

PROPOSED AMENDMENT

SB 161 # 3

DIGEST

Scholarship tax credit. Removes provisions requiring the Indiana department of education (department) to elect to participate as a covered state in the federal tax credit scholarship program for elementary and secondary education under Section 25F of the Internal Revenue Code (enacted in Public Law 119-21, commonly known as the One Big Beautiful Bill Act of 2025) and related conforming changes. Establishes an early childhood scholarship tax credit for contributions made to a scholarship granting organization that conducts a program to provide scholarships for children who attend a qualified early child care provider. Provides that the amount of the credit is equal to 50% of the amount of the contribution. Limits the total amount of tax credits awarded in a state fiscal year to not more than \$100,000,000. Requires the department to certify early childhood scholarship granting organizations that meet certain criteria. Requires qualified early childhood scholarship granting organizations to enter into an agreement with the department. Specifies conditions that must be included in the agreement. Provides that a school corporation that operates an early childhood education program may not limit consideration for participation in the program solely to those residing within the school district.

- 1 Page 1, delete lines 1 through 17.
- 2 Delete page 2.
- 3 Page 3, delete lines 1 through 36, begin a new paragraph and insert:
- 4 "SECTION 1. IC 6-3.1-31.6 IS ADDED TO THE INDIANA CODE
- 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 6 JANUARY 1, 2027]:
- 7 **Chapter 31.6. Early Childhood Scholarship Tax Credit**
- 8 **Sec. 1. As used in this chapter, "credit" refers to a credit**
- 9 **granted under this chapter.**
- 10 **Sec. 2. As used in this chapter, "early childhood scholarship"**
- 11 **refers to a grant to pay only the cost of attendance for a qualified**
- 12 **child at a qualified early child care provider for which the**
- 13 **scholarship will be granted.**
- 14 **Sec. 3. As used in this chapter, "early childhood scholarship**
- 15 **granting organization" refers to an organization that:**
- 16 **(1) is exempt from federal income taxation under Section**
- 17 **501(c)(3) of the Internal Revenue Code; and**
- 18 **(2) conducts an early childhood scholarship program.**
- 19 **Sec. 4. As used in this chapter, "early childhood scholarship**
- 20 **program" refers to a program conducted by an early childhood**

scholarship granting organization to provide early childhood scholarships to qualified children in which not more than twenty five percent (25%) of the early childhood scholarship granting organization's total contributions for the program in a taxable year are used to provide early childhood scholarships to attend a particular qualified early child care provider.

Sec. 5. As used in this chapter, "pass through entity" has the meaning set forth in IC 6-3-1-35.

Sec. 6. As used in this chapter, "qualified child" means a child that is not more than six (6) years of age.

Sec. 7. As used in this chapter, "qualified early child care provider" refers to a child care provider that:

(1) is:

(A) a licensed child care center under IC 12-17.2-4;

(B) a licensed child care home under IC 12-17.2-5; or

(C) a licensed child care ministry under IC 12-17.2-6;

that meets the standards of quality recognized by a Level 3 or Level 4 Paths to QUALITY program rating under IC 12-17.2-2-14.2 or has a comparable rating from a nationally recognized accrediting body;

(2) is a state accredited school as described in IC 20-18-2-18.8;

(3) is a state accredited nonpublic school as described in IC 20-18-2-18.7; or

(4) is a school that is accredited by or obtains provisional accreditation from a national or regional accreditation agency that is recognized by the state board.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

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

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

(3) IC 27-1-18-2 (the insurance premiums tax) or IC 6-8-15 (the nonprofit agricultural organization health coverage tax);

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

Sec. 9. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 10. A taxpayer that makes a contribution to an early childhood scholarship granting organization for use by the early childhood scholarship granting organization for an early childhood

1 scholarship program is entitled to a credit against the taxpayer's
2 state tax liability in the taxable year in which the taxpayer makes
3 the contribution.

4 Sec. 11. The amount of a taxpayer's credit is equal to fifty
5 percent (50%) of the amount of the contribution made to the early
6 childhood scholarship granting organization for an early childhood
7 scholarship program.

