HOUSE BILL No. 1128

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-18; IC 21-9-7-1; IC 21-9-9.5.

Synopsis: Lifelong learning accounts. Requires the education savings authority (authority) to establish and administer a lifelong learning account program. Specifies that a lifelong learning account established for a participating individual must: (1) be an account in a financial institution; and (2) allow a participating individual to deposit, from the individual's earned income, money that may be matched by the participating individual's employer, a financial institution, the state, or any other entity, and that will be used by the participating individual for education and training costs at a postsecondary educational institution, a vocational school, or a training program that may lead to employment for the individual. Requires the authority to seek grants and other funding for the program from public and private entities. Provides that money withdrawn from a participating individual's lifelong learning account is not subject to state income taxation if the money is used by the participating individual for specified education and training costs. Provides a state tax credit to an individual or an individual's employer for contributions to a lifelong learning account. Specifies that money in a participating individual's lifelong learning account may not be considered: (1) an asset of the participating individual when determining the individual's eligibility for the Temporary Assistance for Needy Families program; or (2) a countable asset for purposes of township assistance.

Effective: July 1, 2015.

Errington

January 8, 2015, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1128

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-18-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Subject to the limitations provided in subsection ~~(b)~~ **(c)** and sections 7, 8, 9, 10, and 11 of this chapter, the department shall grant a tax credit against any state tax liability **of a person or individual** due equal to **the following:**

(1) Fifty percent (50%) of the amount contributed by a person or an individual to a fund if the contribution is not less than one hundred dollars ($100) and not more than fifty thousand dollars ($50,000).

(2) Fifty percent (50%) of the amount contributed by a person or an individual to a lifelong learning account established under IC 21-9-9.5, if the contribution is not less than one hundred dollars ($100) and not more than fifty thousand dollars ($50,000).

(b) Subject to the limitations provided in subsection (c) and

sections 7, 8, 9, 10, and 11 of this chapter, the department shall grant a tax credit against any state tax liability of a taxpayer for a matching contribution that equals a contribution made by an individual employed by the taxpayer during the taxpayer's taxable year to the individual's lifelong learning account established under IC 21-9-9.5. The amount of the credit against a taxpayer's state tax liability that the department shall grant under this subsection equals fifty percent (50%) of the amount contributed by the taxpayer if the contribution to the employee's lifelong learning account is not less than one hundred dollars ($100) and not more than fifty thousand dollars ($50,000). A taxpayer shall receive a credit for each individual employed by the taxpayer for which the taxpayer makes a matching contribution under this subsection.

~~(b)~~ **(c)** The credit provided by this chapter shall only be applied against any state tax liability owed by the taxpayer after the application of any credits that under IC 6-3.1-1-2 must be applied before the credit provided by this chapter.

SECTION 2. IC 6-3.1-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) A ~~person that or an individual~~ **taxpayer** who desires to claim a tax credit as provided in this chapter shall file with the department, in the form approved by the department, an application stating the amount of the contribution that the ~~person or individual~~ **taxpayer** proposes to make that would qualify for a tax credit and the amount sought to be claimed as a credit.

(b) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 6 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the department a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to a fund as provided in section 6 of this chapter.

(c) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period.

SECTION 3. IC 6-3.1-18-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) The amount of tax credits allowed under this chapter may not exceed:

(1) two hundred thousand dollars ($200,000) **for contributions to a fund; and**

(2) two hundred thousand dollars ($200,000) for contributions

to a lifelong learning account established under IC 21-9-9.5;
in any state fiscal year.

(b) The department shall:

(1) record the time of filing of each application for allowance of a credit required under section 9 of this chapter; and

(2) approve the applications, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the applications are filed in the state fiscal year.

(c) When the total credits approved under this section equal the maximum amount allowable in any state fiscal year, an application filed after that time for the same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the statement of proof of payment required under section 9 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to any subsequent applicant in the year. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

SECTION 4. IC 21-9-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. In addition to any other powers granted by this article, the board has all powers necessary or convenient to carry out and effectuate the purposes and objectives of this chapter, ~~and~~ IC 21-9-8, **and IC 21-9-9.5,** the purposes and objectives of an education savings program that may be established under this article, and the powers delegated by other laws or executive orders, including the following:

(1) To establish policies and procedures to govern distributions from accounts that are not:

(A) made on account of the death or disability of an account beneficiary;

(B) made on account of the receipt of a scholarship (or allowance or payment described in Section 135(d)(1)(B) or (C) of the Internal Revenue Code) by the account beneficiary to the extent the amount of the distribution does not exceed the amount of the scholarship, allowance, or payment; or

(C) rollovers.

