

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001(ss) be amended to read as follows:

- 1 Page 202, between lines 1 and 2, begin a new paragraph and insert:
- 2 "SECTION 216. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 9. Local Option Sales Tax for Property Tax**
- 6 **Replacement**
- 7 **Sec. 1. Except as otherwise provided in this chapter, the**
- 8 **definitions contained in IC 6-2.5-1 apply throughout this chapter.**
- 9 **Sec. 2. As used in this chapter, "civil taxing unit" means:**
- 10 **(1) The city or town adopting a tax under this chapter, if a**
- 11 **municipal fiscal body imposes a tax under this chapter.**
- 12 **(2) Any entity having the power to impose ad valorem**
- 13 **property taxes in a county, if a county fiscal body imposes a**
- 14 **tax under this chapter.**
- 15 **In the case of a consolidated city, the term includes the**
- 16 **consolidated city and all special taxing districts, all special service**
- 17 **districts, and all other entities of the consolidated city with budgets**
- 18 **and property tax levies that are subject to review under**
- 19 **IC 36-3-6-9.**
- 20 **Sec. 3. As used in this chapter, "fiscal body" has the meaning set**
- 21 **forth in IC 36-1-2-6.**
- 22 **Sec. 4. (a) Using procedures described in this chapter, a fiscal**
- 23 **body for a county, city, or town may, by majority vote, adopt an**

1 ordinance to impose or rescind a local option gross retail tax for  
2 property tax replacement in the county, city, or town served by the  
3 fiscal body.

4 (b) Before a fiscal body may adopt an ordinance to impose or  
5 rescind a tax under this chapter, the fiscal body must hold a public  
6 hearing on the proposed ordinance. The fiscal body must provide  
7 notice in accordance with IC 5-3-1 to the public of the time and  
8 place that the public hearing will be held.

9 Sec. 5. (a) The fiscal body may impose a local option gross retail  
10 tax on the transactions described in section 6 of this chapter. A  
11 fiscal body adopting an ordinance under this section must indicate  
12 in the ordinance the date the tax becomes effective.

13 (b) A tax imposed under this chapter may not take effect until  
14 at least sixty (60) days after the date the ordinance imposing the  
15 tax is adopted.

16 Sec. 6. (a) Except as provided in section 7 of this chapter, the tax  
17 imposed under this chapter by a fiscal body applies to retail  
18 transactions that occur within the county, city, or town served by  
19 the fiscal body adopting the tax.

20 (b) Retail transactions that are services described in  
21 IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 are considered as  
22 having occurred within the county, city, or town in which the  
23 services are provided.

24 Sec. 7. (a) A tax imposed under this chapter does not apply to a  
25 transaction to the extent that the transaction is exempt from the  
26 state gross retail tax under IC 6-2.5.

27 (b) A tax imposed under this chapter does not apply to the gross  
28 retail income derived from a unitary retail transaction to the extent  
29 the gross retail income is attributable to a tax under IC 6-2.5 or  
30 IC 6-9.

31 Sec. 8. A fiscal body that has imposed a tax under this chapter  
32 may adopt an ordinance to rescind the tax. The fiscal body must  
33 specify in the ordinance the date the rescission of the tax takes  
34 effect.

35 Sec. 9. If a fiscal body adopts an ordinance to impose or rescind  
36 a tax under this chapter, the fiscal body shall immediately send a  
37 certified copy of the ordinance to the department of state revenue.

38 Sec. 10. (a) A tax imposed under this chapter may be imposed  
39 only on the gross retail income derived from retail transactions. If  
40 the tax imposed under this chapter for a particular transaction  
41 results in a fraction of one-half cent (\$0.005) or more, the amount  
42 of the tax shall be rounded to the next additional cent.

43 (b) A fiscal body may adopt a tax under this chapter that equals  
44 any of the following rates:

- 45 (1) Twenty-five hundredths of one percent (0.25%).
- 46 (2) Five-tenths of one percent (0.5%).
- 47 (3) Seventy-five hundredths of one percent (0.75%).

