



January 30, 2001

HOUSE BILL No. 1420

DIGEST OF HB 1420 (Updated January 24, 2001 12:26 PM - DI 73)

Citations Affected: IC 6-3.5; IC 6-8.1.

Synopsis: Local option income tax for education. Allows a school corporation to adopt a local option income tax for education. Provides that the tax applies to individuals and to corporations that have net income for the taxable year. Provides that the tax may be imposed at a rate of not more than 0.25%. Provides that a school corporation may use the tax revenue only for the purpose of making employer contributions to the Indiana state teachers' retirement fund on behalf of the school corporation's employees who are members of that fund. Specifies that the county auditor shall each year reduce the general fund property tax levy of a school corporation receiving a distribution of local option income tax for education by an amount equal to the amount of the distribution.

Effective: Upon passage.

Bauer

January 11, 2001, read first time and referred to Committee on Ways and Means.
January 29, 2001, amended, reported — Do Pass.

C
o
p
y

HB 1420—LS 7936/DI 73+



January 30, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

HOUSE BILL No. 1420

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

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

1 SECTION 1. IC 6-3.5-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 8. Local Option Income Tax for Education**

5 **Sec. 1.** As used in this chapter, "adjusted gross income" has the
6 meaning set forth in IC 6-3-1-3.5(a).

7 **Sec. 2.** As used in this chapter, "apportioned net income" means
8 net income (as defined in IC 6-3-8-2) multiplied by:

9 (1) the assessed value of all property of a corporation that is:

10 (A) taxable under IC 6-1.1; and

11 (B) located in the school corporation; divided by

12 (2) the assessed value of all property of the corporation that
13 is:

14 (A) taxable under IC 6-1.1; and

15 (B) located in Indiana.

16 **Sec. 3.** As used in this chapter, "corporate taxpayer" means a
17 corporation that has net income for the taxable year under

HB 1420—LS 7936/DI 73+



C
o
p
y

1 IC 6-3-8.

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

4 Sec. 5. As used in this chapter, "individual taxpayer" means an
5 individual who resides in a school corporation on the date specified
6 in section 16 of this chapter.

7 Sec. 6. As used in this chapter, "school corporation" means a
8 public school corporation established by Indiana law.

9 Sec. 7. (a) The governing body of a school corporation may
10 impose a local option income tax for education, which consists of
11 a tax on the adjusted gross income of individual taxpayers and on
12 the apportioned supplemental net income of corporations. If the
13 tax is imposed, the tax takes effect July 1 of the year that the
14 ordinance imposing the tax is adopted.

15 (b) Except as provided in subsection (c), the tax on individual
16 taxpayers and on corporate taxpayers may be imposed at a rate of
17 not more than twenty-five hundredths percent (0.25%). The rate
18 applies to the adjusted gross income of the school corporation's
19 individual taxpayers and to the apportioned net income of the
20 school corporation's corporate taxpayers. The rate must be the
21 same for individual taxpayers and for corporate taxpayers.

22 Sec. 8. (a) To impose the local option income tax for education,
23 a governing body of a school corporation must, after January 1 but
24 before May 1 of a year, adopt an ordinance. The ordinance must
25 substantially state the following:

26 "The _____ Governing Body imposes the local option
27 income tax for education on the individual taxpayers and
28 corporate taxpayers of the _____ (insert name of school
29 corporation). The local option income tax for education
30 consists of an individual income tax and a corporate surtax.
31 The income tax is imposed at a rate of _____ percent
32 (____%) on the individual taxpayers and corporate
33 taxpayers of the school corporation. The income tax takes
34 effect July 1 of this year."

35 (b) An ordinance adopted under this section takes effect July 1
36 of the year the ordinance is adopted.

37 Sec. 9. (a) The governing body of a school corporation may
38 increase or decrease the local option income tax for education rate
39 imposed on individual taxpayers and corporate taxpayers. To
40 increase or decrease the rate, the governing body must, after
41 January 1 but before May 1 of a year, adopt an ordinance. The
42 ordinance must substantially state the following:



C
o
p
y

"The _____ Governing Body increases (or decreases) the local option income tax for education rate. The tax rate imposed upon the individual taxpayers and on corporate taxpayers of the school corporation is increased (or decreased) from (insert current rate) to (insert proposed rate). This tax rate increase (or decrease) takes effect July 1 of this year for individual taxpayers. The increased (or decreased) rate takes effect January 1 of next year for corporate taxpayers."

(b) An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

Sec. 10. (a) The local option income tax for education imposed by a governing body under this chapter remains in effect until rescinded.

(b) A governing body may rescind the local option income tax for education by adopting an ordinance to rescind the tax after January 1 but before June 1 of a year.

