

# SENATE BILL No. 364

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-35.

**Synopsis:** Income tax credit for K-12 education donations. Provides a 50% income tax credit to donors who donate to a public school foundation. Sets forth standards that apply to taking the credit and to public school 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, 2018.

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## Melton, Kruse

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January 4, 2018, read first time and referred to Committee on Appropriations.

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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 2017 Regular Session of the General Assembly.

## SENATE BILL No. 364

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 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]:  
4 **Chapter 35. Public School Foundation Donation Tax Credit**  
5 **Sec. 1. As used in this chapter, "credit" refers to a credit**  
6 **granted under this chapter.**  
7 **Sec. 2. As used in this chapter, "pass through entity" has the**  
8 **meaning set forth in IC 6-3-1-35.**  
9 **Sec. 3. As used in this chapter, "public school foundation" refers**  
10 **to a public school foundation established by a school corporation**  
11 **under IC 20-26-5-22.5.**  
12 **Sec. 4. As used in this chapter, "state tax liability" means a**  
13 **taxpayer's total tax liability that is incurred under:**  
14 **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**  
15 **(2) IC 6-5.5 (the financial institutions tax); and**  
16 **(3) IC 27-1-18-2 (the insurance premiums tax);**  
17 **as computed after the application of the credits that under**



1 IC 6-3.1-1-2 are to be applied before the credit provided by this  
2 chapter.

3 Sec. 5. As used in this chapter, "taxpayer" means an individual  
4 or entity that has any state tax liability.

5 Sec. 6. (a) A taxpayer that makes a contribution to a public  
6 school foundation for use by the public school foundation for only  
7 the purposes permitted for a school corporation's education fund  
8 or operations fund is entitled to a credit against the taxpayer's  
9 state tax liability in the taxable year in which the taxpayer makes  
10 the contribution.

11 (b) A public school foundation shall provide a receipt to a  
12 taxpayer for a contribution made to the public school foundation  
13 that includes a certification that the foundation will:

- 14 (1) use the donations for only the purposes permitted for a  
15 school corporation's education fund or operations fund; and  
16 (2) not use more than ten percent (10%) of the total amount  
17 of contributions for administrative costs.

18 The department shall prescribe a standardized form for the receipt  
19 issued under this subsection.

20 Sec. 7. (a) A public school foundation receiving a contribution  
21 that will be used as the basis for a tax credit under this chapter  
22 must provide to the department by August 1 of each year the  
23 following information regarding the public school foundation's use  
24 of the contributions the foundation receives under this chapter:

- 25 (1) The name of the public school foundation.  
26 (2) The total number and total dollar amount of contributions  
27 received during the previous school year.  
28 (3) A certification that the public school foundation:  
29 (A) used the donations for only the purposes permitted for  
30 a school corporation's education fund or operations fund;  
31 and  
32 (B) did not use more than ten percent (10%) of the total  
33 amount of contributions for administrative costs.  
34 (4) A copy of the public school foundation's annual financial  
35 audit.

36 The information provided under this subsection is a public record.  
37 In addition, the public school foundation shall make the annual  
38 financial audit available to a member of the public upon request.

39 (b) The report must be certified under penalties of perjury by  
40 the chief executive officer of the public school foundation.

41 Sec. 8. (a) The amount of a taxpayer's credit is equal to fifty  
42 percent (50%) of the amount of the contribution made to the public



1 school foundation.

2 (b) If the credit provided by this chapter exceeds the taxpayer's  
3 state tax liability for the taxable year for which the credit is first  
4 claimed, the excess may be carried forward to succeeding taxable  
5 years and used as a credit against the taxpayer's state tax liability  
6 during those taxable years. Each time the credit is carried forward  
7 to a succeeding taxable year, the credit is reduced by the amount  
8 that was used as a credit during the immediately preceding taxable  
9 year. The credit provided by this chapter may be carried forward  
10 and applied to succeeding taxable years for nine (9) taxable years  
11 following the unused credit year.

12 (c) A taxpayer is not entitled to a carryback or refund of any  
13 unused credit.

14 Sec. 9. If a pass through entity is entitled to a credit under this  
15 chapter but does not have state tax liability against which the tax  
16 credit may be applied, a shareholder, partner, or member of the  
17 pass through entity is entitled to a tax credit equal to:

- 18 (1) the tax credit determined for the pass through entity for  
19 the taxable year; multiplied by  
20 (2) the percentage of the pass through entity's distributive  
21 income to which the shareholder, partner, or member is  
22 entitled.

23 Sec. 10. To apply a credit against the taxpayer's state tax  
24 liability, a taxpayer must claim the credit on the taxpayer's annual  
25 state tax return or returns in the manner prescribed by the  
26 department. The taxpayer shall submit to the department the  
27 information that the department determines is necessary for the  
28 department to determine whether the taxpayer is eligible for the  
29 credit.

30 Sec. 11. The total amount of tax credits awarded under this  
31 chapter may not exceed the following:

- 32 (1) Nine million five hundred thousand dollars (\$9,500,000) in  
33 the state fiscal year beginning July 1, 2018, and ending June  
34 30, 2019.  
35 (2) Twelve million five hundred thousand dollars  
36 (\$12,500,000) for the state fiscal year beginning July 1, 2019,  
37 and ending June 30, 2020.  
38 (3) Fourteen million dollars (\$14,000,000) for each state fiscal  
39 year beginning after June 30, 2020.

40 Sec. 12. The department, on an Internet web site used by the  
41 department to provide information to the public, shall provide the  
42 following information:



- 1           **(1) The form the department prescribes for claiming the**
- 2           **credit provided by this chapter.**
- 3           **(2) A timeline for receiving the credit provided by this**
- 4           **chapter.**
- 5           **(3) The total amount of credits awarded under this chapter**
- 6           **during the current state fiscal year.**
- 7           **SECTION 2. [EFFECTIVE JULY 1, 2018] (a) IC 6-3.1-35, as**
- 8           **added by this act, applies to taxable years beginning after**
- 9           **December 31, 2018.**
- 10           **(b) This SECTION expires June 30, 2020.**

