

SENATE BILL No. 470

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19; IC 6-3.1-20; IC 20-1-1.1-11; IC 20-10.1-16-15.

Synopsis: Education tax credits. Provides an adjusted gross income tax refundable credit for certain elementary and secondary education expenses (kindergarten through grade 12) that are incurred by a taxpayer for a dependent and paid to others. Specifies the various expenses that are qualified education expenses for credit purposes for dependents who are: (1) enrolled in an accredited nonpublic school; (2) enrolled in a nonaccredited nonpublic school; (3) not enrolled in a school; or (4) enrolled in a public school. Requires participation in the ISTEP program for tax credit eligibility but allows certain students to
(Continued next page)

Effective: January 1, 1998 (retroactive).

Weatherwax, Lubbers, Kenley, Clark

January 14, 1998, read first time and referred to Committee on Education.

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Digest Continued

substitute other approved tests for the ISTEP test. Provides that a taxpayer having dependents in both public schools and nonpublic education may claim only one credit. For taxpayers having dependents enrolled in a school, establishes the maximum amount of the credit for household incomes under \$35,000 at \$1,000 per child or \$2,000 per family and for household incomes over \$35,000 at \$500 per child or \$1,000 per family. For taxpayers having dependents who are excused from school (public or nonpublic) attendance, establishes the maximum amount of the credit at \$1,000 per child or family regardless of household income. Requires the department of education to develop a list of certain programs approved for tax credit purposes and to administer the ISTEP program requirement for certain students.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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SENATE BILL No. 470



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 6-3.1-19 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 1998 (RETROACTIVE)]:

4 **Chapter 19. Elementary and Secondary Education Tax Credit**
5 **for Education Expense of Dependents Not Enrolled in Public**
6 **Schools**

7 **Sec. 1. As used in this chapter, "accredited nonpublic school"**
8 **means a nonpublic school that:**

- 9 (1) voluntarily seeks; and
- 10 (2) receives;

11 accreditation as authorized under IC 20-1-1-6(a)(5).

12 **Sec. 2. As used in this chapter, "dependent" has the meaning set**
13 **forth in Section 151(c)(1)(B) of the Internal Revenue Code.**

14 **Sec. 3. As used in this chapter, "household income" means the**
15 **total adjusted gross income of an individual, or of an individual**



1 and the individual's spouse if they reside together, for the taxable
2 year for which the credit provided by this chapter is claimed.

3 **Sec. 4.** As used in this chapter, "nonpublic school" has the
4 meaning set forth in IC 20-10.1-1-3.

5 **Sec. 5.** As used in this chapter, "public school" has the meaning
6 set forth in IC 20-10.1-1-2.

7 **Sec. 6.** As used in this chapter, "qualified education expense"
8 means any of the following costs incurred by a taxpayer and paid
9 to others for a dependent who is not enrolled in a public school but
10 who is eligible for enrollment in a public school in kindergarten
11 through grade 12:

12 (1) For a dependent who is enrolled in an accredited
13 nonpublic school, the following:

14 (A) Fees for academic tuition or instruction at the
15 nonpublic school where the dependent is enrolled,
16 excluding fees for the teaching of religious tenets,
17 doctrines, or worship when the purpose of the teaching is
18 to instill religious tenets, doctrines, or worship.

19 (B) Fees for academic instruction:

20 (i) in grade or age appropriate curricula outside of a
21 regular school year or school day;

22 (ii) in the core curriculum areas of language arts,
23 mathematics, science, or social studies; and

24 (iii) for a program approved by the department of
25 education under IC 20-1-1.1-11.

26 (C) Expense for textbooks and instructional materials to a
27 maximum of two hundred dollars (\$200) per family less the
28 expense under clause (D). This clause excludes expense for
29 textbooks and instructional materials for the teaching of
30 religious tenets, doctrines, or worship when the purpose of
31 the teaching is to instill religious tenets, doctrines, or
32 worship.

33 (D) Personal computer expense to a maximum of two
34 hundred dollars (\$200) per family for:

35 (i) personal computer hardware, excluding single
36 purpose processors; and

37 (ii) educational software that assists a dependent to
38 improve or expand knowledge and skills in core
39 curriculum areas, including language arts, mathematics,
40 science, or social studies;

41 purchased for use in the dependent's home and not used in
42 trade or business.

