



Indiana Association of  
Cities and Towns

# LEGISLATIVE SUMMARY

INDIANA ASSOCIATION OF CITIES AND TOWNS LEGISLATIVE E-NEWSLETTER



APRIL 29, 2013

The *Legislative Summary* is a weekly e-newsletter intended to provide you with a sampling of important bills being debated at the Statehouse. For additional information about the legislative session, continue monitoring [IACT's Legislative webpage](#), or contact us directly at (317) 237-6200.

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## IN Action This Week: Top 5 Things to Know

1. Indiana roads are the winner this session! (Click [here](#) to read Maureen Hayden's column). \*Take note of a new process for wheel tax adoption for some counties. More information provided below.
2. Several IACT initiatives pass: utility relocation, anti-meth effort, increased local road funding, and abandoned housing. Plus, two communities win food and beverage tax option.
3. Two bills of concern pass in SB 235 (moves permitting of door-to-door sales to IURC) and HB 1313 (places moratorium on rental inspection programs and sends issue to study committee).
4. Some earlier concerns were addressed and did not pass, including: restrictive annexation language (in earlier versions of HB 1307 and SB 285), language requiring two school board members be appointed to redevelopment commissions (in earlier version of SB 494), elimination of cable franchise fees (in filed HB 1432) and elimination of non-gaming community revenue sharing (in earlier version of SB 528).
5. Legislators could not reach a resolution on the Mass Transit Bill. In the end, the House concurred on the Senate's version, and recommended the issue for more study.

For questions or information on legislation, please contact our Legislative Team or any [IACT Staff Member](#).



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## IN Local Roads & Streets Initiative: Increased Funding a Top Priority!

### **\$215 M Annually for New Road Funding**

#### **[HB 1001](#) – Biennial Budget (Rep. Brown, R-Crawfordsville; Sen. Kenley, R-Noblesville)**

HB 1001 provides for new funding for cities and towns by deleting the off-the-top allocation to the Indiana State Police, Bureau of Motor Vehicles and other non-transportation needs from the Motor Vehicle Highway Account (MVHA). It also provides for additional funding by directing 1% of overall state sales tax collected to the MVHA beginning in July 1, 2013. In the end, cities and towns can expect an increase of about \$30 M in FY 2014 and \$31 M in FY 2015 for road funding.

HB 1001 also adds an option for wheel tax adoption by allowing either a county council *or* a county income tax council to pass the local surtax/wheel tax. That means: If you are in a county without a local surtax/wheel tax, then this bill gives a voice to the municipalities within the county. The bill stipulates that the county income tax council (often referred to as a “phantom” council or “COIT” council) shall be comprised of the municipalities within the county and the county council. The process, which is used currently in counties with a county option income tax (COIT), is similar to that of the Electoral College. For example, the total vote within a county is equal to 100. Each municipality and county is given a number of votes, which correlates to population. To cast a vote, the municipality’s council or county council must adopt a resolution (after public hearing) supporting the surtax/wheel tax. A simple majority is needed to pass. Procedures governing county income tax councils can be found at: IC 6-3.5-6. ***This new authority is effective on June 1, 2013. Surtax/Wheel Taxes must be adopted by July 1 for the following year.***

The budget also establishes the Major Moves 2020 Trust Fund and appropriates \$200 M over the next two years to be allocated into this account. The funds in this account are to be used for major highway expansion projects that enhance the ability of goods to be transported in, and through, Indiana.

IACT Position: Support

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**Local Road Impact Fee Sent to Summer Study****[HB 1324](#) – Motor Fuels (Rep. Frye, R-Greensburg; Sen. Eckerty, R-Yorktown)**

HB1324 provides for the imposition of the motor carrier fuel tax and surtax by imposing the existing rates on the diesel or gasoline gallon equivalents of the various forms of natural gas sold. The funds generated from this tax and surtax will be distributed to the Motor Vehicle Highway Fund among others. Local units may receive up to \$1.3 M in FY 2014 and \$1 M in FY 2015 in additional transportation revenues from the bill through the MVH and Highway Road and Street Fund.

