

# HOUSE BILL No. 1039

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-3-12.

**Synopsis:** College savings tax credit. Beginning in taxable year 2025, increases the credit provided for a contribution to a college choice 529 education savings plan against a taxpayer's adjusted gross income from \$1,500 to \$2,000 (and from \$750 to \$1,000 in the case of a married individual filing a separate return), subject to other requirements.

**Effective:** January 1, 2025.

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January 8, 2024, read first time and referred to Committee on Ways and Means.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1039

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 6-3-3-12, AS AMENDED BY P.L.236-2023,
- 2 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2025]: Sec. 12. (a) As used in this section, "account" has
- 4 the meaning set forth in IC 21-9-2-2.
- 5 (b) As used in this section, "account beneficiary" has the meaning
- 6 set forth in IC 21-9-2-3.
- 7 (c) As used in this section, "account owner" has the meaning set
- 8 forth in IC 21-9-2-4.
- 9 (d) As used in this section, "college choice 529 education savings
- 10 plan" refers to a college choice 529 plan established under IC 21-9.
- 11 (e) As used in this section, "contribution" means the amount of
- 12 money directly provided to a college choice 529 education savings plan
- 13 account by a taxpayer. A contribution does not include any of the
- 14 following:
- 15 (1) Money credited to an account as a result of bonus points or
- 16 other forms of consideration earned by the taxpayer that result in
- 17 a transfer of money to the account.



1 (2) Money transferred from any other qualified tuition program  
2 under Section 529 of the Internal Revenue Code or from any other  
3 similar plan.

4 (3) Money transferred from any qualified ABLE program under  
5 Section 529A of the Internal Revenue Code or any other similar  
6 plan.

7 (f) As used in this section, "nonqualified withdrawal" means a  
8 withdrawal or distribution from a college choice 529 education savings  
9 plan that is not a qualified withdrawal.

10 (g) As used in this section, "qualified higher education expenses"  
11 has the meaning set forth in IC 21-9-2-19.5, except that the term does  
12 not include qualified education loan repayments under Section  
13 529(c)(9) of the Internal Revenue Code.

14 (h) As used in this section, "qualified K-12 education expenses"  
15 means expenses that are for tuition in connection with enrollment or  
16 attendance at an elementary or secondary public, private, or religious  
17 school located in Indiana and are permitted under Section 529 of the  
18 Internal Revenue Code.

19 (i) As used in this section, "qualified withdrawal" means a  
20 withdrawal or distribution from a college choice 529 education savings  
21 plan that is made:

22 (1) to pay for qualified higher education expenses, excluding any  
23 withdrawals or distributions used to pay for qualified higher  
24 education expenses, if the withdrawals or distributions are made  
25 from an account of a college choice 529 education savings plan  
26 that is terminated within twelve (12) months after the account is  
27 opened;

28 (2) as a result of the death or disability of an account beneficiary;

29 (3) because an account beneficiary received a scholarship that  
30 paid for all or part of the qualified higher education expenses of  
31 the account beneficiary, to the extent that the withdrawal or  
32 distribution does not exceed the amount of the scholarship; or

33 (4) by a college choice 529 education savings plan as the result of  
34 a transfer of funds by a college choice 529 education savings plan  
35 from one (1) third party custodian to another.

36 However, a qualified withdrawal does not include a withdrawal or  
37 distribution that will be used for expenses that are for tuition in  
38 connection with enrollment or attendance at an elementary or  
39 secondary public, private, or religious school unless the school is  
40 located in Indiana. A qualified withdrawal does not include a rollover  
41 distribution or transfer of assets from a college choice 529 education  
42 savings plan to any other qualified tuition program under Section 529



1 of the Internal Revenue Code, to any qualified ABLE program under  
 2 Section 529A other than an Indiana ABLE 529A savings plan adopted  
 3 by the state under IC 12-11, or to any other similar plan.

4 (j) As used in this section, "taxpayer" means:

- 5 (1) an individual filing a single return;  
 6 (2) a married couple filing a joint return; or  
 7 (3) for taxable years beginning after December 31, 2019, a  
 8 married individual filing a separate return.

9 (k) A taxpayer is entitled to a credit against the taxpayer's adjusted  
 10 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable  
 11 year equal to the least of the following:

12 (1) The following amount:

13 (A) For taxable years beginning before January 1, 2019, the  
 14 sum of twenty percent (20%) multiplied by the amount of the  
 15 total contributions that are made by the taxpayer to an account  
 16 or accounts of a college choice 529 education savings plan  
 17 during the taxable year and that will be used to pay for  
 18 qualified higher education expenses that are not qualified K-12  
 19 education expenses, plus the lesser of:

- 20 (i) five hundred dollars (\$500); or  
 21 (ii) ten percent (10%) multiplied by the amount of the total  
 22 contributions that are made by the taxpayer to an account or  
 23 accounts of a college choice 529 education savings plan  
 24 during the taxable year and that will be used to pay for  
 25 qualified K-12 education expenses.

