

HOUSE BILL No. 1303

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-3.

Synopsis: Tax credit for ABLE account contributions. Creates a stand-alone credit for contributions to Indiana ABLE accounts. Provides that a taxpayer is entitled to a credit against adjusted gross income tax equal to the least of: (1) 20% of the amount of the total contributions made by the taxpayer to an account or accounts of an Indiana ABLE 529A savings plan during the taxable year; (2) \$1,000, or \$500 in the case of a married individual filing a separate return; or (3) the amount of the taxpayer's adjusted gross income tax for the taxable year, reduced by the sum of all allowable credits. Provides that a taxpayer is not entitled to a carryback, carryover, or refund of an unused credit. Provides that a taxpayer may not sell, assign, convey, or otherwise transfer the tax credit. Provides that an account owner of an Indiana ABLE 529A savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made.

Effective: January 1, 2023.

Olthoff, Karickhoff, Davisson J.

January 11, 2022, read first time and referred to Committee on Ways and Means.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1303

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.154-2020,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2023]: 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.



4 (3) Money that is credited to an account and that will be
5 transferred to an **from any qualified ABLE program under**
6 **account (as defined in Section 529A of the Internal Revenue Code**
7 **or any other similar plan.**

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

11 (g) As used in this section, "qualified higher education expenses"
12 has the meaning set forth in IC 21-9-2-19.5, except that the term does
13 not include qualified education loan repayments under Section
14 529(c)(9) of the Internal Revenue Code.

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

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

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

29 (2) as a result of the death or disability of an account beneficiary;
30 (3) because an account beneficiary received a scholarship that
31 paid for all or part of the qualified higher education expenses of
32 the account beneficiary, to the extent that the withdrawal or
33 distribution does not exceed the amount of the scholarship; or
34 (4) by a college choice 529 education savings plan as the result of
35 a transfer of funds by a college choice 529 education savings plan
36 from one (1) third party custodian to another.

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



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

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

6 (1) an individual filing a single return;

7 (2) a married couple filing a joint return; or

8 (3) for taxable years beginning after December 31, 2019, a
9 married individual filing a separate return.

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

13 (1) The following amount:

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

21 (i) five hundred dollars (\$500); or

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

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

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

35 (ii) twenty percent (20%) multiplied by the amount of the
36 total contributions that are made by the taxpayer to an
37 account or accounts of a college choice 529 education
38 savings plan during the taxable year and that are designated
39 to pay for qualified K-12 education expenses.

40 (2) One thousand dollars (\$1,000), or five hundred dollars (\$500)
41 in the case of a married individual filing a separate return.

42 (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.

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

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

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

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

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

(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.

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

36 (1) twenty percent (20%) of the total amount of nonqualified
37 withdrawals made during the taxable year from the account; or
38 (2) the excess of:
39 (A) the cumulative amount of all credits provided by this
40 section that are claimed by any taxpayer with respect to the
41 taxpayer's contributions to the account for all prior taxable
42 years beginning on or after January 1, 2007; over



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

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

(s) A nonresident account owner who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident account owner does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

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

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

(2) account closings for the taxable year.

SECTION 2. IC 6-3-3-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023]: **Sec. 12.1. (a) As used in this section, "ABLE account" has the meaning set forth in IC 12-11-14-1.**

(b) As used in this section, "contribution" means the amount of money directly provided to an Indiana ABLE 529A savings plan account by a taxpayer. A contribution does not include any of the following:

(1) Money credited to an ABLE account as a result of bonus points or other forms of consideration earned by the taxpayer that result in a transfer of money to the ABLE account.

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

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

(c) As used in this section, "designated beneficiary" has the meaning set forth in IC 12-11-14-5.

(d) As used in this section, "Indiana ABLE 529A savings plan" refers to the Achieving a Better Life Experience (ABLE) 529A plan established under IC 12-11.



(e) As used in this section, "nonqualified withdrawal" means a withdrawal or distribution from an Indiana ABLE 529A savings plan that is not a qualified withdrawal.

(f) As used in this section, "qualified disability expense" has the meaning set forth in IC 12-11-14-8.

(g) As used in this section, "qualified withdrawal" means a withdrawal or distribution from an Indiana ABLE 529A savings plan that is made:

(1) to pay for qualified disability expenses, excluding any withdrawals or distributions used to pay for qualified disability expenses, if the withdrawals or distributions are made from an Indiana ABLE 529A savings plan that is terminated within twelve (12) months after the ABLE account is opened;

(2) as a result of the death of a designated beneficiary; or

(3) by an Indiana ABLE 529A savings plan as the result of a transfer of funds by an Indiana ABLE 529A savings plan from one (1) third party custodian to another.

A qualified withdrawal does not include a rollover distribution or transfer of assets from an Indiana ABLE 529A savings plan to any other qualified ABLE program under Section 529A of the Internal Revenue Code, or to any qualified tuition program under Section 529 of the Internal Revenue Code other than a college choice 529 saving plan established under IC 21-9, or to any other similar plan.

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

(1) an individual filing a single return;

(2) a married couple filing a joint return; or

(3) a married individual filing a separate return.

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

(1) Twenty percent (20%) of the amount of the total contributions made by the taxpayer to an ABLE account or accounts of an Indiana ABLE 529A savings plan during the taxable year.

(2) One thousand dollars (\$1,000), or five hundred dollars (\$500) in the case of a married individual 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.



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

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

(I) 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.

(m) An owner of an ABLE account of an Indiana ABLE 529A savings plan must repay all or a part of the credit in a taxable year in which any nonqualified withdrawal is made from the ABLE 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 ABLE 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 ABLE account for all prior taxable years; over

(B) the cumulative amount of repayments paid by the owner of the ABLE account under this subsection for all prior taxable years.

(n) Any required repayment under subsection (m) must be reported by the owner of the ABLE account on the owner's annual state income tax return for any taxable year in which a nonqualified withdrawal is made.

(o) A nonresident owner of an ABLE account who is not required to file an annual income tax return for a taxable year in which a nonqualified withdrawal is made shall make any required repayment on the form required under IC 6-3-4-1(2). If the nonresident owner of the ABLE account does not make the required repayment, the department shall issue a demand notice in accordance with IC 6-8.1-5-1.

(p) The executive director of the Indiana ABLE authority shall submit or cause to be submitted to the department a copy of all information returns or statements issued to ABLE account owners, designated beneficiaries, and other taxpayers for each taxable year with respect to:



1 **(1) nonqualified withdrawals made from ABLE accounts for**
2 **the taxable year; or**

3 **(2) ABLE account closings for the taxable year.**

4 SECTION 3. [EFFECTIVE JANUARY 1, 2023] (a) **IC 6-3-3-12.1,**
5 **as added by this act, and IC 6-3-3-12, as amended by this act, apply**
6 **to taxable years beginning after December 31, 2022.**

7 (b) **This SECTION expires January 1, 2026.**

