

HOUSE BILL No. 1420

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-8; IC 6-8.1-1-1.

Synopsis: Local option income tax for education. Allows a school income tax district to adopt a local option income tax for education. Provides that each school income tax district is comprised of the school corporations that have their budgets reviewed in the same county. 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 certified distribution of local option income tax for education by an amount equal to the amount of the certified distribution.

Effective: Upon passage.

Bauer

January 11, 2001, read first time and referred to Committee on Ways and Means.

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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, "ADM", for a specified calendar**
8 **year, refers to the average daily membership of a school**
9 **corporation for the school year (as defined in IC 21-3-1.6-1.1)**
10 **ending in that calendar year.**

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

- 13 (1) the assessed value of all property of a corporation that is:
14 (A) taxable under IC 6-1.1; and
15 (B) located in the school income tax district; divided by
16 (2) the assessed value of all property of the corporation that
17 is:



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(A) taxable under IC 6-1.1; and

(B) located in Indiana.

Sec. 4. As used in this chapter, "corporate taxpayer" means a corporation that has net income for the taxable year under IC 6-3-8.

Sec. 5. As used in this chapter, "county auditor" refers to the auditor of the county in which the school corporation has its budget reviewed.

Sec. 6. As used in this chapter, "county treasurer" refers to the treasurer of the county in which the school corporation has its budget reviewed.

Sec. 7. As used in this chapter, "department" refers to the department of state revenue.

Sec. 8. As used in this chapter, "individual taxpayer" means an individual who resides in a school income tax district on the date specified in section 27 of this chapter.

Sec. 9. As used in this chapter, "school corporation" means a public school corporation established by Indiana law.

Sec. 10. (a) School income tax districts are established throughout Indiana. Each district is composed of those school corporations that have their budgets reviewed in the same county. An education income tax council is established in each school income tax district. The membership of each education income tax council consists of the governing body of each school corporation that is a member of the district.

(b) Using procedures described in this chapter, an education income tax council may, by majority vote, adopt ordinances to:

- (1) impose;
- (2) rescind;
- (3) increase; or
- (4) decrease;

the education income tax rate for the school income tax district.

Sec. 11. Each education income tax council has a total of one hundred (100) votes. Each member of the education income tax council is allocated a percentage of the total one hundred (100) votes that may be cast. The percentage that a school corporation is allocated for a year equals the same percentage that the ADM of the school corporation bears to the sum of each school corporation's ADM for all school corporations in the school income tax district. Before January 2 of each year, the county auditor shall certify to each member of the education income tax council the number of votes, rounded to the nearest one-hundredth (0.01), that

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the member has for that year.

Sec. 12. (a) A member of an education income tax council may exercise the member's votes by passing a resolution and transmitting the resolution to the county auditor. However, in the case of an ordinance to impose, rescind, increase, or decrease the rate of the local option income tax for education, the member must transmit the resolution to the county auditor by the appropriate time described in section 17, 18, or 19 of this chapter. The form of a resolution is as follows:

"The _____ (name of the school corporation) casts its _____ votes _____ (for or against) the proposed ordinance of the _____ Education Income Tax Council, which reads as follows:".

(b) A resolution passed by a member of an education income tax council exercises all votes of the member on the proposed ordinance. Those votes may not be changed during the year.

Sec. 13. Any member of an education income tax council may present an ordinance for consideration. The member must pass a resolution to propose the ordinance to the education income tax council and distribute a copy of the proposed ordinance to the county auditor. The county auditor shall treat a proposed ordinance presented to the county auditor under this section as a casting of all the member's votes in favor of that proposed ordinance. Subject to the limitations of section 14 of this chapter, the county auditor shall deliver copies of a proposed ordinance that the county auditor receives to all members of the education income tax council not later than ten (10) days after receipt of the proposed ordinance. Not later than thirty (30) days after each member has received a copy of the proposed ordinance, the county auditor shall convene a meeting of the education income tax council for the purpose of considering and voting on the proposed ordinance. The auditor of a county shall record all votes taken on the ordinance presented for a vote under the authority of this chapter and shall immediately send a certified copy of the results to the department by certified mail.

Sec. 14. (a) An education income tax council may pass only one (1) ordinance described in section 10(b)(1), 10(b)(2), 10(b)(3), or 10(b)(4) of this chapter in one (1) year. Whenever an ordinance described in section 10(b)(1), 10(b)(2), 10(b)(3), or 10(b)(4) of this chapter is passed, the county auditor shall do the following:

(1) Cease distributing proposed ordinances of those types for the rest of the year.

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(2) Withdraw from the membership any other proposed ordinances of those types.

(b) Any votes subsequently received by the county auditor on proposed ordinances of those types during that same year are void.

(c) An education income tax council may not vote on and the county auditor may not distribute to the members of the education income tax council a proposed ordinance during a year if previously during the same year the county auditor received and distributed to the members of the education income tax council a proposed ordinance that, if adopted, would have substantially the same effect.

