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| PREVAILED | Roll Call No. _____ |
| FAILED | Ayes _____ |
| WITHDRAWN | Noes _____ |
| RULED OUT OF ORDER | |

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1007 be amended to read as follows:

- 1 Page 19, between lines 7 and 8, begin a new paragraph and insert:
- 2 "SECTION 15. IC 6-1.1-20-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. For purposes of
- 4 this chapter, the term "bonds" means any bonds or other evidences of
- 5 indebtedness payable from property taxes **or a school income tax**
- 6 **under IC 20-46.5** for a controlled project, but does not include:
- 7 (1) notes representing loans under IC 36-2-6-18, IC 36-3-4-22,
- 8 IC 36-4-6-20, or IC 36-5-2-11 which are payable within five (5)
- 9 years after issuance;
- 10 (2) warrants representing temporary loans which are payable out
- 11 of taxes levied and in the course of collection;
- 12 (3) a lease;
- 13 (4) obligations; or
- 14 (5) funding, refunding, or judgment funding bonds of political
- 15 subdivisions.
- 16 SECTION 16. IC 6-1.1-20-1.1, AS AMENDED BY P.L.2-2006,
- 17 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 UPON PASSAGE]: Sec. 1.1. As used in this chapter, "controlled
- 19 project" means any project financed by bonds or a lease, except for the
- 20 following:
- 21 (1) A project for which the political subdivision reasonably
- 22 expects to pay:
- 23 (A) debt service; or

- 1 (B) lease rentals;
 2 from funds other than **a school income tax under IC 20-46.5** or
 3 property taxes that are exempt from the levy limitations of
 4 IC 6-1.1-18.5 or IC 20-45-3. **Except for a project payable from**
 5 **a school income tax under IC 20-46.5**, a project is not a
 6 controlled project even though the political subdivision has
 7 pledged to levy property taxes to pay the debt service or lease
 8 rentals if those other funds are insufficient.
- 9 (2) A project that will not cost the political subdivision more than
 10 two million dollars (\$2,000,000).
- 11 (3) A project that is being refinanced for the purpose of providing
 12 gross or net present value savings to taxpayers.
- 13 (4) A project for which bonds were issued or leases were entered
 14 into before January 1, 1996, or where the state board of tax
 15 commissioners has approved the issuance of bonds or the
 16 execution of leases before January 1, 1996.
- 17 (5) A project that is required by a court order holding that a
 18 federal law mandates the project.

19 SECTION 17. IC 6-1.1-20-1.3, AS AMENDED BY P.L.2-2006,
 20 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 1.3. As used in this chapter, "lease" means a
 22 lease by a political subdivision of any controlled project with lease
 23 rentals payable from **a school income tax under IC 20-46.5** or
 24 property taxes that are exempt from the levy limitations of
 25 IC 6-1.1-18.5 or IC 20-45-3.

26 SECTION 18. IC 6-1.1-20-1.5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this
 28 chapter, "obligations" refers to a contract or promise to pay of a
 29 political subdivision that would be considered a bond or lease under
 30 this chapter but for the fact that it is payable solely from funds other
 31 than **a school income tax under IC 20-46.5** or property taxes.

32 SECTION 19. IC 6-1.1-20-3.1, AS AMENDED BY P.L.2-2006,
 33 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 3.1. A political subdivision may not **use a**
 35 **school income tax imposed under IC 20-46.5** or impose property
 36 taxes to pay debt service or lease rentals without completing the
 37 following procedures:

- 38 (1) The proper officers of a political subdivision shall:
 39 (A) publish notice in accordance with IC 5-3-1; and
 40 (B) send notice by first class mail to any organization that
 41 delivers to the officers, before January 1 of that year, an annual
 42 written request for such notices;
 43 of any meeting to consider adoption of a resolution or an
 44 ordinance making a preliminary determination to issue bonds or
 45 enter into a lease and shall conduct a public hearing on a
 46 preliminary determination before adoption of the resolution or