Unfortunately, the Local Road Impact Fee, which places a fee on electric vehicles that would be collected during the registration process with the BMV, was sent to summer study committee.

IACT Position: Support

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**General Assembly Solves Half of the Problem****[HB 1579](#) – Open Container Laws (Rep. Smaltz, R-Auburn; Sen. Wyss, R-Fort Wayne)**

HB 1579 provides that, for purposes of open container laws, the exemption for a person who is in the passenger compartment of a vehicle used to transport passengers for compensation or the living quarters of a house coach or trailer does not apply to the operator of the vehicle. However, the General Assembly refused to increase the number of community service hours required for second and third time offenders for driving while intoxicated in order to bring state law in compliance with federal law. Therefore, the federal government will require Indiana to direct about \$20 M annually in federal highway funds to specific safety programs.

IACT Position: Support

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## IN Bills of Concern

**IURC will be a Venue to Settle Wholesale Sewer Contract Disputes****[SB 385](#) – Regional Sewer Districts (Charbonneau, R-Valparaiso; Wolkins, R-Winona Lake)**

The conference committee report for SB 385 passed both houses. It allows a purchaser of wholesale sewage service to petition the IURC for the settlement of a dispute (currently, going to court is the only option). It also provides that certain fees shall be deposited into the public utility fund instead of being deposited with the state treasury. Further, it provides that a contract for the construction of a municipal sewage works may not require certain landowners to waive the right to remonstrate against annexation by the municipality. Two controversial amendments were added to the bill at one point during the session. These amendments were geared specifically at a dispute between Fort Wayne and Hometown and a dispute over compact fees in Elkhart. Both of the controversial amendments were removed from the bill.

IACT Position: Opposed to More IURC Expansion

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**Bill Makes it Nearly Impossible for a Municipality to Buy Back its Water or Sewer Utility – Also Provides a Six Month Period for Petitioners to Challenge Extraterritorial Water/Sewer Rates****[HB 1307](#) Extraterritorial Utility Rates and Charges (Braun, R-Zionsville; Merritt, R-Indianapolis)**

The conference committee report for HB 1307 passed both houses. It contains language which would make it nearly impossible for a municipality to buy-back a water or sewer utility from a private company unless the company was willing to sell. (Current law provides that a city or town can always take back the utility through condemnation). Under this bill, a company must be found by the IURC to be out of compliance in order for an unwilling company to be sold back to the municipality. In the long term, this provision is very concerning.

In addition, HB 1307 builds on last year's HEA 1126. Under that law, users of a municipal water utility who live outside of the municipal boundaries to petition the Indiana Utility Regulatory Commission for a review of their rates in charges when their rates and charges are 15% or greater than what inside customers pay. The opportunity to petition occurs at the time when the municipality is proposing a rate increase. Under HB 1307, however, there is a six month window starting in July for the outside users of water *and sewer* to petition the IURC for a review of rates and charges when the rates and charges 50% or more than what inside customers pay "anywhere" within the municipality. The opportunity to petition is regardless of whether there is a rate increase proposal by the municipality.

IACT Position: Opposed

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### **Bill Gives All Municipalities Access to Insurance Proceeds for Structures Damaged by Fire or Explosion**

#### **[SB 169](#) Insurance Proceeds Set Aside (Head, R-Logansport; Lehman, R-Berne)**

The conference committee report for SB 169 passed both houses. The bill establishes a program at the Indiana Department of Insurance whereby a municipality can register to participate. Should a building be totally damaged by fire or explosion within the municipal limits, the insurance company shall notify the registered municipality and insurance money will be set aside in an escrow account to be sure that clean-up takes place

An amendment had been added to the bill which required municipalities to pay an annual \$100 fee to participate in the Department of Insurance program. IACT was able to get this provision changed to a one-time \$100 fee.

