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# SENATE BILL No. 455

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1-9-4; IC 20-40-17.

**Synopsis:** Income tax refund designation for public K-12 schools. Permits an individual (or husband and wife in the case of a joint return) to designate a donation of part or all of the taxpayer's state income tax refund to the Indiana public school K-12 fund of the school corporation in which the taxpayer resides by using the state income tax return. Permits a taxpayer to also include a donation to the K-12 fund with the return. Requires the department of state revenue to include a form for making direct donations to a school corporation's Indiana public school K-12 fund. Provides the authority for a public school corporation to establish an Indiana public school K-12 fund. Prohibits transfers from or to the fund.

**Effective:** January 1, 2011 (retroactive); July 1, 2011.

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### Breaux

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January 12, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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# SENATE BILL No. 455



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

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

1 SECTION 1. IC 6-8.1-9-4 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]:  
 3 Sec. 4. (a) Every individual (other than a nonresident) who files an  
 4 individual income tax return and who is entitled to a refund from the  
 5 ~~Indiana~~ department of **state** revenue because of the overpayment of  
 6 income tax for a taxable year may designate on ~~his~~ **the individual's**  
 7 annual state income tax return that either a specific amount or all of the  
 8 refund to which ~~he~~ **the individual** is entitled shall be paid over to **one**  
 9 **(1) or more of** the nongame fund: ~~In the event that the individual~~  
 10 ~~designates that a certain amount shall be paid over to the nongame fund~~  
 11 ~~and funds described in subsection (d). If the refund to which he the~~  
 12 ~~individual~~ is entitled is less than the **total** amount designated ~~such~~  
 13 ~~designation shall mean that to be paid over to one (1) or more of the~~  
 14 ~~funds described in subsection (d), all of the refund to which he the~~  
 15 ~~individual~~ is entitled shall be paid over to the ~~nongame fund~~  
 16 ~~designated funds, but in an amount or amounts reduced~~  
 17 ~~proportionately for each designated fund. If an individual~~



1 designates all of the refund to which the individual is entitled to be  
 2 paid over to one (1) or more of the funds described in subsection  
 3 (d) without designating specific amounts, the refund to which the  
 4 individual is entitled shall be paid over to each fund described in  
 5 subsection (d) in an amount equal to the amount of the refund  
 6 divided by the number of funds described in subsection (d),  
 7 rounded to the lowest cent, with any part of the refund remaining  
 8 due to the effects of rounding to be deposited in the Indiana public  
 9 school K-12 fund of the public school corporation in which the  
 10 taxpayer resides.

11 (b) Every husband and wife (other than nonresidents) who file a  
 12 joint income tax return and who are entitled to a refund from the  
 13 Indiana department of state revenue because of the overpayment of  
 14 income tax for a taxable year may designate on their annual state  
 15 income tax return that either a specific amount or all of the refund to  
 16 which they are entitled shall be paid over to one (1) or more of the  
 17 nongame fund. In the event that the husband and wife designate that a  
 18 certain amount shall be paid over to the nongame fund and funds  
 19 described in subsection (d). If the refund to which they a husband  
 20 and wife are entitled is less than the total amount designated such  
 21 designation shall mean that to be paid over to one (1) or more of the  
 22 funds described in subsection (d), all of the refund to which they the  
 23 husband and wife are entitled shall be paid over to the nongame fund.  
 24 designated funds, but in an amount or amounts reduced  
 25 proportionately for each designated fund. If a husband and wife  
 26 designate all of the refund to which the husband and wife are  
 27 entitled to be paid over to one (1) or more of the funds described in  
 28 subsection (d) without designating specific amounts, the refund to  
 29 which the husband and wife are entitled shall be paid over to each  
 30 fund described in subsection (d) in an amount equal to the amount  
 31 of the refund divided by the number of funds described in  
 32 subsection (d), rounded to the lowest cent, with any part of the  
 33 refund remaining due to the effects of rounding to be deposited in  
 34 the Indiana public school K-12 fund of the school corporation in  
 35 which the taxpayer resides.

36 (c) In addition to a designation under subsection (a) or (b), a  
 37 taxpayer who:

38 (1) is a resident of Indiana; and

39 (2) files an individual or joint income tax return;

40 may designate on the taxpayer's annual state income tax return  
 41 that the taxpayer desires to contribute an amount in excess of the  
 42 refund amount to the Indiana public school K-12 fund of the public

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1 school corporation in which the taxpayer resides. A taxpayer must  
2 state the amount of the contribution, which may not be less than  
3 one dollar (\$1), and include the contribution with the return.