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- 1 (E) Expense for transportation of the dependent to and
 2 from the nonpublic school where the dependent is enrolled,
 3 excluding transportation for extracurricular activities.
- 4 (2) For a dependent who is enrolled in a nonpublic school
 5 other than an accredited nonpublic school and who
 6 participates in the ISTEP program under IC 20-10.1-16-15,
 7 the following:
- 8 (A) Fees for academic tuition or instruction at the
 9 nonpublic school where the dependent is enrolled,
 10 excluding fees for the teaching of religious tenets,
 11 doctrines, or worship when the purpose of the teaching is
 12 to instill religious tenets, doctrines, or worship.
- 13 (B) Fees for academic instruction:
- 14 (i) in grade or age appropriate curricula outside of a
 15 regular school year or school day;
- 16 (ii) in the core curriculum areas of language arts,
 17 mathematics, science, or social studies; and
- 18 (iii) for a program approved by the department of
 19 education under IC 20-1-1.1-11.
- 20 (C) Expense for textbooks and instructional materials to a
 21 maximum of two hundred dollars (\$200) per family less the
 22 expense under clause (D). This clause excludes expense for
 23 textbooks and instructional materials for the teaching of
 24 religious tenets, doctrines, or worship when the purpose of
 25 the teaching is to instill religious tenets, doctrines, or
 26 worship.
- 27 (D) Personal computer expense to a maximum of two
 28 hundred dollars (\$200) per family for:
- 29 (i) personal computer hardware, excluding single
 30 purpose processors; and
- 31 (ii) educational software that assists a dependent to
 32 improve or expand knowledge and skills in core
 33 curriculum areas, including language arts, mathematics,
 34 science, or social studies;
- 35 purchased for use in the dependent's home and not used in
 36 trade or business.
- 37 (E) Expense for transportation of the dependent to and
 38 from the nonpublic school where the dependent is enrolled,
 39 excluding transportation for extracurricular activities.
- 40 (3) For a dependent who is excused under IC 20-8.1-3-34 from
 41 compulsory school (public or nonpublic) attendance and who
 42 participates in the ISTEP program under IC 20-10.1-16-15,

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1 the following:

2 (A) Fees for academic instruction:

3 (i) in grade or age appropriate curricula outside of a
4 regular school year or school day;

5 (ii) in the core curriculum areas of language arts,
6 mathematics, science, or social studies; and

7 (iii) for a program approved by the department of
8 education under IC 20-1-1.1-11.

9 (B) Expense for textbooks and instructional materials to a
10 maximum of one thousand dollars (\$1,000) per family less
11 the expense under clause (C). This clause excludes expense
12 for textbooks and instructional materials for the teaching
13 of religious tenets, doctrines, or worship when the purpose
14 of the teaching is to instill religious tenets, doctrines, or
15 worship.

16 (C) Personal computer expense, to a maximum of two
17 hundred dollars (\$200) per family for:

18 (i) personal computer hardware, excluding single
19 purpose processors; or

20 (ii) educational software that assists a dependent to
21 improve or expand knowledge and skills in core
22 curriculum areas, including language arts, mathematics,
23 science, or social studies;

24 purchased for use in the dependent's home and not used in
25 trade or business.

26 Sec. 7. As used in this chapter, "taxpayer" means an individual
27 who has any adjusted gross income tax liability.

28 Sec. 8. (a) A taxpayer who does not claim a credit under
29 IC 6-3.1-20, has a household income of thirty-five thousand dollars
30 (\$35,000) or less, and incurs a qualified education expense is
31 entitled to a credit against the adjusted gross income tax imposed
32 by IC 6-3 for the taxable year during which the taxpayer incurs the
33 qualified education expense. The credit is equal to the least of:

34 (1) the taxpayer's qualified education expense;

35 (2) one thousand dollars (\$1,000) per dependent; or

36 (3) either:

37 (A) two thousand dollars (\$2,000) per family having a
38 dependent described in section 6(1) or 6(2) of this chapter;
39 or

40 (B) one thousand dollars (\$1,000) per family having a
41 dependent described in section 6(3) of this chapter.

