
SENATE BILL No. 399

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-10; IC 6-8.1-1-1.

Synopsis: LOIT for early childhood education. Provides that a referendum may be held in a county on whether to authorize the county council to impose an early childhood education income tax. Specifies that such a referendum may be initiated by the county council or by a petition filed by voters. Provides that if such a referendum is approved, the county council may impose an early childhood education income tax of not more than 1% on the adjusted gross income of resident county taxpayers. Requires a county's certified distribution of early childhood education income tax revenue (as determined by the budget agency) to be distributed monthly to the county treasurer for deposit in a dedicated fund. Specifies that, subject to appropriation by the county council, the tax revenue may be used only for one or more of the following purposes: (1) To pay for the acquisition or construction of a facility that is or will be used for early childhood education. (2) To pay for the operation or maintenance expenses of a facility that is used for early childhood education. (3) To pay the salaries of teachers that provide instruction for early childhood education. (4) To pay for instructional materials and educational technology that are used for early childhood education. (5) To make grants to any school, school corporation, or other entity for any of these purposes.

Effective: July 1, 2013.

Eckerty

January 14, 2013, read first time and referred to Committee on Tax and Fiscal Policy.

C
o
p
y



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 399



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 6-3.5-10 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]:
 4 **Chapter 10. Local Option Income Tax for Early Childhood**
 5 **Education**
 6 **Sec. 1. This chapter applies to all counties.**
 7 **Sec. 2. As used in this chapter, "adjusted gross income" has the**
 8 **meaning set forth in IC 6-3-1-3.5.**
 9 **Sec. 3. As used in this chapter, "department" refers to the**
 10 **department of state revenue.**
 11 **Sec. 4. As used in this chapter, "early childhood education"**
 12 **means any educational program or activity that:**
 13 **(1) is provided to children less than five (5) years of age; and**
 14 **(2) consists of activities and experiences that are intended to:**
 15 **(A) contribute to the readiness of the children to begin**
 16 **formal schooling; and**
 17 **(B) improve the school performance of the children in later**



- 1 years.
- 2 **Sec. 5.** As used in this chapter, "early childhood education
- 3 income tax" refers to the local option income tax for early
- 4 childhood education imposed under this chapter.
- 5 **Sec. 6.** As used in this chapter, "fiscal body" has the meaning set
- 6 forth in IC 36-1-2-6.
- 7 **Sec. 7.** As used in this chapter, "resident county taxpayer", as
- 8 the phrase relates to a county for a year, means any individual who
- 9 resides in that county on the date specified in section 19 of this
- 10 chapter.
- 11 **Sec. 8.** A public question to authorize an early childhood
- 12 education income tax may be initiated by:
- 13 (1) a resolution adopted by a county fiscal body under section
- 14 9(a) of this chapter; or
- 15 (2) a petition filed under section 9(b) of this chapter by voters
- 16 of a county.
- 17 **Sec. 9. (a)** A county fiscal body may adopt a resolution to have
- 18 a public question placed on the ballot under section 10 of this
- 19 chapter to allow voters to determine whether the county fiscal body
- 20 may impose an early childhood education income tax. If a county
- 21 fiscal body adopts a resolution under this subsection, the county
- 22 auditor shall certify the resolution to the county election board.
- 23 (b) The voters of a county may file a petition to have a public
- 24 question placed on the ballot under section 10 of this chapter to
- 25 allow voters to determine whether the county fiscal body may
- 26 impose an early childhood education income tax. A petition under
- 27 this subsection must be signed by at least two percent (2%) of the
- 28 total vote cast at the last election for secretary of state in the
- 29 county. If the voters of a county file a sufficient petition under this
- 30 subsection, the county auditor shall certify the petition to the
- 31 county election board.
- 32 (c) If a county election board receives a resolution certified
- 33 under subsection (a) or a petition certified under subsection (b), the
- 34 county election board shall place a public question concerning the
- 35 authority of the county fiscal body on the ballot in accordance with
- 36 IC 3-10-9 on the first regularly scheduled general election that will
- 37 occur in all of the precincts of the county at least sixty (60) days
- 38 after the county election board receives the resolution or the
- 39 petition.
- 40 **Sec. 10. (a)** If authorized by section 9 of this chapter, a public
- 41 question shall be placed on the ballot in all of the precincts that are
- 42 located in the county in substantially the following form:

C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

"Shall the county fiscal body of _____ County (insert name of county) be given the authority to impose a local option income tax for early childhood education of not more than 1%?"

