



February 18, 2011

HOUSE BILL No. 1372

DIGEST OF HB 1372 (Updated February 16, 2011 1:15 pm - DI 96)

Citations Affected: IC 6-3.5; IC 36-9.

Synopsis: Public transportation funding. Authorizes funding for public transportation authorities by means of: (1) the county adjusted gross income tax; (2) the county option income tax; or (3) the county economic development income tax. Provides authority to hold a referendum on imposing a public transportation referendum income tax in a city served by a public transportation corporation, a regional transportation authority, or an urban mass transportation system. Provides that the referendum may not be held until 2012.

Effective: July 1, 2011.

GiaQuinta, Torr

January 18, 2011, read first time and referred to Committee on Roads and Transportation.
February 17, 2011, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

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HB 1372—LS 7331/DI 92+



February 18, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1372



A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

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

1 SECTION 1. IC 6-3.5-1.1-15, AS AMENDED BY
2 P.L.182-2009(ss), SECTION 212, IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. (a) As used in this
4 section, "attributed allocation amount" of a civil taxing unit for a
5 calendar year means the sum of:

- 6 (1) the allocation amount of the civil taxing unit for that calendar
- 7 year; plus
- 8 (2) the current ad valorem property tax levy of any special taxing
- 9 district, authority, board, or other entity formed to discharge
- 10 governmental services or functions on behalf of or ordinarily
- 11 attributable to the civil taxing unit; plus
- 12 (3) in the case of a county, an amount equal to the welfare
- 13 allocation amount.

14 The welfare allocation amount is an amount equal to the sum of the
15 property taxes imposed by the county in 1999 for the county's welfare
16 fund and welfare administration fund and, if the county received a
17 certified distribution under this chapter or IC 6-3.5-6 in 2008, the

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1 property taxes imposed by the county in 2008 for the county's county
2 medical assistance to wards fund, family and children's fund, children's
3 psychiatric residential treatment services fund, county hospital care for
4 the indigent fund and children with special health care needs county
5 fund.

6 (b) The part of a county's certified distribution that is to be used as
7 certified shares shall be allocated only among the county's civil taxing
8 units. Each civil taxing unit of a county is entitled to receive a certified
9 share during a calendar year in an amount determined in STEP TWO
10 of the following formula:

11 STEP ONE: Divide:

12 (A) the attributed allocation amount of the civil taxing unit
13 during that calendar year; by

14 (B) the sum of the attributed allocation amounts of all the civil
15 taxing units of the county during that calendar year.

16 STEP TWO: Multiply the part of the county's certified
17 distribution that is to be used as certified shares by the STEP
18 ONE amount.

19 (c) The department of local government finance shall determine the
20 attributed levies of civil taxing units that are entitled to receive certified
21 shares during a calendar year. If the ad valorem property tax levy of
22 any special taxing district, authority, board, or other entity is attributed
23 to another civil taxing unit under subsection (a)(2), then the special
24 taxing district, authority, board, or other entity shall not be treated as
25 having an attributed allocation amount of its own. The department of
26 local government finance shall certify the attributed allocation amounts
27 to the appropriate county auditor. The county auditor shall then allocate
28 the certified shares among the civil taxing units of the auditor's county.

29 (d) Certified shares received by a civil taxing unit shall be treated
30 as additional revenue for the purpose of fixing its budget for the
31 calendar year during which the certified shares will be received. The
32 certified shares may be allocated to or appropriated for any purpose,
33 including:

- 34 (1) property tax relief;
- 35 **(2) funding the operation of a public transportation entity as**
- 36 **provided in an election, if any, made by a county or city fiscal**
- 37 **body under IC 36-9-4-42; or**
- 38 (3) a transfer of funds to another civil taxing unit whose levy was
- 39 attributed to the civil taxing unit in the determination of its
- 40 attributed allocation amount.

41 SECTION 2. IC 6-3.5-6-18, AS AMENDED BY P.L.182-2009(ss),
42 SECTION 222, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2011]: Sec. 18. (a) The revenue a county
2 auditor receives under this chapter shall be used to:

- 3 (1) replace the amount, if any, of property tax revenue lost due to
4 the allowance of an increased homestead credit within the county;
5 (2) fund the operation of a public communications system and
6 computer facilities district as provided in an election, if any, made
7 by the county fiscal body under IC 36-8-15-19(b);
8 (3) fund the operation of a public transportation corporation as
9 provided in an election, if any, made by the county fiscal body
10 under IC 36-9-4-42;
11 (4) make payments permitted under IC 36-7-14-25.5 or
12 IC 36-7-15.1-17.5;
13 (5) make payments permitted under subsection (i);
14 (6) make distributions of distributive shares to the civil taxing
15 units of a county; and
16 (7) make the distributions permitted under sections 27, 28, 29, 30,
17 31, 32, and 33 of this chapter.

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

25 (c) The county auditor shall retain:

- 26 (1) the amount, if any, specified by the county fiscal body for a
27 particular calendar year under subsection (i), IC 36-7-14-25.5,
28 IC 36-7-15.1-17.5, IC 36-8-15-19(b), and ~~IC 36-9-4-42~~
29 **IC 36-9-4-42(c)** from the county's certified distribution for that
30 same calendar year; and
31 (2) the amount of an additional tax rate imposed under section 27,
32 28, 29, 30, 31, 32, or 33 of this chapter.

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

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

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

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

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

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

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

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

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

24 (h) If for a calendar year a civil taxing unit is allocated a part of a
25 county's distributive shares by subsection (g), then the formula used in
26 subsection (e) to determine all other civil taxing units' distributive
27 shares shall be changed each month for that same year by reducing the
28 amount to be distributed as distributive shares under subsection (e) by
29 the amount of distributive shares allocated under subsection (g) for that
30 same month. The department of local government finance shall make
31 any adjustments required by this subsection and provide them to the
32 appropriate county auditors.

33 (i) Notwithstanding any other law, a county fiscal body may pledge
34 revenues received under this chapter (other than revenues attributable
35 to a tax rate imposed under section 30, 31, or 32 of this chapter) to the
36 payment of bonds or lease rentals to finance a qualified economic
37 development tax project under IC 36-7-27 in that county or in any other
38 county if the county fiscal body determines that the project will
39 promote significant opportunities for the gainful employment or
40 retention of employment of the county's residents.

41 SECTION 3. IC 6-3.5-6-19, AS AMENDED BY P.L.118-2005,
42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2011]: Sec. 19. (a) Except as provided in sections 18(e) and
2 18.5(b)(3) of this chapter, in determining the fractional share of
3 distributive shares the civil taxing units of a county are entitled to
4 receive under section 18 of this chapter during a calendar year, the
5 department of local government finance shall consider only property
6 taxes imposed on tangible property subject to assessment in that
7 county.

