

Adopted	Rejected
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## COMMITTEE REPORT

<b>YES:</b>	<b>10</b>
<b>NO:</b>	<b>0</b>

**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:*

- 1       Page 2, line 36, delete "corporation" and insert "**entity**".
- 2       Page 2, delete lines 41 through 42.
- 3       Delete pages 3 through 4.
- 4       Page 5, delete lines 1 through 23.
- 5       Page 5, line 34, reset in roman "the".
- 6       Page 5, line 34, delete "a".
- 7       Page 5, line 34, delete "or city".
- 8       Page 6, line 11, strike "IC 36-9-4-42" and insert "**IC 36-9-4-42(c)**".
- 9       Page 8, line 5, delete "corporation" and insert "**entity**".
- 10      Page 8, delete lines 11 through 42.
- 11      Delete pages 9 through 10.
- 12      Page 11, delete lines 1 through 5.
- 13      Page 15, line 42, delete "corporation" and insert "**entity**".
- 14      Page 16, delete lines 37 through 42, begin a new paragraph and

1 insert:

2 "SECTION 7. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS  
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2011]:

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

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

8 **(1) A regional transportation authority under IC 36-9-3.**

9 **(2) A public transportation corporation under IC 36-9-4.**

10 **(3) An urban mass transportation system.**

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

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

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

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

23 **(1) resides in that city on the date specified in section 22 of this  
24 chapter; or**

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

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

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

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

38 **(b) The fiscal body of the city shall certify a copy of the**

1 resolution to the department of state revenue.

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

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

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

12 "For the \_\_\_ (insert number) calendar year or years  
13 immediately following the holding of this referendum, shall  
14 the \_\_\_\_\_ (insert name of the city) impose a public  
15 transportation referendum income tax at a tax rate that does  
16 not exceed \_\_\_\_\_ (insert amount of the proposed  
17 maximum tax rate) of a city taxpayer's adjusted gross  
18 income?".

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

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

26 Sec. 12. (a) A referendum under this chapter shall be held in the  
27 next primary election, general election, or municipal election in  
28 which all the registered voters who are residents of the city are  
29 entitled to vote after certification of the question under  
30 IC 3-10-9-3. The certification of the question must occur not later  
31 than noon:

32 (1) sixty (60) days before a primary election if the question is  
33 to be placed on the primary or municipal primary election  
34 ballot; or

35 (2) August 1 if the question is to be placed on the general or  
36 municipal election ballot.

37 However, if a primary election, general election, or municipal  
38 election will not be held during the first year in which the public

1 question is eligible to be placed on the ballot under this chapter and  
2 if the city requests the public question to be placed on the ballot at  
3 a special election, the public question shall be placed on the ballot  
4 at a special election to be held on the first Tuesday after the first  
5 Monday in May or November of the year. The certification must  
6 occur not later than noon sixty (60) days before a special election  
7 to be held in May (if the special election is to be held in May) or  
8 noon on August 1 (if the special election is to be held in November).

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

13 Sec. 13. Each county election board shall cause:

14 (1) a question certified to the circuit court clerk by the city  
15 fiscal body under section 10 of this chapter to be placed on the  
16 ballot in the form prescribed by IC 3-10-9-4; and

17 (2) an adequate supply of ballots and voting equipment to be  
18 delivered to the precinct election board of each precinct in  
19 which the referendum is to be held.

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

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

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

38 (2) the income tax may be imposed by the city for the number

1           of calendar years approved by the voters in the referendum.

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

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

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

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

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

15           **(1) the amount of public transportation referendum income**  
 16 **tax the city taxpayer would owe if the tax had been imposed**

17 **during the city taxpayer's entire taxable year; multiplied by**

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

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

32           **(1) the product of:**

33           **(A) the city taxpayer's (or the city taxpayer's and the city**  
 34 **taxpayer's spouse's) credit for the elderly or individuals**  
 35 **with a total disability for that same taxable year;**  
 36 **multiplied by**

37           **(B) a fraction. The numerator of the fraction is the public**  
 38 **transportation referendum income tax rate imposed**

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;**

1 as adjusted for refunds of public transportation referendum  
2 income tax made in the state fiscal year plus the amount of interest  
3 in the city's account established under section 19 of this chapter  
4 that has been accrued and has not been included in a certification  
5 made in a preceding year. The amount certified is the city's  
6 certified distribution, which shall be distributed on the dates  
7 specified in section 21 of this chapter for the following calendar  
8 year.

