

# HOUSE BILL No. 1312

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-4-38.5-11; IC 6-8.1-1-1; IC 6-11; IC 12-21-5-8.

**Synopsis:** Social media provider surcharge tax. Imposes a surcharge tax on social media providers. Defines "social media provider" as a social media company that: (1) maintains a public social media platform; (2) has more than 1,000,000 active Indiana account holders; (3) has annual gross revenue derived from social media advertising services in Indiana of at least \$1,000,000; and (4) derives economic benefit from the data individuals in Indiana share with the company. Provides that the surcharge tax is equal to: (1) the annual gross revenue derived from social media advertising services in Indiana in a calendar year multiplied by 7%; plus (2) the total number of the social media provider's active Indiana account holders in a calendar year multiplied by \$1. Establishes the online bullying, social isolation, and suicide prevention fund (fund) for the purposes of providing: (1) online bullying prevention; or (2) social isolation and suicide prevention; training and research for counselors and educational institutions. Provides that the division of mental health and addiction shall administer the fund. Transfers 10% of the revenue from the surcharge tax to the fund. Transfers the remaining surcharge tax revenue to the rural broadband fund.

**Effective:** January 1, 2022.

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## Prescott

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January 14, 2021, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1312

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

1 SECTION 1. IC 4-4-38.5-11, AS ADDED BY P.L.189-2019,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2022]: Sec. 11. (a) The rural broadband fund is  
4 established for the purpose of awarding grants under:  
5 (1) this chapter after July 31, 2019; and  
6 (2) IC 4-4-38 before August 1, 2019.  
7 (b) The office shall administer the fund.  
8 (c) The fund consists of:  
9 (1) money appropriated by the general assembly;  
10 (2) money received by the office from federal grants or programs  
11 for broadband infrastructure; ~~and~~  
12 **(3) social media provider surcharge tax revenue deposited**  
13 **under IC 6-11-1-9(2); and**  
14 ~~(3)~~ **(4)** donations, gifts, and money received from any other  
15 source, including transfers from other funds or accounts.  
16 (d) The treasurer of state shall invest the money in the fund not  
17 currently needed to meet the obligations of the fund in the same



1 manner as other public funds may be invested.

2 (e) Money in the fund at the end of a state fiscal year does not revert  
3 to the state general fund but remains in the fund to be used exclusively  
4 for the purposes of this chapter and IC 4-4-38.

5 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.156-2020,  
6 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JANUARY 1, 2022]: Sec. 1. "Listed taxes" or "taxes" includes only the  
8 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the supplemental  
9 wagering tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the  
10 slot machine wagering tax (IC 4-35-8); the type II gambling game  
11 excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the  
12 utility receipts and utility services use taxes (IC 6-2.3); the state gross  
13 retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3);  
14 the supplemental net income tax (IC 6-3-8) (repealed); the county  
15 adjusted gross income tax (IC 6-3.5-1.1) (repealed); the county option  
16 income tax (IC 6-3.5-6) (repealed); the county economic development  
17 income tax (IC 6-3.5-7) (repealed); the local income tax (IC 6-3.6); the  
18 auto rental excise tax (IC 6-6-9); the financial institutions tax (IC  
19 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel tax (IC 6-6-2.5);  
20 the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under  
21 a reciprocal agreement under IC 6-8.1-3; the vehicle excise tax (IC  
22 6-6-5); the aviation fuel excise tax (IC 6-6-13); the commercial vehicle  
23 excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles  
24 and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC  
25 6-6-6.6) (repealed); the heavy equipment rental excise tax (IC 6-6-15);  
26 the vehicle sharing excise tax (IC 6-6-16); the cigarette tax (IC 6-7-1);  
27 **the social media provider surcharge tax (IC 6-11-1)**; the beer excise  
28 tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax  
29 (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the petroleum  
30 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the  
31 various food and beverage taxes (IC 6-9); the county admissions tax  
32 (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the  
33 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-20-18); the  
34 fees and penalties assessed for overweight vehicles (IC 9-20-4 and  
35 IC 9-20-18); and any other tax or fee that the department is required to  
36 collect or administer.

