January 20, 2012

SENATE BILL No. 143

DIGEST OF SB 143 (Updated January 19, 2012 11:38 am - DI 58)

Citations Affected: IC 4-10.

Synopsis: Automatic taxpayer refund. Provides that for purposes of the automatic taxpayer refund statutes, that the amount of the refund for qualifying taxpayers is determined on a per capita basis by dividing the total amount of excess state reserves available to provide automatic taxpayer refunds by the total number of qualifying taxpayers. Specifies that: (1) if the amount of the excess reserves is less than $100,000,000, all of the excess reserves shall be transferred to the pension stabilization fund; and (2) if the amount of the excess reserves is $100,000,000 or more, 50% of the excess reserves shall be transferred to the pension stabilization fund and 50% of the excess reserves shall be used for the purposes of providing an automatic taxpayer refund. (Under current law, the excess reserves are divided equally between the pension stabilization fund and the automatic taxpayer refund, regardless of the dollar amount of the excess reserves.) 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) amounts in the state tuition reserve fund are not considered in determining whether state reserves exceed 10% of general revenue. Specifies an additional requirement (a balance in the tuition reserve equal to at least 10% of the tuition support appropriation for the following year) that must be satisfied beginning in 2013 before a transfer may be made.

Effective: Upon passage; January 1, 2013.

Kenley

January 4, 2012, read first time and referred to Committee on Appropriations.
January 19, 2012, amended, reported favorably — Do Pass.

January 20, 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.

SENATE BILL No. 143

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

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 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:

~~(1)~~ **(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

~~(2)~~ **(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.

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

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

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:

~~(1)~~ **(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

~~(2)~~ **(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.

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.