1           **(4) One percent (1%).**

2           **(c) If both the fiscal body for a county and the fiscal body for a**  
 3 **city or town in the same county impose a tax under this chapter,**  
 4 **the combined tax rate imposed under this chapter on transactions**  
 5 **in the city or town may not exceed one percent (1%). If the**  
 6 **combined rate exceeds one percent (1%) the county rate on**  
 7 **transactions in the city or town is reduced so that the combined**  
 8 **rate does not exceed one percent (1%) and the amount of the**  
 9 **distribution of property tax replacement credits that each civil**  
 10 **taxing unit in the city or town, including the city or town, is eligible**  
 11 **to receive from the county tax is reduced to the full extent that**  
 12 **reduced revenue is received from the county tax in the city or town.**

13           **(d) A fiscal body shall give notice of an action under this chapter**  
 14 **to the department of local government finance not more than five**  
 15 **(5) business days after adopting an ordinance under this chapter.**

16           **Sec. 11. (a) A person who receives goods or services in a retail**  
 17 **transaction that is taxed under this chapter is liable for the tax.**  
 18 **The person shall pay the tax to the retail merchant as a separate**  
 19 **amount added to the consideration for the goods or services. The**  
 20 **retail merchant shall collect the tax as an agent for the state and**  
 21 **the county, city, or town served by the fiscal body adopting the tax.**

22           **(b) The fiscal body may adopt an ordinance to require that the**  
 23 **tax be reported on forms approved by the treasurer for the county,**  
 24 **city, or town adopting the tax and that the tax shall be paid**  
 25 **monthly to the treasurer for the county, city, or town adopting the**  
 26 **tax. If:**

27           **(1) the fiscal body does not adopt such an ordinance; or**

28           **(2) both the county fiscal body and the fiscal body for a town**  
 29 **or city in the county adopt a tax under this chapter;**

30 **the tax imposed under this chapter shall be imposed, paid, and**  
 31 **collected in the same manner in which the state gross retail tax is**  
 32 **imposed, paid, and collected under IC 6-2.5.**

33           **(c) The department of state revenue shall determine whether a**  
 34 **return that is filed for the payment of the tax imposed under this**  
 35 **chapter shall be a separate return or shall be combined with the**  
 36 **return filed for the payment of the state gross retail tax.**

37           **Sec. 12. (a) A special account within the state general fund shall**  
 38 **be established for each county, city, or town adopting the property**  
 39 **tax replacement sales tax. Any revenue derived from the**  
 40 **imposition of the property tax replacement gross retail tax by a**  
 41 **county, city, or town shall be deposited in that county, city, or**  
 42 **town's account in the state general fund.**

43           **(b) Income earned on money held in an account under**  
 44 **subsection (a) becomes a part of that account.**

45           **(c) Revenue remaining in an account established under**  
 46 **subsection (a) at the end of a fiscal year does not revert to the state**  
 47 **general fund.**

1           **Sec. 13. (a) Revenue derived from the imposition of the property**  
2 **tax replacement gross retail tax shall, in the manner prescribed by**  
3 **this section, be distributed to the county, city, or town that imposed**  
4 **it. The amount to be distributed to a county, city, or town during**  
5 **an ensuing calendar year equals the amount of property tax**  
6 **replacement sales tax revenue that the department of state**  
7 **revenue, after reviewing the recommendation of the budget agency,**  
8 **estimates will be received from that county, city, or town during**  
9 **the twelve (12) month period beginning July 1 of the immediately**  
10 **preceding year and ending June 30 of the following year.**

11           **(b) Before the later of July 2 of each year or sixty (60) days after**  
12 **an ordinance to impose a tax under this chapter is adopted, the**  
13 **department of state revenue, after reviewing the recommendation**  
14 **of the budget agency, shall estimate and certify to the fiscal officer**  
15 **(as defined in IC 36-1-2-7) of each adopting county, city, or town**  
16 **the amount of property tax replacement gross retail tax revenue**  
17 **that will be collected from that county, city, or town's tax during**  
18 **the twelve (12) month period beginning July 1 of that year and**  
19 **ending June 30 of the immediately following year. The amount**  
20 **certified is the county's, city's, or town's certified distribution for**  
21 **the immediately following year. The amount certified may be**  
22 **adjusted under subsection (c) or (d).**