- 1 ordinance.
- 2 (2) When the proper officers of a political subdivision make a
- 3 preliminary determination to issue bonds or enter into a lease, the
- 4 officers shall give notice of the preliminary determination by:
- 5 (A) publication in accordance with IC 5-3-1; and
- 6 (B) first class mail to the organizations described in
- 7 subdivision (1)(B).
- 8 (3) A notice under subdivision (2) of the preliminary
- 9 determination of the political subdivision to issue bonds or enter
- 10 into a lease must include the following information:
- 11 (A) The maximum term of the bonds or lease.
- 12 (B) The maximum principal amount of the bonds or the
- 13 maximum lease rental for the lease.
- 14 (C) The estimated interest rates that will be paid and the total
- 15 interest costs associated with the bonds or lease.
- 16 (D) The purpose of the bonds or lease.
- 17 (E) A statement that any owners of real property within the
- 18 political subdivision who want to initiate a petition and
- 19 remonstrance process against the proposed debt service or
- 20 lease payments must file a petition that complies with
- 21 subdivisions (4) and (5) not later than thirty (30) days after
- 22 publication in accordance with IC 5-3-1.
- 23 (F) With respect to bonds issued or a lease entered into to
- 24 open:
- 25 (i) a new school facility; or
- 26 (ii) an existing facility that has not been used for at least
- 27 three (3) years and that is being reopened to provide
- 28 additional classroom space;
- 29 the estimated costs the school corporation expects to incur
- 30 annually to operate the facility.
- 31 (G) A statement of whether the school corporation expects to
- 32 appeal for a new facility adjustment (as defined in
- 33 IC 20-45-1-16) for an increased maximum permissible tuition
- 34 support levy to pay the estimated costs described in clause (F).
- 35 (4) After notice is given, a petition requesting the application of
- 36 a petition and remonstrance process may be filed by the lesser of:
- 37 (A) one hundred (100) owners of real property within the
- 38 political subdivision; or
- 39 (B) five percent (5%) of the owners of real property within the
- 40 political subdivision.
- 41 (5) The state board of accounts shall design and, upon request by
- 42 the county auditor, deliver to the county auditor or the county
- 43 auditor's designated printer the petition forms to be used solely in
- 44 the petition process described in this section. The county auditor
- 45 shall issue to an owner or owners of real property within the
- 46 political subdivision the number of petition forms requested by

- 1 the owner or owners. Each form must be accompanied by
 2 instructions detailing the requirements that:
- 3 (A) the carrier and signers must be owners of real property;
 - 4 (B) the carrier must be a signatory on at least one (1) petition;
 - 5 (C) after the signatures have been collected, the carrier must
 - 6 swear or affirm before a notary public that the carrier
 - 7 witnessed each signature; and
 - 8 (D) govern the closing date for the petition period.
- 9 Persons requesting forms may not be required to identify
 10 themselves and may be allowed to pick up additional copies to
 11 distribute to other property owners.
- 12 (6) Each petition must be verified under oath by at least one (1)
 13 qualified petitioner in a manner prescribed by the state board of
 14 accounts before the petition is filed with the county auditor under
 15 subdivision (7).
- 16 (7) Each petition must be filed with the county auditor not more
 17 than thirty (30) days after publication under subdivision (2) of the
 18 notice of the preliminary determination.
- 19 (8) The county auditor must file a certificate and each petition
 20 with:
- 21 (A) the township trustee, if the political subdivision is a
 - 22 township, who shall present the petition or petitions to the
 - 23 township board; or
 - 24 (B) the body that has the authority to authorize the issuance of
 - 25 the bonds or the execution of a lease, if the political
 - 26 subdivision is not a township;
 - 27 within fifteen (15) business days of the filing of the petition
 - 28 requesting a petition and remonstrance process. The certificate
 - 29 must state the number of petitioners that are owners of real
 - 30 property within the political subdivision.
- 31 If a sufficient petition requesting a petition and remonstrance process
 32 is not filed by owners of real property as set forth in this section, the
 33 political subdivision may issue bonds or enter into a lease by following
 34 the provisions of law relating to the bonds to be issued or lease to be
 35 entered into."
- 36 Page 19, line 12, after "not" insert "**use a school income tax**
 37 **imposed under IC 20-46.5 or**".
- 38 Page 21, line 16, after "from the" insert "**imposition or use of a**
 39 **school income tax under IC 20-46.5 or**".
- 40 Page 21, line 24, strike "and".
- 41 Page 21, line 24, delete "." and insert ", **and IC 20-46-7**".
- 42 Page 21, between lines 24 and 25, begin a new paragraph and insert:
 43 "SECTION 21. IC 6-1.1-20-3.3 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.3.
 45 Notwithstanding any other law, a political subdivision may issue or
 46 enter into obligations under any statute that requires or permits the **use**

1 **of a school income tax imposed under IC 20-46.5 or the** imposition
 2 of property taxes to pay debt service or lease rentals without pledging
 3 to impose property taxes, if necessary, to pay the debt service or lease
 4 rentals. If the proper officers of a political subdivision determine to use
 5 revenues other than **a school income tax imposed under IC 20-46.5**
 6 **or** property taxes to pay obligations without pledging to impose **a**
 7 **school income tax under IC 20-46.5 or** property taxes for that
 8 purpose, provisions of any other statute relating to **a school income tax**
 9 **imposed under IC 20-46.5 or** controlling property taxes do not apply
 10 to the issuance of or entering into the obligations."