(b) Except as otherwise provided in this chapter, IC 3 applies to the election at which a public question under this chapter is considered.

Sec. 11. (a) If the majority of the voters in a county voting on a public question under this chapter vote to approve the public question, the fiscal body of the county may adopt an ordinance to impose the early childhood education income tax on the adjusted gross income of resident county taxpayers as provided in this chapter. The early childhood education income tax may be imposed in increments of one-tenth percent (0.1%), but not to exceed a rate of one percent (1%), on the adjusted gross income of resident county taxpayers.

(b) If the majority of the voters in a county voting on a public question under this chapter vote to disapprove the public question:

- (1) the fiscal body of the county may not adopt an ordinance to impose the early childhood education income tax under this chapter; and
- (2) another public question may not be placed on the ballot in the county under this chapter earlier than two (2) years after the date of the election at which the initial public question was disapproved.

Sec. 12. (a) A county fiscal body may do any of the following:

- (1) Subject to approval of a public question under section 11 of this chapter, adopt an ordinance to impose the early childhood education income tax.
- (2) Adopt an ordinance to increase the rate of the early childhood education income tax, but not to exceed a rate of one percent (1%).
- (3) Adopt an ordinance to decrease the rate of the early childhood education income tax.
- (4) Adopt an ordinance to rescind the early childhood education income tax.

(b) A power granted by this chapter to adopt an ordinance to impose or rescind the early childhood education income tax or to increase or decrease an early childhood education income tax rate may be exercised at any time in a year before November 1 of that year.

(c) An ordinance authorized by this chapter that imposes or

C
o
p
y



1 rescinds the early childhood education income tax or that increases
 2 or decreases an early childhood education income tax rate takes
 3 effect as follows:

4 (1) An ordinance adopted after December 31 of the
 5 immediately preceding year and before October 1 of the
 6 current year takes effect October 1 of the current year.

7 (2) An ordinance adopted after September 30 and before
 8 October 16 of the current year takes effect November 1 of the
 9 current year.

10 (3) An ordinance adopted after October 15 and before
 11 November 1 of the current year takes effect December 1 of the
 12 current year.

13 **Sec. 13. (a) If the early childhood education income tax is not in**
 14 **effect during a resident county taxpayer's entire taxable year, the**
 15 **amount of early childhood education income tax that the resident**
 16 **county taxpayer owes for that taxable year equals the product of:**

17 (1) the amount of early childhood education income tax the
 18 resident county taxpayer would owe if the tax had been
 19 imposed during the resident county taxpayer's entire taxable
 20 year; multiplied by

21 (2) a fraction. The numerator of the fraction equals the
 22 number of days in the resident county taxpayer's taxable year
 23 during which the early childhood education income tax was in
 24 effect. The denominator of the fraction equals the total
 25 number of days in the resident county taxpayer's taxable year.

26 (b) If for any taxable year a resident county taxpayer is subject
 27 to different tax rates for the early childhood education income tax,
 28 the taxpayer's early childhood education income tax rate for that
 29 county and that taxable year is the rate determined in the last
 30 STEP of the following STEPS:

31 **STEP ONE:** For each tax rate in effect in a year, multiply the
 32 number of months in the taxpayer's taxable year in which the
 33 rate is in effect.

34 **STEP TWO:** Divide the sum of the amounts determined under
 35 STEP ONE by twelve (12).

36 **Sec. 14. (a) A special account within the state general fund shall**
 37 **be established for each county adopting the early childhood**
 38 **education income tax. Any revenue derived from the imposition of**
 39 **the early childhood education income tax by a county shall be**
 40 **credited to that county's account in the state general fund.**

41 (b) Any income earned on money credited to an account
 42 becomes a part of that account.

