

HOUSE BILL No. 1978

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-30; IC 6-3.1.

Synopsis: Tax credits for enterprise zone training and jobs. Establishes a certified school to career program. Provides a credit against state tax liability for wages paid to a participant in a certified school to career program. Provides a credit against state tax liability for expenses incurred to train employees who reside in an enterprise zone. Provides a credit against state tax liability for jobs created at locations within an enterprise zone.

Effective: January 1, 2000.

Klinker, Harris, Pond, McClain

January 26, 1999, read first time and referred to Committee on Ways and Means.

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First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1978

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 4-4-30 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2000]:

4 **Chapter 30. Certified School to Career Programs**

5 **Sec. 1. As used in this chapter, "certified school to career
6 program" means:**

7 (1) a sequenced and articulated secondary and postsecondary
8 program registered as an apprenticeship program under 29
9 CFR 29 that is conducted under an agreement under this
10 chapter; or

11 (2) a program approved by the department of commerce, in
12 conjunction with the department of education that is
13 conducted under an agreement under this chapter that:

14 (A) integrates a secondary school curriculum with private
15 sector job training;

16 (B) places students in job internships; and

17 (C) is designed to continue into postsecondary education



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1 and that will result in teaching new skills and adding value
2 to the wage earning potential of participants and increase
3 their long-term employability in the state.

4 **Sec. 2.** As used in this chapter, "participant" means an
5 individual at least sixteen (16) years of age and less than
6 twenty-five (25) years of age who:

7 (1) is enrolled in a public or private secondary or
8 postsecondary school; and

9 (2) has initiated participation in a certified school to career
10 program as part of the individual's secondary school
11 education.

12 **Sec. 3.** As used in this chapter, "sponsor" means any person,
13 association, committee, or organization operating a school to
14 career program and in whose name the program is or will be
15 registered or approved.

16 **Sec. 4.** The department of commerce, in conjunction with the
17 department of education, may not approve a school to career
18 program unless the following requirements are met:

19 (1) The program must be conducted under an organized,
20 written plan embodying the terms and conditions of
21 employment, job training, classroom instruction, and
22 supervision of one (1) or more participants subscribed to by
23 a sponsor who has undertaken to carry out the school to
24 career program.

25 (2) The program must comply with all state and federal laws
26 pertaining to the workplace.

27 (3) The program must involve an institution of higher
28 learning as defined in IC 20-12-70-4.

29 (4) The certified program agreement must provide that the
30 employer agrees to assign an employee to serve as a mentor
31 for a participant. The mentor's occupation must be in the
32 same career pathway as the career interests of the
33 participant.

34 (5) The program must comply with any other rule adopted by
35 the department of commerce after consultation with the
36 department of education.

37 **Sec. 5.** The certified program shall be conducted under a signed
38 written agreement between each participant and the employer that
39 contains at least the following provisions:

40 (1) The names and signatures of the participant and the
41 sponsor or employer and the signature of a parent or
42 guardian if the participant is a minor.

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- 1 **(2) A description of the career field in which the participant**
2 **is to be trained and the beginning date and duration of the**
3 **training.**
- 4 **(3) The employer's agreement to provide paid employment, at**
5 **a base wage, for the participant during the summer months**
6 **after the participant's junior and senior years in high school**
7 **and after the participant's first year of postsecondary**
8 **education.**
- 9 **(4) The employer's agreement to assign an employee to serve**
10 **as a mentor for a participant. The mentor's occupation must**
11 **be in the same career pathway as the career interests of the**
12 **participant.**
- 13 **(5) The participant and employer shall agree upon set**
14 **minimum academic standards that must be maintained**
15 **through the participant's secondary and postsecondary**
16 **education.**
- 17 **(6) This base wage paid to the participant may not be less than**
18 **the minimum wage prescribed by the federal Fair Labor**
19 **Standards Act.**
- 20 **(7) In addition to the base wage paid to the participant, the**
21 **employer shall pay an additional sum to be held in trust to be**
22 **applied toward the participant's postsecondary education**
23 **required for completion of the certified program. The**
24 **additional amount may not be less than an amount**
25 **determined by the department of commerce to be sufficient to**
26 **provide payment of tuition expenses toward completion of not**
27 **more than two (2) academic years of the required**
28 **postsecondary education component of the certified program**
29 **at an Indiana institution of higher learning (as defined in**
30 **IC 20-12-70-4). This amount shall be held in trust for the**
31 **benefit of the participant under rules adopted by the**
32 **department of commerce. Payment into an ERISA-approved**
33 **fund for the benefit of the participant satisfies this**
34 **requirement. The specific fund must be specified in the**
35 **agreement.**
- 36 **(8) The participant's agreement to work for the employer for**
37 **at least two (2) years following the completion of the**
38 **participant's postsecondary education required by the**
39 **certified program. However, the agreement may provide for**
40 **additional education and work commitments beyond the two**
41 **(2) years.**
- 42 **(9) If the participant does not complete the two (2) year**