8 (b) In determining the amount of distributive shares a civil taxing
9 unit is entitled to receive under section 18(g) of this chapter, the
10 department of local government finance shall consider only the
11 percentage of the civil taxing unit's budget that equals the ratio that the
12 total assessed valuation that lies within the civil taxing unit and the
13 county that has adopted the county option tax bears to the total assessed
14 valuation that lies within the civil taxing unit.

15 (c) The distributive shares to be allocated and distributed under this
16 chapter:

17 (1) shall be treated by each civil taxing unit as additional revenue
18 for the purpose of fixing the civil taxing unit's budget for the
19 budget year during which the distributive shares are to be
20 distributed to the civil taxing unit; and

21 (2) may be used for any lawful purpose of the civil taxing unit,
22 **including funding the operation of a public transportation**
23 **entity as provided in an election, if any, made by a county or**
24 **city fiscal body under IC 36-9-4-42.**

25 (d) In the case of a civil taxing unit that includes a consolidated city,
26 its fiscal body may distribute any revenue it receives under this chapter
27 to any governmental entity located in its county except an excluded
28 city, a township, or a school corporation.

29 SECTION 4. IC 6-3.5-7-13.1, AS AMENDED BY
30 P.L.182-2009(ss), SECTION 227, IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13.1. (a) The fiscal
32 officer of each county, city, or town for a county in which the county
33 economic development tax is imposed shall establish an economic
34 development income tax fund. Except as provided in sections 23, 25,
35 26, and 27 of this chapter, the revenue received by a county, city, or
36 town under this chapter shall be deposited in the unit's economic
37 development income tax fund.

38 (b) As used in this subsection, "homestead" means a homestead that
39 is eligible for a standard deduction under IC 6-1.1-12-37. Except as
40 provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues
41 from the county economic development income tax may be used as
42 follows:

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- 1 (1) By a county, city, or town for economic development projects,
- 2 for paying, notwithstanding any other law, under a written
- 3 agreement all or a part of the interest owed by a private developer
- 4 or user on a loan extended by a financial institution or other
- 5 lender to the developer or user if the proceeds of the loan are or
- 6 are to be used to finance an economic development project, for
- 7 the retirement of bonds under section 14 of this chapter for
- 8 economic development projects, for leases under section 21 of
- 9 this chapter, or for leases or bonds entered into or issued prior to
- 10 the date the economic development income tax was imposed if
- 11 the purpose of the lease or bonds would have qualified as a
- 12 purpose under this chapter at the time the lease was entered into
- 13 or the bonds were issued.
- 14 (2) By a county, city, or town for:
- 15 (A) the construction or acquisition of, or remedial action with
- 16 respect to, a capital project for which the unit is empowered to
- 17 issue general obligation bonds or establish a fund under any
- 18 statute listed in IC 6-1.1-18.5-9.8;
- 19 (B) the retirement of bonds issued under any provision of
- 20 Indiana law for a capital project;
- 21 (C) the payment of lease rentals under any statute for a capital
- 22 project;
- 23 (D) contract payments to a nonprofit corporation whose
- 24 primary corporate purpose is to assist government in planning
- 25 and implementing economic development projects;
- 26 (E) operating expenses of a governmental entity that plans or
- 27 implements economic development projects;
- 28 (F) to the extent not otherwise allowed under this chapter,
- 29 funding substance removal or remedial action in a designated
- 30 unit; or
- 31 (G) funding of a revolving fund established under
- 32 IC 5-1-14-14.
- 33 (3) By a county, city, or town for any lawful purpose for which
- 34 money in any of its other funds may be used.
- 35 (4) By a city or county described in IC 36-7.5-2-3(b) for making
- 36 transfers required by IC 36-7.5-4-2. If the county economic
- 37 development income tax rate is increased after April 30, 2005, in
- 38 a county having a population of more than one hundred forty-five
- 39 thousand (145,000) but less than one hundred forty-eight
- 40 thousand (148,000), the first three million five hundred thousand
- 41 dollars (\$3,500,000) of the tax revenue that results each year from
- 42 the tax rate increase shall be used by the county or by eligible

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1 municipalities (as defined in IC 36-7.5-1-11.3) in the county only
 2 to make the county's transfer required by IC 36-7.5-4-2. The first
 3 three million five hundred thousand dollars (\$3,500,000) of the
 4 tax revenue that results each year from the tax rate increase shall
 5 be paid by the county treasurer to the treasurer of the northwest
 6 Indiana regional development authority under IC 36-7.5-4-2
 7 before certified distributions are made to the county or any cities
 8 or towns in the county under this chapter from the tax revenue
 9 that results each year from the tax rate increase. If a county having
 10 a population of more than one hundred forty-five thousand
 11 (145,000) but less than one hundred forty-eight thousand
 12 (148,000) ceases to be a member of the northwest Indiana
 13 regional development authority under IC 36-7.5 but two (2) or
 14 more municipalities in the county have become members of the
 15 northwest Indiana regional development authority as authorized
 16 by IC 36-7.5-2-3(i), the county treasurer shall continue to transfer
 17 the three million five hundred thousand dollars (\$3,500,000) to
 18 the treasurer of the northwest Indiana regional development
 19 authority under IC 36-7.5-4-2 before certified distributions are
 20 made to the county or any cities or towns in the county. In a
 21 county having a population of more than one hundred forty-five
 22 thousand (145,000) but less than one hundred forty-eight
 23 thousand (148,000), all of the tax revenue that results each year
 24 from the tax rate increase that is in excess of the first three million
 25 five hundred thousand dollars (\$3,500,000) that results each year
 26 from the tax rate increase must be used by the county and cities
 27 and towns in the county for homestead credits under subdivision
 28 (5).

29 (5) This subdivision applies only in a county having a population
 30 of more than one hundred forty-five thousand (145,000) but less
 31 than one hundred forty-eight thousand (148,000). All of the tax
 32 revenue that results each year from a tax rate increase described
 33 in subdivision (4) that is in excess of the first three million five
 34 hundred thousand dollars (\$3,500,000) that results each year from
 35 the tax rate increase must be used by the county and cities and
 36 towns in the county for homestead credits under this subdivision.
 37 The following apply to homestead credits provided under this
 38 subdivision:

- 39 (A) The homestead credits must be applied uniformly to
- 40 provide a homestead credit for homesteads in the county, city,
- 41 or town.
- 42 (B) The homestead credits shall be treated for all purposes as

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property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide homestead credits in that year.