8 Sec. 12. (a) If the credit provided by this chapter exceeds the
9 taxpayer's state tax liability for the taxable year for which the
10 credit is first claimed, the excess may be carried forward to
11 succeeding taxable years and used as a credit against the
12 taxpayer's state tax liability during those taxable years. Each time
13 the credit is carried forward to a succeeding taxable year, the
14 credit is reduced by the amount that was used as a credit during
15 the immediately preceding taxable year. The credit provided by
16 this chapter may be carried forward and applied to succeeding
17 taxable years for nine (9) taxable years following the unused credit
18 year.

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

21 Sec. 13. If a pass through entity is entitled to a credit under
22 section 10 of this chapter but does not have state tax liability
23 against which the tax credit may be applied, a shareholder,
24 partner, or member of the pass through entity is entitled to a tax
25 credit equal to:

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

28 (2) the percentage of the pass through entity's distributive
29 income to which the shareholder, partner, or member is
30 entitled.

31 Sec. 14. To apply a credit against the taxpayer's state tax
32 liability, a taxpayer must claim the credit on the taxpayer's annual
33 state tax return or returns in the manner prescribed by the
34 department. The taxpayer shall submit to the department the
35 information that the department determines is necessary for the
36 department to determine whether the taxpayer is eligible for the
37 credit.

38 Sec. 15. A contribution to an early childhood scholarship
39 granting organization shall be treated as having been made for use
40 in an early childhood scholarship program if:

(1) the contribution is made directly to an early childhood scholarship granting organization; and

(2) either:

(A) not later than the date of the contribution, the taxpayer designates in writing to the early childhood scholarship granting organization that the contribution is to be used only for an early childhood scholarship program; or

(B) the early childhood scholarship granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in an early childhood scholarship program.

Sec. 16. The total amount of tax credits awarded under this chapter in a state fiscal year may not exceed one hundred million dollars (\$100,000,000).

Sec. 17. The department, on a website used by the department to provide information to the public, shall provide the following information:

(1) The application for the credit provided in this chapter.

(2) A timeline for receiving the credit provided in this chapter.

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

Sec. 18. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 20-20-28-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 5.5.** A school corporation that operates an early childhood education program may not limit consideration for participation in the program solely to those residing within the school district.

SECTION 3. IC 20-51-1-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 4.1.** "Early childhood scholarship" refers to a grant to pay only the cost of child care tuition or expenses for a qualified child as determined for the fiscal year for which the scholarship will be granted.

SECTION 4. IC 20-51-1-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 4.2.** "Early childhood scholarship granting organization" refers to an organization that:

(1) is exempt from federal income taxation under Section

501(c)(3) of the Internal Revenue Code; and
(2) is organized at least in part to grant early childhood education scholarships without limiting the availability of early childhood scholarships to students of only one (1) qualified early child care provider.

SECTION 5. IC 20-51-1-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 6.2. "Qualified child" refers to a child who:**

(1) resides in Indiana; and
(2) is not more than six (6) years of age.

SECTION 6. IC 20-51-1-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 6.4. "Qualified early child care provider" refers to a child care provider that:**

(1) is:
(A) a licensed child care center under IC 12-17.2-4;
(B) a licensed child care home under IC 12-17.2-5; or
(C) a licensed child care ministry under IC 12-17.2-6;
that meets the standards of quality recognized by a Level 3 or Level 4 Paths to QUALITY program rating under IC 12-17.2-2-14.2 or has a comparable rating from a nationally recognized accrediting body;
(2) is a state accredited school as described in IC 20-18-2-18.8;
(3) is a state accredited nonpublic school as described in IC 20-18-2-18.7; or
(4) is a school that is accredited by or obtains provisional accreditation from a national or regional accreditation agency that is recognized by the state board.

SECTION 7. IC 20-51-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Chapter 5. Early Childhood Scholarship Granting Organizations; Certification; Administration of Contributions

Sec. 1. A program qualifies for certification as an early childhood scholarship program if:

(1) the program:
(A) is administered by an early childhood scholarship granting organization; and
(B) has the primary purpose of providing early childhood scholarships to qualified children; and

(2) the early childhood scholarship granting organization administering the program:

(A) applies to the department on the form and in the manner prescribed by the department; and

(B) enters into an agreement with the department to comply with this article.

Sec. 2. The department shall certify all programs that meet the qualifications under section 1 of this chapter as school scholarship programs.

