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# HOUSE BILL No. 1781

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-29; IC 22-4.1-10.

**Synopsis:** Tax credit for worksite health programs. Provides a state tax credit to an employer that implements a worksite health promotion program for the employer's Indiana employees. Specifies that, for a basic worksite health promotion program, the credit is the lesser of: (1) the employer's qualified health promotion expenses; or (2) \$50 multiplied by the number of employees. Specifies that, for a comprehensive worksite health promotion program, the credit is the lesser of: (1) the employer's qualified health promotion expenses; or (2) \$100 multiplied by the number of employees. Requires the department of workforce development to adopt rules for the certification of worksite health promotion programs.

**Effective:** July 1, 2005; January 1, 2006.

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**Friend, Becker, Brown T**

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January 19, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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# HOUSE BILL No. 1781



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 6-3.1-29 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2006]:  
4 **Chapter 29. Credit for Worksite Health Promotion Programs**  
5 **Sec. 1. As used in this chapter, "basic worksite health promotion**  
6 **program" has the meaning set forth in IC 22-4.1-10-1.**  
7 **Sec. 2. As used in this chapter, "comprehensive worksite health**  
8 **promotion program" has the meaning set forth in IC 22-4.1-10-2.**  
9 **Sec. 3. As used in this chapter, "pass through entity" means:**  
10 (1) a corporation that is exempt from the adjusted gross  
11 income tax under IC 6-3-2-2.8(2);  
12 (2) a partnership;  
13 (3) a limited liability company; or  
14 (4) a limited liability partnership.  
15 **Sec. 4. As used in this chapter, "qualified health promotion**  
16 **expenses" mean costs that an employer incurs in making a**  
17 **worksite health promotion program available to the employer's**



1 **Indiana employees.**

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

- 4 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- 5 (2) IC 6-5.5 (financial institutions tax); and
- 6 (3) IC 27-1-18-2 (insurance premiums tax);

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

10 **Sec. 6. As used in this chapter, "taxpayer" means an individual**  
11 **or entity that has state tax liability.**

12 **Sec. 7. As used in this chapter, "worksite health promotion**  
13 **program," has the meaning set forth in IC 22-4.1-10-4.**

14 **Sec. 8. For purposes of this chapter, the number of employees**  
15 **with access to an employer's worksite health promotion program**  
16 **during a taxable year is the average number of the employer's**  
17 **employees who are employed in Indiana during the taxable year,**  
18 **as determined under STEP THREE of the following formula:**

19 **STEP ONE: For each month in a taxable year in which an**  
20 **employer makes a worksite health promotion program**  
21 **available to the employer's employees in Indiana for at least**  
22 **fifteen (15) regular business days in the month, determine the**  
23 **number of employees of the employer who are employed in**  
24 **Indiana on the last day of the month.**

25 **STEP TWO: Determine the sum of the STEP ONE amounts.**

26 **STEP THREE: Divide the STEP TWO result by the number**  
27 **of months in the taxable year in which the employer makes a**  
28 **worksite health promotion program available to the**  
29 **employer's employees in Indiana for at least fifteen (15)**  
30 **regular business days in the month, rounding the result to the**  
31 **nearest whole number.**

32 **Sec. 9. For purposes of this chapter, the maximum allowance in**  
33 **a taxable year for a basic worksite health promotion program is**  
34 **the amount determined under STEP THREE of the following**  
35 **formula:**

36 **STEP ONE: Multiply the number of employees with access to**  
37 **the basic worksite health promotion program in the taxable**  
38 **year by fifty dollars (\$50).**

39 **STEP TWO: Divide the number of months in the taxable year**  
40 **in which the employer makes a basic worksite health**  
41 **promotion program available to the employer's employees in**  
42 **Indiana for at least fifteen (15) regular business days in the**

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1 month by the number of months in the taxable year, rounding  
2 the result to the nearest one hundredth (0.01).

3 **STEP THREE:** Multiply the STEP ONE amount by the STEP  
4 **TWO** amount, rounding the result to the nearest whole dollar.

5 **Sec. 10.** For purposes of this chapter, the maximum allowance  
6 in a taxable year for a comprehensive worksite health promotion  
7 program is the amount determined under STEP THREE of the  
8 following formula:

9 **STEP ONE:** Multiply the number of employees with access to  
10 the comprehensive worksite health promotion program in the  
11 taxable year by one hundred dollars (\$100).

