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## SENATE BILL No. 212

Proposed Changes to introduced printing by AM021202

### DIGEST OF PROPOSED AMENDMENT

Utility service. Provides that a transaction involving the sale of utility service, as reflected in the total amount billed by a utility in a customer bill that is issued after December 31, 2026, is exempt from the state gross retail tax. Provides that this exemption applies to: (1) the sale of electric, natural gas, water, or wastewater service; and (2) a customer bill issued by a utility after December 31, 2026, regardless of whether the bill includes any fees or charges for utility service provided to the customer before January 1, 2027.

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 6-2.5-5-59.1 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: Sec. 59.1. (a) This section applies  
4 to a transaction involving the sale of utility service by a utility  
5 regardless of whether the utility is under the jurisdiction of the  
6 Indiana utility regulatory commission for the approval of rates and  
7 charges.  
8 (b) As used in this section, "customer" refers to a customer of  
9 any class, including:  
10 (1) a residential customer;  
11 (2) a commercial customer; or  
12 (3) an industrial customer;  
13 that has agreed to pay for utility service provided by a utility.  
14 (c) As used in this section, "utility" means a person, however  
15 organized, that provides utility service to a customer.  
16 (d) As used in this section, "utility service" means:  
17 (1) electric;

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1 (2) natural gas;  
 2 (3) water; or  
 3 (4) wastewater;  
 4 service that is provided at retail to a customer in Indiana.

5 (e) A transaction involving the sale of utility service, as  
 6 reflected in the total amount billed by a utility in a customer bill  
 7 that is issued after December 31, 2026, is exempt from the state  
 8 gross retail tax. For purposes of this subsection, the total amount  
 9 billed by a utility in a customer bill includes any:

10 (1) fixed charges;  
 11 (2) consumption based charges;  
 12 (3) charges in connection with a periodic rate adjustment  
 13 mechanism;  
 14 (4) taxes other than the state gross retail tax;  
 15 (5) program charges;  
 16 (6) account management or billing fees; and  
 17 (7) other applicable charges or fees;

18 that make up the total amount owed for the billing cycle,  
 19 regardless of whether the particular charge or fee appears as a  
 20 separate line item, or is otherwise identified, on the customer bill.

21 (f) The exemption provided by subsection (e) applies to a  
 22 customer bill issued by a utility after December 31, 2026,  
 23 regardless of whether the bill includes any fees or charges for  
 24 utility service provided to the customer before January 1, 2027.

25 ] SECTION ~~6-3-1-11~~ [2]. IC 6-3-1-11, AS AMENDED BY  
 26 P.L.194-2023, SECTION 8, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JANUARY 1, 2025 (RETROACTIVE)]: Sec. 11. (a)  
 28 **Except as provided in subsection (e),** the term "Internal Revenue  
 29 Code" means the Internal Revenue Code of 1986 of the United States  
 30 as amended and in effect on January 1, 2023.

31 (b) Whenever the Internal Revenue Code is mentioned in this  
 32 article, or in another provision of the Indiana Code that cites the  
 33 definition of "Internal Revenue Code" provided in this section, the  
 34 particular provisions that are referred to, together with all the other  
 35 provisions of the Internal Revenue Code in effect on January 1, 2023,  
 36 that pertain to the provisions specifically mentioned, shall be regarded  
 37 as incorporated in this article by reference and have the same force and  
 38 effect as though fully set forth in this article. To the extent that a  
 39 federal statute in the United States Code is enacted or amended in a  
 40 title other than the Internal Revenue Code on or before January 1,  
 41 2023, and affects federal adjusted gross income, federal taxable  
 42 income, federal tax credits, or other federal tax attributes, the federal



statute shall be considered to be part of the Internal Revenue Code as amended and in effect on January 1, 2023. To the extent:

(1) the provisions of the Internal Revenue Code apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code, and in effect on January 1, 2023; and

(2) a federal statute in the United States Code that is enacted or amended in a title other than the Internal Revenue Code on or before January 1, 2023, and affects federal adjusted gross income, federal taxable income, federal tax credits, or other federal tax attributes applies to this article, regulations adopted under the federal statute of the United States Code and in effect on January 1, 2023;

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, 2023, other than the federal 21st Century Cures Act (P.L. 114-255) and the federal Disaster Tax Relief and Airport and Airway Extension Act of 2017 (P.L. 115-63), that is effective for any taxable year that began before January 1, 2023, 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 and IC 6-5.5-1-2.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of



2010 (P.L. 111-312):

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

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

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

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

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

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

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

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

**(e) Solely for purposes of the provisions specified in subsection (f), the term "Internal Revenue Code" shall mean the Internal Revenue Code as in effect on July 4, 2025, and any reference to January 1, 2023, in this section shall be applied as if the reference is to July 4, 2025.**

**(f) The provisions to which subsection (e) is to be applied are as follows:**

**(1) Section 23 of the Internal Revenue Code.**

**(2) Section 168(e)(3)(B)(vi) of the Internal Revenue Code.**

**(3) Section 223(c)(2)(E) of the Internal Revenue Code.**

SECTION  [\[3\]](#). An emergency is declared for this act.

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