(6) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county or a city or town in the county may use county economic development income tax revenue to provide homestead credits in the county, city, or town. The following apply to homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the homestead credits. The ordinance must:

- (i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and
- (ii) specify the amount of county economic development income tax revenue that will be used to provide homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town (for property taxes first due and payable before January 1, 2009) or to provide a homestead credit for homesteads in the county, city, or town (for property taxes first due and payable after December 31, 2008).

(D) The homestead credits shall be treated for all purposes as property tax levies.

(E) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other

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assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under section 13.6 of this chapter.

- (8) This subdivision applies only to a county:
 - (A) that has a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); and
 - (B) in which:
 - (i) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and
 - (ii) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

Revenue from the county economic development income tax may be used by a county or a city described in this subdivision for making transfers required by IC 36-7.5-4-2. In addition, if the county economic development income tax rate is increased after June 30, 2006, in the county, the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. All of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for homestead credits under subdivision (9).

(9) This subdivision applies only to a county described in

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1 subdivision (8). All of the tax revenue that results each year from
2 a tax rate increase described in subdivision (8) that is in excess of
3 the first three million five hundred thousand dollars (\$3,500,000)
4 that results each year from the tax rate increase must be used by
5 the county and cities and towns in the county for homestead
6 credits under this subdivision. The following apply to homestead
7 credits provided under this subdivision:

8 (A) The homestead credits must be applied uniformly to
9 provide a homestead credit for homesteads in the county, city,
10 or town.

11 (B) The homestead credits shall be treated for all purposes as
12 property tax levies.

13 (C) The homestead credits shall be applied to the net property
14 taxes due on the homestead after the application of all other
15 assessed value deductions or property tax deductions and
16 credits that apply to the amount owed under IC 6-1.1.

17 (D) The department of local government finance shall
18 determine the homestead credit percentage for a particular
19 year based on the amount of county economic development
20 income tax revenue that will be used under this subdivision to
21 provide homestead credits in that year.

22 **(10) By a county or city to fund the operation of a public**
23 **transportation entity as provided in an election, if any, made**
24 **by a county or city fiscal body under IC 36-9-4-42.**

25 (c) As used in this section, an economic development project is any
26 project that:

27 (1) the county, city, or town determines will:
28 (A) promote significant opportunities for the gainful
29 employment of its citizens;

30 (B) attract a major new business enterprise to the unit; or

31 (C) retain or expand a significant business enterprise within
32 the unit; and

33 (2) involves an expenditure for:

34 (A) the acquisition of land;

35 (B) interests in land;

36 (C) site improvements;

37 (D) infrastructure improvements;

38 (E) buildings;

39 (F) structures;

40 (G) rehabilitation, renovation, and enlargement of buildings
41 and structures;

42 (H) machinery;

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- 1 (I) equipment;
- 2 (J) furnishings;
- 3 (K) facilities;
- 4 (L) administrative expenses associated with such a project,
- 5 including contract payments authorized under subsection
- 6 (b)(2)(D);
- 7 (M) operating expenses authorized under subsection (b)(2)(E);
- 8 or
- 9 (N) to the extent not otherwise allowed under this chapter,
- 10 substance removal or remedial action in a designated unit;
- 11 or any combination of these.

12 (d) If there are bonds outstanding that have been issued under
 13 section 14 of this chapter or leases in effect under section 21 of this
 14 chapter, a county, city, or town may not expend money from its
 15 economic development income tax fund for a purpose authorized under
 16 subsection (b)(3) in a manner that would adversely affect owners of the
 17 outstanding bonds or payment of any lease rentals due.

18 SECTION 5. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
 19 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2011]:

21 **Chapter 9. Public Transportation Referendum Income Tax**

22 **Sec. 1. (a) This chapter applies to a city in which public**
 23 **transportation services are provided by any of the following:**

- 24 (1) A regional transportation authority under IC 36-9-3.
- 25 (2) A public transportation corporation under IC 36-9-4.
- 26 (3) An urban mass transportation system.

27 (b) A city may not hold a referendum under this chapter in a
 28 calendar year ending before January 1, 2012.

29 **Sec. 2. (a) Except as otherwise provided in this section, as used**
 30 **in this chapter, "adjusted gross income" has the meaning set forth**
 31 **in IC 6-3-1-3.5(a).**

32 (b) In the case of a city taxpayer who is not a resident of a city
 33 that has imposed the public transportation referendum income tax,
 34 the term "adjusted gross income" includes only adjusted gross
 35 income derived from the taxpayer's principal place of business or
 36 employment.

37 **Sec. 3. As used in this chapter, "city taxpayer" as it relates to a**
 38 **city for a year means any individual who:**

- 39 (1) resides in that city on the date specified in section 22 of this
- 40 chapter; or
- 41 (2) maintains a principal place of business or employment in
- 42 that city on the date specified in section 22 of this chapter and

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1 who does not on that same date reside in another city in which
2 the public transportation referendum income tax is in effect.

3 Sec. 4. As used in the chapter, "department" refers to the
4 department of state revenue.

5 Sec. 5. As used in this chapter, "public transportation
6 referendum income tax" refers to a tax imposed under section 15
7 of this chapter.

8 Sec. 6. (a) If the fiscal body of a city determines that the best
9 interests of the public will be served by meeting the city's public
10 transportation needs, the fiscal body of the city may adopt a
11 resolution to place a referendum under this chapter on the ballot.

12 (b) The fiscal body of the city shall certify a copy of the
13 resolution to the department of state revenue.

14 Sec. 7. A city fiscal body may not impose a public transportation
15 referendum income tax at a tax rate that exceeds three-tenths of
16 one percent (0.3%) of a city taxpayer's adjusted gross income.

17 Sec. 8. A public transportation referendum income tax under
18 this chapter may be put into effect only if a majority of the
19 individuals who vote in a referendum that is conducted in
20 accordance with this chapter approves the city's imposition of the
21 tax for a particular calendar year.

22 Sec. 9. The question to be submitted to the voters in a
23 referendum under this chapter must read as follows:

24 "For the __ (insert number) calendar year or years
25 immediately following the holding of this referendum, shall
26 the _____ (insert name of the city) impose a public
27 transportation referendum income tax at a tax rate that does
28 not exceed _____ (insert amount of the proposed
29 maximum tax rate) of a city taxpayer's adjusted gross
30 income?".

31 Sec. 10. If a city fiscal body adopts a resolution under section 6
32 of this chapter, the city fiscal body must under IC 3-10-9-3 certify
33 the question to be voted on at the referendum to the county election
34 board of each county in which any part of the city is located.