11 Page 23, line 23, after "from" insert "**a school income tax under**
 12 **IC 20-46.5 or**".

13 Page 88, between lines 21 and 22, begin a new paragraph and insert:
 14 "SECTION 73. IC 20-46-7-3, AS ADDED BY P.L.2-2006,
 15 SECTION 169, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter,
 17 "obligation" refers to any obligation that is permitted or required by law
 18 to be paid from the fund under IC 20-40-9 or another law.

19 (b) **Except as provided in subsection (c), the term does not**
 20 **include an obligation to pay the following:**

21 (1) **Lease rentals (as defined in IC 20-46.5-1-4).**

22 (2) **Obligations (as defined in IC 20-46.5-1-5).**

23 (c) **The term includes an obligation described in subsection (b)**
 24 **whenever a school corporation has pledged to levy property taxes**
 25 **to pay lease rentals (as defined in IC 20-46.5-1-4) or obligations (as**
 26 **defined in IC 20-46.5-1-5) if the certified distribution for a school**
 27 **income tax is insufficient to make the payments.**

28 SECTION 74. IC 20-46.5 IS ADDED TO THE INDIANA CODE
 29 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE
 30 JANUARY 1, 2008]:

31 **ARTICLE 46.5. SCHOOL INCOME TAX**

32 **Chapter 1. Definitions**

33 **Sec. 1. The definitions in this article apply throughout this**
 34 **article.**

35 **Sec. 2. "Adjusted gross income" has the same definition that the**
 36 **term is given in IC 6-3-1-3.5(a), except that in the case of a school**
 37 **district taxpayer who is not a resident of a school district that has**
 38 **imposed the school income tax, the term includes only adjusted**
 39 **gross income derived from the taxpayer's principal place of**
 40 **business or employment.**

41 **Sec. 3. "Governing body" has the meaning set forth in**
 42 **IC 20-29-2-10.**

43 **Sec. 4. "Lease rentals" refers to a lease rental:**

44 (1) **to which IC 6-1.1-20 applies; and**

45 (2) **for which a preliminary determination to issue bonds is**
 46 **made after December 31, 2007.**

1 **Sec. 5. "Obligation" refers to a bond:**

2 (1) to which IC 6-1.1-20 applies; and

3 (2) for which a preliminary determination to issue bonds is
4 made after December 31, 2007.

5 **Sec. 6. "Resident school district taxpayer", as it relates to a**
6 **school district for a year, means any school district taxpayer who**
7 **resides in that school district on the date specified in**
8 **IC 20-46.5-3-1.**

9 **Sec. 7. "School district taxpayer", as it relates to a school**
10 **district for a year, means any individual who resides in that school**
11 **district on the date specified in IC 20-46.5-3-1.**

12 **Chapter 2. Imposition of Tax**

13 **Sec. 1. The governing body of a school corporation shall impose**
14 **a school income tax on the adjusted gross income of school district**
15 **taxpayers of its school district effective July 1 of a year that is**
16 **sufficient to pay all obligations and lease rentals that are due in the**
17 **immediately following year in any increment of one hundredth**
18 **percent (0.01%), regardless of whether a county adjusted gross**
19 **income tax, a county option income tax, or a county economic**
20 **development income tax has been imposed in any county where the**
21 **school corporation is located. However, this section does not**
22 **prohibit a school corporation from pledging property taxes to pay**
23 **an obligation or lease rental if the certified distribution from a**
24 **school income tax is insufficient to make the obligation or lease**
25 **rental payments.**

26 **Sec. 2. Upon written petition by any aggrieved party, the**
27 **department of local government finance may increase the school**
28 **income tax rate imposed in a school district to meet the payments**
29 **required in a year for the obligations and lease rentals of a school**
30 **corporation.**

31 **Sec. 3. A school income tax may be imposed in anticipation of**
32 **the approval by the department of local government finance of the**
33 **use of the school income tax for lease rental payments and the**
34 **payment of obligations. Any part of a certified distribution**
35 **received by a school corporation from a school income tax shall be**
36 **placed in a reserve and may not be used for any other purpose.**

37 **Sec. 4. (a) To impose the school income tax, the governing body**
38 **of a school corporation must, after January 1 but before June 1 of**
39 **a year, adopt an ordinance. The ordinance must substantially state**
40 **the following:**