C
O
P
Y



1 (c) Any revenue credited to an account at the end of a fiscal year
 2 may not be credited to any other account in the state general fund.
 3 (d) Before October 2 of each year, the department shall submit
 4 a report to each county auditor indicating the balance in the
 5 county's account as of the cutoff date set by the budget agency.
 6 Sec. 15. (a) Revenue derived from the imposition of the early
 7 childhood education income tax shall, in the manner prescribed by
 8 this section, be distributed to the county that imposed the tax.
 9 (b) Before August 2 of each calendar year, the budget agency
 10 shall certify to the county auditor of each adopting county the sum
 11 of the amount of early childhood education income tax revenue
 12 that the budget agency determines has been:
 13 (1) received from that county for a taxable year ending before
 14 the calendar year in which the determination is made; and
 15 (2) reported on an annual return or amended return
 16 processed by the department in the state fiscal year ending
 17 before July 1 of the calendar year in which the determination
 18 is made;
 19 as adjusted for refunds of early childhood education income tax
 20 made in the state fiscal year plus the amount of interest in the
 21 county's account that has been accrued and has not been included
 22 in a certification made in a preceding year. The amount certified
 23 is the county's certified distribution, which shall be distributed as
 24 provided in section 16 of this chapter.
 25 (c) The amount certified under subsection (b) shall be adjusted
 26 under subsections (d), (e), and (f). The budget agency shall provide
 27 the county fiscal body with an informative summary of the
 28 calculations used to determine the certified distribution. The
 29 summary of calculations must include:
 30 (1) the amount reported on individual income tax returns
 31 processed by the department during the previous fiscal year;
 32 (2) adjustments for over distributions in prior years;
 33 (3) adjustments for clerical or mathematical errors in prior
 34 years;
 35 (4) adjustments for tax rate changes; and
 36 (5) the amount of excess account balances to be distributed
 37 under section 17 of this chapter.
 38 (d) The budget agency shall certify an amount less than the
 39 amount determined under subsection (b) if the budget agency
 40 determines that the reduced distribution is necessary to offset
 41 overpayments made in a calendar year before the calendar year of
 42 the distribution. The budget agency may reduce the amount of the

COPY



1 certified distribution over several calendar years so that any
2 overpayments are offset over several years rather than in one (1)
3 lump sum.

4 (e) The budget agency shall adjust the certified distribution of
5 a county to correct for any clerical or mathematical errors made
6 in any previous certification under this section. The budget agency
7 may reduce the amount of the certified distribution over several
8 calendar years so that any adjustment under this subsection is
9 offset over several years rather than in one (1) lump sum.

10 (f) This subsection applies to a county that imposes, increases,
11 decreases, or rescinds a tax or tax rate under this chapter before
12 November 1 in the same calendar year in which the budget agency
13 makes a certification under this section. The budget agency shall
14 adjust the certified distribution of a county to provide for a
15 distribution in the immediately following calendar year and in each
16 calendar year thereafter. The budget agency shall provide for a full
17 transition to certification of distributions as provided in subsection
18 (b)(1) through (b)(2) in the manner provided in subsection (d). If
19 the county imposes, increases, decreases, or rescinds a tax or tax
20 rate under this chapter after the date for which a certification
21 under subsection (b) is based, the budget agency shall adjust the
22 certified distribution of the county after August 1 of the calendar
23 year. The adjustment shall reflect any other adjustment authorized
24 under subsections (c), (d), and (e). The adjusted certification shall
25 be treated as the county's certified distribution for the immediately
26 succeeding calendar year. The budget agency shall certify the
27 adjusted certified distribution to the county auditor for the county
28 and provide the county council with an informative summary of
29 the calculations that revises the informative summary provided in
30 subsection (c) and reflects the changes made in the adjustment.

31 (g) The budget agency shall, before May 1 of every
32 odd-numbered year, publish an estimate of the statewide total
33 amount of certified distributions to be made under this chapter
34 during the following two (2) calendar years.

35 (h) The budget agency shall, before May 1 of every
36 even-numbered year, publish an estimate of the statewide total
37 amount of certified distributions to be made under this chapter
38 during the following calendar year.

39 Sec. 16. (a) One-twelfth (1/12) of each county's certified
40 distribution for a calendar year shall be distributed from the
41 account established for the county under section 14 of this chapter
42 to the appropriate county treasurer on the first regular business

C
O
P
Y



1 day of each month of that calendar year.

2 (b) All distributions from an account established under section
3 14 of this chapter shall be made by warrants issued by the auditor
4 of state to the treasurer of state ordering the appropriate
5 payments.

6 Sec. 17. (a) If the budget agency determines that the balance in
7 a county's account established under section 14 of this chapter
8 exceeds one hundred fifty percent (150%) of the certified
9 distributions to be made to the county in the ensuing year, the
10 budget agency shall make a supplemental distribution to the county
11 from the county's account.