(2) To establish penalties for withdrawals of money from accounts that are not used exclusively for the qualified higher education expenses of an account beneficiary unless a circumstance described in subdivision (1) applies.

(3) To establish policies and procedures regarding the transfer of individual accounts and the designation of substitute account

beneficiaries.

(4) To establish policies and procedures for withdrawal of money from accounts for, or in reimbursement of, qualified higher education expenses.

(5) To enter into agreements with account owners, account beneficiaries, and contributors, with the agreements naming:

(A) the account owner; and

(B) the account beneficiary.

(6) To establish accounts for account beneficiaries. However:

(A) the authority shall establish a separate account for each account beneficiary; and

(B) an individual may be the beneficiary of more than one (1) account.

(7) To enter into agreements with financial institutions relating to accounts as well as deposits, withdrawals, penalties, allocation of benefits or incentives, and transfers of accounts, account owners, and account beneficiaries.

(8) To conform the education savings program to federal tax advantages or incentives, as the advantages or incentives may exist periodically, to the extent consistent with the purposes and objectives of this article.

(9) To interpret, in rules, policies, guidelines, and procedures, the provisions of this article broadly considering the purposes and objectives of this article.

SECTION 5. IC 21-9-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 9.5. Lifelong Learning Account Program

Sec. 1. As used in this chapter, "lifelong learning account" means an account established under section 5 of this chapter.

Sec. 2. As used in this chapter, "participating individual" means an individual who is participating in the program under guidelines established by the authority.

Sec. 3. As used in this chapter, "program" refers to the program established under section 4 of this chapter.

Sec. 4. (a) The authority shall establish and administer a lifelong learning account program.

(b) The authority shall establish written guidelines for administration of the program, including written guidelines concerning:

(1) the eligibility of individuals and financial institutions to participate in the program; and

(2) the permissible uses of money in a lifelong learning account.

Sec. 5. (a) The program shall be implemented to encourage the establishment of lifelong learning accounts for participating individuals. A lifelong learning account established for a participating individual must:

(1) be an account in a financial institution or other entity participating in the program; and

(2) allow a participating individual to deposit, from the individual's earned income, money:

(A) that may be matched by the participating individual's employer, a financial institution, the state, or any other entity; and

(B) that will be used by the participating individual for any tuition, laboratory costs, books, computer costs, and other fees that are incurred at a postsecondary educational institution, a vocational school, or a training program approved by the authority that may lead to employment for the individual.

(b) Money withdrawn from a participating individual's lifelong learning account is not subject to taxation under IC 6-3-1 through IC 6-3-7 if the money is used by the participating individual for the purposes described in subsection (a)(2)(B).

Sec. 6. Money in a participating individual's lifelong learning account may not be considered:

(1) an asset of the participating individual when determining the individual's eligibility for assistance under IC 12-14; or

(2) a countable asset (as defined in IC 12-7-2-44.6) for purposes of IC 12-20.

Sec. 7. The authority shall seek grants and other funding for the program from public and private entities.

Sec. 8. The program may be administered in the same manner as the college choice 529 investment plan or any other education savings plan administered by the authority.

Sec. 9. (a) Before November 1 of each year after 2015, the authority shall submit a report on the program to the governor and the general assembly. The report submitted in 2016 must include the following:

(1) Any conclusions and recommendations made by the authority concerning the implementation of the program.

(2) Information concerning the cost and feasibility of expanding the program.

(b) A report submitted to the general assembly under this section must be in an electronic format under IC 5-14-6.

SECTION 6. [EFFECTIVE JULY 1, 2015] **(a) IC 6-3.1-18-6, IC 6-3.1-18-9, and IC 6-3.1-18-10, all as amended by this act, apply to taxable years beginning after December 31, 2014.**

(b) This SECTION expires January 1, 2017.