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1 employment obligation, the participant's agreement to repay
 2 the employer the amount paid by the employer toward the
 3 participant's postsecondary education expenses under
 4 subdivision 6.

5 (10) If a participant does not complete the certified program
 6 contemplated by the agreement after entering a
 7 postsecondary education program, unexpended funds being
 8 held in trust for the participant's postsecondary education
 9 shall be paid back to the employer. In addition, the
 10 participant must repay to the employer amounts paid from
 11 the trust which were expended on the participant's behalf for
 12 postsecondary education.

13 (11) If a participant does not complete the certified program
 14 contemplated by the agreement before entering a
 15 postsecondary education program, one-half (1/2) of the money
 16 being held in trust for the participant's postsecondary
 17 education shall be paid to an institution of higher learning (as
 18 defined in IC 20-12-70-4) of the participant's choice to pay
 19 tuition or expenses of the participant. The other one-half (1/2)
 20 of the trust money shall be paid back to the employer. Money
 21 to be transferred for the benefit of the participant that is not
 22 transferred within five (5) years for purposes of education at
 23 the designated postsecondary institution shall be paid back to
 24 the employer.

25 **Sec. 6.** The department of commerce, in consultation with the
 26 department of education, shall adopt rules under IC 4-22-2 to
 27 implement this chapter.

28 SECTION 2. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE
 29 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 30 JANUARY 1, 2000]:

31 **Chapter 20. Certified School to Career Program Payroll Credit**

32 **Sec. 1.** As used in this chapter, "certified school to career
 33 program" has the meaning set forth in IC 4-4-30-1.

34 **Sec. 2.** As used in this chapter, "participant" has the meaning
 35 set forth in IC 4-4-30-2.

36 **Sec. 3.** As used in this chapter, "pass through entity" means:

- 37 (1) a corporation that is exempt from the adjusted gross
- 38 income tax under IC 6-3-2-2.8(2);
- 39 (2) a partnership;
- 40 (3) a limited liability company; or
- 41 (4) a limited liability partnership.

42 **Sec. 4.** As used in this chapter, "payroll expenditures" means

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1 the base wages actually paid by an employer to a participant in a
 2 certified school to career program under IC 4-4-30, plus the
 3 amount held in trust to be applied toward the participant's
 4 postsecondary education.

5 **Sec. 5.** As used in this chapter, "state tax liability" means a
 6 taxpayer's total tax liability that is incurred under:

- 7 (1) IC 6-2.1 (gross income tax);
- 8 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- 9 (3) IC 6-3-8 (supplemental net income tax);
- 10 (4) IC 6-5-10 (bank tax);
- 11 (5) IC 6-5-11 (savings and loan association tax);
- 12 (6) IC 6-5.5 (financial institutions tax); and
- 13 (7) IC 27-1-18-2 (insurance premiums tax);

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

17 **Sec. 6.** As used in this chapter, "taxpayer" means a person,
 18 corporation, or pass through entity that employs participants in a
 19 certified school to career program under IC 4-4-30.

20 **Sec. 7.** (a) A taxpayer is entitled to a credit against the
 21 taxpayer's state tax liability for a taxable year for the payroll
 22 expenditures by the taxpayer in the taxable year on the participant.

