

11 SECTION 5. IC 6-3.5-7-5 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as  
13 provided in subsection (c), the county economic development income  
14 tax may be imposed on the adjusted gross income of county taxpayers.  
15 The entity that may impose the tax is:

- 16 (1) the county income tax council (as defined in IC 6-3.5-6-1) if  
17 the county option income tax is in effect on January 1 of the year  
18 the county economic development income tax is imposed;
- 19 (2) the county council if the county adjusted gross income tax is  
20 in effect on January 1 of the year the county economic  
21 development tax is imposed; or
- 22 (3) the county income tax council or the county council,  
23 whichever acts first, for a county not covered by subdivision (1)  
24 or (2).

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

28 (b) Except as provided in subsections (c) and (g), the county  
29 economic development income tax may be imposed at a rate of:

- 30 (1) one-tenth percent (0.1%);
- 31 (2) two-tenths percent (0.2%);
- 32 (3) twenty-five hundredths percent (0.25%);
- 33 (4) three-tenths percent (0.3%);
- 34 (5) thirty-five hundredths percent (0.35%);
- 35 (6) four-tenths percent (0.4%);
- 36 (7) forty-five hundredths percent (0.45%); or
- 37 (8) five-tenths percent (0.5%);

38 on the adjusted gross income of county taxpayers.

39 (c) Except as provided in subsection (h), ~~or~~ (i), **or (j)**, the county  
40 economic development income tax rate plus the county adjusted gross  
41 income tax rate, if any, that are in effect on January 1 of a year may not  
42 exceed one and twenty-five hundredths percent (1.25%). Except as

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1 provided in subsection (g), the county economic development tax rate  
 2 plus the county option income tax rate, if any, that are in effect on  
 3 January 1 of a year may not exceed one percent (1%).

4 (d) To impose the county economic development income tax, the  
 5 appropriate body must, after January 1 but before April 1 of a year,  
 6 adopt an ordinance. The ordinance must substantially state the  
 7 following:

8 "The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic  
 9 development income tax on the county taxpayers of \_\_\_\_\_  
 10 County. The county economic development income tax is imposed at  
 11 a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the  
 12 county. This tax takes effect July 1 of this year."

13 (e) Any ordinance adopted under this section takes effect July 1 of  
 14 the year the ordinance is adopted.

15 (f) The auditor of a county shall record all votes taken on ordinances  
 16 presented for a vote under the authority of this section and immediately  
 17 send a certified copy of the results to the department by certified mail.

18 (g) This subsection applies to a county having a population of more  
 19 than one hundred twenty-nine thousand (129,000) but less than one  
 20 hundred thirty thousand six hundred (130,600). In addition to the rates  
 21 permitted by subsection (b), the:

22 (1) county economic development income tax may be imposed at  
 23 a rate of:

24 (A) fifteen-hundredths percent (0.15%);

25 (B) two-tenths percent (0.2%); or

26 (C) twenty-five hundredths percent (0.25%); and

27 (2) county economic development income tax rate plus the county  
 28 option income tax rate that are in effect on January 1 of a year  
 29 may equal up to one and twenty-five hundredths percent (1.25%);  
 30 if the county income tax council makes a determination to impose rates  
 31 under this subsection and section 22 of this chapter.

32 (h) For a county having a population of more than thirty-seven  
 33 thousand (37,000) but less than thirty-seven thousand eight hundred  
 34 (37,800), the county economic development income tax rate plus the  
 35 county adjusted gross income tax rate that are in effect on January 1 of  
 36 a year may not exceed one and thirty-five hundredths percent (1.35%)  
 37 if the county has imposed the county adjusted gross income tax at a rate  
 38 of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

39 (i) For a county having a population of more than twelve thousand  
 40 six hundred (12,600) but less than thirteen thousand (13,000), the  
 41 county economic development income tax rate plus the county adjusted  
 42 gross income tax rate that are in effect on January 1 of a year may not



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exceed one and fifty-five hundredths percent (1.55%).

**(j) For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000), 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%).**

**SECTION 6. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-2.7, as added by this act, may adopt an ordinance to increase the county's county adjusted gross income tax rate after the April 1 deadline provided in IC 6-3.5-1.1-3(a).**

**(b) This SECTION expires January 1, 2001.**

**SECTION 7. An emergency is declared for this act.**

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