

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1327

AN ACT to amend the Indiana Code concerning government finance.

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

SECTION 1. IC 5-1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2006 (RETROACTIVE)]: Sec. 1. (a) **The following definitions apply throughout this section:**

(1) **"Agreement" means any agreement that includes terms, representations, or provisions relating to:**

(A) **credit enhancement of, or rate covenants supporting, any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);**

(B) **any indenture or provision regarding any indenture relating to any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);**

(C) **payment of any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b) in the event of a termination of the agreement; or**

(D) **public works, capital improvements, or economic development projects.**

(2) **"Leasing body" means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building**

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or buildings to an entity named in subsection (b) other than another leasing body.

(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.

(b) All bonds, notes, evidences of indebtedness, **swap agreements, agreements,** leases, or other written obligations issued **or executed** by or in the name of any:

(1) state agency, county, township, city, incorporated town, school corporation, state educational institution, state supported institution of higher learning, political subdivision, joint agency created under IC 8-1-2.2, leasing body, **separate body corporate and politic,** or any other political, municipal, public or quasi-public corporation; **or in the name of any**

(2) special assessment or taxing district; **or in the name of any**

(3) board, commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations have been executed before March 15, ~~2000~~: **2006**. All **governance, organizational, or other** proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations were issued **or executed** or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

(1) entered into by a joint agency created under IC 8-1-2.2; and **its members;**

(2) used **by the members of the joint agency** for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006**. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby

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legalized and declared valid if entered into before March 15, ~~2000-~~
2006. All proceedings held and actions taken under which interlocal
 cooperation agreements were executed or entered into are hereby fully
 legalized and validated.

SECTION 2. IC 6-2.5-6-9 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) In determining the amount of
 state gross retail and use taxes which a retail merchant must remit
 under section 7 of this chapter, the retail merchant shall, subject to
 subsections (c) and (d), deduct from the retail merchant's gross retail
 income from retail transactions made during a particular reporting
 period, an amount equal to the retail merchant's receivables which:

- (1) resulted from retail transactions in which the retail merchant did
 not collect the state gross retail or use tax from the purchaser;
- (2) resulted from retail transactions on which the retail merchant has
 previously paid the state gross retail or use tax liability to the
 department; and
- (3) were written off as an uncollectible debt for federal tax purposes
 under Section 166 of the Internal Revenue Code during the
 particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and
 subsequently collects all or part of that receivable, then the retail
 merchant shall, subject to subsection (d)(6), include the amount
 collected as part of the retail merchant's gross retail income from retail
 transactions for the particular reporting period in which the retail
 merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after
 June 30, ~~2004-~~ **2007**. **As used in this subsection, "affiliated group"**
means any combination of the following:

- (1) **An affiliated group within the meaning provided in Section
 1504 of the Internal Revenue Code (except that the ownership
 percentage in Section 1504(a)(2) of the Internal Revenue Code
 shall be determined using fifty percent (50%) instead of eighty
 percent (80%)) or a relationship described in Section 267(b)(11)
 of the Internal Revenue Code.**
- (2) **Two (2) or more partnerships (as defined in IC 6-3-1-19),
 including limited liability companies and limited liability
 partnerships, that have the same degree of mutual ownership as
 an affiliated group described in subdivision (1), as determined
 under the rules adopted by the department.**

The right to a deduction under this section is **not** assignable ~~only if the~~
~~retail merchant that paid the state gross retail or use tax liability~~
~~assigned the right to the deduction in writing:~~ **to an individual or**

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entity that is not part of the same affiliated group as the assignor.

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

- (1) The deduction does not include interest.
- (2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:
 - (A) financing charges or interest;
 - (B) sales or use taxes charged on the purchase price;
 - (C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;
 - (D) expenses incurred in attempting to collect any debt; and
 - (E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and

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secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) **for taxable years beginning after December 31, 2004**, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code ~~for taxable years beginning after December 31, 1996; (as effective January 1, 2004);~~ and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

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- (6) Subtract an amount equal to the lesser of:
- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
 - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) 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 total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

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(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

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(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

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- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:
- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level

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by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus

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depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 4. IC 6-3-1-11, AS AMENDED BY P.L.246-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (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, ~~2005~~; **2006**.

(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, ~~2005~~;

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2006, 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, 2005, 2006, 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, 2005, 2006, that is effective for any taxable year that began before January 1, 2005, 2006, 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.

SECTION 5. IC 6-3.5-1.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) This section applies only to a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000).

(b) As used in this section, "fiscal year" means a twelve (12) month period beginning July 1 and ending June 30.

~~(b)~~ (c) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the operation and maintenance of a jail and juvenile detention center opened after July 1, 1998.

~~(c)~~ (d) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection ~~(b)~~ (c), the county council may impose the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) on adjusted gross income **for fiscal years beginning before July 1, 2011.** ~~However, a county may impose~~

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the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for only eight (8) years. For fiscal years beginning after the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) for eight (8) years **June 30, 2011**, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

~~(d)~~ **(e)** If a county imposes the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under this section, the revenue derived from a tax rate of one-tenth percent (0.1%) on adjusted gross income:

- (1) shall be paid to the county treasurer;
- (2) may be used only to pay the costs of operating a jail and juvenile detention center opened after July 1, 1998; and
- (3) 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.