23 (b) Subject to the limitations under subsection (c) and section 11
 24 of this chapter, the amount of the credit is equal to the taxpayer's
 25 payroll expenditures in the taxable year multiplied by twenty
 26 percent (20%).

27 (c) The credit is limited to the first four hundred (400) hours of
 28 payroll expenditures per participant for each calendar year the
 29 participant is enrolled in the certified school to career program,
 30 not to exceed three (3) years per participant.

31 **Sec. 8.** (a) If the amount determined under section 7(b) of this
 32 chapter for a taxpayer in a taxable year exceeds the taxpayer's
 33 state tax liability for that taxable year, the taxpayer may carry the
 34 excess over to the following taxable years. The amount of the credit
 35 carryover from a taxable year shall be reduced to the extent that
 36 the carryover is used by the taxpayer to obtain a credit under this
 37 chapter for any subsequent taxable year. A taxpayer is not entitled
 38 to a carryback.

39 (b) A taxpayer is entitled to a refund of any unused credit.

40 **Sec. 9.** If a pass through entity does not have state income tax
 41 liability against which the tax credit may be applied, a shareholder
 42 or partner of the pass through entity is entitled to a tax credit equal



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1 to:

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

4 (2) the percentage of the pass through entity's distributive
5 income to which the shareholder or partner is entitled.

6 **Sec. 10.** To receive the credit provided by this chapter, a
7 taxpayer must claim the credit on the taxpayer's state tax return
8 in the manner prescribed by the department. The taxpayer must
9 submit to the department proof of payment of the payroll
10 expenditures and all information that the department determines
11 is necessary for the calculation of the credit provided by this
12 chapter.

13 **Sec. 11. (a)** The amount of tax credits allowed under this chapter
14 may not exceed five hundred thousand dollars (\$500,000) in a state
15 fiscal year.

16 (b) The department shall record the time of filing of each
17 application for allowance of a credit under section 10 of this
18 chapter and shall approve an application, if the applicant
19 otherwise qualifies for a tax credit under this chapter, in the
20 chronological order in which the application is filed in the state
21 fiscal year.

22 (c) If the total credits approved under this section equal the
23 maximum amount allowable in a state fiscal year, an application
24 thereafter filed for that same fiscal year may not be approved.
25 However, if an applicant for whom a credit has been approved fails
26 to file the statement of proof of payment required under section 10
27 of this chapter, an amount equal to the credit previously allowed
28 or set aside for the applicant may be allowed the next eligible
29 applicant or applicants until the total amount has been allowed. In
30 addition, the department may, if the applicant requests, approve a
31 credit application, in whole or in part, with respect to the next
32 succeeding state fiscal year.

33 SECTION 3. IC 6-3.1-21 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JANUARY 1, 2000]:

36 **Chapter 21. Enterprise Zone Employment Training Credit**

37 **Sec. 1.** As used in this chapter, "employer" has the meaning set
38 forth in IC 6-3-1-5.

39 **Sec. 2.** As used in this chapter, "enterprise zone" means an
40 enterprise zone created under IC 4-4-6.1.

41 **Sec. 3.** As used in this chapter, "pass through entity" means:

42 (1) a corporation that is exempt from the adjusted gross

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1 income tax under IC 6-3-2-2.8(2);

2 (2) a partnership;

3 (3) a limited liability company; or

4 (4) a limited liability partnership.

5 Sec. 4. As used in this chapter, "qualified employee" means an
6 individual who:

7 (1) resides within an enterprise zone; and

8 (2) is employed in a city containing an enterprise zone.

9 Sec. 5. As used in this chapter, "qualified training expenses"
10 means expenses incurred to train a qualified employee.

11 Sec. 6. As used in this chapter, "state tax liability" means a
12 taxpayer's total tax liability that is incurred under:

13 (1) IC 6-2.1 (gross income tax);

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

15 (3) IC 6-3-8 (supplemental net income tax);

16 (4) IC 6-5-10 (bank tax);

17 (5) IC 6-5-11 (savings and loan association tax);

18 (6) IC 6-5.5 (financial institutions tax); and

19 (7) IC 27-1-18-2 (insurance premiums tax);

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

23 Sec. 7. As used in this chapter, "taxpayer" means a person,
24 corporation, or pass through entity that is an employer located
25 within the city limits of a city containing an enterprise zone.

