

Adopted	Rejected
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COMMITTEE REPORT

YES:	16
NO:	8

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 352, 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 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.57-1997,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 1998 (RETROACTIVE)]; Sec. 3.5. When used in
- 5 IC 6-3, the term "adjusted gross income" shall mean the following:
- 6 (a) In the case of all individuals, "adjusted gross income" (as
- 7 defined in Section 62 of the Internal Revenue Code), modified as
- 8 follows:
- 9 (1) Subtract income that is exempt from taxation under IC 6-3 by
- 10 the Constitution and statutes of the United States.
- 11 (2) Add an amount equal to any deduction or deductions allowed
- 12 or allowable pursuant to Section 62 of the Internal Revenue Code
- 13 for taxes based on or measured by income and levied at the state

1 level by any state of the United States or for taxes on property
2 levied by any subdivision of any state of the United States.
3 **However, for the taxable year beginning in 1998 and the**
4 **taxable year beginning in 1999, individuals do not have to add**
5 **an amount equal to any deduction or deductions allowed or**
6 **allowable pursuant to Section 62 of the Internal Revenue**
7 **Code for taxes on property levied by any subdivision of any**
8 **state of the United States.**

9 (3) Subtract one thousand dollars (\$1,000), or in the case of a
10 joint return filed by a husband and wife, subtract for each spouse
11 one thousand dollars (\$1,000).

12 (4) Subtract one thousand dollars (\$1,000) for:

13 (A) each of the exemptions provided by Section 151(c) of the
14 Internal Revenue Code;

15 (B) each additional amount allowable under Section 63(f) of
16 the Internal Revenue Code; and

17 (C) the spouse of the taxpayer if a separate return is made by
18 the taxpayer, and if the spouse, for the calendar year in which
19 the taxable year of the taxpayer begins, has no gross income
20 and is not the dependent of another taxpayer.

21 (5) Subtract five hundred dollars (\$500) for each of the
22 exemptions allowed under Section 151(c)(1)(B) of the Internal
23 Revenue Code for taxable years beginning after December 31,
24 1996, and before January 1, 2001. This amount is in addition to
25 the amount subtracted under subdivision (4).

26 (6) Subtract an amount equal to the lesser of:

27 (A) that part of the individual's adjusted gross income (as
28 defined in Section 62 of the Internal Revenue Code) for that
29 taxable year that is subject to a tax that is imposed by a
30 political subdivision of another state and that is imposed on or
31 measured by income; or

32 (B) two thousand dollars (\$2,000).

33 (7) Add an amount equal to the total ordinary income portion of
34 a lump sum distribution (as defined in Section 402(e)(4)(A) of the
35 Internal Revenue Code), if the lump sum distribution is received
36 by the individual during the taxable year and if the ordinary
37 income portion of the distribution is taxed in the manner provided
38 in Section 402(e) of the Internal Revenue Code.

- 1 (8) Subtract any amounts included in federal adjusted gross
2 income under Internal Revenue Code Section 111 as a recovery
3 of items previously deducted as an itemized deduction from
4 adjusted gross income.
- 5 (9) Subtract any amounts included in federal adjusted gross
6 income under the Internal Revenue Code which amounts were
7 received by the individual as supplemental railroad retirement
8 annuities under 45 U.S.C. 231 and which are not deductible under
9 subdivision (1).
- 10 (10) Add an amount equal to the deduction allowed under Section
11 221 of the Internal Revenue Code for married couples filing joint
12 returns if the taxable year began before January 1, 1987.
- 13 (11) Add an amount equal to the interest excluded from federal
14 gross income by the individual for the taxable year under Section
15 128 of the Internal Revenue Code, if the taxable year began
16 before January 1, 1985.
- 17 (12) Subtract an amount equal to the amount of federal Social
18 Security and Railroad Retirement benefits included in a taxpayer's
19 federal gross income by Section 86 of the Internal Revenue Code.
- 20 (13) In the case of a nonresident taxpayer or a resident taxpayer
21 residing in Indiana for a period of less than the taxpayer's entire
22 taxable year, the total amount of the deductions allowed pursuant
23 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
24 which bears the same ratio to the total as the taxpayer's income
25 taxable in Indiana bears to the taxpayer's total income.
- 26 (14) In the case of an individual who is a recipient of assistance
27 under IC 12-10-6-1, IC 12-10-6-2, IC 12-10-6-3, IC 12-15-2-2, or
28 IC 12-15-7, subtract an amount equal to that portion of the
29 individual's adjusted gross income with respect to which the
30 individual is not allowed under federal law to retain an amount to
31 pay state and local income taxes.
- 32 **(15) For the taxable year beginning in 1998 and the taxable**
33 **year beginning in 1999, subtract the lesser of two thousand**
34 **dollars (\$2,000) or an amount equal to the property taxes**
35 **levied by any political subdivision in Indiana or by the state**
36 **that are paid by the individual. However, an individual may**
37 **not take a deduction under this subdivision for property taxes**
38 **for which the individual takes a deduction from gross income**