IACT Position: Support

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### **Limiting Annexation Language Stays Out of SB 285, Town Consent Language Passes**

#### **[SB 285](#) Waiver of the Right to Remonstrate Against Annexation (Buck, R-Kokomo; Karickhoff, R-Kokomo)**

The original language in SB 285 requires that information be clear in a property's chain of title that an annexation waiver exists. IACT supported the bill as it will provide greater transparency to property owners that an annexation waiver agreement is in place and applies to the property. There was an attempt, however, to amend two other annexation bills into SB 285 during conference committee. The first was SB 376 which limited all annexations to 15% of assessed value per year. This language *did not* stay in the conference committee report. The second was SB 284 which provides that a town does not have to seek city consent to annex within three miles of the city. This language was passed in the conference committee report.

IACT Position: Support original bill

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### **Few Positive Changes Made in Door-to-door Solicitation Provision Involving Cable Companies**

#### **[SB 235](#) Video Service Providers (Holdman, R-Markle; Koch, R-Bedford)**

Without any public testimony allowed on the issue the entire session, language was added to SB 235 which was supported by the Indiana Cable Association. It makes cable companies exempt from local permitting laws for door-to-door sales. Rather, cable companies, who choose to be licensed by the state, will have the choice of either following local peddler laws or being licensed to peddle by the IURC. While a pledge was made to address public safety concerns in conference committee, this did not happen. IACT's important public safety concerns were not addressed. For instance, there is no requirement for a background check to be done for the salespeople and convicted violent felons can be door-to-door salespeople (as long as it has been seven years since their felony conviction). While there is the requirement that cable companies will have to comply will local peddler ordinances in regard to "hours and manner," they will not likely have to because they only have to follow ordinances that are uniform in nature. Most local ordinances exempt non-profits such as school kids, girl scouts, boy scouts, etc. IACT had some very practical suggested changes to make this bill better, but unfortunately, almost all of these suggestions were not considered.

IACT Position: Oppose the Peddler Ordinance Pre-emption Language

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**Bill Changed to Include Motorsports Legislation**

**[HB 1544](#) Various Tax Matters (Turner, R-Cicero; Hershman, R-Buck Creek)**

IACT was watching HB 1544 because it contained a provision that changed the assessment rules on rental housing which resulted to a \$17 million loss in property tax revenue statewide. In conference committee, however, the bill was stripped and amended with language that establishes a Motorsports Commission and sets up incentives for that industry.

IACT Position: Neutral

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**Rockport Coal Gasification Language Goes into SB 494**

**[SB 494](#) State and Local Taxation (Hershman, R-Buck Creek; Brown, R-Crawfordsville)**

IACT was closely watching SB 494 because language was added on the House floor which would have required two new voting members on redevelopment commissions that are appointed by school corporations starting December 31, 2013. SB 494 was stripped and amended in conference committee to contain language that would put the coal gasification economic development project in Rockport under much more review – this language passed. The language on the two new appointments to RDCs did not pass.

IACT Position: Neutral

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**Debt Reserve Limitations Removed from SB 517**

**[SB 517](#) Local Government Finance (Peter Miller, R-Brownsburg; Huston, R-Fishers)**

IACT was pleased to learn that some troublesome language was removed from the SB 517 conference committee report. The language limited the amount of operating balances that can be kept in debt service reserve funds. Generally, political subdivisions keep at least enough in reserves to make one additional payment in the case that property tax collections don't come in on time. The bill would have only allowed keeping enough reserves to make half of the payment amount, which would have likely forced many to take steps for temporary borrowing.