41 **"The governing body of the _____ (insert name of school**
42 **corporation) imposes the school income tax on the school**
43 **district taxpayers of _____ (insert name of school**
44 **corporation) school district. The school income tax is imposed**
45 **at a rate of _____ percent (____%) on the resident school**
46 **district taxpayers of the school district. The tax takes effect**
47 **July 1 after this election."**

1 **(b) Any ordinance adopted under this section takes effect July**
 2 **1 of the year the ordinance is adopted. However, in 2007, a school**
 3 **corporation may impose a school income tax after May 31, 2007,**
 4 **and before July 15, 2007. An ordinance adopted after May 31,**
 5 **2007, and before July 15, 2007, takes effect August 1, 2007.**

6 **(c) The secretary of the governing body of a school corporation**
 7 **shall record all votes taken on ordinances presented for a vote**
 8 **under the authority of this section and immediately send a certified**
 9 **copy of the results to the department of state revenue by certified**
 10 **mail.**

11 **Sec. 5. (a) The governing body of a school corporation may**
 12 **increase the school income tax rate imposed upon the resident**
 13 **school district taxpayers of the school district. To increase the rate,**
 14 **the governing body of the school corporation must, after January**
 15 **1 but before June 1 of a year, adopt an ordinance. The ordinance**
 16 **must substantially state the following:**

17 **"The governing body of the _____ (insert name of school**
 18 **corporation) increases the school income tax rate imposed**
 19 **upon the resident school district taxpayers of the school**
 20 **district from _____ percent (___%) to _____ percent**
 21 **(___%). The tax rate increase takes effect July 1 after this**
 22 **election."**

23 **(b) Any ordinance adopted under this section takes effect July**
 24 **1 of the year the ordinance is adopted.**

25 **(c) The secretary of the governing body of a school corporation**
 26 **shall record all votes taken on ordinances presented for a vote**
 27 **under the authority of this section and immediately send a certified**
 28 **copy of the results to the department of state revenue by certified**
 29 **mail.**

30 **Sec. 6. (a) The governing body of a school corporation may**
 31 **increase or decrease the school income tax rate imposed upon the**
 32 **resident school district taxpayers of the school district. To increase**
 33 **or decrease the rate, the governing body of the school corporation**
 34 **must, after January 1 but before June 1 of a year, adopt an**
 35 **ordinance. The ordinance must substantially state the following:**

36 **"The governing body of the _____ (insert name of school**
 37 **corporation) increases/decreases (insert appropriate term) the**
 38 **school income tax rate imposed upon the resident school**
 39 **district taxpayers of the school district from _____ percent**
 40 **(___%) to _____ percent (___%). The tax rate**
 41 **increase/decrease (insert appropriate term) takes effect July**
 42 **1 after this election."**

43 **(b) A governing body of a school corporation may not decrease**
 44 **the school income tax rate if the school corporation has pledged the**
 45 **school income tax for any purpose permitted by IC 5-1-14 or any**
 46 **other statute. The prohibition in this subsection does not apply if**
 47 **the school corporation pledges legally available revenues to fully**

1 replace the lost revenue due to the decrease in the school
2 corporation's school income tax rate.

3 (c) Any ordinance adopted under this section takes effect July
4 1 of the year the ordinance is adopted.

5 (d) The secretary of the governing body of a school corporation
6 shall record all votes taken on ordinances presented for a vote
7 under the authority of this section and immediately send a certified
8 copy of the results to the department of state revenue by certified
9 mail.

10 Sec. 7. (a) The school income tax imposed by a governing body
11 of a school corporation under this article remains in effect until an
12 ordinance adopted by the governing body under subsection (b)
13 takes effect.

14 (b) Except as provided in subsection (e), the governing body of
15 a school corporation may rescind the school income tax by
16 adopting an ordinance to rescind the tax after January 1 but before
17 June 1 of a year.

18 (c) Any ordinance adopted under this section takes effect July
19 1 of the year the ordinance is adopted.

20 (d) The secretary of the governing body of a school corporation
21 shall record all votes taken on ordinances presented for a vote
22 under the authority of this section and immediately send a certified
23 copy of the results to the department of state revenue by certified
24 mail.

25 (e) A governing body of a school corporation may not rescind
26 the school income tax if the school corporation has pledged the
27 school income tax for any purpose permitted by IC 5-1-14 or any
28 other statute. The prohibition in this subsection does not apply if
29 the school corporation pledges legally available revenues to fully
30 replace the school corporation's school income tax that has been
31 pledged.

