



February 21, 2012

ENGROSSED SENATE BILL No. 143

DIGEST OF SB 143 (Updated February 17, 2012 11:00 am - DI 92)

Citations Affected: IC 4-10; noncode.

Synopsis: State fiscal matters. Provides for an automatic refundable tax credit to Indiana residents when the state has excess reserves of at least \$20,000,000. Transfers any part of the excess reserves that are not needed to provide tax credits to the pension stabilization fund. Provides that beginning in 2013: (1) the office of management and budget shall calculate, after the end of each odd-numbered state fiscal year, the total amount of state reserves; and (2) the governor's presentation concerning the disposition of excess state reserves is conditioned upon the determination that the state reserves exceed 12% (instead of 10%) of the general revenue appropriations for the current state fiscal year. Permits augmentation of the appropriation for full-day kindergarten. Changes the amount distributed per child.

Effective: Upon passage; January 1, 2012 (retroactive); January 1, 2013.

Kenley, Charbonneau

(HOUSE SPONSORS — ESPICH, CRAWFORD)

January 4, 2012, read first time and referred to Committee on Appropriations.
January 19, 2012, amended, reported favorably — Do Pass.
January 23, 2012, read second time, ordered engrossed.
January 24, 2012, engrossed. Read third time, passed. Yeas 36, nays 14.

HOUSE ACTION

January 31, 2012, read first time and referred to Committee on Ways and Means.
February 20, 2012, amended, reported — Do Pass.

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February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 143

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

1 SECTION 1. IC 4-10-22-1, AS ADDED BY P.L.229-2011,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2013]: Sec. 1. After the end of each **odd-numbered**
4 state fiscal year, the office of management and budget shall calculate
5 in the customary manner the total amount of state reserves as of the end
6 of the state fiscal year. The office of management and budget shall
7 make the calculation not later than July 31 of each **odd-numbered**
8 year.
9 SECTION 2. IC 4-10-22-2, AS ADDED BY P.L.229-2011,
10 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JANUARY 1, 2013]: Sec. 2. If the total amount of state reserves
12 calculated by the office of management and budget exceeds ~~ten~~ **twelve**
13 percent (~~+10%~~) (**12%**) of the general revenue appropriations for the
14 current state fiscal year, and if the accounts payable by the state at the
15 end of the preceding state fiscal year are not unusually large as a
16 percentage of the total amount of state reserves (as compared to recent
17 history), the governor shall make a presentation to the state budget

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1 committee regarding the disposition of excess state reserves under
 2 section 3 of this chapter. The presentation must be made not later than
 3 September 30 of the **odd-numbered** year.

4 SECTION 3. IC 4-10-22-3, AS ADDED BY P.L.229-2011,
 5 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 3. **(a) Subject to**
 7 **subsection (b)**, after completing the presentation to the state budget
 8 committee described in section 2 of this chapter, the governor shall:

9 (1) transfer fifty percent (50%) of any excess reserves to the
 10 pension stabilization fund established by IC 5-10.4-2-5 for the
 11 purposes of the pension stabilization fund; and

12 (2) (1) use fifty percent (50%) of any excess reserves for the
 13 purposes of providing an automatic **refundable** taxpayer ~~refund~~
 14 **credit** under section 4 of this chapter; and

15 (2) transfer the excess reserves not needed for an automatic
 16 refundable taxpayer credit under section 4 of this chapter to
 17 the pension stabilization fund established by IC 5-10.4-2-5.

18 (b) If the excess reserves on June 30 of any year are less than
 19 twenty million dollars (\$20,000,000), the governor shall carry over
 20 the excess reserves to each subsequent year until the total excess
 21 reserves, including any carryover amount, equal at least twenty
 22 million dollars (\$20,000,000). In the year that total excess reserves
 23 equal at least twenty million dollars (\$20,000,000), the excess
 24 reserves shall be used as provided in subsection (a).

25 SECTION 4. IC 4-10-22-4, AS ADDED BY P.L.229-2011,
 26 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 4. The following apply
 28 if sufficient excess state reserves are available to provide an automatic
 29 taxpayer refund to each taxpayer eligible for a refund:

30 (1) To qualify for a refund, a taxpayer:

31 (A) must have filed an Indiana resident individual adjusted
 32 gross income tax return for the preceding two (2) taxable
 33 years; and

34 (B) must have paid individual adjusted gross income tax to the
 35 state for the preceding taxable year.

36 Individuals who file a tax return but do not pay any individual
 37 adjusted gross income tax to the state are not entitled to a refund.