26 (B) For taxable years beginning after December 31, 2018, the  
 27 sum of:

- 28 (i) twenty percent (20%) multiplied by the amount of the  
 29 total contributions that are made by the taxpayer to an  
 30 account or accounts of a college choice 529 education  
 31 savings plan during the taxable year and that are designated  
 32 to pay for qualified higher education expenses that are not  
 33 qualified K-12 education expenses; plus  
 34 (ii) twenty percent (20%) multiplied by the amount of the  
 35 total contributions that are made by the taxpayer to an  
 36 account or accounts of a college choice 529 education  
 37 savings plan during the taxable year and that are designated  
 38 to pay for qualified K-12 education expenses.

39 (2) ~~One thousand five hundred dollars (\$1,500); or seven hundred~~  
 40 ~~fifty dollars (\$750)~~ **Two thousand dollars (\$2,000), or one**  
 41 **thousand dollars (\$1,000)** in the case of a married individual  
 42 filing a separate return.



(3) The amount of the taxpayer's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(l) This subsection applies after December 31, 2018. At the time a contribution is made to or a withdrawal is made from an account or accounts of a college choice 529 education savings plan, the person making the contribution or withdrawal shall designate whether the contribution is made for or the withdrawal will be used for:

- (1) qualified higher education expenses that are not qualified K-12 education expenses; or
- (2) qualified K-12 education expenses.

The Indiana education savings authority (IC 21-9-3) shall use subaccounting to track the designations.

(m) A taxpayer who makes a contribution to a college choice 529 education savings plan is considered to have made the contribution on the date that:

- (1) the taxpayer's contribution is postmarked or accepted by a delivery service, for contributions that are submitted to a college choice 529 education savings plan by mail or delivery service; or
- (2) the taxpayer's electronic funds transfer is initiated, for contributions that are submitted to a college choice 529 education savings plan by electronic funds transfer.

(n) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(o) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(p) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

(q) An account owner of an account of a college choice 529 education savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the account. The amount the taxpayer must repay is equal to the lesser of:

- (1) twenty percent (20%) of the total amount of nonqualified withdrawals made during the taxable year from the account; or
- (2) the excess of:

- (A) the cumulative amount of all credits provided by this section that are claimed by any taxpayer with respect to the taxpayer's contributions to the account for all prior taxable



- 1 years beginning on or after January 1, 2007; over  
 2 (B) the cumulative amount of repayments paid by the account  
 3 owner under this subsection for all prior taxable years  
 4 beginning on or after January 1, 2008.
- 5 (r) Any required repayment under subsection (q) shall be reported  
 6 by the account owner on the account owner's annual state income tax  
 7 return for any taxable year in which a nonqualified withdrawal is made.
- 8 (s) A nonresident account owner who is not required to file an  
 9 annual income tax return for a taxable year in which a nonqualified  
 10 withdrawal is made shall make any required repayment on the form  
 11 required under IC 6-3-4-1(2). If the nonresident account owner does  
 12 not make the required repayment, the department shall issue a demand  
 13 notice in accordance with IC 6-8.1-5-1.
- 14 (t) The executive director of the Indiana education savings authority  
 15 shall submit or cause to be submitted to the department a copy of all  
 16 information returns or statements issued to account owners, account  
 17 beneficiaries, and other taxpayers for each taxable year with respect to:  
 18 (1) nonqualified withdrawals made from accounts, including  
 19 subaccounts of a college choice 529 education savings plan for  
 20 the taxable year; or  
 21 (2) account closings for the taxable year.
- 22 (u) The following apply to contributions made after December 31,  
 23 2023:  
 24 (1) For purposes of this section, all or part of a contribution made  
 25 after the end of a taxable year, and not later than the due date of  
 26 the taxpayer's adjusted gross income tax return for the taxable  
 27 year under this article (as determined without regard to any  
 28 allowable extensions), shall be considered as having been made  
 29 during the taxable year preceding the contribution if:  
 30 (A) the taxpayer elects to treat all or part of a contribution as  
 31 occurring in the taxable year preceding the contribution;  
 32 (B) the taxpayer designates the amounts of the contribution to  
 33 be treated as occurring in each taxable year, in the case of a  
 34 single contribution that is to be allowable under this section in  
 35 two (2) separate years; and  
 36 (C) the taxpayer irrevocably waives the right to claim the  
 37 contribution claimed in the taxable year preceding the  
 38 contribution as occurring in the taxable year of the  
 39 contribution.
- 40 (2) The Indiana education savings authority may prescribe any  
 41 forms necessary for purposes of this subsection.
- 42 SECTION 2. [EFFECTIVE JANUARY 1, 2025] (a) IC 6-3-3-12,



1 as amended by this act, applies to taxable years beginning after  
2 December 31, 2024.

3 (b) This SECTION expires January 1, 2027.