32 Chapter 3. Taxpayer Liability

33 Sec. 1. For purposes of this article, an individual shall be treated
34 as a resident of the school district in which the individual:

- 35 (1) maintains a home if the individual maintains only one (1)
36 in Indiana;
- 37 (2) if subdivision (1) does not apply, is registered to vote;
- 38 (3) if neither subdivision (1) nor (2) applies, registers the
39 taxpayer's personal automobile; or
- 40 (4) if subdivisions (1), (2), and (3) do not apply, spends the
41 majority of the taxpayer's time in Indiana during the taxable
42 year in question.

43 Sec. 2. (a) The governing body of the school corporation of any
44 adopting school district may adopt an ordinance to enter into
45 reciprocity agreements with the taxing authority of any school
46 district of any other state. Such a reciprocity agreement must
47 provide that the income of resident school district taxpayers is

1 exempt from income taxation by the other local governmental
 2 entity to the extent that income of the residents of the other local
 3 governmental entity is exempt from the school income tax in the
 4 adopting school district.

5 (b) A reciprocity agreement entered into under subsection (a)
 6 may not become effective until it is also made effective in the other
 7 local governmental entity that is a party to the agreement.

8 (c) The form and effective date of any reciprocity agreement
 9 described in this section must be approved by the department of
 10 state revenue.

11 **Sec. 3. (a)** Except as provided in subsections (b) through (c), if
 12 the school income tax is not in effect during a school district
 13 taxpayer's entire taxable year, the amount of school income tax
 14 that the school district taxpayer owes for that taxable year equals
 15 the product of:

- 16 (1) the amount of school income tax the school district
 17 taxpayer would owe if the tax had been imposed during the
 18 school district taxpayer's entire taxable year; multiplied by
 19 (2) the following fraction:

20 (A) The numerator of the fraction equals the number of
 21 days during the school district taxpayer's taxable year
 22 during which the school income tax was in effect.

23 (B) The denominator of the fraction equals the total
 24 number of days in the school district taxpayer's taxable
 25 year.

26 (b) If a school district taxpayer:

- 27 (1) is unemployed for a part of the taxpayer's taxable year;
 28 (2) was not discharged for just cause (as defined in
 29 IC 22-4-15-1(d)); and
 30 (3) has no earned income for the part of the taxpayer's taxable
 31 year that the tax was in effect;

32 the school district taxpayer's adjusted gross income for the taxable
 33 year is reduced by the amount of the taxpayer's earned income for
 34 the taxable year.

35 (c) A taxpayer who qualifies under subsection (b) must file a
 36 claim for a refund for the difference between the school income tax
 37 owed, as determined under subsection (a), and the tax owed, as
 38 determined under subsection (b). A claim for a refund must be on
 39 a form approved by the department of state revenue and include
 40 all supporting documentation reasonably required by the
 41 department of state revenue.

42 **Sec. 4. (a)** Except as provided in subsection (b), if for a
 43 particular taxable year a school district taxpayer is liable for an
 44 income tax imposed by a school district located outside Indiana,
 45 that school district taxpayer is entitled to a credit against the
 46 taxpayer's school income tax liability for that same taxable year.
 47 The amount of the credit equals the amount of tax imposed by the

1 other governmental entity on income derived from sources outside
 2 Indiana and is subject to the school income tax. However, the
 3 credit provided by this section may not reduce a school district
 4 taxpayer's school income tax liability to an amount less than would
 5 have been owed if the income subject to taxation by the other
 6 governmental entity had been ignored.

7 (b) The credit provided by this section does not apply to a school
 8 district taxpayer to the extent that the other governmental entity
 9 provides for a credit to the taxpayer for the amount of school
 10 income taxes owed under this article.

11 (c) To claim the credit provided by this section, a school district
 12 taxpayer must provide the department of state revenue with
 13 satisfactory evidence that the taxpayer is entitled to the credit.

14 Sec. 5. (a) If for a particular taxable year a school district
 15 taxpayer is, or a school district taxpayer and the taxpayer's spouse
 16 who file a joint return are, allowed a credit for the elderly or the
 17 totally disabled under Section 22 of the Internal Revenue Code, the
 18 school district taxpayer is, or the school district taxpayer and the
 19 taxpayer's spouse are, entitled to a credit against the taxpayer's or
 20 taxpayers' school income tax liability for that same taxable year.
 21 The amount of the credit equals the lesser of:

22 (1) the product of:

23 (A) the taxpayer's or the taxpayer's and the taxpayer's
 24 spouse's credit for the elderly or the totally disabled for
 25 that same taxable year; multiplied by

26 (B) a fraction, the numerator of which is the school income
 27 tax rate imposed against the school district taxpayer, or
 28 the school district taxpayer and the taxpayer's spouse, and
 29 the denominator of which is fifteen-hundredths (0.15); or

30 (2) the amount of school income tax imposed on the school
 31 district taxpayer, or the school district taxpayer and the
 32 taxpayer's spouse.