IACT: Neutral

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**Two Moratoriums Eroding Home Rule Authority Waiting for Governor's Signature**

**[HB 1313](#) – Regulation of Residential Landlords, Builders, and Remodelers (Rep. Speedy, R-Indianapolis; Sen. Holdman, R-Markle)**

HB 1313 has two different moratoriums on cities and towns adopting certain ordinances or other requirements. The first is a one-year moratorium on a political subdivision from adopting a regulation relating to landlord/tenant relations, rental agreements, or real property subject to rental agreements that: (1) requires an owner or landlord to be licensed or to obtain a permit from the political subdivision to lease a rental unit; (2) requires an owner or landlord to enroll or participate in a class or government program as a condition for leasing a rental unit; or (3) imposes or increases a fee or other assessment for inspection of a rental unit, registration of an owner, landlord, or rental unit, or for any other purpose relating to landlord and tenant relations, rental agreements, or real property subject to a rental agreement. Because of ambiguous drafting in the legislation, it is unclear whether or not a city or town can impose a uniform fee such as a trash collection fee and have it apply to rental property. IACT will continue our efforts to clarify this language.

The second is a two-year moratorium on an ordinance or other requirement that would require a builder or remodeler to be licensed, certified, permitted, registered, or listed by the political subdivision as a condition to the builder or remodeler constructing or remodeling a residential dwelling. While it provides that a political subdivision is not prohibited from licensing, permitting, or registering specific trades or issuing permits and approvals that regulate the use, planning, and development of property, this is still an unjustified intrusion on home rule authority.

IACT Position: Oppose

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### **Gaming Bill Headed to Governor for Signature**

#### **[SB 528](#) – Gaming (Sen. Boots, R-Crawfordsville; Rep. Davis, R-Portland)**

SB 528 allows Indiana casinos to deduct free play promotional money for tax purposes but the deduction may not exceed \$3,000,000 in state fiscal year 2014 and \$5,000,000 in each state fiscal year thereafter. It requires certain local development agreement reports must be made available through the Indiana transparency web site for local government. It also requires a racino licensee to make revenue sharing distributions for the gaming integrity fund, a motorsports investment district, and the motorsports industry. SB 528 authorizes the use of limited mobile gaming systems at racetracks, satellite facilities, and in the gaming area of a riverboat or racino.

SB 528 establishes the Indiana gaming investment tax credit for certain capital investments that are made after December 31, 2013, and before January 1, 2019, by a licensed owner or operating agent of a riverboat or by a racino licensee. This tax credit is equal to 10% of the qualified capital investment made by the taxpayer during the taxable year. The total amount of tax credits awarded may not exceed \$40,000,000 in a state fiscal year.

IACT Position: Neutral

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## **IN Legislative Initiatives**

[Click here for more about IACT 2013 Initiatives and Legislative Team](#)

### **IACT Succeeds in Getting Important Changes Made to Laws on Abandoned Property**

#### **[SB 433](#) Abandoned Property (Paul, R-Richmond; Hamm, R-Richmond)**

SB 433 establishes a procedure to permit a county executive to dispose of certain properties that did not sell at the tax sale to a person able to repair and maintain the properties. It also provides that before the county executive may transfer properties that did not sell at a tax sale to a nonprofit corporation, an abutting property owner, or a person satisfactorily able to repair and maintain the property, a person with a substantial interest in the property must be given an opportunity to redeem the property. It also requires certain notices concerning demolition and removal under the unsafe building law be served on each person with a known or recorded substantial property interest and authorizes a municipality or county to bring an action to collect unpaid expenses relating to the abatement of high weeds and grass. (Under current law, the municipality or county may obtain only a lien on the property containing the high weeds and grass.)

Rep. John Price of Greenwood assisted IACT in getting an amendment adopted to the bill in the House Local Government Committee which would facilitate communication between cities and towns and counties regarding abandoned/vacant properties eligible for tax sale. The amendment would also allow a city or town to access the courts in order to deem a property as abandoned. In conference committee, technical changes were made to the bill to clear-up conflicts with legislation that had already passed. In addition, a provision was added to the bill dealing with property assessment of mobile homes.