35 Sec. 11. Each county clerk, upon receiving the question certified
36 by the city fiscal body under this chapter, shall call a meeting of the
37 county election board to make arrangements for the referendum.

38 Sec. 12. (a) A referendum under this chapter shall be held in the
39 next primary election, general election, or municipal election in
40 which all the registered voters who are residents of the city are
41 entitled to vote after certification of the question under
42 IC 3-10-9-3. The certification of the question must occur not later

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than noon:

- (1) sixty (60) days before a primary election if the question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the question is to be placed on the general or municipal election ballot.

However, if a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this chapter and if the city requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November).

(b) If the referendum is not conducted at a primary election, general election, or municipal election, the city in which the referendum is to be held shall pay all the costs of holding the referendum.

Sec. 13. Each county election board shall cause:

- (1) a question certified to the circuit court clerk by the city fiscal body under section 10 of this chapter to be placed on the ballot in the form prescribed by IC 3-10-9-4; and
- (2) an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

Sec. 14. The individuals entitled to vote in a referendum under this chapter are all the registered voters residing in the city requesting the referendum.

Sec. 15. (a) Each precinct election board shall count the affirmative votes and the negative votes cast in a referendum under this chapter and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the city fiscal body. Upon receiving the certification of all the votes cast in the referendum, the city fiscal body shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals voting in the referendum vote "yes" on the referendum question:

- (1) the city fiscal body is authorized to impose, for the

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1 calendar year that next follows the calendar year in which the
2 referendum is held, an income tax not greater than the
3 amount approved in the referendum; and
4 (2) the income tax may be imposed by the city for the number
5 of calendar years approved by the voters in the referendum.
6 (b) If a majority of the persons voting in the referendum do not
7 vote "yes" on the referendum question:
8 (1) the city may not impose a public transportation
9 referendum income tax; and
10 (2) another referendum under this chapter may not be held
11 for one (1) year after the date of the referendum.
12 Sec. 16. A referendum income tax may be used to pay any
13 operating expense incurred by an entity providing public
14 transportation services in the city imposing the tax.
15 Sec. 17. If the public transportation referendum income tax is
16 not in effect during a city taxpayer's entire taxable year, the
17 amount of public transportation referendum income tax that the
18 city taxpayer owes for that taxable year equals the product of:
19 (1) the amount of public transportation referendum income
20 tax the city taxpayer would owe if the tax had been imposed
21 during the city taxpayer's entire taxable year; multiplied by
22 (2) a fraction. The numerator of the fraction equals the
23 number of days during the city taxpayer's taxable year during
24 which the public transportation referendum income tax was
25 in effect. The denominator of the fraction equals three
26 hundred sixty-five (365).
27 Sec. 18. (a) If for a taxable year a city taxpayer is (or a city
28 taxpayer and the city taxpayer's spouse who file a joint return are)
29 allowed a credit for the elderly or individuals with a total disability
30 under Section 22 of the Internal Revenue Code, the city taxpayer
31 is (or the city taxpayer and the city taxpayer's spouse are) entitled
32 to a credit against the city taxpayer's (or the city taxpayer's and
33 the city taxpayer's spouse's) public transportation referendum
34 income tax liability for that same taxable year. The amount of the
35 credit equals the lesser of:
36 (1) the product of:
37 (A) the city taxpayer's (or the city taxpayer's and the city
38 taxpayer's spouse's) credit for the elderly or individuals
39 with a total disability for that same taxable year;
40 multiplied by
41 (B) a fraction. The numerator of the fraction is the public
42 transportation referendum income tax rate imposed

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1 against the city taxpayer (or against the city taxpayer and
 2 the city taxpayer's spouse). The denominator of the
 3 fraction is fifteen-hundredths (0.15); or
 4 (2) the amount of public transportation referendum income
 5 tax imposed on the city taxpayer (or the city taxpayer and the
 6 city taxpayer's spouse).

7 (b) If a city taxpayer and the city taxpayer's spouse file a joint
 8 return and are subject to different public transportation
 9 referendum income tax rates for the same taxable year, they shall
 10 compute the credit under this section by using the formula
 11 provided by subsection (a), except that they shall use the average
 12 of the two (2) public transportation referendum income tax rates
 13 imposed against them as the numerator referred to in subsection
 14 (a)(1)(B).

15 Sec. 19. (a) A special account within the state general fund shall
 16 be established for each city adopting the public transportation
 17 referendum income tax. Any revenue derived from the imposition
 18 of the public transportation referendum income tax by a city shall
 19 be credited to that city's account in the state general fund.

20 (b) Any income earned on money credited to an account under
 21 subsection (a) becomes a part of that account.

22 (c) Any revenue credited to an account established under
 23 subsection (a) at the end of a fiscal year may not be credited to any
 24 other account in the state general fund.

25 Sec. 20. (a) Revenue derived from the imposition of the public
 26 transportation income tax shall, in the manner prescribed by this
 27 section, be distributed to the city that imposed it.

28 (b) Subject to subsection (c), before August 2 of each calendar
 29 year, the budget agency shall certify to the fiscal office of each
 30 adopting city the sum of the amount of public transportation
 31 referendum income tax revenue that the budget agency determines
 32 has been:

- 33 (1) received from that city for a taxable year ending before
- 34 the calendar year in which the determination is made; and
- 35 (2) reported on an annual return or amended return
- 36 processed by the department in the state fiscal year ending
- 37 before July 1 of the calendar year in which the determination
- 38 is made;

39 as adjusted for refunds of public transportation referendum
 40 income tax made in the state fiscal year plus the amount of interest
 41 in the city's account established under section 19 of this chapter
 42 that has been accrued and has not been included in a certification

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1 made in a preceding year. The amount certified is the city's
2 certified distribution, which shall be distributed on the dates
3 specified in section 21 of this chapter for the following calendar
4 year.

5 (c) The amount certified under subsection (b) shall be adjusted
6 under subsections (d) and (e). The budget agency shall provide the
7 city fiscal body with an informative summary of the calculations
8 used to determine the certified distribution. The summary of
9 calculations must include:

- 10 (1) the amount reported on individual income tax returns
- 11 processed by the department during the previous fiscal year;
- 12 (2) adjustments for over distributions in prior years;
- 13 (3) adjustments for clerical or mathematical errors in prior
- 14 years;
- 15 (4) adjustments for tax rate changes; and
- 16 (5) the amount of excess account balances to be distributed
- 17 under section 23 of this chapter.

18 (d) The budget agency shall certify an amount less than the
19 amount determined under subsection (b) if the budget agency
20 determines that the reduced distribution is necessary to offset
21 overpayments made in a calendar year before the calendar year of
22 the distribution. The budget agency may reduce the amount of the
23 certified distribution over several calendar years so that any
24 overpayments are offset over several years rather than in one (1)
25 lump sum.