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

40 Chapter 4. Administration

41 Sec. 1. Except as otherwise provided in this article, all
 42 provisions of the adjusted gross income tax law (IC 6-3)
 43 concerning:

44 (1) definitions;

45 (2) declarations of estimated tax;

46 (3) filing of returns;

47 (4) remittances;

1 (5) incorporation of the provisions of the Internal Revenue
2 Code;

3 (6) penalties and interest;

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

5 (8) exemptions and deductions;

6 apply to the imposition, collection, and administration of the tax
7 imposed by this article.

8 Sec. 2. IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1
9 do not apply to the tax imposed by this article.

10 Sec. 3. Notwithstanding sections 1 and 2 of this chapter, each
11 employer shall report to the department of state revenue the
12 amount of withholdings attributable to each school district. The
13 taxpayer's report shall be submitted annually along with the
14 employer's annual withholding report and as otherwise prescribed
15 by the department of state revenue.

16 Chapter 5. Certified Distributions

17 Sec. 1. (a) A special account within the state general fund shall
18 be established for each school corporation adopting the school
19 income tax. Any revenue derived from the imposition of the school
20 income tax by a school district shall be deposited in that school
21 district's account in the state general fund.

22 (b) Any income earned on money held in an account under
23 subsection (a) becomes a part of that account.

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

27 Sec. 2. (a) Revenue derived from the imposition of the school
28 income tax must, in the manner prescribed by this section, be
29 distributed to the school district that imposed it. The amount to be
30 distributed to a school district during an ensuing calendar year
31 equals the amount of school income tax revenue that the
32 department of state revenue, after reviewing the recommendation
33 of the budget agency, determines has been:

34 (1) received from that school district for a taxable year ending
35 before the calendar year in which the determination is made;
36 and

37 (2) reported on an annual return or amended return
38 processed by the department of state revenue in the state
39 fiscal year ending before July 1 of the calendar year in which
40 the determination is made;

41 as adjusted (as determined after review of the recommendation of
42 the budget agency) for refunds of school income tax made in the
43 state fiscal year.

44 (b) Before August 2 of each calendar year, the department of
45 state revenue, after reviewing the recommendation of the budget
46 agency, shall certify to the school district auditor of each adopting
47 school district the amount determined under subsection (a) plus the

1 amount of interest in the school district's account that has accrued
2 and has not been included in a certification made in a preceding
3 year. The amount certified is the school district's "certified
4 distribution" for the immediately succeeding calendar year. The
5 amount certified shall be adjusted under subsections (c), (d), (e),
6 and (f). The department of state revenue shall provide with the
7 certification an informative summary of the calculations used to
8 determine the certified distribution.

9 (c) The department of state revenue shall certify an amount less
10 than the amount determined under subsection (b) if the
11 department of state revenue, after reviewing the recommendation
12 of the budget agency, determines that the reduced distribution is
13 necessary to offset overpayments made in a calendar year before
14 the calendar year of the distribution. The department of state
15 revenue, after reviewing the recommendation of the budget agency,
16 may reduce the amount of the certified distribution over several
17 calendar years so that any overpayments are offset over several
18 years rather than in one (1) lump sum.

19 (d) The department of state revenue, after reviewing the
20 recommendation of the budget agency, shall adjust the certified
21 distribution of a school district to correct for any clerical or
22 mathematical errors made in any previous certification under this
23 section. The department of state revenue, after reviewing the
24 recommendation of the budget agency, may reduce the amount of
25 the certified distribution over several calendar years so that any
26 adjustment under this subsection is offset over several years rather
27 than in one (1) lump sum.

28 (e) This subsection applies to a school district that initially
29 imposes a tax under this article in the same calendar year in which
30 the department of state revenue makes a certification under this
31 section. The department of state revenue, after reviewing the
32 recommendation of the budget agency, shall adjust the certified
33 distribution of a school district to provide for a distribution in the
34 immediately following calendar year and in each calendar year
35 thereafter. The department of state revenue shall provide for a full
36 transition to certification of distributions as provided in subsection
37 (a)(1) through (a)(2) in the manner provided in subsection (c).