Sec. 3. An agreement entered into under section 1 of this chapter between the department and an early childhood scholarship granting organization must require the early childhood scholarship granting organization to do the following:

(1) Provide a receipt to taxpayers for contributions made to the early childhood scholarship granting organization that will be used in an early childhood scholarship program. The department of state revenue shall prescribe a standardized form for the receipt issued under this subdivision. The receipt must indicate the value of the contribution and the part of the contribution being designated for use in an early childhood scholarship program.

(2) Allow a taxpayer to designate a qualified early child care provider for which the taxpayer's contribution must be used as scholarships.

(3) Use not more than ten percent (10%) of the total amount of contributions for administrative costs.

(4) Distribute one hundred percent (100%) of any income earned on contributions as early childhood scholarships to qualified children.

(5) Conduct criminal background checks on all the early childhood scholarship granting organization's employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds.

(6) Make the reports required by this chapter.

Sec. 4. An agreement entered into under section 1 of this chapter may not prohibit an early childhood scholarship granting organization from receiving contributions other than contributions described in section 3(1) of this chapter.

Sec. 5. (a) An agreement entered into under section 1 of this

chapter must prohibit an early childhood scholarship granting organization from distributing scholarships for use by a qualified child to:

(1) enroll in a qualified early child care provider that has:

(A) paid staff or board members; or

(B) relatives of paid staff or board members;

in common with the early childhood scholarship granting organization;

(2) enroll in a qualified early child care provider that the early childhood scholarship granting organization knows does not qualify as a qualified early child care provider; or

(3) pay for the cost of child care for a qualified early child care provider where the qualified child is entitled to enroll without the payment of tuition.

(b) An agreement entered into under section 1 of this chapter must prohibit an early childhood scholarship granting organization from limiting the availability of scholarships to children of only one (1) qualified early child care provider. An agreement entered into under section 1 of this chapter before July 1, 2026, must be amended to include the requirement specified in this subsection.

Sec. 6. (a) An early childhood scholarship granting organization certified under this chapter must publicly report to the department by December 1 of each year the following information regarding the organization's scholarships awarded in the previous school year:

(1) The name and address of the early childhood scholarship granting organization.

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

(3) The:

(A) total number and total dollar amount of all scholarships awarded during the previous fiscal year; and

(B) total number and total dollar amount of early childhood scholarships awarded during the previous fiscal year.

The report must be certified under penalties of perjury by the chief executive officer of the early childhood scholarship granting organization.

(b) An early childhood scholarship granting organization certified under this chapter shall contract with an independent

1 certified public accountant for an annual financial audit of the
2 early childhood scholarship granting organization. The early
3 childhood scholarship granting organization must provide a copy
4 of the annual financial audit to the department and must make the
5 annual financial audit available to a member of the public upon
6 request.

7 Sec. 7. The department shall prescribe a standardized form for
8 early childhood scholarship granting organizations to report
9 information required under this chapter.

10 Sec. 8. The department may, in a proceeding under IC 4-21.5,
11 suspend or terminate the certification of an organization as an
12 early childhood scholarship granting organization if the
13 department establishes that the early childhood scholarship
14 granting organization:

15 (1) has intentionally and substantially failed to comply with
16 the requirements of this chapter or an agreement entered into
17 under this chapter; or

18 (2) has not granted an early childhood scholarship, as defined
19 in IC 20-51-1-4.1, for either:

20 (A) three (3) consecutive years; or

21 (B) within the first two (2) years of operation as a certified
22 early childhood scholarship granting organization.

23 Sec. 9. If the department suspends or terminates the
24 certification of an organization as an early childhood scholarship
25 granting organization, the department shall notify all affected
26 eligible students and their parents of the decision as quickly as
27 possible. An eligible student affected by a suspension or
28 termination of an early childhood scholarship granting
29 organization's certification remains an eligible student under this
30 chapter until the end of the school year after the school year in
31 which the early childhood scholarship granting organization's
32 certification is suspended or terminated, regardless of whether the
33 scholarship student currently meets the definition of an eligible
34 student.

35 Sec. 10. The department may conduct either a financial review
36 or an audit of an early childhood scholarship granting organization
37 certified under this chapter if the department of state revenue has
38 evidence of fraud.

39 Sec. 11. The department may adopt rules under IC 4-22-2 to
40 implement this chapter."

- 1 Page 5, delete line 27.
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 161 as introduced.)