

January 30, 1998

---

---

## SENATE BILL No. 470

---

DIGEST OF SB0470 (Updated January 27, 1998 8:23 pm - DI 44)

**Citations Affected:** IC 6-3.1; IC 20-1; IC 20-10.1; noncode.

**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, K. Adams**

---

---

January 14, 1998, read first time and referred to Committee on Education.  
January 22, 1998, amended, reported favorably; reassigned to Committee on Finance.  
January 29, 1998, reported favorably — Do Pass.

---

---

SB 470—LS 7343/DI 02



C  
O  
P  
Y

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.

C  
o  
p  
y



January 30, 1998

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.

C  
O  
P  
Y

## 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**

SB 470—LS 7343/DI 02



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.

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

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

C  
O  
P  
Y



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,

C  
O  
P  
Y



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 **Sec. 11.** Acceptance by a taxpayer of a credit under this chapter  
 27 for qualified education expense for a dependent who is described  
 28 in section 6(2) or 6(3) of this chapter does not provide any  
 29 governmental entity or agency of the state of Indiana with  
 30 jurisdiction, authority, or control over the dependent's educational  
 31 provider.

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

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

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

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



C  
O  
P  
Y

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

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

7           (1) Transfer tuition payments under IC 20-8.1-6.1.

8           (2) Fees for academic instruction:

9               (A) in grade or age appropriate curricula outside of a  
10 regular school year or school day;

11              (B) in the core curriculum areas of language arts,  
12 mathematics, science, or social studies; and

13              (C) for a program approved by the department of  
14 education under IC 20-1-1.1-11.

15           (3) Expense for textbooks and instructional materials to a  
16 maximum of two hundred dollars (\$200) per family less the  
17 expense under subdivision (4). This subdivision excludes  
18 expense for textbooks and instructional materials for the  
19 teaching of religious tenets, doctrines, or worship when the  
20 purpose of the teaching is to instill religious tenets, doctrines,  
21 or worship.

22           (4) Personal computer expense to a maximum of two hundred  
23 dollars (\$200) per family for:

24              (A) personal computer hardware, excluding single purpose  
25 processors; and

26              (B) educational software that assists a dependent to  
27 improve or expand knowledge and skills in core  
28 curriculum areas, including language arts, mathematics,  
29 science, or social studies;

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

32           **Sec. 5.** As used in this chapter, "taxpayer" means an individual  
33 who has any adjusted gross income tax liability.

34           **Sec. 6. (a)** A taxpayer who does not claim a credit under  
35 IC 6-3.1-19, has a household income of thirty-five thousand dollars  
36 (\$35,000) or less, and who incurs a qualified education expense is  
37 entitled to a credit against the adjusted gross income tax imposed  
38 by IC 6-3 for the taxable year during which the taxpayer incurs the  
39 qualified education expense. The credit is equal to the least of:

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

41           (2) one thousand dollars (\$1,000) per child; or

42           (3) two thousand dollars (\$2,000) per family.



C  
O  
P  
Y

1 (b) A taxpayer who does not claim a credit under IC 6-3.1-19,  
 2 has a household income of more than thirty-five thousand dollars  
 3 (\$35,000), and who incurs a qualified education expense is entitled  
 4 to a credit against the adjusted gross income tax imposed by IC 6-3  
 5 for the taxable year during which the taxpayer incurs the qualified  
 6 education expense. The credit is equal to the least of:

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

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

16 Sec. 8. If the amount of the credit provided by this chapter that  
 17 a taxpayer uses during a particular taxable year exceeds the sum  
 18 of the taxes imposed by IC 6-3 for the taxable year after the  
 19 application of all credits that under IC 6-3.1-1-2 are to be applied  
 20 before the credit provided by this chapter, the excess shall be  
 21 returned to the taxpayer as a refund.