1 **under Section 62 of the Internal Revenue Code.**

2 (b) In the case of corporations, the same as "taxable income" (as
3 defined in Section 63 of the Internal Revenue Code) adjusted as
4 follows:

5 (1) Subtract income that is exempt from taxation under IC 6-3 by
6 the Constitution and statutes of the United States.

7 (2) Add an amount equal to any deduction or deductions allowed
8 or allowable pursuant to Section 170 of the Internal Revenue
9 Code.

10 (3) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 63 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States or for taxes on property
14 levied by any subdivision of any state of the United States.
15 **However, for the taxable year beginning in 1998 and the**
16 **taxable year beginning in 1999, corporations do not have to**
17 **add an amount equal to any deduction or deductions allowed**
18 **or allowable pursuant to Section 63 of the Internal Revenue**
19 **Code for taxes on property levied by any subdivision of any**
20 **state of the United States.**

21 (4) Subtract an amount equal to the amount included in the
22 corporation's taxable income under Section 78 of the Internal
23 Revenue Code.

24 (c) In the case of trusts and estates, "taxable income" (as defined for
25 trusts and estates in Section 641(b) of the Internal Revenue Code)
26 reduced by income that is exempt from taxation under IC 6-3 by the
27 Constitution and statutes of the United States.

28 SECTION 2. IC 6-3-2-6 IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 6. (a) Each
30 taxable year, an individual who rents a dwelling for use as his principal
31 place of residence may deduct from his adjusted gross income, as
32 defined in IC 6-3-1-3.5(a), the lesser of:

33 (1) the amount of rent paid by him with respect to the dwelling
34 during the taxable year; or

35 (2) **for:**

36 **(A) the taxable year beginning in 1998 and for the taxable**
37 **year beginning in 1999, two thousand dollars (\$2,000); or**

38 **(B) taxable years beginning before January 1, 1998, and**

1 **taxable years beginning after December 31, 1999**, one
2 thousand five hundred dollars (\$1,500).

3 (b) Notwithstanding subsection (a), a husband and wife filing a joint
4 adjusted gross income tax return for a particular taxable year may not
5 claim a deduction under this section of more than **the following:**

6 **(1) For the taxable year beginning in 1998 and for the taxable**
7 **year beginning in 1999, two thousand dollars (\$2,000); or**

8 **(2) For taxable years beginning before January 1, 1998, and**
9 **taxable years beginning after December 31, 1999**, one thousand
10 five hundred dollars (\$1,500).

11 (c) The deduction provided by this section does not apply to an
12 individual who rents a dwelling that is exempt from Indiana property
13 tax.

14 (d) For purposes of this section, a "dwelling" includes a single
15 family dwelling and unit of a multi-family dwelling.

16 SECTION 3. IC 6-3.1-19 IS ADDED TO THE INDIANA CODE
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
18 JANUARY 1, 1998 (RETROACTIVE)]:

19 **Chapter 19. Elementary and Secondary Education Tax Credit**
20 **for Education Expenses**

21 **Sec. 1. As used in this chapter, "accredited nonpublic school"**
22 **means a nonpublic school that:**

23 **(1) voluntarily seeks; and**

24 **(2) receives;**

25 **accreditation as authorized under IC 20-1-1-6(a)(5).**

26 **Sec. 2. As used in this chapter, "eligible dependent" means a**
27 **dependent, as defined in Section 151(c)(1)(B) of the Internal**
28 **Revenue Code, who is enrolled in kindergarten through grade 12**
29 **in a public school or an accredited nonpublic school.**

30 **Sec. 3. As used in this chapter, "nonpublic school" has the**
31 **meaning set forth in IC 20-10.1-1-3.**

