

SENATE BILL No. 238

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-35.1.

Synopsis: Child and dependent care tax credit. Provides a refundable child and dependent care tax credit to taxpayers whose adjusted gross income for the taxable year is not more than 250% of the federal poverty level. Provides that the credit is equal to the lesser of: (1) an amount ranging from \$200 to \$1,000, depending on the extent to which the taxpayer's adjusted gross income exceeds the federal poverty level; or (2) 20% of the taxpayer's employment related expenses.

Effective: January 1, 2023 (retroactive).

Taylor G

January 10, 2023, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 238

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 6-3.1-35.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2023 (RETROACTIVE)];

4 **Chapter 35.1. Child and Dependent Care Tax Credit**
5 **Sec. 1. As used in this chapter, "adjusted gross income" has the**
6 **meaning set forth in IC 6-3-1-3.5.**

7 **Sec. 2. (a) As used in this chapter, "employment related**
8 **expenses" means amounts that are:**

- 9 (1) **paid for the care of a qualifying individual; and**
- 10 (2) **incurred to enable an individual taxpayer, including an**
11 **individual taxpayer's spouse in the case of a joint return, to be**
12 **gainfully employed.**

13 (b) **The term does not include an amount paid for services**
14 **outside the taxpayer's household at a camp where a qualifying**
15 **individual stays overnight.**

16 (c) **The term does not include amounts paid for services outside**
17 **the taxpayer's household that are not provided in conformity with**



1 applicable state and local laws.

2 **Sec. 3.** As used in this chapter, "federal poverty level" refers to
3 the poverty income guidelines published by the United States
4 Department of Health and Human Services.

5 **Sec. 4.** As used in this chapter, "qualifying individual" has the
6 meaning set forth in Section 21(b)(1) of the Internal Revenue Code.

7 **Sec. 5.** As used in this chapter, "state income tax liability"
8 means the total income tax liability incurred under IC 6-3, as
9 computed after application of the credits that under IC 6-3.1-1-2
10 are to be applied before the credit provided by this chapter.

11 **Sec. 6.** An individual taxpayer, including an individual
12 taxpayer's spouse in the case of a joint return, who has:

- 13 (1) employment related expenses during the taxable year; and
- 14 (2) adjusted gross income, or combined adjusted gross income
15 with the taxpayer's spouse in the case of a joint return, of not
16 more than two hundred fifty percent (250%) of the federal
17 poverty level for the taxable year;

18 is entitled to a refundable credit against the taxpayer's state
19 income tax liability for the taxable year.

20 **Sec. 7.** The amount of a credit allowed under section 6 of this
21 chapter for a taxable year is equal to the following:

22 (1) The lesser of:

- 23 (A) the amount of employment related expenses incurred
24 in the taxable year multiplied by twenty percent (20%); or
- 25 (B) one thousand dollars (\$1,000);

26 if the taxpayer's adjusted gross income, or combined adjusted
27 gross income with the taxpayer's spouse in the case of a joint
28 return, is not more than one hundred eighty-five percent
29 (185%) of the federal poverty level.

30 (2) The lesser of:

- 31 (A) the amount of employment related expenses incurred
32 in the taxable year multiplied by twenty percent (20%); or
- 33 (B) eight hundred dollars (\$800);

34 if the taxpayer's adjusted gross income, or combined adjusted
35 gross income with the taxpayer's spouse in the case of a joint
36 return, is more than one hundred eighty-five percent (185%)
37 but not more than two hundred one percent (201%) of the
38 federal poverty level.

39 (3) The lesser of:

- 40 (A) the amount of employment related expenses incurred
41 in the taxable year multiplied by twenty percent (20%); or
- 42 (B) six hundred dollars (\$600);



1 if the taxpayer's adjusted gross income, or combined adjusted
 2 gross income with the taxpayer's spouse in the case of a joint
 3 return, is more than two hundred one percent (201%) but not
 4 more than two hundred seventeen percent (217%) of the
 5 federal poverty level.

6 (4) The lesser of:

7 (A) the amount of employment related expenses incurred
 8 in the taxable year multiplied by twenty percent (20%); or

9 (B) four hundred dollars (\$400);

10 if the taxpayer's adjusted gross income, or combined adjusted
 11 gross income with the taxpayer's spouse in the case of a joint
 12 return, is more than two hundred seventeen percent (217%)
 13 but not more than two hundred thirty-three percent (233%)
 14 of the federal poverty level.

15 (5) The lesser of:

16 (A) the amount of employment related expenses incurred
 17 in the taxable year multiplied by twenty percent (20%); or

18 (B) two hundred dollars (\$200);

19 if the taxpayer's adjusted gross income, or combined adjusted
 20 gross income with the taxpayer's spouse in the case of a joint
 21 return, is more than two hundred thirty-three percent (233%)
 22 but not more than two hundred fifty percent (250%) of the
 23 federal poverty level.

24 **Sec. 8. If both spouses reside in the same household, the total**
 25 **amount of the credit computed under section 7 of this chapter may**
 26 **be claimed only once.**

27 **Sec. 9. If the credit provided under this chapter exceeds the state**
 28 **income tax liability due from the taxpayer for the taxable year, the**
 29 **excess shall be refunded to the taxpayer.**

30 **Sec. 10. (a) The department may adopt rules under IC 4-22-2 to**
 31 **implement this chapter.**

32 **(b) The department may require that a taxpayer apply for a**
 33 **credit under this chapter on a form designated by the department.**

34 **SECTION 2. [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]**
 35 **(a) IC 6-3.1-35.1, as added by this act, applies only to taxable years**
 36 **beginning after December 31, 2022.**

37 **(b) This SECTION expires January 1, 2026.**

38 **SECTION 3. An emergency is declared for this act.**