42 (b) A taxpayer who does not claim a credit under IC 6-3.1-20,

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1 has a household income of more than thirty-five thousand dollars
 2 (\$35,000), and incurs a qualified education expense is entitled to a
 3 credit against the adjusted gross income tax imposed by IC 6-3 for
 4 the taxable year during which the taxpayer incurs the qualified
 5 education expense. The credit is equal to the least of:

6 (1) the taxpayer's qualified education expense;

7 (2) either:

8 (A) five hundred dollars (\$500) per dependent for a
 9 dependent described in section 6(1) or 6(2) of this chapter;

10 or

11 (B) one thousand dollars \$1,000 per dependent for a
 12 dependent described in section 6(3) of this chapter; or

13 (3) one thousand dollars (\$1,000) per family.

14 **Sec. 9.** If both spouses reside in the same household, only one (1)
 15 credit may be claimed by the spouses under this chapter for the
 16 taxable year. However, in the case of a husband and wife who incur
 17 qualified education expense and file separate tax returns, the
 18 husband and wife may take the credit in equal shares, or one (1)
 19 spouse may take the entire credit.

20 **Sec. 10.** If the amount of the credit provided by this chapter that
 21 a taxpayer uses during a particular taxable year exceeds the sum
 22 of the taxes imposed by IC 6-3 for the taxable year after the
 23 application of all credits that under IC 6-3.1-1-2 are to be applied
 24 before the credit provided by this chapter, the excess shall be
 25 returned to the taxpayer as a refund.

26 SECTION 2. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 1998 (RETROACTIVE)]:

29 **Chapter 20. Elementary and Secondary Education Tax Credit**
 30 **for Education Expense of Dependents Enrolled in Public Schools**

31 **Sec. 1.** As used in this chapter, "dependent" has the meaning set
 32 forth in Section 151(c)(1)(B) of the Internal Revenue Code.

33 **Sec. 2.** As used in this chapter, "household income" means the
 34 total adjusted gross income of an individual, or of an individual
 35 and the individual's spouse if they reside together, for the taxable
 36 year for which the credit provided by this chapter is claimed.

37 **Sec. 3.** As used in this chapter, "public school" has the meaning
 38 set forth in IC 20-10.1-1-2.

39 **Sec. 4.** As used in this chapter, "qualified education expense"
 40 means any of the following costs incurred by a taxpayer and paid
 41 to others for a dependent who is enrolled in a public school for a
 42 grade from kindergarten through grade 12:



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- 1 (1) Transfer tuition payments under IC 20-8.1-6.1.
 2 (2) Fees for academic instruction:
 3 (A) in grade or age appropriate curricula outside of a
 4 regular school year or school day;
 5 (B) in the core curriculum areas of language arts,
 6 mathematics, science, or social studies; and
 7 (C) for a program approved by the department of
 8 education under IC 20-1-1.1-11.
 9 (3) Expense for textbooks and instructional materials to a
 10 maximum of two hundred dollars (\$200) per family less the
 11 expense under subdivision (4). This subdivision excludes
 12 expense for textbooks and instructional materials for the
 13 teaching of religious tenets, doctrines, or worship when the
 14 purpose of the teaching is to instill religious tenets, doctrines,
 15 or worship.
 16 (4) Personal computer expense to a maximum of two hundred
 17 dollars (\$200) per family for:
 18 (A) personal computer hardware, excluding single purpose
 19 processors; and
 20 (B) educational software that assists a dependent to
 21 improve or expand knowledge and skills in core
 22 curriculum areas, including language arts, mathematics,
 23 science, or social studies;
 24 purchased for use in the dependent's home and not used in
 25 trade or business.
 26 Sec. 5. As used in this chapter, "taxpayer" means an individual
 27 who has any adjusted gross income tax liability.
 28 Sec. 6. (a) A taxpayer who does not claim a credit under
 29 IC 6-3.1-19, has a household income of thirty-five thousand dollars
 30 (\$35,000) or less, and who incurs a qualified education expense is
 31 entitled to a credit against the adjusted gross income tax imposed
 32 by IC 6-3 for the taxable year during which the taxpayer incurs the
 33 qualified education expense. The credit is equal to the least of:
 34 (1) the taxpayer's qualified education expense;
 35 (2) one thousand dollars (\$1,000) per child; or
 36 (3) two thousand dollars (\$2,000) per family.
 37 (b) A taxpayer who does not claim a credit under IC 6-3.1-19,
 38 has a household income of more than thirty-five thousand dollars
 39 (\$35,000), and who incurs a qualified education expense is entitled
 40 to a credit against the adjusted gross income tax imposed by IC 6-3
 41 for the taxable year during which the taxpayer incurs the qualified
 42 education expense. The credit is equal to the least of:



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- 1 (1) the taxpayer's qualified education expense;
- 2 (2) five hundred dollars (\$500) per child; or
- 3 (3) one thousand dollars (\$1,000) per family.