12 **STEP TWO:** Divide the number of months in the taxable year  
13 in which the employer makes a comprehensive worksite  
14 health promotion program available to the employer's  
15 employees in Indiana for at least fifteen (15) regular business  
16 days in the month by the number of months in the taxable  
17 year, rounding the result to the nearest one hundredth (0.01).

18 **STEP THREE:** Multiply the STEP ONE amount by the STEP  
19 **TWO** amount, rounding the result to the nearest whole dollar.

20 **Sec. 11.** An employer that is a taxpayer and makes a worksite  
21 health promotion program available in Indiana for the employer's  
22 Indiana employees is entitled to a worksite health promotion  
23 program credit against the employer's state tax liability in the  
24 amount determined under STEP THREE of the following formula:

25 **STEP ONE:** Determine the employer's maximum allowance  
26 in the taxable year for the employer's worksite health  
27 promotion program as follows:

28 (A) If during the taxable year the employer makes a basic  
29 worksite health promotion program available to the  
30 employer's employees, determine the employer's maximum  
31 allowance under section 9 of this chapter.

32 (B) If during the taxable year the employer makes a  
33 comprehensive worksite health promotion program  
34 available to the employer's employees, determine the  
35 employer's maximum allowance under section 10 of this  
36 chapter.

37 **STEP TWO:** Determine the employer's qualified health  
38 promotion expenses for the taxable year.

39 **STEP THREE:** Determine the lesser of the STEP ONE  
40 amount or the STEP TWO amount.

41 **Sec. 12.** If an employer makes a worksite health promotion  
42 program available in Indiana for its Indiana employees but is a

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1 pass through entity that does not have state income tax liability  
2 against which any part of the worksite health promotion program  
3 credit may be applied, a shareholder, partner, or member of the  
4 pass through entity is entitled to a worksite health promotion  
5 program credit equal to the amount determined under STEP  
6 FOUR of the following formula:

7 STEP ONE: Determine the employer's maximum allowance  
8 in the taxable year for the employer's worksite health  
9 promotion program as follows:

10 (A) If during the taxable year the employer makes a basic  
11 worksite health promotion program available to the  
12 employer's employees, determine the employer's maximum  
13 allowance under section 9 of this chapter.

14 (B) If during the taxable year the employer makes a  
15 comprehensive worksite health promotion program  
16 available to the employer's employees, determine the  
17 employer's maximum allowance under section 10 of this  
18 chapter.

19 STEP TWO: Determine the employer's qualified health  
20 promotion expenses for the taxable year.

21 STEP THREE: Determine the lesser of the STEP ONE  
22 amount or the STEP TWO amount.

23 STEP FOUR: Multiply the STEP THREE amount by the  
24 percentage of the pass through entity's distributive income to  
25 which the shareholder, partner, or member is entitled.

26 Sec. 13. (a) If the amount determined under section 11 or 12 of  
27 this chapter for a taxpayer in a taxable year exceeds the taxpayer's  
28 state tax liability for that taxable year, the taxpayer may carry the  
29 excess over to the following taxable years. The amount of the credit  
30 carryover from a taxable year shall be reduced to the extent that  
31 the carryover is used by the taxpayer to obtain a credit under this  
32 chapter for any subsequent taxable year.

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

35 Sec. 14. To receive the credit provided by this chapter, a  
36 taxpayer must claim the credit on the taxpayer's state tax return  
37 or returns in the manner prescribed by the department. The  
38 taxpayer must submit to the department all information that the  
39 department determines is necessary for the calculation of the credit  
40 provided by this chapter and for the determination of the  
41 taxpayer's eligibility for the credit.

42 SECTION 2. IC 22-4.1-10 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2005]:

3 **Chapter 10. Worksite Health Promotion Programs**

4 **Sec. 1.** As used in this chapter, "basic worksite health promotion  
5 program" refers to an employer program conducted in Indiana  
6 that is certified by the department to conform with the rules  
7 adopted under section 5 of this chapter.

8 **Sec. 2.** As used in this chapter, "comprehensive worksite health  
9 promotion program" refers to an employer program conducted in  
10 Indiana that is certified by the department to conform with the  
11 rules adopted under section 6 of this chapter.