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

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

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

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

36 Sec. 21. (a) On May 1 of each calendar year, one-half (1/2) of  
37 each city's certified distribution under section 20 of this chapter for  
38 the calendar year shall be distributed from the city's account

1 established under section 19 of this chapter to the city treasurer.  
 2 The other one-half (1/2) shall be distributed to the city on  
 3 November 1 of that calendar year.

4 (b) All distributions from an account established under section  
 5 19 of this chapter shall be made by warrants issued by the auditor  
 6 of state to the treasurer of state ordering the appropriate  
 7 payments.

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

10 (1) maintains a home if the individual maintains only one (1)  
 11 home in Indiana;

12 (2) if subdivision (1) does not apply, is registered to vote;

13 (3) if subdivision (1) or (2) does not apply, registers the  
 14 individual's personal automobile; or

15 (4) if subdivision (1), (2), or (3) does not apply, spends the  
 16 majority of the individual's time in Indiana during the taxable  
 17 year in question.

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

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

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

34 (1) made in January of the ensuing calendar year; and

35 (2) allocated in the same manner as certified distributions for  
 36 deposit in a civil unit's rainy day fund established under  
 37 IC 36-1-8-5.1.

38 (c) A determination under this section must be made before

1 **October 2.**

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

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

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

16 **(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**  
 17 **not apply to the tax imposed by this chapter.**

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

- 22 (1) each time the employer remits to the department the tax  
 23 that is withheld; and  
 24 (2) annually along with the employer's annual withholding  
 25 report.

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

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

- 30 (1) exercise the executive and legislative powers of the authority  
 31 as provided by this chapter;  
 32 (2) as a municipal corporation, sue and be sued in its name;  
 33 (3) sell, lease, or otherwise contract for advertising in or on the  
 34 facilities of the authority;  
 35 (4) protect all property owned or managed by the board;  
 36 (5) adopt an annual budget;  
 37 (6) incur indebtedness in the name of the authority in accordance  
 38 with this chapter;

- 1 (7) acquire real, personal, or mixed property by deed, purchase,  
2 or lease and dispose of it for use in connection with or for  
3 administrative purposes;
- 4 (8) receive gifts, donations, bequests, and public trusts, agree to  
5 conditions and terms accompanying them, and bind the authority  
6 to carry them out;
- 7 (9) receive federal or state aid and administer that aid;
- 8 (10) erect the buildings or structures needed to administer and  
9 carry out this chapter;
- 10 (11) determine matters of policy regarding internal organization  
11 and operating procedures not specifically provided for by law;
- 12 (12) adopt a schedule of reasonable charges and rents, and collect  
13 them from all users of facilities and services within the  
14 jurisdiction of the authority;
- 15 (13) purchase supplies, materials, and equipment to carry out the  
16 duties and functions of the board, in accordance with procedures  
17 adopted by the board and under applicable statutes;
- 18 (14) employ the personnel necessary to carry out the duties,  
19 functions, and powers of the board;
- 20 (15) sell any surplus or unneeded real and personal property in  
21 accordance with procedures adopted by the board and under  
22 applicable statutes;
- 23 (16) adopt rules governing the duties of its officers, employees,  
24 and personnel, and the internal management of the affairs of the  
25 board;
- 26 (17) fix the compensation of the various officers and employees  
27 of the authority, within the limitations of the total personal  
28 services budget;
- 29 (18) purchase public transportation services from public or  
30 private transportation agencies upon the terms and conditions set  
31 forth in purchase of service agreements between the authority and  
32 the transportation agencies;
- 33 (19) acquire, establish, construct, improve, equip, operate,  
34 maintain, subsidize, and regulate public transportation systems  
35 within the jurisdiction of the authority;
- 36 (20) after receiving a request for assistance from a public  
37 transportation system, enter into agreements with government  
38 agencies, political subdivisions, private transportation companies,