38 (f) This subsection applies to a school district that increases,
39 decreases, or rescinds a tax rate under this article in the same
40 calendar year in which the department of state revenue makes a
41 certification under this section. The department of state revenue,
42 after reviewing the recommendation of the budget agency, shall
43 adjust the certified distribution of a school district to provide for
44 a distribution in the immediately following calendar year and in
45 each calendar year thereafter. The department of state revenue
46 shall provide for a full transition to certification of distributions as
47 provided in subsection (a)(1) through (a)(2) in the manner

1 provided in subsection (c).

2 **Sec. 3. (a) One-twelfth (1/12) of each adopting school**
 3 **corporation's certified distribution for a calendar year shall be**
 4 **distributed from its account established under section 1 of this**
 5 **chapter to the appropriate school corporation treasurer on the first**
 6 **day of each month of that calendar year.**

7 **(b) All distributions from an account established under section**
 8 **1 of this chapter shall be made by warrants issued by the auditor**
 9 **of the state to the treasurer of the state ordering the appropriate**
 10 **payments.**

11 **Sec. 4. Before October 2 of each year, the department of state**
 12 **revenue shall submit a report to each school district auditor**
 13 **indicating the balance in the school district's adjusted gross income**
 14 **tax account as of the cutoff date specified by the budget agency.**

15 **Sec. 5. (a) If, after receiving a recommendation from the budget**
 16 **agency, the department of state revenue determines that a**
 17 **sufficient balance exists in a school district account that exceeds the**
 18 **amount necessary, when added to other money that will be**
 19 **deposited in the account after the date of the recommendation, to**
 20 **make certified distributions to the school district in the ensuing**
 21 **year, the department of state revenue shall make a supplemental**
 22 **distribution to a school district from the school district's adjusted**
 23 **gross income tax account.**

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

- 26 **(1) made in January of the ensuing calendar year; and**
 27 **(2) allocated and, subject to subsection (d), used in the same**
 28 **manner as certified distributions.**

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

31 **Chapter 6. Allowable Expenditures; Debt Service**

32 **Sec. 1. Money distributed to a school corporation under this**
 33 **article shall be deposited in the school corporation's debt service**
 34 **fund and may be used only for the following purposes:**

- 35 **(1) Lease rentals.**
 36 **(2) Obligations.**

37 **Sec. 2. Notwithstanding any other law, if a school corporation**
 38 **desires to issue obligations or enter into leases payable wholly or**
 39 **in part by the school income tax, the obligations of the school**
 40 **corporation or any lessor may be sold at public sale in accordance**
 41 **with IC 5-1-11 or at negotiated sale.**

42 **Sec. 3. (a) A pledge of school income tax revenues under this**
 43 **article is enforceable in accordance with IC 5-1-14.**

44 **(b) With respect to obligations for which a pledge has been**
 45 **made under this article, the general assembly covenants with the**
 46 **school district and the purchasers or owners of those obligations**
 47 **that this article will not be repealed or amended in any manner**

1 that will adversely affect the collection of the tax imposed under
 2 this article as long as the principal of or interest on those
 3 obligations is unpaid. The prohibition in this section does not apply
 4 if the general assembly provides for legally available revenues to
 5 fully replace the lost revenue due to a repeal or amendment to this
 6 article.

7 **Chapter 7. Approval of Use of Tax**

8 **Sec. 1. A school corporation must obtain approval from the**
 9 **department of local government finance before the school**
 10 **corporation may:**

11 (1) incur the indebtedness; or

12 (2) enter into the lease agreement;

13 that is payable from a certified distribution under this article. The
 14 school corporation may impose a school income tax rate under this
 15 article in anticipation of the approval of the indebtedness or lease
 16 agreement but must place the certified distribution in reserve and
 17 may not use the reserve for any other purpose.

18 **Sec. 2. (a) A school corporation must file a petition requesting**
 19 **approval from the department of local government finance to:**

20 (1) incur bond indebtedness; or

21 (2) enter into a lease rental agreement;

22 payable from a certified distribution under this article not later
 23 than twenty-four (24) months after the first date of publication of
 24 notice of a preliminary determination under IC 6-1.1-20-3.1(2)
 25 unless the school corporation demonstrates that a longer period is
 26 reasonable in light of the school corporation's facts and
 27 circumstances.

28 **Sec. 3. (a) The department of local government finance may:**

29 (1) approve;

30 (2) disapprove; or

31 (3) modify then approve;

32 a school corporation's proposed lease rental agreement or bond
 33 issue. Before the department of local government finance approves
 34 or disapproves a proposed lease rental agreement or bond issue,
 35 the department of local government finance may seek the
 36 recommendation of the tax control board.