SECTION 6. IC 6-3.5-6-18, AS AMENDED BY P.L.207-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

- (1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;
- (2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);
- (3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;
- (4) make payments permitted under IC 36-7-15.1-17.5;
- (5) make payments permitted under subsection (i); ~~and~~
- (6) make distributions of distributive shares to the civil taxing units of a county; **and**
- (7) make the distributions permitted under section 29 of this chapter.**

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net

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revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year; **and**

(2) the amount of an additional tax rate imposed under section 29 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a

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county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 7. IC 6-3.5-6-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. (a) This section applies only to Scott County. Scott County is a county in which:**

- (1) maintaining low property tax rates is essential to economic development; and**
- (2) the use of additional county option income tax revenues as provided in this section, rather than the use of property taxes, to fund:**
 - (A) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and**
 - (B) the repayment of bonds issued or leases entered into for the purposes described in clause (A), except operation or maintenance;**

promotes the purpose of maintaining low property tax rates.

(b) The county fiscal body may impose the county option income tax on the adjusted gross income of resident county taxpayers at a rate, in addition to the rates permitted by sections 8 and 9 of this chapter, not to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) To impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance finding and determining that additional revenues from the county option income tax are needed in the county to fund:

- (1) the financing, construction, acquisition, improvement,**

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renovation, equipping, operation, or maintenance of jail facilities; and

(2) the repayment of bonds issued or leases entered into for the purposes described in subdivision (1), except operation or maintenance.

(d) If the county fiscal body makes a determination under subsection (c), the county fiscal body may adopt an additional tax rate under subsection (b). Subject to the limitations in subsection (b), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department. An ordinance adopted under this section before June 1, 2006, or April 1 in a subsequent year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after May 31, 2006, or March 31 of a subsequent year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(e) If the county imposes an additional tax rate under this section, the county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option 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 section 18 of this chapter.

(f) County option income tax revenues derived from an additional 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 for the repayment of bonds issued or leases entered into to fund the purposes described in subsection (c)(1), except operation or maintenance.

(g) If the county imposes an additional tax rate under this section, the department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of the county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts the increased tax rate and in each calendar year thereafter. The department shall

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provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 8. IC 6-3.5-7-5, AS AMENDED BY P.L.214-2005, 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. 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 January 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 January 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 subsections (c), (g), (k), (p), and (r) 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 subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), or (s), 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 subsection (g), (p), (r), ~~or~~ (t), **or (u)**, 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, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose

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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. This tax takes effect July 1 of this year."

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

(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 by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

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

- (A) fifteen-hundredths percent (0.15%);
- (B) two-tenths percent (0.2%); or
- (C) 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 income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), 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.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), 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%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred

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(71,400), except as provided in subsection (p), 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%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), 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.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), 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:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), 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) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), 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%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed

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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.

(p) 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.

However, 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) resulting
 from the deduction of the assessed value of inventory in the county
 under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as
 authorized under subsection (p) at a rate that exceeds the maximum
 rate that would otherwise apply under this section, the certified
 distribution must be used for the purpose provided in section 25(e) or
 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.

(r) This subsection applies only to a county described in section 27
 of this chapter. Except as provided in subsection (p), 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

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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.

(s) Except as provided in subsection (p), 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.

(t) This subsection applies to Howard County. Except as provided in subsection (p), 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 Scott County. Except as provided in subsection (p), 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%).

SECTION 9. IC 6-9-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) If the tax is imposed by a municipality under this chapter, the tax terminates January 1, ~~2007~~ **2012**.

(b) This chapter expires July 1, ~~2007~~ **2012**.

SECTION 10. IC 6-9-27-9.5, AS ADDED BY P.L.214-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.5. (a) A city shall use money in the fund established under section 8.5 of this chapter for only the following:

- (1) Renovating the city hall.
- (2) Constructing new police or fire stations, or both.
- (3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.
- (4) Improving the city's storm water drainage systems.
- (5) Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, ~~2010~~ **2015**.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

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(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 11. IC 21-2-21-1.8, AS ADDED BY P.L.214-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.8. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.

(b) This section applies to each school corporation that:

(1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(2) issued bonds under IC 20-5-4-1.7:

(A) before April 14, 2003; or

(B) after April 13, 2003, if an order approving the issuance of the bonds was issued by the department of local government finance before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

(1) The school corporation may issue bonds under this section only one (1) time.

(2) ~~The~~ **A school corporation described in subsection (b)(1) or (b)(2)(A) must issue the bonds before July 1, 2006. A school corporation described in subsection (b)(2)(B) must file a petition with the department of local government finance under IC 6-1.1-19-8 requesting approval to incur bond indebtedness under this section before July 1, 2006.**

(3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.

(4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

(A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(B) the remainder of:

(i) two percent (2%) of the true tax value of property in the

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school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus

(ii) the amount of bonds that the school corporation issued under IC 20-5-4-1.7;

for a school corporation that issued bonds under IC 20-5-4-1.7 ~~before April 14, 2003~~. **as described in subsection (b)(2).**

(5) Each year that a debt service levy is needed under this section, the school corporation shall reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(6) The school corporation shall establish a separate debt service fund for repayment of the bonds issued under this section.

(d) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.

SECTION 12. [EFFECTIVE JULY 1, 2006] **If the general assembly amends IC 6-2.5-6-9 in more than one (1) act, the laws shall be read together and interpreted to implement the policies enacted in each act.**

SECTION 13. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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