

SENATE BILL No. 141

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-35.6.

Synopsis: State tax credit for public school foundation contributions. Provides a 25% state tax credit for contributions made to a public school foundation for taxable years beginning after December 31, 2022, and before January 1, 2025. Provides that the amount allowable as a credit in a taxable year may not exceed: (1) \$1,000 in the case of an individual filing a single return or a corporation; or (2) \$2,000 in the case of a married couple filing a joint return. Provides that the maximum amount of credits that may be awarded in a state fiscal year may not exceed \$5,000,000.

Effective: July 1, 2022.

Buchanan, Houchin

January 4, 2022, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 141

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 6-3.1-35.6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2022]:
- 4 **Chapter 35.6. Public School Foundation Contribution Tax**
- 5 **Credit**
- 6 **Sec. 1. This chapter applies only for taxable years beginning**
- 7 **after December 31, 2022, and before January 1, 2025.**
- 8 **Sec. 2. As used in this chapter, "credit" refers to a credit**
- 9 **granted under this chapter.**
- 10 **Sec. 3. As used in this chapter, "pass through entity" has the**
- 11 **meaning set forth in IC 6-3-1-35.**
- 12 **Sec. 4. As used in this chapter, "public elementary school or**
- 13 **public secondary school" means any Indiana public school or**
- 14 **school corporation, including a charter school (as defined in**
- 15 **IC 20-24-1-4), that offers any combination of grades from**
- 16 **kindergarten through grade 12.**
- 17 **Sec. 5. As used in this chapter, "public school foundation"**



1 means a nonprofit organization that is:
 2 (1) exempt from federal income taxation under Section
 3 501(c)(3) of the Internal Revenue Code; and
 4 (2) organized and operated solely for the benefit of an Indiana
 5 public elementary school or public secondary school.
 6 The term includes a public school foundation established under
 7 IC 20-26-5-22.5.

8 Sec. 6. As used in this chapter, "state tax liability" means a
 9 taxpayer's total tax liability that is incurred under:
 10 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
 11 (2) IC 6-5.5 (the financial institutions tax); and
 12 (3) IC 27-1-18-2 (the insurance premiums tax);
 13 as computed after the application of the credits that under
 14 IC 6-3.1-1-2 are to be applied before the credit provided by this
 15 chapter.

16 Sec. 7. As used in this chapter, "taxpayer" means an individual
 17 or entity that has any state tax liability.

18 Sec. 8. (a) At the election of the taxpayer, a credit is allowed
 19 against the taxpayer's state tax liability for the taxable year in
 20 which the taxpayer makes a contribution to a public school
 21 foundation. Subject to the limitations provided by this chapter, the
 22 amount of the credit for a taxable year is equal to twenty-five
 23 percent (25%) of the total amount of the contributions made by the
 24 taxpayer.

25 (b) The amount allowable as a credit under this section for any
 26 taxable year may not exceed:

- 27 (1) one thousand dollars (\$1,000) in the case of:
 28 (A) an individual filing a single return; or
 29 (B) a corporation; or
 30 (2) two thousand dollars (\$2,000) in the case of a married
 31 couple filing a joint return.

32 Sec. 9. (a) A public school foundation receiving a contribution
 33 that will be used as the basis for a tax credit under this chapter
 34 must provide to the department by August 1 of each year the
 35 following information regarding the foundation's use of the
 36 contributions received under this chapter:

- 37 (1) The name of the foundation.
 38 (2) The total number and total dollar amount of contributions
 39 received during the previous school year.
 40 (3) A description of each use or purpose for which the
 41 contributions were spent.
 42 (4) A copy of the foundation's annual financial audit.



1 In addition, the foundation shall make the annual financial audit
2 available to a member of the public upon request. The information
3 provided under this subsection is a public record.

4 (b) The report must be certified under penalties of perjury by
5 the chief executive officer of the foundation.

6 Sec. 10. (a) Subject to section 1 of this chapter, if the credit
7 provided by this chapter exceeds the taxpayer's state tax liability
8 for the taxable year for which the credit is first claimed, the excess
9 may be carried forward to succeeding taxable years and used as a
10 credit against the taxpayer's state tax liability during those taxable
11 years. Each time the credit is carried forward to a succeeding
12 taxable year, the credit is reduced by the amount that was used as
13 a credit during the immediately preceding taxable year.

14 (b) A taxpayer is not entitled to a carryback or refund of any
15 unused credit.

16 Sec. 11. If a pass through entity is entitled to a credit under this
17 chapter but does not have state tax liability against which the tax
18 credit may be applied, a shareholder, partner, or member of the
19 pass through entity is entitled to a tax credit equal to:

20 (1) the tax credit determined for the pass through entity for
21 the taxable year; multiplied by

22 (2) the percentage of the pass through entity's distributive
23 income to which the shareholder, partner, or member is
24 entitled.

25 Sec. 12. To apply a credit against the taxpayer's state tax
26 liability, a taxpayer must claim the credit on the taxpayer's annual
27 state tax return or returns in the manner prescribed by the
28 department. The taxpayer shall submit to the department the
29 information that the department determines is necessary for the
30 department to determine whether the taxpayer is eligible for the
31 credit.

32 Sec. 13. The total amount of tax credits awarded under this
33 chapter may not exceed five million dollars (\$5,000,000) each state
34 fiscal year.

35 Sec. 14. The department, on an Internet web site used by the
36 department to provide information to the public, shall provide the
37 following information:

38 (1) The form the department prescribes for claiming the
39 credit provided by this chapter.

40 (2) A timeline for receiving the credit provided by this
41 chapter.

42 (3) The total amount of credits awarded under this chapter



1 **during the current state fiscal year.**
2 SECTION 2. [EFFECTIVE JULY 1, 2022] (a) **Notwithstanding**
3 **the July 1, 2022, effective date for IC 6-3.1-35.6, as added by this**
4 **act, the credit provided by IC 6-3.1-35.6, as added by this act, may**
5 **be claimed only for taxable years beginning after December 31,**
6 **2022, and before January 1, 2025.**
7 (b) **This SECTION expires June 30, 2025.**