Sec. 15. (a) Before a member of an education income tax council may propose an ordinance or vote on a proposed ordinance, the member must hold a hearing on the proposed ordinance and provide the public with notice of the time and place that the hearing will be held.

(b) The notice required by subsection (a) must be given in accordance with IC 5-3-1.

(c) The form of the notice required by this section must be in substantially the following form:

**"NOTICE OF
SCHOOL INCOME TAX DISTRICT
LOCAL OPTION INCOME TAX FOR EDUCATION
ORDINANCE VOTE**

The board of the _____ (insert name of school corporation) declares that on _____ (insert date) at _____ (insert the time of day) a public hearing will be held at _____ (insert location) concerning the following resolution to propose an ordinance (or consider a proposed ordinance) that is before the members of the education income tax council. Members of the public are invited to attend the hearing for the purpose of expressing their views."

(Insert a copy of the proposed ordinance or the resolution to propose an ordinance.)

Sec. 16. (a) An education income tax council may impose a local option income tax for education, which consists of a tax on the adjusted gross income of individual taxpayers and on the apportioned supplemental net income of corporations. If the tax is imposed, the tax takes effect July 1 of the year that the ordinance imposing the tax is adopted.

(b) Except as provided in subsection (c), the tax on individual taxpayers and on corporate taxpayers may be imposed at a rate of



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not more than twenty-five hundredths percent (0.25%). The rate applies to the adjusted gross income of the school income tax district's individual taxpayers and to the apportioned net income of the district's corporate taxpayers. The rate must be the same for individual taxpayers and for corporate taxpayers.

Sec. 17. (a) To impose the local option income tax for education, an education income tax council must, after January 1 but before May 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ Education Income Tax Council imposes the local option income tax for education on the individual taxpayers and corporate taxpayers of the _____ (insert name of county) school income tax district. The local option income tax for education consists of an individual income tax and a corporate surtax. The income tax is imposed at a rate of _____ percent (____%) on the individual taxpayers and corporate taxpayers of the school income tax district. The income tax takes effect July 1 of this year."

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

Sec. 18. (a) An education income tax council may increase or decrease the local option income tax for education rate imposed on individual taxpayers and corporate taxpayers. To increase or decrease the rate, the education income tax council must, after January 1 but before May 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ Education Income Tax Council 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 income tax district 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. 19. (a) The local option income tax for education imposed by an education income tax council under this chapter remains in effect until rescinded.

(b) An education income tax council may rescind the local option income tax for education by adopting an ordinance to

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1 rescind the tax after January 1 but before June 1 of a year.

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

4 **Sec. 20. If the local option income tax for education is not in**
5 **effect during an individual taxpayer's or a corporate taxpayer's**
6 **entire taxable year, the amount of local option income tax for**
7 **education that the taxpayer owes for that taxable year equals the**
8 **product of:**

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

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

16 **Sec. 21. (a) If, for a particular taxable year, an individual**
17 **taxpayer is allowed, or an individual taxpayer and the individual**
18 **taxpayer's spouse who file a joint return are allowed, a credit for**
19 **the elderly or the totally disabled under Section 22 of the Internal**
20 **Revenue Code (as defined in IC 6-3-1-11), the individual taxpayer**
21 **is entitled, or the individual taxpayer and the individual taxpayer's**
22 **spouse are entitled, to a credit against their local option income tax**
23 **for education liability for that same taxable year. The amount of**
24 **the credit equals the lesser of the following:**

25 (1) The product of:

26 (A) the credit for the elderly or the totally disabled for the
27 same taxable year; multiplied by

28 (B) a fraction. The numerator is the local option income
29 tax for education rate imposed against the individual
30 taxpayer or the individual taxpayer and the individual
31 taxpayer's spouse. The denominator is fifteen-hundredths
32 (0.15).

33 (2) The amount of local option income tax for education
34 imposed on the individual taxpayer or the individual taxpayer
35 and the individual taxpayer's spouse.

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

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1 **Sec. 22. (a)** A special account within the state general fund shall
 2 be established for each school income tax district adopting the local
 3 option income tax for education. Revenue derived from the
 4 imposition of the local option income tax for education by a school
 5 income tax district shall be deposited in that school income tax
 6 district's account in the state general fund.

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

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

12 **Sec. 23. (a)** Revenue derived from the imposition of the local
 13 option income tax for education shall, in the manner prescribed by
 14 this section, be distributed to the county in which the budgets for
 15 the school corporations comprising the school income tax district
 16 are reviewed by the state board of tax commissioners. The amount
 17 to be distributed to a county during a calendar year equals the
 18 amount of local option income tax for education revenue that the
 19 department, after reviewing the recommendation of the budget
 20 agency, estimates will be received from the school income tax
 21 district during the twelve (12) month period beginning July 1 of the
 22 immediately preceding calendar year and ending June 30 of that
 23 calendar year.