26 (e) The budget agency shall adjust the certified distribution of
27 a city to correct for any clerical or mathematical errors made in
28 any previous certification under this section. The budget agency
29 may reduce the amount of the certified distribution over several
30 calendar years so that any adjustment under this subsection is
31 offset over several years rather than in one (1) lump sum.

32 Sec. 21. (a) On May 1 of each calendar year, one-half (1/2) of
33 each city's certified distribution under section 20 of this chapter for
34 the calendar year shall be distributed from the city's account
35 established under section 19 of this chapter to the city treasurer.
36 The other one-half (1/2) shall be distributed to the city on
37 November 1 of that calendar year.

38 (b) All distributions from an account established under section
39 19 of this chapter shall be made by warrants issued by the auditor
40 of state to the treasurer of state ordering the appropriate
41 payments.

42 Sec. 22. (a) For purposes of this chapter, an individual shall be

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treated as a resident of the city in which the individual:

- (1) maintains a home if the individual maintains only one (1) home in Indiana;
- (2) if subdivision (1) does not apply, is registered to vote;
- (3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or
- (4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes location of residence or principal place of employment or business to another city in Indiana during a calendar year, the individual's liability for public transportation referendum income tax is not affected.

Sec. 23. (a) If the budget agency determines that a sufficient balance exists in a city account established under section 19 of this chapter that exceeds the amount necessary, when added to other money that will be deposited in the account after the date of the determination, to make certified distributions to the city in the ensuing year, the budget agency shall make a supplemental distribution to a city from the city's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

Sec. 24. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;
- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) remittances;
- (5) incorporation of the provisions of the Internal Revenue Code;
- (6) penalties and interest;
- (7) exclusion of military pay credits for withholding; and

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1 **(8) exemptions and deductions;**
 2 **apply to the imposition, collection, and administration of the tax**
 3 **imposed by this chapter.**
 4 **(b) IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do**
 5 **not apply to the tax imposed by this chapter.**
 6 **(c) Notwithstanding subsections (a) and (b), each employer shall**
 7 **report to the department the amount of withholdings attributable**
 8 **to each city imposing a tax under this chapter. This report shall be**
 9 **submitted to the department:**
 10 **(1) each time the employer remits to the department the tax**
 11 **that is withheld; and**
 12 **(2) annually along with the employer's annual withholding**
 13 **report.**
 14 **Sec. 25. The economic development income tax is a listed tax**
 15 **and an income tax for the purposes of IC 6-8.1.**
 16 SECTION 6. IC 36-9-3-13 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The board may:
 18 (1) exercise the executive and legislative powers of the authority
 19 as provided by this chapter;
 20 (2) as a municipal corporation, sue and be sued in its name;
 21 (3) sell, lease, or otherwise contract for advertising in or on the
 22 facilities of the authority;
 23 (4) protect all property owned or managed by the board;
 24 (5) adopt an annual budget;
 25 (6) incur indebtedness in the name of the authority in accordance
 26 with this chapter;
 27 (7) acquire real, personal, or mixed property by deed, purchase,
 28 or lease and dispose of it for use in connection with or for
 29 administrative purposes;
 30 (8) receive gifts, donations, bequests, and public trusts, agree to
 31 conditions and terms accompanying them, and bind the authority
 32 to carry them out;
 33 (9) receive federal or state aid and administer that aid;
 34 (10) erect the buildings or structures needed to administer and
 35 carry out this chapter;
 36 (11) determine matters of policy regarding internal organization
 37 and operating procedures not specifically provided for by law;
 38 (12) adopt a schedule of reasonable charges and rents, and collect
 39 them from all users of facilities and services within the
 40 jurisdiction of the authority;
 41 (13) purchase supplies, materials, and equipment to carry out the
 42 duties and functions of the board, in accordance with procedures

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- 1 adopted by the board and under applicable statutes;
- 2 (14) employ the personnel necessary to carry out the duties,
- 3 functions, and powers of the board;
- 4 (15) sell any surplus or unneeded real and personal property in
- 5 accordance with procedures adopted by the board and under
- 6 applicable statutes;
- 7 (16) adopt rules governing the duties of its officers, employees,
- 8 and personnel, and the internal management of the affairs of the
- 9 board;
- 10 (17) fix the compensation of the various officers and employees
- 11 of the authority, within the limitations of the total personal
- 12 services budget;
- 13 (18) purchase public transportation services from public or
- 14 private transportation agencies upon the terms and conditions set
- 15 forth in purchase of service agreements between the authority and
- 16 the transportation agencies;
- 17 (19) acquire, establish, construct, improve, equip, operate,
- 18 maintain, subsidize, and regulate public transportation systems
- 19 within the jurisdiction of the authority;
- 20 (20) after receiving a request for assistance from a public
- 21 transportation system, enter into agreements with government
- 22 agencies, political subdivisions, private transportation companies,
- 23 railroads, and other persons providing for:
 - 24 (A) construction, operation, and use by the other party of any
 - 25 public transportation system and equipment held or later
 - 26 acquired by the authority; and
 - 27 (B) acquisition of any public transportation system and
 - 28 equipment of another party if all or part of the operations of
 - 29 that party take place within the jurisdiction of the authority;
- 30 (21) rent or lease any real property, including air rights above real
- 31 property owned or leased by a transportation system, for
- 32 transportation or other purposes, with the revenues from those
- 33 rentals to accrue to the authority and to be used exclusively for the
- 34 purposes of this chapter;
- 35 (22) negotiate and execute contracts of sale, purchase, or lease, or
- 36 contracts for personal services, materials, supplies, equipment, or
- 37 passenger transportation services;
- 38 (23) establish at or near its terminals and stations the off-street
- 39 parking facilities and access roads that are necessary and
- 40 desirable, and charge fees for or allow free use of those facilities;
- 41 (24) enter into agreements with other persons for the purpose of
- 42 participating in transportation planning activities;

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- 1 (25) administer any rail services or other use of rail rights-of-way
- 2 that may be the responsibility of state or local government under
- 3 the Federal Regional Rail Reorganization Act of 1973, as
- 4 amended (45 U.S.C. sections 701-794);
- 5 (26) determine the level and kind of public transportation services
- 6 that should be provided by the authority; ~~and~~
- 7 **(27) accept revenue distributed under IC 36-9-4-42(d); and**
- 8 ~~(27) (28)~~ do all other acts necessary or reasonably incident to
- 9 carrying out the purposes of this chapter.

