

## SENATE BILL No. 92

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-34.

**Synopsis:** Income tax credit for K-12 education contributions. Provides a 50% state tax credit to taxpayers that contribute to a public elementary school or public secondary school located in Indiana or a foundation organized and operated solely for the benefit of an Indiana public school. Sets forth standards that apply to taking the credit and to schools and foundations that receive contributions. Limits the total credits that may be claimed during a state fiscal year using a three year phase in period.

**Effective:** July 1, 2019.

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## Ruckelshaus

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January 3, 2019, read first time and referred to Committee on Education and Career Development.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 92

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

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

1 SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]:

4 **Chapter 34. Public School and Public School Foundation**  
5 **Contribution Tax Credit**

6 **Sec. 1. As used in this chapter, "credit" refers to a credit**  
7 **granted under this chapter.**

8 **Sec. 2. As used in this chapter, "pass through entity" has the**  
9 **meaning set forth in IC 6-3-1-35.**

10 **Sec. 3. As used in this chapter, "public elementary school or**  
11 **public secondary school" means any Indiana public school or**  
12 **school corporation, including a charter school (as defined in**  
13 **IC 20-24-1-4), that offers any combination of grades from**  
14 **kindergarten through grade 12.**

15 **Sec. 4. As used in this chapter, "public school foundation"**  
16 **means a nonprofit organization that is:**

17 **(1) exempt from federal income taxation under Section**



1           **501(c)(3) of the Internal Revenue Code; and**

2           **(2) organized and operated solely for the benefit of an Indiana**  
 3           **public elementary school or public secondary school.**

4           **The term includes a public school foundation established under**  
 5           **IC 20-26-5-22.5.**

6           **Sec. 5. As used in this chapter, "state tax liability" means a**  
 7           **taxpayer's total tax liability that is incurred under:**

8           **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

9           **(2) IC 6-5.5 (the financial institutions tax); and**

10           **(3) IC 27-1-18-2 (the insurance premiums tax);**

11           **as computed after the application of the credits that under**  
 12           **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
 13           **chapter.**

14           **Sec. 6. As used in this chapter, "taxpayer" means an individual**  
 15           **or entity that has any state tax liability.**

16           **Sec. 7. (a) At the election of the taxpayer, a credit is allowed**  
 17           **against the taxpayer's state tax liability for the taxable year in**  
 18           **which the taxpayer makes a contribution to:**

19           **(1) a public elementary school or public secondary school; or**

20           **(2) a public school foundation.**

21           **Subject to the limitations provided by this chapter, the amount of**  
 22           **the credit for a taxable year is equal to fifty percent (50%) of the**  
 23           **total amount of the contributions made by the taxpayer.**

24           **(b) The school or foundation must use the contribution for only**  
 25           **the purposes permitted for a school corporation's education fund**  
 26           **or operations fund.**

27           **(c) A school or foundation shall provide a receipt to a taxpayer**  
 28           **for a contribution made that includes a certification that the school**  
 29           **or foundation will:**

30           **(1) use the contributions for only the purposes permitted for**  
 31           **a school corporation's education fund or operations fund; and**

32           **(2) not use more than ten percent (10%) of the total amount**  
 33           **of contributions for administrative costs.**

34           **The department shall prescribe a standardized form for the receipt**  
 35           **issued under this subsection.**

36           **Sec. 8. (a) A public elementary school or public secondary**  
 37           **school or a public school foundation receiving a contribution that**  
 38           **will be used as the basis for a tax credit under this chapter must**  
 39           **provide to the department by August 1 of each year the following**  
 40           **information regarding the school's or foundation's use of the**  
 41           **contributions received under this chapter:**

42           **(1) The name of the school or foundation.**



1           **(2) The total number and total dollar amount of contributions**  
 2           **received during the previous school year.**

3           **(3) A certification that the school or foundation:**

4               **(A) used the contributions for only the purposes permitted**  
 5               **for a school corporation's education fund or operations**  
 6               **fund; and**

7               **(B) did not use more than ten percent (10%) of the total**  
 8               **amount of contributions for administrative costs.**

9           **(4) In the case of a foundation, a copy of the foundation's**  
 10           **annual financial audit.**

11           **In addition, the foundation shall make the annual financial audit**  
 12           **available to a member of the public upon request. The information**  
 13           **provided under this subsection is a public record.**

14           **(b) In the case of a foundation, the report must be certified**  
 15           **under penalties of perjury by the chief executive officer of the**  
 16           **foundation.**

17           **Sec. 9. (a) If the credit provided by this chapter exceeds the**  
 18           **taxpayer's state tax liability for the taxable year for which the**  
 19           **credit is first claimed, the excess may be carried forward to**  
 20           **succeeding taxable years and used as a credit against the**  
 21           **taxpayer's state tax liability during those taxable years. Each time**  
 22           **the credit is carried forward to a succeeding taxable year, the**  
 23           **credit is reduced by the amount that was used as a credit during**  
 24           **the immediately preceding taxable year. The credit provided by**  
 25           **this chapter may be carried forward and applied to the succeeding**  
 26           **nine (9) taxable years following the initial credit year.**

27           **(b) A taxpayer is not entitled to a carryback or refund of any**  
 28           **unused credit.**

29           **Sec. 10. If a pass through entity is entitled to a credit under this**  
 30           **chapter but does not have state tax liability against which the tax**  
 31           **credit may be applied, a shareholder, partner, or member of the**  
 32           **pass through entity is entitled to a tax credit equal to:**

33               **(1) the tax credit determined for the pass through entity for**  
 34               **the taxable year; multiplied by**

35               **(2) the percentage of the pass through entity's distributive**  
 36               **income to which the shareholder, partner, or member is**  
 37               **entitled.**

38           **Sec. 11. To apply a credit against the taxpayer's state tax**  
 39           **liability, a taxpayer must claim the credit on the taxpayer's annual**  
 40           **state tax return or returns in the manner prescribed by the**  
 41           **department. The taxpayer shall submit to the department the**  
 42           **information that the department determines is necessary for the**



1 department to determine whether the taxpayer is eligible for the  
2 credit.

3 **Sec. 12. The total amount of tax credits awarded under this**  
4 **chapter may not exceed the following:**

5 (1) **Nine million five hundred thousand dollars (\$9,500,000) in**  
6 **the state fiscal year beginning July 1, 2019, and ending June**  
7 **30, 2020.**

8 (2) **Twelve million five hundred thousand dollars**  
9 **(\$12,500,000) for the state fiscal year beginning July 1, 2020,**  
10 **and ending June 30, 2021.**

11 (3) **Fourteen million dollars (\$14,000,000) for each state fiscal**  
12 **year beginning after June 30, 2021.**

13 **Sec. 13. The department, on an Internet web site used by the**  
14 **department to provide information to the public, shall provide the**  
15 **following information:**

16 (1) **The form the department prescribes for claiming the**  
17 **credit provided by this chapter.**

18 (2) **A timeline for receiving the credit provided by this**  
19 **chapter.**

20 (3) **The total amount of credits awarded under this chapter**  
21 **during the current state fiscal year.**

22 **SECTION 2. [EFFECTIVE JULY 1, 2019] (a) Notwithstanding**  
23 **the July 1, 2019, effective date for IC 6-3.1-34, as added by this act,**  
24 **the credit provided by IC 6-3.1-34, as added by this act, may be**  
25 **claimed only for taxable years beginning after December 31, 2019.**

26 (b) **This SECTION expires June 30, 2022.**