4 (d) A designation under:

5 (1) subsection (a) or (b) may be directed only to:

6 (A) the Indiana public school K-12 fund established under  
7 IC 20-40-17 by the public school corporation in which the  
8 taxpayer resides; or

9 (B) the nongame fund; or

10 (2) subsection (c) may be directed only to the Indiana public  
11 school K-12 fund established under IC 20-40-17 by the public  
12 school corporation in which the taxpayer resides.

13 (e) The instructions for the preparation of individual income tax  
14 returns shall contain a description of the purposes of the following  
15 programs in the following order:

16 (1) The Indiana public school K-12 fund program. The  
17 department shall also include a form for making a direct  
18 donation to the Indiana public school K-12 fund of the school  
19 corporation in which the taxpayer resides. The description of  
20 this program shall be written in cooperation with the  
21 department of education.

22 (2) The nongame and endangered species program, which is The  
23 description of this program shall be written in cooperation with  
24 the department of natural resources.

25 (f) Individual income tax returns must include a statement that:

26 (1) a contribution under subsection (c) does not reduce the  
27 taxpayer's tax;

28 (2) a contribution under subsection (c) will:

29 (A) decrease or eliminate the refund owed to the taxpayer,  
30 if any;

31 (B) increase the amount that must accompany the return;  
32 or

33 (C) result in both of the consequences described in clauses  
34 (A) and (B); and

35 (3) the failure to include with the taxpayer's tax return all or  
36 part of the increased amount referred to under subdivision  
37 (2)(B) will reduce the designated contribution to the extent  
38 that the increased amount is not included with the return.

39 (g) The department shall interpret a designation on a return  
40 under subsection (a), (b), or (c) that is illegible or otherwise not  
41 reasonably discernible to the department as if the designation had  
42 not been made.

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1 (h) For purposes of IC 4-8.1-1-3, designations made to the  
 2 Indiana public school K-12 fund program under this section are  
 3 considered made to a dedicated fund. Money from designations  
 4 made to the Indiana public school K-12 fund program under this  
 5 section shall be held in the dedicated fund for the benefit of and  
 6 distribution to designated school corporations and may not be used  
 7 or transferred for any other purpose. In May and November each  
 8 year, the department shall provide to the general assembly, in an  
 9 electronic format under IC 5-14-6, and to the auditor of state a  
 10 report indicating the entire amount the department determines has  
 11 been designated for each public school corporation in the state  
 12 since the department's most recent report. In June and December  
 13 each year, the auditor of state shall distribute to each school  
 14 corporation the entire amount reported to the auditor of state in  
 15 the department's most recent report.

16 SECTION 2. IC 20-40-17 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2011]:

19 **Chapter 17. Indiana Public School K-12 Fund**

20 **Sec. 1.** As used in this chapter, "fund" refers to an Indiana  
 21 public school K-12 fund established under section 2 of this chapter.

22 **Sec. 2. (a)** The governing body of each school corporation may  
 23 establish an Indiana public school K-12 fund as a dedicated fund  
 24 for depositing money received from income tax refunds and  
 25 donations designated under IC 6-8.1-9-4. Earnings on any balance  
 26 in the fund shall be deposited in the fund.

27 **(b)** Money in the fund may not be considered in determining the  
 28 amount of state tuition support (IC 20-43) or amount of any state  
 29 grant that a school corporation is otherwise entitled to receive.

30 **(c)** Any balance remaining in the fund at the end of the year  
 31 remains in the fund.

32 **(d)** The fund may be used for the purposes described in section  
 33 3 of this chapter.

34 **Sec. 3.** The fund may be used by a governing body to provide  
 35 educational opportunities to children enrolled in the school  
 36 corporation.

37 **Sec. 4.** The governing body of a school corporation may not:

- 38 (1) transfer money out of the school corporation's fund to any  
 39 other fund;  
 40 (2) transfer money from the general fund to the school  
 41 corporation's fund; or  
 42 (3) appropriate money from the general fund for the school

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1           **corporation's fund.**  
2           SECTION 3. [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]  
3           **(a) IC 6-8.1-9-4, as amended by this act, applies only to returns**  
4           **associated with taxable years beginning after December 31, 2010.**  
5           **(b) This SECTION expires January 1, 2013.**  
6           SECTION 4. **An emergency is declared for this act.**

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