23           **(c) The department of state revenue may certify to an adopting**  
24 **county, city, or town an amount that is more than the estimated**  
25 **twelve (12) month revenue collection if the department of state**  
26 **revenue, after reviewing the recommendation of the budget agency,**  
27 **determines that there will be more revenue available for**  
28 **distribution from the county's, city's, or town's account established**  
29 **under section 12 of this chapter.**

30           **(d) The department of state revenue may certify an amount less**  
31 **than the estimated twelve (12) month revenue collection if the**  
32 **department of state revenue, after reviewing the recommendation**  
33 **of the budget agency, determines that a part of those collections**  
34 **must be distributed during the current year to enable the county,**  
35 **city, or town to receive its full certified distribution for the current**  
36 **year.**

37           **Sec. 14. (a) One-half (1/2) of each county's, city's, or town's**  
38 **certified distribution for a year shall be distributed from its**  
39 **account established under section 12 of this chapter to the**  
40 **treasurer of the adopting county, city, or town on May 1 and the**  
41 **other one-half (1/2) on November 1 of that year.**

42           **(b) Distributions made to a treasurer of the adopting county,**  
43 **city, or town under subsection (a) shall be treated as though they**  
44 **were property taxes that were due and payable during that same**  
45 **year. The certified distribution shall be distributed and used by the**  
46 **counties, cities, and towns as provided in this chapter.**

47           **(c) All distributions from an account established under section**

1 12 of this chapter must be made by warrants issued by the auditor  
 2 of state to the treasurer of state ordering the appropriate  
 3 payments.

4 **Sec. 15.** The certified distribution received by a treasurer of a  
 5 county, city, or town under this chapter shall be allocated,  
 6 distributed, and used by the civil taxing units of the county, city, or  
 7 town as property tax replacement credits as provided under  
 8 sections 16, 17, and 18 of this chapter.

9 **Sec. 16. (a)** If a county adopted the tax, the county's certified  
 10 distribution for a calendar year that is to be used as property tax  
 11 replacement credits shall be allocated by the county auditor among  
 12 the civil taxing units of the county. If a city or town adopted the  
 13 tax, the city's or town's certified distribution for a calendar year  
 14 that is used as property tax replacement credits shall be allocated  
 15 to the city or town adopting the tax.

16 **(b)** Except as provided in sections 10 and 17 of this chapter, if a  
 17 county adopted the tax, the amount of property tax replacement  
 18 credits that each civil taxing unit in a county is entitled to receive  
 19 during a calendar year is the result determined under STEP FIVE  
 20 of the following formula:

21 **STEP ONE:** Determine that part of the county's certified  
 22 distribution that is dedicated to providing property tax  
 23 replacement credits for that same calendar year.

24 **STEP TWO:** Determine the sum of the following:

25 **(A)** The total property taxes collected by each civil taxing  
 26 unit during the calendar year immediately preceding the  
 27 calendar year in which the distribution is to be made.

28 **(B)** The amount of federal revenue sharing funds and  
 29 certified shares received under IC 6-3.5-1.1 or homestead  
 30 credits received under IC 6-3.5-6 by each civil taxing unit  
 31 during the calendar year immediately preceding the year  
 32 in which the distribution is to be made to the extent that  
 33 the receipts are used to reduce the civil taxing unit's  
 34 property tax levy below the limit imposed by IC 6-1.1-18.5  
 35 or another law for that same calendar year.

36 **STEP THREE:** Determine the sum of the following:

37 **(A)** The total property taxes collected by all civil taxing  
 38 units in the county in the calendar year immediately  
 39 preceding the calendar year in which the distribution is to  
 40 be made.