10 SECTION 7. IC 36-9-4-42 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 42. (a) A municipality
 12 or a public transportation corporation that expends money for the
 13 establishment or maintenance of an urban mass transportation system
 14 under this chapter may acquire the money for these expenditures:

- 15 (1) by issuing bonds under section 43 or 44 of this chapter;
- 16 (2) by borrowing money made available for such purposes by any
- 17 source;
- 18 (3) by accepting grants or contributions made available for such
- 19 purposes by any source;
- 20 (4) in the case of a municipality, by appropriation from the
- 21 general fund of the municipality, or from a special fund that the
- 22 municipal legislative body includes in the municipality's budget;
- 23 or
- 24 (5) in the case of a public transportation corporation, by levying
- 25 a tax under section 49 of this chapter or by recommending an
- 26 election to use revenue from the county option income taxes, as
- 27 provided in subsection (c).

28 (b) Money may be acquired under this section for the purpose of
 29 exercising any of the powers granted by or incidental to this chapter,
 30 including:

- 31 (1) studies under section 4, 9, or 11 of this chapter;
- 32 (2) grants in aid;
- 33 (3) the purchase of buses or real property by a municipality for
- 34 lease to an urban mass transportation system, including the
- 35 payment of any amount outstanding under a mortgage, contract of
- 36 sale, or other security device that may attach to the buses or real
- 37 property;
- 38 (4) the acquisition by a public transportation corporation of
- 39 property of an urban mass transportation system, including the
- 40 payment of any amount outstanding under a mortgage, contract of
- 41 sale, or other security device that may attach to the property;
- 42 (5) the operation of an urban mass transportation system by a

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1 public transportation corporation, including the acquisition of
2 additional property for such a system; and

3 (6) the retirement of bonds issued and outstanding under this
4 chapter.

5 (c) This subsection applies only to a public transportation
6 corporation located in a county having a consolidated city. In order to
7 provide revenue to a public transportation corporation during a year,
8 the public transportation corporation board may recommend and the
9 county fiscal body may elect to provide revenue to the corporation from
10 part of the certified distribution, if any, that the county is to receive
11 during that same year under IC 6-3.5-6-17. To make the election, the
12 county fiscal body must adopt an ordinance before September 1 of the
13 preceding year. The county fiscal body must specify in the ordinance
14 the amount of the certified distribution that is to be used to provide
15 revenue to the corporation. If such an ordinance is adopted, the county
16 fiscal body shall immediately send a copy of the ordinance to the
17 county auditor.

18 **(d) This subsection does not apply to a county having a**
19 **consolidated city. In order to provide revenue to a public**
20 **transportation entity during a year, the governing body of the**
21 **public transportation entity may recommend and the county or**
22 **city fiscal body may elect to provide revenue to the entity from part**
23 **of the distributive shares of the county option income tax, if any,**
24 **that the county or city is to receive during that same year under**
25 **IC 6-3.5-1.1-15, IC 6-3.5-6-19, or IC 6-3.5-7-13.1. To make the**
26 **election, the county or city fiscal body must adopt an ordinance**
27 **before September 1 of the preceding year. The county or city fiscal**
28 **body must specify in the ordinance the amount of the distributive**
29 **share that is to be used to provide revenue to the public**
30 **transportation entity. If an ordinance is adopted under this**
31 **subsection, the county or city fiscal body shall immediately send a**
32 **copy of the ordinance to the county auditor. The county auditor**
33 **shall distribute the amount of the election to the public**
34 **transportation entity on the same schedule that the county auditor**
35 **distributes distributive shares to the civil taxing units of the county.**

36 (f) As used in this section, "public transportation entity" means
37 one (1) or more of the following:

- 38 (1) A public transportation corporation.
39 (2) A regional transportation authority.
40 (3) An urban mass transportation system.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1372, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 36, delete "corporation" and insert "entity".

Page 2, delete lines 41 through 42.

Delete pages 3 through 4.

Page 5, delete lines 1 through 23.

Page 5, line 34, reset in roman "the".

Page 5, line 34, delete "a".

Page 5, line 34, delete "or city".

Page 6, line 11, strike "IC 36-9-4-42" and insert "IC 36-9-4-42(c)".

Page 8, line 5, delete "corporation" and insert "entity".

Page 8, delete lines 11 through 42.

Delete pages 9 through 10.

Page 11, delete lines 1 through 5.

Page 15, line 42, delete "corporation" and insert "entity".

Page 16, delete lines 37 through 42, begin a new paragraph and insert:

"SECTION 7. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 9. Public Transportation Referendum Income Tax

Sec. 1. (a) This chapter applies to a city in which public transportation services are provided by any of the following:

- (1) A regional transportation authority under IC 36-9-3.
- (2) A public transportation corporation under IC 36-9-4.
- (3) An urban mass transportation system.

(b) A city may not hold a referendum under this chapter in a calendar year ending before January 1, 2012.

Sec. 2. (a) Except as otherwise provided in this section, as used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

(b) In the case of a city taxpayer who is not a resident of a city that has imposed the public transportation referendum income tax, the term "adjusted gross income" includes only adjusted gross income derived from the taxpayer's principal place of business or employment.

Sec. 3. As used in this chapter, "city taxpayer" as it relates to a city for a year means any individual who:

- (1) resides in that city on the date specified in section 22 of this

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chapter; or

(2) maintains a principal place of business or employment in that city on the date specified in section 22 of this chapter and who does not on that same date reside in another city in which the public transportation referendum income tax is in effect.

Sec. 4. As used in the chapter, "department" refers to the department of state revenue.

Sec. 5. As used in this chapter, "public transportation referendum income tax" refers to a tax imposed under section 15 of this chapter.

Sec. 6. (a) If the fiscal body of a city determines that the best interests of the public will be served by meeting the city's public transportation needs, the fiscal body of the city may adopt a resolution to place a referendum under this chapter on the ballot.

(b) The fiscal body of the city shall certify a copy of the resolution to the department of state revenue.

Sec. 7. A city fiscal body may not impose a public transportation referendum income tax at a tax rate that exceeds three-tenths of one percent (0.3%) of a city taxpayer's adjusted gross income.

Sec. 8. A public transportation referendum income tax under this chapter may be put into effect only if a majority of the individuals who vote in a referendum that is conducted in accordance with this chapter approves the city's imposition of the tax for a particular calendar year.

Sec. 9. The question to be submitted to the voters in a referendum under this chapter must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of this referendum, shall the _____ (insert name of the city) impose a public transportation referendum income tax at a tax rate that does not exceed _____ (insert amount of the proposed maximum tax rate) of a city taxpayer's adjusted gross income?"