24 **(b)** Before July 2 of each calendar year, the department, after
 25 reviewing the recommendation of the budget agency, shall estimate
 26 and certify to the county auditor of each adopting school income
 27 tax district the amount of local option income tax for education
 28 revenue that will be collected from the school income tax district
 29 during the twelve (12) month period beginning July 1 of the
 30 calendar year and ending June 30 of the immediately succeeding
 31 calendar year. The amount certified is the school income tax
 32 district's certified distribution for the immediately succeeding
 33 calendar year. The amount certified may be adjusted under
 34 subsection (c) or (d).

35 **(c)** The department may certify to an adopting school income
 36 tax district an amount that is greater than the estimated twelve
 37 (12) month revenue collection if the department, after reviewing
 38 the recommendation of the budget agency, determines that there
 39 will be a greater amount of revenue available for distribution from
 40 the school income tax district's account established by section 22 of
 41 this chapter.

42 **(d)** The department may certify an amount less than the

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1 estimated twelve (12) month revenue collection if the department,
 2 after reviewing the recommendation of the budget agency,
 3 determines that a part of the revenue collection needs to be
 4 distributed during the current calendar year so that the school
 5 income tax district will receive the school income tax district's full
 6 certified distribution for the current calendar year.

7 **Sec. 24. (a)** One-half (1/2) of each adopting school income tax
 8 district's certified distribution for a calendar year shall be
 9 distributed from the school income tax district's account
 10 established by section 22 of this chapter to the appropriate county
 11 treasurer before May 1 and the other one-half (1/2) shall be
 12 distributed before November 1 of the calendar year.

13 **(b)** All distributions from an account established by section 22
 14 of this chapter shall be made by warrants issued by the auditor of
 15 state to the treasurer of state ordering the appropriate payments.

16 **Sec. 25.** The county auditor shall distribute among the school
 17 corporations of the school income tax district the school income tax
 18 district's certified distribution for the calendar year. The amount
 19 that the county auditor shall allocate to a school corporation is
 20 equal to the amount determined under STEP THREE of the
 21 following formula:

22 **STEP ONE:** Determine the amount of the certified
 23 distribution available for distribution in the calendar year.

24 **STEP TWO:** Determine the percentage of votes that the
 25 school corporation is allocated for the calendar year under
 26 section 11 of this chapter.

27 **STEP THREE:** Multiply the STEP ONE amount by the STEP
 28 TWO percentage.

29 **Sec. 26. (a)** The county auditor shall each year reduce the
 30 general fund property tax levy of a school corporation receiving a
 31 certified distribution under this chapter in that year. The school
 32 corporation's general fund property tax levy shall be reduced by
 33 the amount of the certified distribution received or to be received
 34 by the school corporation. The state board of tax commissioners
 35 shall certify to the auditor of each county in which a school
 36 corporation receiving a certified distribution is located the
 37 property tax rate applicable to the school corporation's general
 38 fund after the property tax reduction under this section.

39 **(b)** A school corporation shall treat a certified distribution that
 40 the school corporation receives or is to receive during a particular
 41 calendar year as a part of the school corporation's property tax
 42 levy for the general fund for that same calendar year for purposes

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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 certified 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 certified 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 certified 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. 27. (a) For purposes of this chapter, an individual shall be treated as an individual taxpayer of the school income tax district 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 income tax district in Indiana during a calendar year, the individual's liability for local option income tax for education is not affected.

Sec. 28. (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;



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1 (7) exclusion of military pay credits for withholding; and
 2 (8) exemptions and deductions;
 3 apply to the imposition, collection, and administration of the tax
 4 imposed by this chapter. The local option income tax for education
 5 is a listed tax and an income tax for purposes of IC 6-8.1.

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

8 (c) Each employer shall report to the department the amount of
 9 withholdings attributable to each school income tax district. This
 10 report shall annually be submitted with the employer's withholding
 11 report.

12 **Sec. 29. Before February 1 of each year, the department shall**
 13 **submit a report to each county treasurer indicating the balance in**
 14 **the school income tax district's education income tax account at the**
 15 **end of the preceding year. The county treasurer shall forward a**
 16 **copy of the report to each school corporation in the school income**
 17 **tax district.**

18 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.181-1999,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the
 21 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 22 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 23 the gross income tax (IC 6-2.1); the state gross retail and use taxes
 24 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 25 income tax (IC 6-3-8); the county adjusted gross income tax
 26 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 27 economic development income tax (IC 6-3.5-7); **the local option**
 28 **income tax for education (IC 6-3.5-8);** the auto rental excise tax
 29 (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan association
 30 tax (IC 6-5-11); the production credit association tax (IC 6-5-12); the
 31 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
 32 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
 33 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 34 collected under a reciprocal agreement under IC 6-8.1-3; the motor
 35 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
 36 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the
 37 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 38 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 39 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
 40 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 41 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 42 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee

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

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

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