32 **Sec. 4. As used in this chapter, "public school" has the meaning**
33 **set forth in IC 20-10.1-1-2.**

34 **Sec. 5. As used in this chapter, "qualified education expense"**
35 **means any of the following expenses incurred by a taxpayer during**
36 **the taxable year and paid to others for an eligible dependent:**

37 **(1) Fees for academic instruction:**

38 **(A) in grade or age appropriate curricula outside of a**

- 1 regular school year or school day;
- 2 **(B) in the core curriculum areas of language arts,**
- 3 **mathematics, science, or social studies; and**
- 4 **(C) for a program approved by the department of**
- 5 **education under IC 20-1-1.1-11.**
- 6 **(2) Expense for textbooks and instructional materials. This**
- 7 **subdivision excludes an expense for textbooks and**
- 8 **instructional materials for the teaching of religious tenets,**
- 9 **doctrines, or worship when the purpose of the teaching is to**
- 10 **instill religious tenets, doctrines, or worship.**
- 11 **(3) Personal computer expense for:**
- 12 **(A) personal computer hardware, excluding single purpose**
- 13 **processors; and**
- 14 **(B) educational software that assists an eligible dependent**
- 15 **to improve or expand knowledge and skills in core**
- 16 **curriculum areas, including language arts, mathematics,**
- 17 **science, or social studies;**
- 18 **purchased for use in the eligible dependent's home and not**
- 19 **used in trade or business.**
- 20 **Sec. 6. As used in this chapter, "taxpayer" means an individual**
- 21 **who has any adjusted gross income tax liability.**
- 22 **Sec. 7. A taxpayer who incurs a qualified education expense is**
- 23 **entitled to a credit against the adjusted gross income tax imposed**
- 24 **by IC 6-3 for the taxable year during which the taxpayer incurs the**
- 25 **qualified education expense. The credit is equal to the lesser of:**
- 26 **(1) the taxpayer's qualified education expense; or**
- 27 **(2) one hundred dollars (\$100) per eligible dependent.**
- 28 **Sec. 8. If both spouses reside in the same household, only one (1)**
- 29 **credit may be claimed by the spouses under this chapter for the**
- 30 **taxable year. However, in the case of a husband and wife who incur**
- 31 **a qualified education expense and file separate tax returns, the**
- 32 **husband and wife may take the credit in equal shares or one (1)**
- 33 **spouse may take the entire credit.**
- 34 **Sec. 9. If the amount of the credit provided by this chapter that**
- 35 **a taxpayer uses during a particular taxable year exceeds the sum**
- 36 **of the taxes imposed by IC 6-3 for the taxable year after the**
- 37 **application of all credits that under IC 6-3.1-1-2 are to be applied**
- 38 **before the credit provided by this chapter, the excess shall be**

1 returned to the taxpayer as a refund.

2 **Sec. 10. This chapter expires January 1, 2000. This expiration**
 3 **does not affect a taxpayer's right to a credit for taxable years**
 4 **beginning in 1998 or 1999.**

5 SECTION 4. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997,
 6 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 2. (a) Except as provided
 8 in subsections (b) through (d), "adjusted gross income" means taxable
 9 income as defined in Section 63 of the Internal Revenue Code, adjusted
 10 as follows:

11 (1) Add the following amounts:

12 (A) An amount equal to a deduction allowed or allowable
 13 under Section 166, Section 585, or Section 593 of the Internal
 14 Revenue Code.

15 (B) An amount equal to a deduction allowed or allowable
 16 under Section 170 of the Internal Revenue Code.

17 (C) An amount equal to a deduction or deductions allowed or
 18 allowable under Section 63 of the Internal Revenue Code for
 19 taxes based on or measured by income and levied at the state
 20 level by a state of the United States or levied at the local level
 21 by any subdivision of a state of the United States or for taxes
 22 on property levied by a state or a subdivision of a state of the
 23 United States. **However, for the taxable year beginning in**
 24 **1998 and the taxable year beginning in 1999, taxpayers do**
 25 **not have to add an amount equal to a deduction or**
 26 **deductions allowed or allowable under Section 63 of the**
 27 **Internal Revenue Code for taxes on property levied by a**
 28 **state or a subdivision of a state of the United States.**

29 (D) The amount of interest excluded under Section 103 of the
 30 Internal Revenue Code or under any other federal law, minus
 31 the associated expenses disallowed in the computation of
 32 taxable income under Section 265 of the Internal Revenue
 33 Code.