Sec. 10. If a city fiscal body adopts a resolution under section 6 of this chapter, the city fiscal body must under IC 3-10-9-3 certify the question to be voted on at the referendum to the county election board of each county in which any part of the city is located.

Sec. 11. Each county clerk, upon receiving the question certified by the city fiscal body under this chapter, shall call a meeting of the county election board to make arrangements for the referendum.

Sec. 12. (a) A referendum under this chapter shall be held in the next primary election, general election, or municipal election in

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which all the registered voters who are residents of the city are entitled to vote after certification of the question under IC 3-10-9-3. The certification of the question must occur not later than noon:

- (1) sixty (60) days before a primary election if the question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the question is to be placed on the general or municipal election ballot.

However, if a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this chapter and if the city requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November).

(b) If the referendum is not conducted at a primary election, general election, or municipal election, the city in which the referendum is to be held shall pay all the costs of holding the referendum.

Sec. 13. Each county election board shall cause:

- (1) a question certified to the circuit court clerk by the city fiscal body under section 10 of this chapter to be placed on the ballot in the form prescribed by IC 3-10-9-4; and
- (2) an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

Sec. 14. The individuals entitled to vote in a referendum under this chapter are all the registered voters residing in the city requesting the referendum.

Sec. 15. (a) Each precinct election board shall count the affirmative votes and the negative votes cast in a referendum under this chapter and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the city fiscal body. Upon receiving the certification of all the votes cast in the referendum, the city fiscal body shall promptly certify the result of the referendum to the department of

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local government finance. If a majority of the individuals voting in the referendum vote "yes" on the referendum question:

(1) the city fiscal body is authorized to impose, for the calendar year that next follows the calendar year in which the referendum is held, an income tax not greater than the amount approved in the referendum; and

(2) the income tax may be imposed by the city for the number of calendar years approved by the voters in the referendum.

(b) If a majority of the persons voting in the referendum do not vote "yes" on the referendum question:

(1) the city may not impose a public transportation referendum income tax; and

(2) another referendum under this chapter may not be held for one (1) year after the date of the referendum.

Sec. 16. A referendum income tax may be used to pay any operating expense incurred by an entity providing public transportation services in the city imposing the tax.

Sec. 17. If the public transportation referendum income tax is not in effect during a city taxpayer's entire taxable year, the amount of public transportation referendum income tax that the city taxpayer owes for that taxable year equals the product of:

(1) the amount of public transportation referendum income tax the city taxpayer would owe if the tax had been imposed during the city taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days during the city taxpayer's taxable year during which the public transportation referendum income tax was in effect. The denominator of the fraction equals three hundred sixty-five (365).

Sec. 18. (a) If for a taxable year a city taxpayer is (or a city taxpayer and the city taxpayer's spouse who file a joint return are) allowed a credit for the elderly or individuals with a total disability under Section 22 of the Internal Revenue Code, the city taxpayer is (or the city taxpayer and the city taxpayer's spouse are) entitled to a credit against the city taxpayer's (or the city taxpayer's and the city taxpayer's spouse's) public transportation referendum income tax liability for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the city taxpayer's (or the city taxpayer's and the city taxpayer's spouse's) credit for the elderly or individuals with a total disability for that same taxable year;

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multiplied by

(B) a fraction. The numerator of the fraction is the public transportation referendum income tax rate imposed against the city taxpayer (or against the city taxpayer and the city taxpayer's spouse). The denominator of the fraction is fifteen-hundredths (0.15); or

(2) the amount of public transportation referendum income tax imposed on the city taxpayer (or the city taxpayer and the city taxpayer's spouse).

(b) If a city taxpayer and the city taxpayer's spouse file a joint return and are subject to different public transportation referendum income tax rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) public transportation referendum income tax rates imposed against them as the numerator referred to in subsection (a)(1)(B).

Sec. 19. (a) A special account within the state general fund shall be established for each city adopting the public transportation referendum income tax. Any revenue derived from the imposition of the public transportation referendum income tax by a city shall be credited to that city's account in the state general fund.

(b) Any income earned on money credited to an account under subsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year may not be credited to any other account in the state general fund.

Sec. 20. (a) Revenue derived from the imposition of the public transportation income tax shall, in the manner prescribed by this section, be distributed to the city that imposed it.

(b) Subject to subsection (c), before August 2 of each calendar year, the budget agency shall certify to the fiscal office of each adopting city the sum of the amount of public transportation referendum income tax revenue that the budget agency determines has been:

- (1) received from that city for a taxable year ending before the calendar year in which the determination is made; and
- (2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted for refunds of public transportation referendum

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income tax made in the state fiscal year plus the amount of interest in the city's account established under section 19 of this chapter that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the city's certified distribution, which shall be distributed on the dates specified in section 21 of this chapter for the following calendar year.

(c) The amount certified under subsection (b) shall be adjusted under subsections (d) and (e). The budget agency shall provide the city fiscal body with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

- (1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;
- (2) adjustments for over distributions in prior years;
- (3) adjustments for clerical or mathematical errors in prior years;
- (4) adjustments for tax rate changes; and
- (5) the amount of excess account balances to be distributed under section 23 of this chapter.

(d) The budget agency shall certify an amount less than the amount determined under subsection (b) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(e) The budget agency shall adjust the certified distribution of a city to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

Sec. 21. (a) On May 1 of each calendar year, one-half (1/2) of each city's certified distribution under section 20 of this chapter for the calendar year shall be distributed from the city's account established under section 19 of this chapter to the city treasurer. The other one-half (1/2) shall be distributed to the city on November 1 of that calendar year.

(b) All distributions from an account established under section 19 of this chapter shall be made by warrants issued by the auditor

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of state to the treasurer of state ordering the appropriate payments.

Sec. 22. (a) For purposes of this chapter, an individual shall be treated as a resident of the city in which the individual:

- (1) maintains a home if the individual maintains only one (1) home in Indiana;**
- (2) if subdivision (1) does not apply, is registered to vote;**
- (3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or**
- (4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.**

(b) The residence or principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes location of residence or principal place of employment or business to another city in Indiana during a calendar year, the individual's liability for public transportation referendum income tax is not affected.

Sec. 23. (a) If the budget agency determines that a sufficient balance exists in a city account established under section 19 of this chapter that exceeds the amount necessary, when added to other money that will be deposited in the account after the date of the determination, to make certified distributions to the city in the ensuing year, the budget agency shall make a supplemental distribution to a city from the city's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and**
- (2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.**

(c) A determination under this section must be made before October 2.