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

30 SECTION 4. IC 20-10.1-16-15 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 15. (a) As  
 32 used in this section, "individual" refers to a person who:  
 33

- 34 (1) is:  
 35 (A) enrolled in a nonpublic school other than an accredited  
 36 nonpublic school; or  
 37 (B) is not enrolled in a school (either public or nonpublic);  
 38 and  
 39 (2) is the dependent (as defined in Section 151(c)(1)(B) of the  
 40 Internal Revenue Code) of a taxpayer who:  
 41 (A) desires an education tax credit under IC 6-3.1-19; and  
 42 (B) voluntarily makes a request to the department that the



C  
O  
P  
Y

- 1                   dependent participate in the ISTEP program.
- 2           (b) An individual may participate in the ISTEP program.
- 3           (c) The department shall develop procedures for an individual
- 4 to participate in the ISTEP program. The procedures that the
- 5 department develops must include the following:
- 6           (1) Annually providing a document to the taxpayer to show
- 7 that an individual is participating in the ISTEP program. This
- 8 document must be suitable for the taxpayer to use to file for
- 9 an education tax credit.
- 10          (2) Determining the appropriate age or grade level of each
- 11 individual only for purposes of establishing the years when
- 12 the individual is in an age or grade level that is tested under
- 13 the ISTEP program.
- 14          (3) For an individual that is in age or grade levels that are
- 15 tested under the ISTEP program:
- 16           (A) administer the ISTEP test at no charge at approved
- 17 sites throughout Indiana where an individual may take the
- 18 ISTEP test; and
- 19           (B) allow an individual to elect to participate in the ISTEP
- 20 program by substituting for the ISTEP test a norm
- 21 referenced test or criterion referenced test when the
- 22 department approves:
- 23           (i) the test; and
- 24           (ii) the manner of administration of the test.
- 25          (4) Making appropriate provision for an individual who is a
- 26 child with a disability (as defined in IC 20-1-6-1) whose
- 27 education program does not include regular classroom
- 28 instruction in mathematics and English/language arts so that:
- 29           (A) the individual is not required to take an assessment
- 30 test; and
- 31           (B) a document is provided under subdivision (1) so that
- 32 the taxpayer may file for an education tax credit.
- 33          (d) If an individual participates in the ISTEP program in a year
- 34 when the ISTEP test is not given to the individual's age or grade
- 35 level and then is withdrawn from the ISTEP program when the
- 36 individual's age or grade level is tested, the individual may not
- 37 renew participation in the ISTEP program under this section
- 38 unless the individual takes the missed ISTEP test.
- 39          (e) The department may distribute an individual's ISTEP test
- 40 results only to the parent of the individual. The department may
- 41 not compile the ISTEP test results of individuals. An employee of
- 42 the department, an employee of the state of Indiana, or a person

C  
O  
P  
Y



1 **providing services to the department or to the state of Indiana**  
2 **under a contract who violates this subsection commits a Class A**  
3 **misdemeanor.**

4 SECTION 5. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:  
5 **IC 6-3.1-19 and IC 6-3.1-20, all as added by this act, apply only to**  
6 **taxable years beginning after December 31, 1997.**

7 SECTION 6. **An emergency is declared for this act.**

C  
o  
p  
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Education, to which was referred Senate Bill 470, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, between lines 25 and 26, begin a new paragraph and insert:

**"Sec. 11. Acceptance by a taxpayer of a credit under this chapter for qualified education expense for a dependent who is described in section 6(2) or 6(3) of this chapter does not provide any governmental entity or agency of the state of Indiana with jurisdiction, authority, or control over the dependent's educational provider."**

Page 8, between lines 32 and 33, begin a new paragraph and insert:

**"(e) The department may distribute an individual's ISTEP test results only to the parent of the individual. The department may not compile the ISTEP test results of individuals. An employee of the department, an employee of the state of Indiana, or a person providing services to the department or to the state of Indiana under a contract who violates this subsection commits a Class A misdemeanor."**

Page 8, line 35, delete "1998" and insert "**1997**".

and when so amended that said bill be reassigned to the Senate Committee on Finance.

(Reference is to Senate Bill 470 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 7, Nays 2.

C  
O  
P  
Y



SENATE MOTION

Mr. President: I move that Senator K. Adams be added as coauthor  
of Senate Bill 470.

WEATHERWAX

C  
o  
p  
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill 470, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 470 as printed January 23, 1998.)

BORST, Chairperson

Committee Vote: Yeas 9, Nays 6.

C  
o  
p  
y