34 (E) An amount equal to the deduction allowed under Section
 35 172 or 1212 of the Internal Revenue Code for net operating
 36 losses or net capital losses.

37 (F) For a taxpayer that is not a large bank (as defined in
 38 Section 585(c)(2) of the Internal Revenue Code), an amount

- 1 equal to the recovery of a debt, or part of a debt, that becomes
 2 worthless to the extent a deduction was allowed from gross
 3 income in a prior taxable year under Section 166(a) of the
 4 Internal Revenue Code.
- 5 (2) Subtract the following amounts:
- 6 (A) Income that the United States Constitution or any statute
 7 of the United States prohibits from being used to measure the
 8 tax imposed by this chapter.
- 9 (B) Income that is derived from sources outside the United
 10 States, as defined by the Internal Revenue Code.
- 11 (C) An amount equal to a debt or part of a debt that becomes
 12 worthless, as permitted under Section 166(a) of the Internal
 13 Revenue Code.
- 14 (D) An amount equal to any bad debt reserves that are
 15 included in federal income because of accounting method
 16 changes required by Section 585(c)(3)(A) of the Internal
 17 Revenue Code.
- 18 (b) In the case of a credit union, "adjusted gross income" for a
 19 taxable year means the total transfers to undivided earnings minus
 20 dividends for that taxable year after statutory reserves are set aside
 21 under IC 28-7-1-24.
- 22 (c) In the case of an investment company, "adjusted gross income"
 23 means the company's federal taxable income multiplied by the quotient
 24 of:
- 25 (1) the aggregate of the gross payments collected by the company
 26 during the taxable year from old and new business upon
 27 investment contracts issued by the company and held by residents
 28 of Indiana; divided by
- 29 (2) the total amount of gross payments collected during the
 30 taxable year by the company from the business upon investment
 31 contracts issued by the company and held by persons residing
 32 within Indiana and elsewhere.
- 33 (d) As used in subsection (c), "investment company" means a
 34 person, copartnership, association, limited liability company, or
 35 corporation, whether domestic or foreign, that:
- 36 (1) is registered under the Investment Company Act of 1940 (15
 37 U.S.C. 80a-1 et seq.); and
- 38 (2) solicits or receives a payment to be made to itself and issues

1 in exchange for the payment:
 2 (A) a so-called bond;
 3 (B) a share;
 4 (C) a coupon;
 5 (D) a certificate of membership;
 6 (E) an agreement;
 7 (F) a pretended agreement; or
 8 (G) other evidences of obligation;
 9 entitling the holder to anything of value at some future date, if the
 10 gross payments received by the company during the taxable year
 11 on outstanding investment contracts, plus interest and dividends
 12 earned on those contracts (by prorating the interest and dividends
 13 earned on investment contracts by the same proportion that
 14 certificate reserves (as defined by the Investment Company Act
 15 of 1940) is to the company's total assets) is at least fifty percent
 16 (50%) of the company's gross payments upon investment
 17 contracts plus gross income from all other sources except
 18 dividends from subsidiaries for the taxable year. The term
 19 "investment contract" means an instrument listed in clauses (A)
 20 through (G).

21 SECTION 5. IC 20-1-1.1-11 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 23 JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 11. The department
 24 shall develop criteria and establish and publish a list of programs
 25 that the department approves under the criteria for purposes of an
 26 education tax credit for fees for academic instruction outside of a
 27 regular school year or school day under IC 6-3.1-19 and
 28 IC 6-3.1-20.**

29 SECTION 6. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]
 30 **IC 6-3-2-6, as amended by this act, applies only to taxable years
 31 beginning after December 31, 1997.**

32 SECTION 7. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]
 33 **IC 6-3.1-19, as added by this act, applies only to the taxable year
 34 beginning in 1998 and the taxable year beginning in 1999.**

35 SECTION 8. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]

1 **IC 6-3-1-3.5 and IC 6-5.5-1-2, both as amended by this act, apply**
2 **only to taxable years beginning after December 31, 1997.**

3 **SECTION 9. An emergency is declared for this act.**
 (Reference is to SB 352 as reprinted February 3, 1998.)

and when so amended that said bill do pass.

Representative Bauer