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SENATE BILL No. 264

Proposed Changes to introduced printing by AM026401

DIGEST OF PROPOSED AMENDMENT

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.

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 6-3.1-13-2, AS AMENDED BY P.L.4-2005,
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]: Sec. 2. (a) As used in this chapter, "credit amount"
4 means the amount agreed to between the corporation and applicant
5 under this chapter, but not to exceed, in the case of a credit awarded for
6 a project to create new jobs in Indiana, the incremental income tax
7 withholdings attributable to the applicant's project.

8 (b) Notwithstanding subsection (a), in the case of a credit
9 awarded for a project to create new jobs in Indiana that are filled
10 by a full-time employee, as defined in section 4 of this chapter, who
11 is a new resident of Indiana, as determined by the corporation, the
12 credit amount means the amount agreed to between the
13 corporation and applicant under this chapter not to exceed ten
14 thousand dollars (\$10,000).

15 SECTION 2. IC 6-3.1-13-13, AS AMENDED BY P.L.74-2020,
16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2026]: Sec. 13. (a) The corporation may make credit awards

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1 under this chapter for any of the following:

2 (1) To foster job creation in Indiana.
 3 (2) To foster job retention in Indiana.

4 **(3) To foster job and employee retention in Indiana through
 5 the increase of wages paid to existing full-time employees.**

6 (b) The credit shall be claimed for the taxable years specified in
 7 the taxpayer's tax credit agreement.

8 SECTION 3. IC 6-3.1-13-14, AS AMENDED BY P.L.74-2020,
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2026]: Sec. 14. (a) A person that proposes a project to create
 11 new jobs in Indiana may apply, as provided in section 15 of this
 12 chapter, to the corporation to enter into an agreement for a tax credit
 13 under this chapter.

14 (b) A person that proposes to retain existing jobs in Indiana may
 15 apply, as provided in section 15.5 of this chapter, to the corporation to
 16 enter into an agreement for a tax credit under this chapter.

17 **(c) A person that proposes to retain existing jobs and
 18 employees in Indiana by increasing wages paid to existing full-time
 19 employees may apply, as provided in section 15.6 of this chapter,
 20 to the corporation to enter into an agreement for a tax credit under
 21 this chapter.**

22 ~~(e)~~ (d) The corporation shall prescribe the form of the application.

23 SECTION 4. IC 6-3.1-13-15, AS AMENDED BY P.L.197-2005,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2026]: Sec. 15. **(a)** This ~~section~~ ~~subsection~~ applies to an
 26 application proposing a project to create new jobs in Indiana. After
 27 receipt of an application, the corporation may enter into an agreement
 28 with the applicant for a credit under this chapter if the corporation
 29 determines that all of the following conditions exist:

30 (1) The applicant's project will create new jobs that were not jobs
 31 previously performed by employees of the applicant in Indiana.

32 (2) The applicant's project is economically sound and will
 33 benefit the people of Indiana by increasing opportunities for
 34 employment in Indiana and strengthening the economy of
 35 Indiana.

36 (3) Receiving the tax credit is a major factor in the applicant's
 37 decision to go forward with the project and not receiving the tax
 38 credit will result in the applicant not creating new jobs in
 39 Indiana.

40 (4) Awarding the tax credit will result in an overall positive
 41 fiscal impact to the state, as certified by the budget agency using
 42 the best available data.

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- (5) The credit is not prohibited by section 16 of this chapter.
- (6) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

(1) The new jobs created by the applicant's project may be filled by individuals who, prior to their employment at the project location, were not residents of Indiana.

(2) The applicant's project is engaging in research and development, manufacturing, or business services, according to the NAICS Manual of the United States Office of Management and Budget.

(3) The applicant will implement or maintain a program that facilitates the relocation of individuals to Indiana for the purpose of employment by the applicant at the project location through payments to reimburse the individual, or that are paid directly to third parties on behalf of the individual, that include:

- (A) moving costs;
- (B) relocation bonuses;
- (C) housing assistance;
- (D) storage fees;
- (E) home sale or purchase assistance; or
- (F) other applicable expenses associated with relocating individuals to Indiana that are approved by the corporation.

(4) The average compensation (including benefits) provided to the applicant's new employees exceeds two hundred percent (200%) of the state average wage.

SECTION 5. IC 6-3.1-13-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2026]: Sec. 15.6. This section applies to an
 2 application proposing to retain existing jobs and employees in
 3 Indiana through the increase of wages paid to existing Indiana
 4 resident full-time employees. After receipt of an application, the
 5 corporation may enter into an agreement with the applicant for a
 6 credit under this chapter if the corporation determines that all of
 7 the following conditions exist:

8 (1) The conditions in section 15.5(1) through 15.5(5) of this
 9 chapter, section 15.5(7) through 15.5(8) of this chapter, and
 10 section 15.5(10) of this chapter are satisfied.
 11 (2) Receiving the tax credit is a major factor in the
 12 applicant's decision to increase the wages of existing
 13 employees at the project location by at least twenty-five
 14 percent (25%).
 15 (3) Awarding the tax credit will reduce the potential:
 16 (A) loss of employees; and
 17 (B) of the applicant either:
 18 (i) reducing jobs in Indiana, or
 19 (ii) maintaining job vacancies because of the loss of
 20 employees in Indiana.