41 **(B)** The amount of federal revenue sharing funds and  
 42 certified shares received under IC 6-3.5-1.1 or homestead  
 43 credits received under IC 6-3.5-6 by all civil taxing units in  
 44 the county during that calendar year to the extent that the  
 45 receipts are used to reduce the county's property tax levy  
 46 below the limit imposed by IC 6-1.1-18.5 or another law  
 47 for that same calendar year.

1           **STEP FOUR: Divide the STEP TWO sum by the STEP**  
 2           **THREE sum.**

3           **STEP FIVE: Multiply the STEP ONE amount by the STEP**  
 4           **FOUR quotient.**

5           (c) If a county adopted the tax, the department of local  
 6 government finance shall provide each county auditor with the  
 7 amount of property tax replacement credits that each civil taxing  
 8 unit in the auditor's county is entitled to receive. The county  
 9 auditor shall then certify to each civil taxing unit the amount of  
 10 property tax replacement credits it is entitled to receive during that  
 11 year. The county auditor shall also certify these distributions to the  
 12 county treasurer.

13           **Sec. 17. (a) This section applies to a civil taxing unit that:**

14           (1) imposes a property tax that is first due and payable in a  
 15 year in which a distribution is made under this chapter; and

16           (2) did not impose a property tax that was first due and  
 17 payable in the year that immediately precedes the year in  
 18 which the distribution is made;

19 if a county adopted the tax.

20           (b) A civil taxing unit is entitled to receive part of the property  
 21 tax replacement credits to be distributed within the county. The  
 22 amount that the civil taxing unit is entitled to receive during that  
 23 year is the result determined under STEP FIVE of the following  
 24 formula:

25           **STEP ONE: Determine the part of the county's certified**  
 26           **distribution that is to be used to provide property tax**  
 27           **replacement credits during that year.**

28           **STEP TWO: Determine the budget of the civil taxing unit for**  
 29           **that year.**

30           **STEP THREE: Determine the aggregate budgets of all civil**  
 31           **taxing units of that county for that year.**

32           **STEP FOUR: Divide the STEP TWO amount by the STEP**  
 33           **THREE amount.**

34           **STEP FIVE: Multiply the STEP ONE amount by the STEP**  
 35           **FOUR quotient.**

36           (c) If for a year a civil taxing unit is allocated a proportion of a  
 37 county's property tax replacement credits by this section, the  
 38 formula used in section 16 of this chapter to determine all other  
 39 civil taxing units' property tax replacement credits shall be  
 40 changed for that same year by reducing the amount dedicated to  
 41 providing property tax replacement credits by the amount of  
 42 property tax replacement credits allocated under this section for  
 43 that same year. The department of local government finance shall  
 44 make any adjustments required by this section and provide them  
 45 to the appropriate county auditors.

46           **Sec. 18. (a) In determining the amount of property tax**  
 47           **replacement credits civil taxing units in a county are entitled to**

1 receive during a year, if the adopting fiscal body is a fiscal body for  
2 a county, the department of local government finance shall  
3 consider only property taxes imposed on tangible property that  
4 was assessed in that county.

5 (b) If a civil taxing unit is located in more than one (1) county,  
6 the adopting fiscal body is a fiscal body for a county, and the civil  
7 taxing unit receives property tax replacement credits from one (1)  
8 or more of the counties, the property tax replacement credits  
9 received from each county shall be used only to reduce the  
10 property tax rates that are imposed within the county that  
11 distributed the property tax replacement credits.

12 Sec. 19. A civil taxing unit shall treat any property tax  
13 replacement credits that it receives or is to receive during a  
14 particular year as a part of its property tax levy for that same year  
15 for purposes of fixing its budget and for purposes of IC 6-1.1-18.5,  
16 IC 6-1.1-18.6, IC 6-1.1-19, and any other statute imposing a  
17 property tax levy limit."

18 Renumber all SECTIONS consecutively.

(Reference is to HB 1001(ss) as printed June 3, 2002.)

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Representative Dobis