(c) An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

Sec. 11. If the local option income tax for education is not in effect during an individual taxpayer's or a corporate taxpayer's entire taxable year, the amount of local option income tax for education that the taxpayer owes for that taxable year equals the product of:

(1) the amount of the local option income tax for education the taxpayer would owe if the tax had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator equals the number of days during the taxpayer's taxable year that the local option income tax for education was in effect. The denominator equals the total number of days in the taxpayer's taxable year.

Sec. 12. (a) If, for a particular taxable year, an individual taxpayer is allowed, or an individual taxpayer and the individual taxpayer's spouse who file a joint return are allowed, a credit for the elderly or the totally disabled under Section 22 of the Internal Revenue Code (as defined in IC 6-3-1-11), the individual taxpayer is entitled, or the individual taxpayer and the individual taxpayer's spouse are entitled, to a credit against their local option income tax for education liability for that same taxable year. The amount of the credit equals the lesser of the following:

(1) The product of:

(A) the credit for the elderly or the totally disabled for the



C
o
p
y

1 same taxable year; multiplied by
 2 (B) a fraction. The numerator is the local option income
 3 tax for education rate imposed against the individual
 4 taxpayer or the individual taxpayer and the individual
 5 taxpayer's spouse. The denominator is fifteen-hundredths
 6 (0.15).

7 (2) The amount of local option income tax for education
 8 imposed on the individual taxpayer or the individual taxpayer
 9 and the individual taxpayer's spouse.

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

17 Sec. 13. (a) A special account within the state general fund shall
 18 be established for each school corporation adopting the local
 19 option income tax for education. Revenue derived from the
 20 imposition of the local option income tax for education by a school
 21 corporation shall be deposited in that school corporation's account
 22 in the state general fund.

23 (b) Income earned on money held in an account under
 24 subsection (a) becomes a part of that account.

25 (c) Revenue remaining in an account established under
 26 subsection (a) at the end of a state fiscal year does not revert to the
 27 state general fund.

28 Sec. 14. Revenue derived from the imposition of the local option
 29 income tax for education shall be distributed to the school
 30 corporation that imposed the tax not more than thirty (30) days
 31 after the tax is deposited within the school corporation's account.

32 Sec. 15. (a) The county auditor shall each year reduce the
 33 general fund property tax levy of a school corporation receiving a
 34 distribution under this chapter in that year. The school
 35 corporation's general fund property tax levy shall be reduced by
 36 the amount of the distribution received or to be received by the
 37 school corporation during the year. The state board of tax
 38 commissioners shall certify to the auditor of each county in which
 39 a school corporation receiving a distribution is located the
 40 property tax rate applicable to the school corporation's general
 41 fund after the property tax reduction under this section.

42 (b) A school corporation shall treat a distribution that the school

C
O
P
Y



corporation receives or is to receive during a particular calendar year as a part of the school corporation's property tax levy for the general fund for that same calendar year for purposes of fixing the school corporation's budget and for purposes of the property tax levy limits imposed by IC 6-1.1-19 and the calculation of state tuition support under IC 21-3-1.7. However, the distributions shall not reduce the total county tax levy that is used to compute the state property tax replacement credit under IC 6-1.1-21. In addition, for the purposes of computing and distributing any excise taxes or income taxes in which the distribution is based on property taxes, the distributions shall be treated as though they were property taxes that were due and payable during that same calendar year.

(c) A school corporation may use distributions received under this chapter only for the purpose of making employer contributions to the Indiana state teachers' retirement fund on behalf of the school corporation's employees who are members of that fund.

Sec. 16. (a) For purposes of this chapter, an individual shall be treated as an individual taxpayer of the school corporation in which the individual:

- (1) maintains a residence, if the individual maintains only one residence in Indiana;
- (2) if subdivision (1) does not apply, registers 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) Whether an individual is an individual taxpayer is determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of the individual's residence to another school corporation in Indiana during a calendar year, the individual's liability for local option income tax for education is not affected.

Sec. 17. (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

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter. The local option income tax for education is a listed tax and an income tax for purposes of IC 6-8.1.

(b) The provisions of IC 6-3-1-3.5(a)(5), 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) Each employer shall report to the department the amount of withholdings attributable to each school corporation. This report shall annually be submitted with the employer's withholding report.

Sec. 18. Before February 1 of each year, the department shall submit a report to each county treasurer indicating the balance in the school corporation's education income tax account at the end of the preceding year. The county treasurer shall forward a copy of the report to the school corporation.

SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.181-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); **the local option income tax for education (IC 6-3.5-8)**; the auto rental excise tax (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan association tax (IC 6-5-11); the production credit association tax (IC 6-5-12); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the



C
O
P
Y

1 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
2 (IC 16-44-2); the emergency and hazardous chemical inventory form
3 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
4 and IC 9-30); the fees and penalties assessed for overweight vehicles
5 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
6 the solid waste management fee (IC 13-20-22); and any other tax or fee
7 that the department is required to collect or administer.

8 SECTION 3. **An emergency is declared for this act.**

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1420, 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 1, delete lines 7 through 10.

Page 1, line 11, delete "3." and insert "2.".

Page 1, line 15, delete "income tax district" and insert **"corporation"**.

Page 2, line 3, delete "4." and insert "3.".

Page 2, delete lines 6 through 11.

Page 2, line 12, delete "7." and insert "4.".

Page 2, line 14, delete "8." and insert "5.".

Page 2, line 15, delete "income tax district" and insert **"corporation"**.

Page 2, line 16, delete "27" and insert **"15"**.

Page 2, line 17, delete "9." and insert **"6"**.

Page 2, delete lines 19 through 42.

Delete page 3.

Page 4, delete lines 1 through 34.

Page 4, line 35, delete "16." and insert **"7"**.

Page 4, line 35, delete "An education income tax council" and insert **"The governing body of a school corporation"**.

Page 5, line 2, delete "income tax" and insert **"corporation's"**.

Page 5, line 3, delete "district's".

Page 5, line 4, delete "district's" and insert **"school corporation's"**.

Page 5, line 6, delete "17." and insert **"8"**.

Page 5, line 7, delete "an education income tax council" and insert **"a governing body of a school corporation"**.

Page 5, line 10, delete "Education Income Tax Council" and insert **"Governing Body"**.

Page 5, line 13, delete "(county) school income tax district." and insert **"school corporation)"."**

Page 5, line 17, delete "income tax district" and insert **"corporation"**.

Page 5, line 21, delete "Sec. 18." and insert **"Sec. 9."**

Page 5, line 21, delete "An education income tax council" and insert **"The governing body of a school corporation"**.

Page 5, line 24, delete "education income tax council" and insert **"governing body"**.

Page 5, line 27, delete "Education Income Tax Council" and insert

C
o
p
y



"Governing Body".

Page 5, line 30, delete "income tax district" and insert **"corporation"**.

Page 5, line 38, delete "Sec. 19." and insert **"Sec. 10."**

Page 5, line 39, delete "an education income tax council" and insert **"a governing body"**.

Page 5, line 41, delete "An education income tax council" and insert **"A governing body"**.

Page 6, line 4, delete "Sec. 20." and insert **"Sec. 11."**

Page 6, line 16, delete "Sec. 21." and insert **"Sec. 12."**

Page 7, line 1, delete "Sec. 22." and insert **"Sec. 13."**

Page 7, line 2, delete "income tax district" and insert **"corporation"**.

Page 7, line 5, delete "income tax district" and insert **"corporation"**.

Page 7, line 5, after "school" delete "income tax" and insert **"corporation's"**.

Page 7, line 6, delete "district's".

Page 7, line 13, delete ", in the manner prescribed by" and insert **"be distributed to the school corporation that imposed the tax not more than thirty (30) days after the tax is deposited within the school corporation's account."**

Page 7, delete lines 14 through 42.

Page 8, delete lines 1 through 28.

Page 8, line 29, delete "Sec. 26." and insert **"Sec. 14."**

Page 8, line 31, delete "certified".

Page 8, line 33, delete "certified".

Page 8, line 34, after "corporation" delete "." and insert **"during the year."**

Page 8, line 36, delete "certified".

Page 8, line 39, delete "certified".

Page 9, line 3, delete "certified".

Page 9, line 8, delete "certified".

Page 9, line 11, delete "certified".

Page 9, line 16, delete "Sec. 27." and insert **"Sec. 15."**

Page 9, line 17, delete "income tax district" and insert **"corporation"**.

Page 9, line 30, delete "income tax" and insert **"corporation"**.

Page 9, line 31, delete "district".

Page 9, line 33, delete "Sec. 28." and insert **"Sec. 16."**

Page 10, line 9, delete "income tax district" and insert **"corporation"**.

Page 10, line 12, delete "Sec. 29." and insert **"Sec. 17."**

Page 10, line 14, delete "income tax district's" and insert

C
O
P
Y



"corporation's".

Page 10, line 16, delete "each" and insert "**the**".

Page 10, line 16, delete "in the school income" and insert ".".

Page 10, delete line 17.

and when so amended that said bill do pass.

(Reference is to HB 1420 as introduced.)

BAUER, Chair

Committee Vote: yeas 19, nays 3.

C
o
p
y