12 **Sec. 3.** As used in this chapter, "health literacy" means the  
13 degree to which individuals have the capacity to obtain, process,  
14 and understand basic health information and services needed to  
15 make choices consistent with good health.

16 **Sec. 4.** As used in this chapter, "worksite health promotion  
17 program" refers to the following:

18 (1) A basic worksite health promotion program.

19 (2) A comprehensive worksite health promotion program.

20 **Sec. 5.** After reviewing the recommendations of the state  
21 department of health, the department shall adopt rules under  
22 IC 4-22-2 for the certification of basic worksite health promotion  
23 programs.

24 **Sec. 6. (a)** After reviewing the recommendations of the state  
25 department of health, the department shall adopt rules under  
26 IC 4-22-2 for the certification of comprehensive worksite health  
27 promotion programs.

28 **(b)** A comprehensive worksite health promotion program must  
29 include:

30 (1) all the elements of the basic worksite health promotion  
31 program; and

32 (2) additional elements not included in a basic worksite health  
33 promotion program.

34 **Sec. 7.** The rules must provide for certification of worksite  
35 health promotion programs that assist and encourage the  
36 employees of an employer in making choices consistent with good  
37 health. Specifically, the rules must incorporate program elements  
38 designed to foster each of the following health objectives:

39 (1) Increased physical activity.

40 (2) Beneficial dietary habits.

41 (3) Increased use of preventive health screenings.

42 (4) Healthy choices concerning alcohol, tobacco, drugs, and

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safety.

**(5) Increased health literacy.**

**Sec. 8. The rules must provide that certification of a worksite health promotion program at a given level requires that every Indiana employee of an employer sponsoring the worksite health promotion program has equal access to all the elements of the worksite health promotion program at that level. However, the rules may not prevent the certification of a worksite health promotion program at a given level solely because an employer offers additional program elements not required at that level of certification to fewer than all the employer's Indiana employees.**

**Sec. 9. To be certified under this chapter, an employer must file an application for certification of the employer's worksite health promotion program with the department. The department shall prescribe the form and content of the application.**

**Sec. 10. (a) Upon receipt of an application filed under section 9 of this chapter, the department shall determine whether the employer has a basic worksite health promotion program or a comprehensive worksite health promotion program.**

**(b) The department may certify for an employer only one (1) worksite health promotion program in Indiana in a taxable year. In a taxable year, the department may certify an employer program to be a basic worksite health promotion program or a comprehensive worksite health promotion program.**

**(c) If the department approves the application, the department shall issue a certificate to the employer for the taxable year.**

**Sec. 11. (a) In every odd numbered year beginning with 2009, the state department of health shall review the rules for certification of worksite health promotion programs adopted under this chapter. The review must determine whether the rules continue to reflect the consensus of the medical community on effective individual health practices pertaining to the objectives described in section 7 of this chapter.**

**(b) If a review of the rules by the state department of health discloses that the rules no longer accurately reflect the consensus of the medical community, the state department of health shall report its findings and recommendations to the commissioner.**

**(c) If a report of the state department of health indicates that the rules under this chapter should be updated to reflect the evolving consensus of the medical community with respect to the objectives described in section 7 of this chapter, the department shall adopt appropriate modifications to the rules.**

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1           SECTION 3. [EFFECTIVE JULY 1, 2005] (a) The state  
 2 department of health shall submit initial recommendations to the  
 3 department of workforce development on the appropriate elements  
 4 to include in both basic and comprehensive worksite health  
 5 promotion programs, as those programs are described in  
 6 IC 22-4.1-10, as added by this act. The state department of health  
 7 shall submit the recommendations to the commissioner of the  
 8 department of workforce development not later than November 1,  
 9 2005.

10           (b) With respect to the proposed rules required under  
 11 IC 22-4.1-10, as added by this act, the department of workforce  
 12 development shall comply with IC 4-22-2-24 not later than January  
 13 1, 2006.

14           (c) With respect to the proposed rules required under  
 15 IC 22-4.1-10, as added by this act, the department of workforce  
 16 development shall comply with the public hearing requirements of  
 17 IC 4-22-2-26 not later than February 15, 2006.

18           (d) This SECTION expires December 31, 2006.

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