



February 17, 2021

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## SENATE BILL No. 342

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DIGEST OF SB 342 (Updated February 16, 2021 11:54 am - DI 120)

**Citations Affected:** IC 6-3.1; noncode.

**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, 2021, and before January 1, 2024. 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 to \$5,000,000.

**Effective:** July 1, 2021.

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## Buchanan, Houchin, Busch, Bassler

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January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.  
February 16, 2021, amended, reported favorably — Do Pass.

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SB 342—LS 7351/DI 110





February 17, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## SENATE BILL No. 342

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, 2021]:  
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, 2021, and before January 1, 2024.**  
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"**

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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, 2021] (a) **Notwithstanding**  
3 **the July 1, 2021, 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 **2021, and before January 1, 2024.**  
7           (b) **This SECTION expires June 30, 2024.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 342, 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, line 4, delete "Public School and".

Page 1, between lines 5 and 6, begin a new paragraph and insert:

**"Sec. 1. This chapter applies only for taxable years beginning after December 31, 2021, and before January 1, 2024."**

Page 1, line 6, delete "1." and insert "2."

Page 1, line 8, delete "2." and insert "3."

Page 1, line 10, delete "3." and insert "4."

Page 1, line 15, delete "4." and insert "5."

Page 2, line 6, delete "5." and insert "6."

Page 2, line 14, delete "6." and insert "7."

Page 2, line 16, delete "7." and insert "8."

Page 2, line 18, delete ":".

Page 2, delete line 19.

Page 2, line 20, delete "(2)".

Page 2, run in lines 18 through 21.

Page 2, delete lines 24 through 35, begin a new paragraph and insert:

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

**(1) one thousand dollars (\$1,000) in the case of:**

**(A) an individual filing a single return; or**

**(B) a corporation; or**

**(2) two thousand dollars (\$2,000) in the case of a married couple filing a joint return."**

Page 2, line 36, delete "8." and insert "9."

Page 2, line 36, delete "public elementary school or public secondary".

Page 2, line 37, delete "school or a".

Page 2, line 40, delete "school's or".

Page 2, line 42, delete "school or".

Page 3, delete lines 3 through 8, begin a new line block indented and insert:

**"(3) A description of each use or purpose for which the contributions were spent."**

Page 3, line 9, delete "In the case of a foundation, a" and insert "A".

Page 3, line 14, delete "In the case of a foundation, the" and insert



**"The".**

Page 3, line 17, delete "9." and insert "**10.**".

Page 3, line 17, delete "If" and insert "**Subject to section 1 of this chapter, if**".

Page 3, line 24, delete "The credit provided by".

Page 3, delete lines 25 through 26.

Page 3, line 29, delete "10." and insert "**11.**".

Page 3, line 38, delete "11." and insert "**12.**".

Page 4, line 3, delete "12." and insert "**13.**".

Page 4, line 4, delete "ten" and insert "**five**".

Page 4, line 4, delete "\$10,000,000" and insert "**(\$5,000,000)**".

Page 4, line 6, delete "13." and insert "**14.**".

Page 4, line 19, delete "." and insert ", **and before January 1, 2024.**".

and when so amended that said bill do pass.

(Reference is to SB 342 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