- 1           railroads, and other persons providing for:
- 2                 (A) construction, operation, and use by the other party of any
- 3                 public transportation system and equipment held or later
- 4                 acquired by the authority; and
- 5                 (B) acquisition of any public transportation system and
- 6                 equipment of another party if all or part of the operations of
- 7                 that party take place within the jurisdiction of the authority;
- 8           (21) rent or lease any real property, including air rights above real
- 9           property owned or leased by a transportation system, for
- 10           transportation or other purposes, with the revenues from those
- 11           rentals to accrue to the authority and to be used exclusively for the
- 12           purposes of this chapter;
- 13           (22) negotiate and execute contracts of sale, purchase, or lease, or
- 14           contracts for personal services, materials, supplies, equipment, or
- 15           passenger transportation services;
- 16           (23) establish at or near its terminals and stations the off-street
- 17           parking facilities and access roads that are necessary and
- 18           desirable, and charge fees for or allow free use of those facilities;
- 19           (24) enter into agreements with other persons for the purpose of
- 20           participating in transportation planning activities;
- 21           (25) administer any rail services or other use of rail rights-of-way
- 22           that may be the responsibility of state or local government under
- 23           the Federal Regional Rail Reorganization Act of 1973, as
- 24           amended (45 U.S.C. sections 701-794);
- 25           (26) determine the level and kind of public transportation services
- 26           that should be provided by the authority; ~~and~~
- 27           **(27) accept revenue distributed under IC 36-9-4-42(d); and**
- 28           ~~(27)~~ **(28)** do all other acts necessary or reasonably incident to
- 29           carrying out the purposes of this chapter.

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

- 35                 (1) by issuing bonds under section 43 or 44 of this chapter;
- 36                 (2) by borrowing money made available for such purposes by any
- 37                 source;
- 38                 (3) by accepting grants or contributions made available for such

- 1 purposes by any source;
- 2 (4) in the case of a municipality, by appropriation from the
- 3 general fund of the municipality, or from a special fund that the
- 4 municipal legislative body includes in the municipality's budget;
- 5 or
- 6 (5) in the case of a public transportation corporation, by levying
- 7 a tax under section 49 of this chapter or by recommending an
- 8 election to use revenue from the county option income taxes, as
- 9 provided in subsection (c).
- 10 (b) Money may be acquired under this section for the purpose of
- 11 exercising any of the powers granted by or incidental to this chapter,
- 12 including:
- 13 (1) studies under section 4, 9, or 11 of this chapter;
- 14 (2) grants in aid;
- 15 (3) the purchase of buses or real property by a municipality for
- 16 lease to an urban mass transportation system, including the
- 17 payment of any amount outstanding under a mortgage, contract of
- 18 sale, or other security device that may attach to the buses or real
- 19 property;
- 20 (4) the acquisition by a public transportation corporation of
- 21 property of an urban mass transportation system, including the
- 22 payment of any amount outstanding under a mortgage, contract of
- 23 sale, or other security device that may attach to the property;
- 24 (5) the operation of an urban mass transportation system by a
- 25 public transportation corporation, including the acquisition of
- 26 additional property for such a system; and
- 27 (6) the retirement of bonds issued and outstanding under this
- 28 chapter.
- 29 (c) This subsection applies only to a public transportation
- 30 corporation located in a county having a consolidated city. In order to
- 31 provide revenue to a public transportation corporation during a year,
- 32 the public transportation corporation board may recommend and the
- 33 county fiscal body may elect to provide revenue to the corporation from
- 34 part of the certified distribution, if any, that the county is to receive
- 35 during that same year under IC 6-3.5-6-17. To make the election, the
- 36 county fiscal body must adopt an ordinance before September 1 of the
- 37 preceding year. The county fiscal body must specify in the ordinance
- 38 the amount of the certified distribution that is to be used to provide

1 revenue to the corporation. If such an ordinance is adopted, the county  
2 fiscal body shall immediately send a copy of the ordinance to the  
3 county auditor.

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

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

- 24 **(1) A public transportation corporation.**
- 25 **(2) A regional transportation authority.**
- 26 **(3) An urban mass transportation system."**

27 Delete pages 17 through 22.

(Reference is to HB 1372 as introduced.)

**and when so amended that said bill do pass.**

---

Representative Soliday