26 Sec. 8. A taxpayer is entitled to a credit against the taxpayer's
27 state tax liability for a taxable year equal to the amount of the
28 taxpayer's qualified training expenses incurred during the taxable
29 year.

30 Sec. 9. (a) If the amount determined under section 8 of this
31 chapter for a taxpayer in a taxable year exceeds the taxpayer's
32 state tax liability for that taxable year, the taxpayer may carry the
33 excess over to the following taxable years. The amount of the credit
34 carryover from a taxable year shall be reduced to the extent that
35 the carryover is used by the taxpayer to obtain a credit under this
36 chapter for any subsequent taxable year. A taxpayer is not entitled
37 to a carryback.

38 (b) A taxpayer is entitled to a refund of any unused credit.

39 Sec. 10. If a pass through entity does not have state income tax
40 liability against which the tax credit may be applied, a shareholder
41 or partner of the pass through entity is entitled to a tax credit equal
42 to:



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

3 (2) the percentage of the pass through entity's distributive
4 income to which the shareholder or partner is entitled.

5 **Sec. 11.** To receive the credit provided by this chapter, a
6 taxpayer must claim the credit on the taxpayer's state tax return
7 in the manner prescribed by the department. The taxpayer must
8 submit to the department proof of payment of the qualified
9 training expenses and all information that the department
10 determines is necessary for the calculation of the credit provided
11 by this chapter.

12 SECTION 4. IC 6-3.1-22 IS ADDED TO THE INDIANA CODE
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
14 JANUARY 1, 2000]:

15 **Chapter 22. Enterprise Zone Job Creation Credit**

16 **Sec. 1.** As used in this chapter, "employer" has the meaning set
17 forth in IC 6-3-1-5.

18 **Sec. 2.** As used in this chapter, "enterprise zone" means an
19 enterprise zone created under IC 4-4-6.1.

20 **Sec. 3.** As used in this chapter, "full-time employee" means an
21 individual who is employed for consideration for at least thirty-five
22 (35) hours each week or who renders any other standard of service
23 generally accepted by custom or specified by contract as full-time
24 employment.

25 **Sec. 4. (a)** As used in this chapter, "new employee" means a
26 full-time employee first employed by a taxpayer at the employer's
27 enterprise zone location and who is employed after December 31
28 of the employer's previous taxable year.

29 **(b)** The term "new employee" does not include:

30 (1) an employee of the taxpayer who performs a job that was
31 previously performed by another employee, if that job existed
32 for at least six (6) months before hiring the new employee;

33 (2) an employee of the taxpayer who was previously employed
34 in Indiana by a related member of the taxpayer and whose
35 employment was shifted to the taxpayer after the taxpayer
36 entered into the tax credit agreement; or

37 (3) a child, grandchild, parent, or spouse, other than a spouse
38 who is legally separated from the individual, of any individual
39 who is an employee of the taxpayer and who has a direct or an
40 indirect ownership interest of at least five percent (5%) in the
41 profits, capital, or value of the taxpayer. For purposes of this
42 chapter, an ownership interest shall be determined in



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1 accordance with Section 1563 of the Internal Revenue Code
2 and regulations prescribed under that Section.

3 (c) Notwithstanding subsection (b)(1), if a new employee
4 performs a job that was previously performed by an employee who
5 was:

- 6 (1) treated under the agreement as a new employee; and
- 7 (2) promoted by the taxpayer to another job;

8 the employee may be considered a new employee under the
9 agreement.

10 Sec. 5. As used in this chapter, "pass through entity" means:

- 11 (1) a corporation that is exempt from the adjusted gross
12 income tax under IC 6-3-2-2.8(2);
- 13 (2) a partnership;
- 14 (3) a limited liability company; or
- 15 (4) a limited liability partnership.

