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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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under this chapter for any of the following:

(1) To foster job creation in Indiana.

(2) To foster job retention in Indiana.

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

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

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

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

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

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

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

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

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

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

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



(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.

(b) This subsection applies to an application proposing to create new jobs in Indiana that may be filled by an individual who is a new resident of Indiana, as determined by the corporation. In addition to the conditions contained in subsection (a), the corporation may enter into an agreement with the applicant for a credit under this chapter that may exceed the incremental income tax withholdings attributable to the applicant's project if the corporation determines that all of the following conditions exist:

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

(1) The conditions in section 15.5(1) through 15.5(5) of this chapter, section 15.5(7) through 15.5(8) of this chapter, and section 15.5(10) of this chapter are satisfied.

(2) Receiving the tax credit is a major factor in the applicant's decision to increase the wages of existing employees at the project location by at least twenty-five percent (25%).

(3) Awarding the tax credit will reduce the potential:

(A) loss of employees; and

(B) of the applicant either:

(i) reducing jobs in Indiana, or

(ii) maintaining job vacancies because of the loss of employees in Indiana.

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

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) The incremental payroll attributable to the project.

(4) The capital investment attributable to the project.

(5) The amount the average wage paid by the applicant exceeds the average wage paid:

(A) within the county in which the project will be located, in the case of an application submitted before January 1, 2006; or

(B) in the case of an application submitted after December 31, 2005:

(i) to all employees working in the same NAICS industry sector to which the applicant's business belongs in the county in which the applicant's business



- 1 is located, if there is more than one (1) business in that
 2 NAICS industry sector in the county in which the
 3 applicant's business is located;
 4 (ii) to all employees working in the same NAICS
 5 industry sector to which the applicant's business
 6 belongs in Indiana, if the applicant's business is the
 7 only business in that NAICS industry sector in the
 8 county in which the applicant's business is located but
 9 there is more than one (1) business in that NAICS
 10 industry sector in Indiana; or
 11 (iii) to all employees working in the same county as the
 12 county in which the applicant's business is located, if
 13 there is no other business in Indiana in the same
 14 NAICS industry sector to which the applicant's
 15 business belongs.
- 16 (6) The costs to Indiana and the affected political subdivisions
 17 with respect to the project.
 18 (7) The financial assistance and incentives that are otherwise
 19 provided by Indiana and the affected political subdivisions.
 20 (8) The extent to which the incremental income tax withholdings
 21 attributable to the applicant's project are needed for the purposes
 22 of an incremental tax financing fund or industrial development
 23 fund under IC 36-7-13 or a certified technology park fund under
 24 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.**
- 30 (b) Subject to the limitations of subsection (c), if an applicant
 31 proposes a project that proposes to create new jobs in Indiana but does
 32 not propose a physical location in Indiana, the corporation may
 33 consider the following factors:
- 34 (1) The potential impact on the economy in Indiana.
 35 (2) The incremental payroll attributable to the project.
 36 (3) The amount of average wage paid by the applicant that
 37 exceeds the average wage paid to all employees working in the
 38 same NAICS industry sector to which the applicant's business
 39 belongs in Indiana.
 40 (4) The cost to Indiana with respect to the project.
 41 (5) The financial assistance and incentives that are otherwise
 42 provided by Indiana.



(6) The extent of Indiana income tax that is paid by eligible employees.

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

(1) to create at least fifty (50) new full-time jobs; and

(2) to pay an average hourly wage of at least one hundred fifty percent (150%) of the state average wage;

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

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

SECTION 8. IC 6-3.1-24-7.5, AS ADDED BY P.L.165-2021, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 7.5. (a) The Indiana economic development corporation may certify that an investment fund is a qualified Indiana investment fund if the corporation determines that the fund meets the definition in section 2.5 of this chapter and the requirements in subsection (b).

(b) The Indiana economic development corporation may only certify a fund as a qualified Indiana investment fund if the fund makes investments according to a policy that:

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



transfer, or application of new technology; and

(2) prioritizes investments in companies that:

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

(B) maintain a substantial presence in Indiana.

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

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

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

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