4 **Sec. 7. If both spouses reside in the same household, only one (1)**
 5 **credit may be claimed by the spouses under this chapter for the**
 6 **taxable year. However, in the case of a husband and wife who incur**
 7 **qualified education expense and file separate tax returns, the**
 8 **husband and wife may take the credit in equal shares or one (1)**
 9 **spouse may take the entire credit.**

10 **Sec. 8. If the amount of the credit provided by this chapter that**
 11 **a taxpayer uses during a particular taxable year exceeds the sum**
 12 **of the taxes imposed by IC 6-3 for the taxable year after the**
 13 **application of all credits that under IC 6-3.1-1-2 are to be applied**
 14 **before the credit provided by this chapter, the excess shall be**
 15 **returned to the taxpayer as a refund.**

16 SECTION 3. IC 20-1-1.1-11 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 18 JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 11. The department**
 19 **shall develop criteria and establish and publish a list of programs**
 20 **that the department approves under the criteria for purposes of an**
 21 **education tax credit for fees for academic instruction outside of a**
 22 **regular school year or school day under IC 6-3.1-19 and**
 23 **IC 6-3.1-20.**

24 SECTION 4. IC 20-10.1-16-15 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 15. (a) As**
 27 **used in this section, "individual" refers to a person who:**

- 28 (1) is:
 - 29 (A) enrolled in a nonpublic school other than an accredited
 - 30 nonpublic school; or
 - 31 (B) is not enrolled in a school (either public or nonpublic);
 - 32 and
 - 33 (2) is the dependent (as defined in Section 151(c)(1)(B) of the
 - 34 Internal Revenue Code) of a taxpayer who:
 - 35 (A) desires an education tax credit under IC 6-3.1-19; and
 - 36 (B) voluntarily makes a request to the department that the
 - 37 dependent participate in the ISTEP program.

38 (b) An individual may participate in the ISTEP program.

39 (c) The department shall develop procedures for an individual
 40 to participate in the ISTEP program. The procedures that the
 41 department develops must include the following:

- 42 (1) Annually providing a document to the taxpayer to show



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1 that an individual is participating in the ISTEP program. This
 2 document must be suitable for the taxpayer to use to file for
 3 an education tax credit.

4 (2) Determining the appropriate age or grade level of each
 5 individual only for purposes of establishing the years when
 6 the individual is in an age or grade level that is tested under
 7 the ISTEP program.

8 (3) For an individual that is in age or grade levels that are
 9 tested under the ISTEP program:

10 (A) administer the ISTEP test at no charge at approved
 11 sites throughout Indiana where an individual may take the
 12 ISTEP test; and

13 (B) allow an individual to elect to participate in the ISTEP
 14 program by substituting for the ISTEP test a norm
 15 referenced test or criterion referenced test when the
 16 department approves:

17 (i) the test; and

18 (ii) the manner of administration of the test.

19 (4) Making appropriate provision for an individual who is a
 20 child with a disability (as defined in IC 20-1-6-1) whose
 21 education program does not include regular classroom
 22 instruction in mathematics and English/language arts so that:

23 (A) the individual is not required to take an assessment
 24 test; and

25 (B) a document is provided under subdivision (1) so that
 26 the taxpayer may file for an education tax credit.

27 (d) If an individual participates in the ISTEP program in a year
 28 when the ISTEP test is not given to the individual's age or grade
 29 level and then is withdrawn from the ISTEP program when the
 30 individual's age or grade level is tested, the individual may not
 31 renew participation in the ISTEP program under this section
 32 unless the individual takes the missed ISTEP test.

33 SECTION 5. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
 34 IC 6-3.1-19 and IC 6-3.1-20, all as added by this act, apply only to
 35 taxable years beginning after December 31, 1998.

36 SECTION 6. An emergency is declared for this act.

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