38 (2) The amount of the refund is determined for each qualifying
 39 taxpayer on a pro rata basis, based on the qualifying taxpayer's
 40 portion of the total individual adjusted gross income tax liability
 41 paid by all qualifying taxpayers in the preceding taxable year.

42 (3) The refund shall be applied as a credit against adjusted gross

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1 income tax liability in the taxpayer's taxable year in which a
2 refund is provided. The credit may not be carried forward.

3 (a) As used in this section, "taxable year" has the meaning set
4 forth in IC 6-3-1-16.

5 (b) An individual is entitled to a refundable tax credit against
6 the individual's adjusted gross income tax liability in a taxable year
7 if:

8 (1) the office of management and budget determines that the
9 state possessed excess state reserves on June 30 in the
10 taxpayer's current taxable year of at least twenty million
11 dollars (\$20,000,000);

12 (2) the individual is an Indiana resident who filed an Indiana
13 resident individual adjusted gross income tax return for the
14 immediately preceding taxable year, not later than the due
15 date for the return, determined after applying any extension
16 granted for the return; and

17 (3) the individual continues to be an Indiana resident who files
18 an Indiana resident individual adjusted gross income tax
19 return for the current taxable year not later than the due date
20 for the return, determined after applying any extension
21 granted for the return.

22 (c) The refundable tax credit under this section shall be applied
23 to a taxpayer's adjusted gross income tax liability for the
24 taxpayer's current taxable year after applying all other tax credits
25 to which the taxpayer is otherwise eligible. The amount of the
26 refundable tax credit under this section is determined on a per
27 return basis. The refundable tax credit is equal to:

28 (1) the credit amount determined under subsection (d) or (e),
29 if the individual files a single Indiana resident individual
30 adjusted gross income tax return for the current taxable year;
31 or

32 (2) the result of the credit amount determined under
33 subsection (d) or (e) multiplied by two (2), if the individual
34 files a joint Indiana resident individual adjusted gross income
35 tax return with the individual's spouse for the current taxable
36 year.

37 (d) Except as provided in subsection (e), the credit amount is the
38 amount determined under STEP THREE of the following formula:

39 STEP ONE: Determine the result of:

40 (1) the amount of the state excess reserves determined for
41 June 30 in the taxable year; divided by

42 (2) the number of resident individuals filing a single or

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- 1 joint Indiana resident individual adjusted gross income tax
 2 return for the immediately preceding year, not later than
 3 the due date for the return, determined after applying any
 4 extension granted for the return.
- 5 **STEP TWO: Round the STEP ONE result to the nearest one**
 6 **dollar (\$1).**
- 7 **STEP THREE: Determine the lesser of:**
 8 (1) the STEP TWO result; or
 9 (2) fifty dollars (\$50).
- 10 (e) This subsection applies only when the result determined in
 11 subsection (d), STEP TWO is greater than one hundred dollars
 12 (\$100). For a state fiscal year subject to this subsection, the credit
 13 amount is the amount determined under STEP FIVE of the
 14 following formula:
- 15 **STEP ONE: Determine the result of:**
 16 (1) the result determined under subsection (d), STEP
 17 TWO; minus
 18 (2) one hundred dollars (\$100).
- 19 **STEP TWO: Round the STEP ONE result to the nearest one**
 20 **dollar (\$1).**
- 21 **STEP THREE: Determine the result of**
 22 (1) the STEP TWO result; divided by
 23 (2) two (2).
- 24 **STEP FOUR: Round the STEP THREE result to the nearest**
 25 **one dollar (\$1).**
- 26 **STEP FIVE: Determine the sum of:**
 27 (1) the STEP FOUR result; plus
 28 (2) fifty dollars (\$50).
- 29 **SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The definitions**
 30 **in P.L.229-2011, SECTION 1 apply throughout this SECTION.**
- 31 **(b) The following definitions apply throughout this SECTION:**
 32 (1) "2012-2013 school year" means the school year (as defined
 33 in IC 20-18-2-17) beginning July 1, 2012, and ending June 30,
 34 2013.
- 35 (2) "Charter school" has the meaning set forth in
 36 IC 20-24-1-4.
- 37 (3) "Current ADM" has the meaning set forth in
 38 IC 20-43-1-10.
- 39 (4) "Eligible pupil" has the meaning set forth in
 40 IC 20-43-1-11.
- 41 (5) "School corporation" has the meaning set forth in
 42 IC 20-18-2-16.

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1 (c) Augmentation is allowed for the appropriation in
2 P.L.229-2011, SECTION 9 to the department of education for
3 full-day kindergarten, beginning July 1, 2012, and ending June 30,
4 2013.