IACT Position: Support

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### **LOIT Distribution – Study Committee is Requested**

#### **[SB 544](#) State and Local Tax Administration (Hershman, R-Buck Creek; Brown, R-Crawfordsville)**

One of IACT's legislative initiatives is to insure that locals are getting their full distribution of local option income taxes. Due to the processes at the Indiana Department of Revenue, locals are only receiving distributions based on tax returns filed. The state is keeping the local portion from those taxpayers who don't file returns. We are told that in order to rectify the problem, the Department must buy a costly computer system. IACT urged the state to rectify this problem by taking any necessary steps.

An amendment was added in the House Ways and Means Committee which asks the Legislative Council to assign the topic of "imposition, administration and distribution" of local income taxes to an interim study committee. In addition, the bill requires the state auditor to make income tax distributions to locals sooner.

IACT Position: Support greater accountability of LOIT revenues

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**IACT Initiative Waiting for Governor's Office**

**[HB 1070](#) – Local Food and Beverage Tax (Rep. Baird, R-Greencastle; Sen. Bray, R-Martinsville)**

HB 1070 authorizes the Cloverdale town council to adopt a 1% Food and Beverage Tax on taxable food and beverage transactions in the town that could go into effect as early as September 1, 2013. All funds collected must go into a separate account and may only be spent on the financing, construction, operation, maintenance, and debt service of sanitary sewers or wastewater treatment facilities, drainage or flood control facilities and water treatment, storage, or distribution facilities. HB 1070 also authorizes the town of Fishers to adopt a 1% Food and Beverage Tax and requires the revenue to be spent to reduce the town's property tax levy or on economic development. This IACT initiative is headed to the Governor's office to wait for his signature.

IACT Position: Support

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**IACT Initiative Waiting for Governor's Signature**

**[SB 365](#) – Utility Facility Relocation (Sen. Crider, R-Greenfield; Rep. Koch, R-Bedord)**

SB 365 authorizes a unit of local government to enter into an agreement with a utility concerning the relocation of the utility's facilities for a major highway, street, or road project undertaken by the local unit. The agreement must include a date for relocation and conditions under which the utility is excused from meeting the date, including a force majeure clause. This IACT initiative is waiting for the Governor's signature.

IACT Position: Support

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**IACT Initiative Waiting for Governor's Signature**

**[SB 496](#) – Regulation of Ephedrine and Pseudoephedrine (Sen. Yoder, R-Middlebury; Rep. McMillin, R-Brookville)**

This IACT initiative is at the Governor's office with a concurrence vote of 43-5. This bill prohibits a pharmacy/retailer from selling and an individual from purchasing more than 61.2 grams of ephedrine or pseudoephedrine in a 365-day period. It also prohibits a person convicted of certain offenses involving methamphetamine from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription.

IACT Position: Support

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## IN Other Bills

**Bill Which Allows Excess Utility Funds to be Used for Economic Development is Narrowed**

**[SB 349](#) Utilities; Economic Development (Head, R-Logansport; Friend, R-Macy)**

SB 349 allows a local unit to donate funds from the municipally owned utility's surplus earnings to a local economic development organization, as long as certain obligations of the municipally owned utility are met before the donation is made. This genesis of this bill was the City of Peru. There, the city wanted to use surplus utility funds to reapply a logo to their water tower after the tower had been repainted. In conference committee, population parameter language was included so that the bill now only pertains to Peru.