37 (c) The department of local government finance shall render a
 38 decision not more than three (3) months after the date the
 39 department of local government finance receives a request for
 40 approval under this chapter. However, the department of local
 41 government finance may extend this three (3) month period by an
 42 additional three (3) months if, at least ten (10) days before the end
 43 of the original three (3) month period, the department of local
 44 government finance sends notice of the extension to the executive
 45 officer of the school corporation.

46 **Sec. 4. (a) The department of local government finance may not**
 47 **approve a school corporation's proposed lease rental agreement or**

1 **bond issue to finance the construction of additional classrooms**
 2 **unless the school corporation first:**

3 (1) **establishes that additional classroom space is necessary;**
 4 **and**

5 (2) **conducts a feasibility study, holds public hearings, and**
 6 **hears public testimony on using a twelve (12) month school**
 7 **term (instead of the nine (9) month school term (as defined in**
 8 **IC 20-30-2-7)) rather than expanding classroom space.**

9 (b) **A taxpayer may petition for judicial review of the final**
 10 **determination of the department of local government finance**
 11 **under this section. The petition must be filed in the tax court not**
 12 **more than thirty (30) days after the department of local**
 13 **government finance enters its order under this section.**

14 **Sec. 5. The department of local government finance in**
 15 **determining whether to approve or disapprove a school building**
 16 **construction project and the tax control board in determining**
 17 **whether to recommend approval or disapproval of a school**
 18 **building construction project shall consider the following factors:**

19 (1) **The current and proposed square footage of school**
 20 **building space per student.**

21 (2) **Enrollment patterns within the school corporation.**

22 (3) **The age and condition of the current school facilities.**

23 (4) **The cost per square foot of the school building**
 24 **construction project.**

25 (5) **The effect that completion of the school building**
 26 **construction project would have on the school corporation's**
 27 **tax rate.**

28 (6) **Any other pertinent matter.**

29 **Sec. 6. The department of local government finance in**
 30 **determining whether to approve or disapprove a school building**
 31 **construction project and the tax control board in determining**
 32 **whether to recommend approval or disapproval of a school**
 33 **building construction project may not approve or recommend the**
 34 **approval of a project that is financed through the issuance of bonds**
 35 **if the bonds mature more than twenty-five (25) years after the date**
 36 **of the issuance of the bonds.**

37 **Sec. 7. The department of local government finance shall**
 38 **annually conduct the review of debt service obligations (as defined**
 39 **in IC 20-48-1-11) required in IC 20-48-1-11.**

40 SECTION 75. IC 20-48-1-11, AS ADDED BY P.L.2-2006,
 41 SECTION 171, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section,
 43 "debt service obligations" refers to the principal and interest payable
 44 during a calendar year on a school corporation's general obligation
 45 bonds and lease rentals under IC 20-47-2 and IC 20-47-3.

46 (b) **Before the end of each calendar year, the department of local**
 47 **government finance shall review the bond and lease rental levies,**

1 **income tax levies under IC 20-46.5**, or any levies that replace bond
2 and lease rental levies, of each school corporation that are payable in
3 the next succeeding year and the appropriations from the levies from
4 which the school corporation is to pay the amount, if any, of the school
5 corporation's debt service obligations. If the levies and appropriations
6 of the school corporation are not sufficient to pay the debt service
7 obligations, the department of local government finance shall establish
8 for each school corporation:

9 (1) bond or lease rental levies, or any levies that replace the bond
10 and lease rental levies; and

11 (2) appropriations;
12 that are sufficient to pay the debt service obligations.

13 (c) Upon the failure of a school corporation to pay any of the school
14 corporation's debt service obligations during a calendar year when due,
15 the treasurer of state, upon being notified of the failure by a claimant,
16 shall pay the unpaid debt service obligations that are due from the
17 funds of the state only to the extent of the amounts appropriated by the
18 general assembly for the calendar year for distribution to the school
19 corporation from state funds, deducting the payment from the
20 appropriated amounts. ~~A~~ **The** deduction under this subsection must be
21 made:

22 (1) first from property tax relief funds to the extent of the property
23 tax relief funds;

24 (2) second from all other funds except state tuition support; and

25 (3) third from state tuition support.

26 (d) This section shall be interpreted liberally so that the state shall
27 to the extent legally valid ensure that the debt service obligations of
28 each school corporation are paid. However, this section does not create
29 a debt of the state."

30 Renumber all SECTIONS consecutively.
(Reference is to HB 1007 as printed February 8, 2007.)

Representative Espich