12 (b) A supplemental distribution described in subsection (a) must
13 be:

- 14 (1) made in January of the ensuing calendar year; and
15 (2) distributed to the county treasurer and used in the same
16 manner as certified distributions.

17 (c) The amount of the supplemental distribution is equal to the
18 amount by which the balance in the county's account exceeds one
19 hundred fifty percent (150%) of the certified distributions to be
20 made to the county in the ensuing year.

21 (d) A determination under this section must be made before
22 November 2.

23 Sec. 18. (a) The county treasurer of each county in which the
24 early childhood education income tax is imposed shall establish a
25 early childhood education fund. The tax revenue received by a
26 county under this chapter shall be deposited in the county's early
27 childhood education fund.

28 (b) Subject to appropriation by the county fiscal body, tax
29 revenue received by a county under this chapter and deposited in
30 the county's early childhood education fund may be used only for
31 one (1) or more of the following purposes:

- 32 (1) To pay for the acquisition or construction of a facility that
33 is or will be used for early childhood education.
34 (2) To pay for the operation or maintenance expenses of a
35 facility that is used for early childhood education.
36 (3) To pay the salaries of teachers that provide instruction for
37 early childhood education.
38 (4) To pay for:
39 (A) instructional materials; and
40 (B) educational technology (including computers, tablet
41 computers, electronic book readers, and similar devices);
42 that are used for early childhood education.

C
O
P
Y



1 (5) To make grants to any school, school corporation, or other
2 entity for any purpose listed in subdivisions (1) through (4).

3 **Sec. 19. (a) For purposes of this chapter, an individual shall be**
4 **treated as a resident of the county in which the individual:**

5 (1) maintains a home if the individual maintains only one (1)
6 home in Indiana;

7 (2) if subdivision (1) does not apply, is registered to vote;

8 (3) if subdivision (1) or (2) does not apply, registers the
9 individual's personal automobile; or

10 (4) if subdivision (1), (2), or (3) does not apply, spends the
11 majority of the individual's time in Indiana during the taxable
12 year in question.

13 (b) The residence of an individual is to be determined on
14 January 1 of the calendar year in which the individual's taxable
15 year commences. If an individual changes location of residence to
16 another county in Indiana during a calendar year, the individual's
17 liability for early childhood education income tax is not affected.

18 **Sec. 20. (a) Except as otherwise provided in this chapter, all**
19 **provisions of the adjusted gross income tax law (IC 6-3)**
20 **concerning:**

21 (1) definitions;

22 (2) declarations of estimated tax;

23 (3) filing of returns;

24 (4) remittances;

25 (5) incorporation of the provisions of the Internal Revenue
26 Code;

27 (6) penalties and interest;

28 (7) exclusion of military pay credits for withholding; and

29 (8) exemptions and deductions;

30 **apply to the imposition, collection, and administration of the early**
31 **childhood education income tax. The early childhood education**
32 **income tax is a listed tax and an income tax for purposes of**
33 **IC 6-8.1.**

34 (b) **IC 6-3-1-3.5(a)(5), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do**
35 **not apply to the early childhood education income tax.**

36 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss),
37 SECTION 247, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2013]: Sec. 1. "Listed taxes" or "taxes" includes
39 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the
40 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax
41 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II
42 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)

C
O
P
Y



1 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);
2 the state gross retail and use taxes (IC 6-2.5); the adjusted gross income
3 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the
4 county adjusted gross income tax (IC 6-3.5-1.1); the county option
5 income tax (IC 6-3.5-6); the county economic development income tax
6 (IC 6-3.5-7); **the local option income tax for early childhood**
7 **education (IC 6-3.5-10)**; the auto rental excise tax (IC 6-6-9); the
8 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
9 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
10 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
11 collected under a reciprocal agreement under IC 6-8.1-3; the motor
12 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
13 (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck
14 campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6);
15 the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
16 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
17 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
18 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
19 (IC 6-9); the various food and beverage taxes (IC 6-9); the county
20 admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation
21 improvement income tax (IC 8-24-17); the oil inspection fee
22 (IC 16-44-2); the emergency and hazardous chemical inventory form
23 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
24 and IC 9-30); the fees and penalties assessed for overweight vehicles
25 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
26 the solid waste management fee (IC 13-20-22); and any other tax or fee
27 that the department is required to collect or administer.

C
o
p
y