5 (d) Notwithstanding P.L.229-2011, SECTION 9, each school
6 corporation and charter school that applies to the department of
7 education for a grant for full-day kindergarten is entitled to receive
8 a distribution in the 2012-2013 school year from the amount
9 appropriated in P.L.229-2011, SECTION 9 for full-day
10 kindergarten for the state fiscal year beginning July 1, 2012, and
11 ending June 30, 2013, as augmented under this SECTION. The
12 total amount to be distributed to a school corporation or charter
13 school for the 2012-2013 school year equals the result of:

14 (1) two thousand four hundred dollars (\$2,400); multiplied by

15 (2) the number of eligible pupils who are:

16 (A) counted in the current ADM of the school corporation
17 in the initial count of ADM in the 2012-2013 school year;
18 and

19 (B) enrolled in and attending full-day kindergarten on the
20 count date on which the current ADM is determined.

21 (e) A school corporation or charter school that applies for a
22 grant for full-day kindergarten may not charge a fee for enrolling
23 in or attending full-day kindergarten in the school year beginning
24 July 1, 2012, and ending June 30, 2013.

25 (f) This SECTION expires July 1, 2013.

26 SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 143, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 4-10-22-1, AS ADDED BY P.L.229-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 1. After the end of each **odd-numbered** state fiscal year, the office of management and budget shall calculate in the customary manner the total amount of state reserves as of the end of the state fiscal year. **However, for purposes of this chapter, the office of management and budget may not include in the total amount of state reserves any amounts in the state tuition reserve fund under IC 4-12-1-15.7.** The office of management and budget shall make the calculation not later than July 31 of each **odd-numbered** year.

SECTION 2. IC 4-10-22-2, AS ADDED BY P.L.229-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. If:

- (1) the total amount of state reserves calculated by the office of management and budget exceeds ten percent (10%) of the general revenue appropriations for the current state fiscal year;
- (2) **the state tuition reserve fund under IC 4-12-1-15.7 has a balance equal to at least ten percent (10%) of the state tuition support appropriation for the following calendar year;** and if
- (3) the accounts payable by the state at the end of the preceding state fiscal year are not unusually large as a percentage of the total amount of state reserves (as compared to recent history);

the governor shall make a presentation to the state budget committee regarding the disposition of excess state reserves under section 3 of this chapter. The presentation must be made not later than September 30 of the **odd-numbered** year.

SECTION 3. IC 4-10-22-3, AS ADDED BY P.L.229-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. After completing the presentation to the state budget committee described in section 2 of this chapter, the governor shall **do the following:**

- (1) **If the amount of the excess reserves is less than one hundred million dollars (\$100,000,000), transfer one hundred percent (100%) of the excess reserves to the pension**

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stabilization fund established by IC 5-10.4-2-5 for the purposes of the pension stabilization fund.

(2) If the amount of the excess reserves is one hundred million dollars (\$100,000,000) or more:

(+) (A) transfer fifty percent (50%) of any excess reserves to the pension stabilization fund established by IC 5-10.4-2-5 for the purposes of the pension stabilization fund; and

(-) (B) use fifty percent (50%) of any excess reserves for the purposes of providing an automatic taxpayer refund under section 4 of this chapter.

SECTION 4. IC 4-10-22-4, AS ADDED BY P.L.229-2011, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The following apply if sufficient excess state reserves are available to provide an automatic taxpayer refund to each taxpayer eligible for a refund:

(1) To qualify for a refund, a taxpayer:

(A) must have filed an Indiana resident individual adjusted gross income tax return for the preceding two (2) taxable years; and

(B) must have paid individual adjusted gross income tax to the state for the preceding taxable year.

Individuals who file a tax return but do not pay any individual adjusted gross income tax to the state are not entitled to a refund.

(2) The amount of the refund is determined for each qualifying taxpayer ~~on a pro rata basis, based on the qualifying taxpayer's portion of the total individual adjusted gross income tax liability paid by all qualifying taxpayers in the preceding taxable year.~~ as follows:

STEP ONE: Determine the total amount of excess state reserves that under section 3 of this chapter are available to provide automatic taxpayer refunds.

STEP TWO: Determine the total number of taxpayers that qualify for a refund as provided in subdivision (1).

STEP THREE: Determine the result of:

(A) the STEP ONE result; divided by

(B) the STEP TWO result;

as rounded to the nearest dollar.

(3) The refund shall be applied as a credit against adjusted gross income tax liability in the taxpayer's taxable year in which a refund is provided. The credit may not be carried forward.

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SECTION 5. An emergency is declared for this act."

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 143 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 1.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 143, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 143 as printed January 20, 2012.)

ESPICH, Chair

Committee Vote: yeas 23, nays 0.

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