16 Sec. 6. As used in this chapter, "related member" means a
17 person that, with respect to the taxpayer during all or any portion
18 of the taxable year, is any one (1) of the following:

- 19 (1) An individual stockholder, or a member of the
20 stockholder's family enumerated in Section 318 of the
21 Internal Revenue Code, if the stockholder and the member of
22 the stockholder's family own directly, indirectly, beneficially,
23 or constructively, in the aggregate, at least fifty percent (50%)
24 of the value of the taxpayer's outstanding stock.
- 25 (2) A stockholder, or a stockholder's partnership, estate, trust,
26 or corporation, if the stockholder and the stockholder's
27 partnership, estate, trust, or corporation owns directly,
28 indirectly, beneficially, or constructively, in the aggregate, at
29 least fifty percent (50%) of the value of the taxpayer's
30 outstanding stock.
- 31 (3) A corporation, or a party related to the corporation in a
32 manner that would require an attribution of stock from the
33 corporation to the party or from the party to the corporation
34 under the attribution rules of Section 318 of the Internal
35 Revenue Code, if the taxpayer owns directly, indirectly,
36 beneficially, or constructively at least fifty percent (50%) of
37 the value of the corporation's outstanding stock.
- 38 (4) A component member (as defined in Section 1563(b) of the
39 Internal Revenue Code).
- 40 (5) A person to or from whom there is attribution of stock
41 ownership in accordance with Section 1563(e) of the Internal
42 Revenue Code. However, for purposes of determining

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1 whether a person is a related member under this subdivision,
 2 twenty percent (20%) shall be substituted for five percent
 3 (5%) wherever five percent (5%) appears in Section 1563(e)
 4 of the Internal Revenue Code.

5 **Sec. 7.** As used in this chapter, "state tax liability" means a
 6 taxpayer's total tax liability that is incurred under:

- 7 (1) IC 6-2.1 (gross income tax);
 8 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
 9 (3) IC 6-3-8 (supplemental net income tax);
 10 (4) IC 6-5-10 (bank tax);
 11 (5) IC 6-5-11 (savings and loan association tax);
 12 (6) IC 6-5.5 (financial institutions tax); and
 13 (7) IC 27-1-18-2 (insurance premiums tax);

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

17 **Sec. 8.** As used in this chapter, "taxpayer" means a person,
 18 corporation, or pass through entity whose primary operations are
 19 conducted in an enterprise zone.

20 **Sec. 9.** A taxpayer is entitled to a credit against the taxpayer's
 21 state tax liability for a taxable year equal to one thousand five
 22 hundred dollars (\$1,500) multiplied by the number of new
 23 employees employed at the taxpayer's enterprise zone location in
 24 the taxable year.

25 **Sec. 10. (a)** If the amount determined under section 9 of this
 26 chapter for a taxpayer in a taxable year exceeds the taxpayer's
 27 state tax liability for that taxable year, the taxpayer may carry the
 28 excess over to the following taxable years. The amount of the credit
 29 carryover from a taxable year shall be reduced to the extent that
 30 the carryover is used by the taxpayer to obtain a credit under this
 31 chapter for any subsequent taxable year. A taxpayer is not entitled
 32 to a carryback.

33 (b) A taxpayer is entitled to a refund of any unused credit.

34 **Sec. 11.** If a pass through entity does not have state income tax
 35 liability against which the tax credit may be applied, a shareholder
 36 or partner of the pass through entity is entitled to a tax credit equal
 37 to:

- 38 (1) the tax credit determined for the pass through entity for
 39 the taxable year; multiplied by
 40 (2) the percentage of the pass through entity's distributive
 41 income to which the shareholder or partner is entitled.

42 **Sec. 12.** To receive the credit provided by this chapter, a

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1 taxpayer must claim the credit on the taxpayer's state tax return
2 in the manner prescribed by the department. The taxpayer must
3 submit to the department proof of payment of the payroll
4 expenditures and all information that the department determines
5 is necessary for the calculation of the credit provided by this
6 chapter.

7 SECTION 5. [EFFECTIVE JANUARY 1, 2000] IC 6-3.1-20,
8 IC 6-3.1-21, and IC 6-3.1-22, all as added by this act, apply only to
9 taxable years beginning after December 31, 1999.

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