37 SECTION 3. IC 6-11 IS ADDED TO THE INDIANA CODE AS A  
38 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY  
39 1, 2022]:

40 **ARTICLE 11. TAXATION OF SOCIAL MEDIA PROVIDERS**

41 **Chapter 1. Social Media Provider Surcharge Tax**

42 **Sec. 1. As used in this chapter, "account holder" means a person**



1 who accesses a social media account through a social media  
2 platform.

3 Sec. 2. As used in this chapter, "department" means the  
4 department of state revenue.

5 Sec. 3. As used in this chapter, "Indiana account holder" means  
6 an account holder who either:

- 7 (1) established the account holder's social media account from  
8 an Internet protocol address located in Indiana; or  
9 (2) indicates current residence in Indiana.

10 Sec. 4. As used in this chapter, "social media advertising  
11 services" means advertising services that are placed or served on  
12 a social media platform. The term includes advertisements in the  
13 form of banner advertising, promoted content, interstitial  
14 advertising, and other comparable advertising services.

15 Sec. 5. As used in this chapter, "social media platform" means  
16 an Internet web site or Internet medium that:

- 17 (1) allows account holders to create, share, and view user  
18 generated content through an account or profile; and  
19 (2) primarily serves as a medium for users to interact with  
20 content generated by other third party users of the medium.

21 The term does not include electronic mail or online newspapers.

22 Sec. 6. As used in this chapter, "social media provider" means  
23 a social media company that:

- 24 (1) maintains a public social media platform;  
25 (2) has more than one million (1,000,000) active Indiana  
26 account holders;  
27 (3) has annual gross revenue derived from social media  
28 advertising services in Indiana of at least one million dollars  
29 (\$1,000,000); and  
30 (4) derives economic benefit from the data individuals in  
31 Indiana share with the company.

32 Sec. 7. (a) A surcharge tax is imposed on social media providers  
33 that meet the definition set forth in section 6 of this chapter in a  
34 calendar year.

35 (b) The surcharge tax imposed under this chapter is equal to:

- 36 (1) the:  
37 (A) annual gross revenue derived from social media  
38 advertising services in Indiana in the calendar year;  
39 multiplied by  
40 (B) seven percent (7%); plus

41 (2) the:

- 42 (A) total number of the social media provider's active



1           **Indiana account holders in a calendar year; multiplied by**  
 2           **(B) one dollar (\$1).**

3           **Sec. 8. For purposes of this article, the apportionment of annual**  
 4 **gross revenue derived from social media advertising services in**  
 5 **Indiana shall be determined using an allocation fraction, the**  
 6 **numerator of which is the annual gross revenue derived from**  
 7 **social media advertising services in Indiana, and the denominator**  
 8 **of which is the annual gross revenue derived from social media**  
 9 **advertising services in the United States, during the calendar year.**

10           **Sec. 9. The amounts received from the surcharge tax imposed**  
 11 **under this chapter shall be transferred by the auditor of state as**  
 12 **follows:**

13           **(1) Ten percent (10%) of the amount to the online bullying,**  
 14 **social isolation, and suicide prevention fund established by**  
 15 **IC 12-21-5-8.**

16           **(2) The amount remaining after making the transfer under**  
 17 **subdivision (1) to the rural broadband fund established by**  
 18 **IC 4-4-38.5-11.**

19           **Sec. 10. The department shall develop forms and adopt any**  
 20 **necessary rules under IC 4-22-2 to implement this chapter.**

21           **SECTION 4. IC 12-21-5-8 IS ADDED TO THE INDIANA CODE**  
 22 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
 23 **JANUARY 1, 2022]: Sec. 8. (a) The online bullying, social isolation,**  
 24 **and suicide prevention fund is established for the purposes set**  
 25 **forth in subsection (c). The division shall administer the fund.**

26           **(b) The fund consists of:**

27           **(1) social media provider surcharge tax revenue deposited**  
 28 **under IC 6-11-1-9(1);**

29           **(2) amounts appropriated to the fund by the general**  
 30 **assembly; and**

31           **(3) donations, gifts, bequests, devises, or grants made to the**  
 32 **fund.**

33           **(c) Money in the fund shall be used by the division for:**

34           **(1) online bullying prevention; or**

35           **(2) social isolation and suicide prevention;**

36 **training and research for counselors and educational institutions.**

37           **(d) Money in the fund at the end of a state fiscal year does not**  
 38 **revert to the state general fund.**

39           **(e) Money in the fund is continuously appropriated for the**  
 40 **purposes of this section.**