IACT Position: Neutral

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**Clerk-Treasurers' Bill Has Been Received by the Governor**

**[HB 1145](#) Various Local Government Matters (Candelaria-Reardon, D-Hammond; Paul, R-Richmond)**

HB 1145 contains several provisions that were requested by the municipal Clerk-Treasurers and it passed out of the Senate Local Government Committee this week. The bill allows a political subdivision to charge a reasonable fee for convenience, not to exceed \$3, when accepting a credit card or bank card for payments. It provides that unused and unencumbered funds from any fiscal year and certain specified sources may be transferred to a political subdivision's rainy day fund at any time. It also provides that unobligated cash balances from any fiscal year and sources not specified by statute may be transferred to the rainy day fund if the amount of the transfer is specified in an ordinance or resolution and the transfer is not more than 10% of the political subdivision's annual budget. It also allows towns to publish any of its ordinances in book or pamphlet and no other publication is required in order for the ordinance to take effect (cities can already do this.) In addition, an amendment was added to the bill in committee which allows more time for a redevelopment commission to file its annual report with the DLGF – until March 15 of each year (current law requires the report to be filed within 30 days after the close of the calendar year.) IACT was able to get an additional amendment put into the bill on second reading which provides that the redevelopment commission “or their designee” can submit the report to the DLGF on the Gateway system. The bill has been signed by both House and Senate leaders and is now on the Governor's desk.

IACT Position: Support

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**Mass Transit Travels to Summer Study Committee**

**[HB 1011](#) – Public Mass Transportation (Rep. Torr, R-Carmel; Sen. Miller, R-Avon)**

HB 1011 establishes a 16 member Central Indiana Transit Study Committee. The bill requires the Committee to report to the Legislative Council before December 15, 2013, concerning specified transportation issues. The bill also precludes ten counties from entering into interlocal cooperation agreements under which all of the counties participate in or are eligible to participate in a joint district or entity to provide public transportation services throughout those counties. This prohibition expires March 15, 2014. However, it does not prohibit interlocal cooperation agreement to provide transportation services that existed prior to passage of the bill for the affected counties. It also prohibits certain counties and municipalities in those counties from establishing a new regional transportation authority or becoming a member of an existing regional transportation authority. The affected counties are as follows: (1) Boone; (2) Delaware; (3) Hamilton; (4) Hancock; (5) Hendricks; (6) Johnson; (7) Madison; (8) Marion; (9) Morgan; and (10) Shelby. This moratorium expires on March 15, 2014.

IACT Position: Support

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**Late Fees For Handicapped Parking And Seat Belt Tickets Waiting Governor's Signature**

**[HB 1124](#) - City and Town Court Late Payment Fees (Mahan, R-Hartford City; Holdman, R-Markle)**

Representative Kevin Mahan sponsored HB 1124 at the request of city and town court judges. The State Board of Accounts had ruled that since Class D Infractions (including seat belt violations) and handicapped parking violations did not assess court costs but only a fine, then the city and town courts could not assess late fees if fines for violation were not paid promptly. The bill allowing late fees passed the House 99-0. In the Senate it was discovered that Circuit and Superior Courts could not collect the late fees unless the language was amended. The Senate Judiciary amended the bill so all of the courts could assess late fees when warranted for seat belt and handicapped violations.

IACT Position: Support

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**Restructuring of a Consolidated City's Organization Waiting for Governor's Signature**

**[SB 621](#) – Local Government Issues (Sen. R. Michael Young, R-Milltown; Rep. Speedy, R-Indianapolis)**

SB 621 makes numerous changes to a consolidated city's organizational structural. Beginning on January 1, 2016, this bill reduces the city-county council from 29 to 25 members by eliminating the members elected at large. SB 621 allows the controlled of the consolidated city to allot amounts appropriates to an



office, department, or agency of the consolidated city or county. It also requires a candidate for mayor of the consolidated city to reside in the city for at least one year (instead of five years) before taking office and a candidate for member of the city-county council to reside within the council district for at least one year (instead of two years) before taking office. Furthermore, it allows the mayor of a consolidated city and the city-county council to each appoint one additional member to the metropolitan development commission, and eliminates the two appointments of the county board of commissioners.

Governor Pence has expressed general concerns about this bill but has not provided any specific examples.

IACT Position: Neutral

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## IN Announcements



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