

# PROPOSED AMENDMENT

## SB 264 # 1

### DIGEST

Venture capital investment tax credit. Adds provisions amending the venture capital investment tax credit (tax credit) to specify that: (1) certain investment policies of funds that qualify as a "qualified Indiana investment fund" apply only to investable capital, excluding management fees, legal fees, and other expenses incurred in the operation of the fund; and (2) a taxpayer is not prevented from combining individual tax credits of less than \$10,000 for assignment.

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- 1       Page 6, after line 23, begin a new paragraph and insert:
- 2       "SECTION 8. IC 6-3.1-24-7.5, AS ADDED BY P.L.165-2021,
- 3       SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4       JULY 1, 2026]: Sec. 7.5. (a) The Indiana economic development
- 5       corporation may certify that an investment fund is a qualified Indiana
- 6       investment fund if the corporation determines that the fund meets the
- 7       definition in section 2.5 of this chapter and the requirements in
- 8       subsection (b).
- 9       (b) The Indiana economic development corporation may only certify
- 10      a fund as a qualified Indiana investment fund if the fund makes
- 11      investments according to a policy that:
- 12          (1) requires eligible companies to be primarily focused on the
- 13          commercialization of research and development, technology
- 14          transfer, or application of new technology; and
- 15          (2) prioritizes investments in companies that:
- 16              (A) have received a grant, loan, or other investment funds
- 17              provided by the Indiana twenty-first century research and
- 18              technology fund established by IC 5-28-16-2; or
- 19              (B) maintain a substantial presence in Indiana.
- 20      **The policy referred to in this subsection shall apply only to**
- 21      **investable capital in the fund, excluding management fees, legal**
- 22      **fees, and other expenses incurred in the operation of the fund.**
- 23      (c) An investment fund must apply to be certified as a qualified
- 24      Indiana investment fund on a form prescribed by the Indiana economic
- 25      development corporation.

(d) If an investment fund is certified as a qualified Indiana investment fund under this section, the Indiana economic development corporation shall provide a copy of the certification to the investors in the qualified Indiana investment fund for inclusion in tax filings.

SECTION 9. IC 6-3.1-24-12, AS AMENDED BY P.L.165-2021, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12. (a) If the amount of the credit determined under section 8 or 8.5 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess credit over for a period not to exceed the taxpayer's following five (5) taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or a refund of any unused credit amount.

(b) If the corporation certifies a credit for an investment that is made after June 30, 2020, and before July 1, 2029, the taxpayer may assign all or part of the credit to which the taxpayer is entitled under this chapter, subject to the limitations set forth in subsection (c).

(c) The following apply to the assignment of a credit under this chapter:

(1) A taxpayer may not assign all or part of a credit or credits to a particular person in amounts that are less than ten thousand dollars (\$10,000).

(2) Before a credit may be assigned, the taxpayer must notify the corporation of the assignment of the credit in the manner prescribed by the corporation.

(3) An assignment of a credit must be in writing, and both the taxpayer and assignee shall report the assignment on the taxpayer's and assignee's state tax returns for the year in which the assignment is made, in the manner prescribed by the department.

(4) Once a particular credit or credits are assigned, the assignee may not assign all or part of the credit or credits to another person.

(5) A taxpayer may not receive value in connection with an assignment under this section that exceeds the value of that part of the credit assigned.

**Nothing in this subsection shall prevent a taxpayer from combining individual credits of less than ten thousand dollars (\$10,000) for assignment.**

1       (d) The corporation shall collect and compile data on the  
2       assignments of tax credits under this chapter and determine the  
3       effectiveness of each assignment in getting projects completed. The  
4       corporation shall report its findings under this subsection to the  
5       legislative council in an electronic format under IC 5-14-6 before  
6       November 1, 2022. This subsection expires January 1, 2023."

7       Renumber all SECTIONS consecutively.  
      (Reference is to SB 264 as introduced.)