21 SECTION 6. IC 6-3.1-13-17, AS AMENDED BY P.L.135-2022,
 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2026]: Sec. 17. (a) If the applicant proposes a project that will
 24 be located at a physical location in Indiana, in determining the credit
 25 amount that should be awarded to an applicant under section 15 of this
 26 chapter that proposes a project to create jobs in Indiana, the corporation
 27 may take into consideration the following factors:

28 (1) The economy of the county where the projected investment
 29 is to occur.
 30 (2) The potential impact on the economy of Indiana.
 31 (3) The incremental payroll attributable to the project.
 32 (4) The capital investment attributable to the project.
 33 (5) The amount the average wage paid by the applicant exceeds
 34 the average wage paid:
 35 (A) within the county in which the project will be located,
 36 in the case of an application submitted before January 1,
 37 2006; or
 38 (B) in the case of an application submitted after December
 39 31, 2005:
 40 (i) to all employees working in the same NAICS
 41 industry sector to which the applicant's business
 42 belongs in the county in which the applicant's business

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is located, if there is more than one (1) business in that NAICS industry sector in the county in which the applicant's business is located;

(ii) to all employees working in the same NAICS industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in that NAICS industry sector in Indiana; or

(iii) to all employees working in the same county as the county in which the applicant's business is located, if there is no other business in Indiana in the same NAICS industry sector to which the applicant's business belongs.

16 (6) The costs to Indiana and the affected political subdivisions
17 with respect to the project.

(8) The extent to which the incremental income tax withholdings attributable to the applicant's project are needed for the purposes of an incremental tax financing fund or industrial development fund under IC 36-7-13 or a certified technology park fund under IC 36-7-32.

25 As appropriate, the corporation shall consider the factors in this
26 subsection to determine the credit amount awarded to an applicant for
27 a project to retain existing jobs in Indiana under section 15.5 of this
28 chapter **or to retain existing employees and their jobs in Indiana**
29 **under section 15.6 of this chapter.**

34 (1) The potential impact on the economy in Indiana.

35 (2) The incremental payroll attributable to the project.

(3) The amount of average wage paid by the applicant that exceeds the average wage paid to all employees working in the same NAICS industry sector to which the applicant's business belongs in Indiana.

40 (4) The cost to Indiana with respect to the project.

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3 (c) An applicant proposing a project that meets the requirements
4 of subsection (b) must propose:

5 (1) to create at least fifty (50) new full-time jobs; and
6 (2) to pay an average hourly wage of at least one hundred fifty
7 percent (150%) of the state average wage;

8 in order to be eligible to receive a credit under this chapter.

9 SECTION 7. IC 6-3.1-13-18, AS AMENDED BY P.L.135-2022,
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2026]: Sec. 18. (a) The corporation shall determine the
12 amount and duration of a tax credit awarded under this chapter. The
13 duration of the credit may not exceed twenty (20) taxable years. The
14 credit may be stated as a percentage of the incremental income tax
15 withholdings attributable to the applicant's project and may include a
16 fixed dollar limitation. **Except as otherwise provided in section 2(b)**
17 **of this chapter**, in the case of a credit awarded for a project to create
18 new jobs in Indiana, the credit amount may not exceed the incremental
19 income tax withholdings. However, the credit amount claimed for a
20 taxable year may exceed the taxpayer's state tax liability for the taxable
21 year, in which case the excess may, at the discretion of the corporation,
22 be refunded to the taxpayer.

(b) This subsection does not apply to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. A credit under this chapter may not be computed on any amount withheld from an individual or paid to an individual for services provided in Indiana as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a. [

41 (1) requires eligible companies to be primarily focused on the
42 commercialization of research and development, technology



1 transfer, or application of new technology; and
 2

3 (2) prioritizes investments in companies that:

4 (A) have received a grant, loan, or other investment funds
 5 provided by the Indiana twenty-first century research and
 6 technology fund established by IC 5-28-16-2; or

(B) maintain a substantial presence in Indiana.

7 **The policy referred to in this subsection shall apply only to
 8 investable capital in the fund, excluding management fees, legal
 9 fees, and other expenses incurred in the operation of the fund.**

10 (c) An investment fund must apply to be certified as a qualified
 11 Indiana investment fund on a form prescribed by the Indiana economic
 12 development corporation.

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

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

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

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

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

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

40 (3) An assignment of a credit must be in writing, and both the
 41 taxpayer and assignee shall report the assignment on the
 42 taxpayer's and assignee's state tax returns for the year in which



1 the assignment is made, in the manner prescribed by the
2 department.

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

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

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

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

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