Sec. 24. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;**
- (2) declarations of estimated tax;**
- (3) filing of returns;**
- (4) remittances;**
- (5) incorporation of the provisions of the Internal Revenue**

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Code;

(6) penalties and interest;

(7) exclusion of military pay credits for withholding; and

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each city imposing a tax under this chapter. This report shall be submitted to the department:

(1) each time the employer remits to the department the tax that is withheld; and

(2) annually along with the employer's annual withholding report.

Sec. 25. The economic development income tax is a listed tax and an income tax for the purposes of IC 6-8.1.

SECTION 8. IC 36-9-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The board may:

(1) exercise the executive and legislative powers of the authority as provided by this chapter;

(2) as a municipal corporation, sue and be sued in its name;

(3) sell, lease, or otherwise contract for advertising in or on the facilities of the authority;

(4) protect all property owned or managed by the board;

(5) adopt an annual budget;

(6) incur indebtedness in the name of the authority in accordance with this chapter;

(7) acquire real, personal, or mixed property by deed, purchase, or lease and dispose of it for use in connection with or for administrative purposes;

(8) receive gifts, donations, bequests, and public trusts, agree to conditions and terms accompanying them, and bind the authority to carry them out;

(9) receive federal or state aid and administer that aid;

(10) erect the buildings or structures needed to administer and carry out this chapter;

(11) determine matters of policy regarding internal organization and operating procedures not specifically provided for by law;

(12) adopt a schedule of reasonable charges and rents, and collect them from all users of facilities and services within the

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jurisdiction of the authority;

(13) purchase supplies, materials, and equipment to carry out the duties and functions of the board, in accordance with procedures adopted by the board and under applicable statutes;

(14) employ the personnel necessary to carry out the duties, functions, and powers of the board;

(15) sell any surplus or unneeded real and personal property in accordance with procedures adopted by the board and under applicable statutes;

(16) adopt rules governing the duties of its officers, employees, and personnel, and the internal management of the affairs of the board;

(17) fix the compensation of the various officers and employees of the authority, within the limitations of the total personal services budget;

(18) purchase public transportation services from public or private transportation agencies upon the terms and conditions set forth in purchase of service agreements between the authority and the transportation agencies;

(19) acquire, establish, construct, improve, equip, operate, maintain, subsidize, and regulate public transportation systems within the jurisdiction of the authority;

(20) after receiving a request for assistance from a public transportation system, enter into agreements with government agencies, political subdivisions, private transportation companies, railroads, and other persons providing for:

(A) construction, operation, and use by the other party of any public transportation system and equipment held or later acquired by the authority; and

(B) acquisition of any public transportation system and equipment of another party if all or part of the operations of that party take place within the jurisdiction of the authority;

(21) rent or lease any real property, including air rights above real property owned or leased by a transportation system, for transportation or other purposes, with the revenues from those rentals to accrue to the authority and to be used exclusively for the purposes of this chapter;

(22) negotiate and execute contracts of sale, purchase, or lease, or contracts for personal services, materials, supplies, equipment, or passenger transportation services;

(23) establish at or near its terminals and stations the off-street parking facilities and access roads that are necessary and

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- desirable, and charge fees for or allow free use of those facilities;
- (24) enter into agreements with other persons for the purpose of participating in transportation planning activities;
- (25) administer any rail services or other use of rail rights-of-way that may be the responsibility of state or local government under the Federal Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. sections 701-794);
- (26) determine the level and kind of public transportation services that should be provided by the authority; ~~and~~
- (27) accept revenue distributed under IC 36-9-4-42(d); and**
- ~~(27)~~ **(28)** do all other acts necessary or reasonably incident to carrying out the purposes of this chapter.

SECTION 9. IC 36-9-4-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 42. (a) A municipality or a public transportation corporation that expends money for the establishment or maintenance of an urban mass transportation system under this chapter may acquire the money for these expenditures:

- (1) by issuing bonds under section 43 or 44 of this chapter;
- (2) by borrowing money made available for such purposes by any source;
- (3) by accepting grants or contributions made available for such purposes by any source;
- (4) in the case of a municipality, by appropriation from the general fund of the municipality, or from a special fund that the municipal legislative body includes in the municipality's budget; or
- (5) in the case of a public transportation corporation, by levying a tax under section 49 of this chapter or by recommending an election to use revenue from the county option income taxes, as provided in subsection (c).

(b) Money may be acquired under this section for the purpose of exercising any of the powers granted by or incidental to this chapter, including:

- (1) studies under section 4, 9, or 11 of this chapter;
- (2) grants in aid;
- (3) the purchase of buses or real property by a municipality for lease to an urban mass transportation system, including the payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the buses or real property;
- (4) the acquisition by a public transportation corporation of property of an urban mass transportation system, including the

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payment of any amount outstanding under a mortgage, contract of sale, or other security device that may attach to the property;

(5) the operation of an urban mass transportation system by a public transportation corporation, including the acquisition of additional property for such a system; and

(6) the retirement of bonds issued and outstanding under this chapter.

(c) This subsection applies only to a public transportation corporation located in a county having a consolidated city. In order to provide revenue to a public transportation corporation during a year, the public transportation corporation board may recommend and the county fiscal body may elect to provide revenue to the corporation from part of the certified distribution, if any, that the county is to receive during that same year under IC 6-3.5-6-17. To make the election, the county fiscal body must adopt an ordinance before September 1 of the preceding year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to provide revenue to the corporation. If such an ordinance is adopted, the county fiscal body shall immediately send a copy of the ordinance to the county auditor.

(d) This subsection does not apply to a county having a consolidated city. In order to provide revenue to a public transportation entity during a year, the governing body of the public transportation entity may recommend and the county or city fiscal body may elect to provide revenue to the entity from part of the distributive shares of the county option income tax, if any, that the county or city is to receive during that same year under IC 6-3.5-1.1-15, IC 6-3.5-6-19, or IC 6-3.5-7-13.1. To make the election, the county or city fiscal body must adopt an ordinance before September 1 of the preceding year. The county or city fiscal body must specify in the ordinance the amount of the distributive share that is to be used to provide revenue to the public transportation entity. If an ordinance is adopted under this subsection, the county or city fiscal body shall immediately send a copy of the ordinance to the county auditor. The county auditor shall distribute the amount of the election to the public transportation entity on the same schedule that the county auditor distributes distributive shares to the civil taxing units of the county.

(f) As used in this section, "public transportation entity" means one (1) or more of the following:

- (1) A public transportation corporation.
- (2) A regional transportation authority.

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(3) An urban mass transportation system."

Delete pages 17 through 22.

and when so amended that said bill do pass.

(Reference is to HB 1372 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 10, nays 0.

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