

# HOUSE BILL No. 1188

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Education savings plan tax credit. Increases the maximum amount of the annual credit against adjusted gross income to which a taxpayer is entitled for a contribution to a college choice 529 education savings plan.

**Effective:** July 1, 2020.

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## Bartels

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January 13, 2020, read first time and referred to Committee on Ways and Means.

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Second Regular Session of the 121st General Assembly (2020)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## HOUSE BILL No. 1188

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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.214-2018(ss),  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 12. (a) As used in this section, "account" has the  
4 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 that is credited to an account and that will be  
5 transferred to an ABLE account (as defined in Section 529A of  
6 the Internal Revenue Code).

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.

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

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

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

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

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

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

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

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



- 1 (1) an individual filing a single return; or  
 2 (2) a married couple filing a joint return.  
 3 (k) A taxpayer is entitled to a credit against the taxpayer's adjusted  
 4 gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable  
 5 year equal to the least of the following:  
 6 (1) The following amount:  
 7 (A) For taxable years beginning before January 1, 2019, the  
 8 sum of twenty percent (20%) multiplied by the amount of the  
 9 total contributions that are made by the taxpayer to an account  
 10 or accounts of a college choice 529 education savings plan  
 11 during the taxable year and that will be used to pay for  
 12 qualified higher education expenses that are not qualified K-12  
 13 education expenses, plus the lesser of:  
 14 (i) five hundred dollars (\$500); or  
 15 (ii) ten percent (10%) multiplied by the amount of the total  
 16 contributions that are made by the taxpayer to an account or  
 17 accounts of a college choice 529 education savings plan  
 18 during the taxable year and that will be used to pay for  
 19 qualified K-12 education expenses.  
 20 (B) For taxable years beginning after December 31, 2018, the  
 21 sum of:  
 22 (i) twenty percent (20%) multiplied by the amount of the  
 23 total contributions that are made by the taxpayer to an  
 24 account or accounts of a college choice 529 education  
 25 savings plan during the taxable year and that are designated  
 26 to pay for qualified higher education expenses that are not  
 27 qualified K-12 education expenses; plus  
 28 (ii) 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 K-12 education expenses.  
 33 (2) ~~One~~ **Two** thousand dollars (~~\$1,000~~): **(\$2,000)**.  
 34 (3) The amount of the taxpayer's adjusted gross income tax  
 35 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,  
 36 reduced by the sum of all credits (as determined without regard to  
 37 this section) allowed by IC 6-3-1 through IC 6-3-7.  
 38 (l) This subsection applies after December 31, 2018. At the time a  
 39 contribution is made to or a withdrawal is made from an account or  
 40 accounts of a college choice 529 education savings plan, the person  
 41 making the contribution or withdrawal shall designate whether the  
 42 contribution is made for or the withdrawal will be used for:



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

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

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

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

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

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

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

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

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

31 (A) the cumulative amount of all credits provided by this  
 32 section that are claimed by any taxpayer with respect to the  
 33 taxpayer's contributions to the account for all prior taxable  
 34 years beginning on or after January 1, 2007; over

35 (B) the cumulative amount of repayments paid by the account  
 36 owner under this subsection for all prior taxable years  
 37 beginning on or after January 1, 2008.

38 (r) Any required repayment under subsection (q) shall be reported  
 39 by the account owner on the account owner's annual state income tax  
 40 return for any taxable year in which a nonqualified withdrawal is made.

41 (s) A nonresident account owner who is not required to file an  
 42 annual income tax return for a taxable year in which a nonqualified



1 withdrawal is made shall make any required repayment on the form  
2 required under IC 6-3-4-1(2). If the nonresident account owner does  
3 not make the required repayment, the department shall issue a demand  
4 notice in accordance with IC 6-8.1-5-1.

5 (t) The executive director of the Indiana education savings authority  
6 shall submit or cause to be submitted to the department a copy of all  
7 information returns or statements issued to account owners, account  
8 beneficiaries, and other taxpayers for each taxable year with respect to:

9 (1) nonqualified withdrawals made from accounts, including  
10 subaccounts of a college choice 529 education savings plan for  
11 the taxable year; or

12 (2) account closings for the taxable year.

13 **SECTION 2. [EFFECTIVE JULY 1, 2020] (a) IC 6-3-3-12, as**  
14 **amended by this act, applies to taxable years beginning after**  
15 **December 31, 2020.**

16 **(b) This SECTION expires July 1, 2023.**

