HOUSE BILL No. 1285

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-39; IC 6-3-2; IC 6-3.1-13.

Synopsis: Economic development and wind turbines. Establishes the Hoosier heritage innovative industry loan fund. Authorizes interest free loans, reduced income tax rates, and enhanced economic development for a growing economy (EDGE) tax credits to encourage the manufacturing of wind turbine components in Indiana using steel produced in the United States. Transfers $1,000,000 from the Indiana twenty-first century research and technology fund to the Hoosier heritage innovative industry loan fund. Makes an appropriation.

Effective: July 1, 2017.

Moseley

January 10, 2017, read first time and referred to Committee on Ways and Means.

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1285

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

SECTION 1. IC 5-28-39 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 39. Hoosier Heritage Innovative Industry Loan Fund

Sec. 1. As used in this chapter, "fund" refers to the Hoosier heritage innovative industry loan fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "qualified wind turbine facility" means a facility that fabricates or manufactures wind turbines or the gearbox or tower components of a wind turbine using steel made in the United States.

Sec. 3. (a) The Hoosier heritage innovative industry loan fund is established to provide loans to support the establishment of a qualified wind turbine facility in Indiana.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) money transferred to the fund from the Indiana

twenty-first century research and technology fund established by IC 5-28-16-2; and
(3) loan repayments.

(c) The corporation shall administer the fund. The following may be paid from the fund:
(1) Expenses of administering the fund.
(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) The money in the fund at the end of the state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(f) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 4. (a) The board may make a loan to an applicant from the fund as provided in this chapter.

(b) A successful applicant may receive an interest free loan from the fund for an amount not to exceed one million dollars ($1,000,000) to establish a qualified wind turbine facility in Indiana. The term of the loan may not exceed twenty (20) years.

Sec. 5. (a) A successful applicant for a loan from the fund must meet the requirements of this section and be approved by the board. An application for a loan from the fund must be made on an application form prescribed by the board. An applicant shall provide all information that the board finds necessary to make the determinations required by this chapter.

(b) All applications for a loan from the fund must include the following:
(1) A commitment to use steel produced in the United States in the fabrication or manufacture of wind turbines or the gearbox or tower components of a wind turbine.
(2) A detailed financial analysis that includes the commitment of resources by other entities that will be involved in the project.
(3) A statement of the economic development potential of the project, such as:
(A) a statement of the way in which a loan from the fund will lead to significantly increased funding from federal or private sources and from private sector research partners;

or
(B) a projection of the jobs to be created.
(4) The identity, qualifications, and obligations of the applicant.
(5) Any other information the board considers appropriate.
An applicant for a loan from the fund may request that certain information that is submitted by the applicant be kept confidential. The board shall make a determination of confidentiality as soon as is practicable. If the board determines that the information should not be kept confidential, the applicant may withdraw the application, and the board shall return the information before the information may be part of any public record.

Sec. 6. (a) The board shall accept, analyze, and approve applications as provided in this chapter.

(b) The board shall give priority to an application for a loan from the fund that has the greatest economic development potential.

Sec. 7. Before July 15, 2017, the auditor of state shall transfer to the fund one million dollars ($1,000,000) from the Indiana twenty-first century research and technology fund established by IC 5-28-16-2.

SECTION 2. IC 6-3-2-1, AS AMENDED BY P.L.80-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) **Except as provided in section 1.6 of this chapter,** each taxable year, a tax at the following rate of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person:

(1) For taxable years beginning before January 1, 2015, three and four-tenths percent (3.4%).
(2) For taxable years beginning after December 31, 2014, and before January 1, 2017, three and three-tenths percent (3.3%).
(3) For taxable years beginning after December 31, 2016, three and twenty-three hundredths percent (3.23%).

(b) Except as provided in section 1.5 **or 1.6** of this chapter, each taxable year, a tax at the following rate of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation:

(1) Before July 1, 2012, eight and five-tenths percent (8.5%).
(2) After June 30, 2012, and before July 1, 2013, eight percent (8.0%).
(3) After June 30, 2013, and before July 1, 2014, seven and

five-tenths percent (7.5%).

(4) After June 30, 2014, and before July 1, 2015, seven percent (7.0%).

(5) After June 30, 2015, and before July 1, 2016, six and five-tenths percent (6.5%).

(6) After June 30, 2016, and before July 1, 2017, six and twenty-five hundredths percent (6.25%).

(7) After June 30, 2017, and before July 1, 2018, six percent (6.0%).

(8) After June 30, 2018, and before July 1, 2019, five and seventy-five hundredths percent (5.75%).

(9) After June 30, 2019, and before July 1, 2020, five and five-tenths percent (5.5%).

(10) After June 30, 2020, and before July 1, 2021, five and twenty-five hundredths percent (5.25%).

(11) After June 30, 2021, four and nine-tenths percent (4.9%).

(c) If for any taxable year a taxpayer is subject to different tax rates under subsection (b), the taxpayer's tax rate for that taxable year is the rate determined in the last STEP of the following STEPS:

STEP ONE: Multiply the number of months in the taxpayer's taxable year that precede the month the rate changed by the rate in effect before the rate change.

STEP TWO: Multiply the number of months in the taxpayer's taxable year that follow the month before the rate changed by the rate in effect after the rate change.

STEP THREE: Divide the sum of the amounts determined under STEPS ONE and TWO by twelve (12).

However, the rate determined under this subsection shall be rounded to the nearest one-hundredth of one percent (0.01%).

SECTION 3. IC 6-3-2-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 1.6. (a) This section applies only to taxable years beginning after December 31, 2017.**

(b) As used in this section, "IEDC" refers to the Indiana economic development corporation.

(c) As used in this section, "qualified wind turbine facility" has the meaning set forth in IC 5-28-39-2.

(d) A tax at the rate of:

(1) four and eight-tenths percent (4.8%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation; or

(2) two and four-tenths percent (2.4%) is imposed on that part

of the adjusted gross income of a person;
that is derived from a qualified wind turbine facility that has been approved by the IEDC under subsection (f). The tax rate under this section applies to the taxable year in which the qualified wind turbine facility begins operation and to the next succeeding taxable year.

(e) In order for a taxpayer to be taxed at the tax rate described in subsection (d), the IEDC must approve an application submitted by the taxpayer to the IEDC. The application must be on a form prescribed by the IEDC.

(f) After receipt of an application, the IEDC may enter into an agreement with the taxpayer to have a tax rate described in subsection (d) imposed on the adjusted gross income of the taxpayer if the IEDC determines that all the following conditions exist:

(1) The taxpayer makes a commitment to use steel made in the United States to fabricate or manufacture wind turbines or the gearboxes or tower components for wind turbines at the taxpayer's proposed qualified wind turbine facility.

(2) The amount of the average wage paid to an employee working for the taxpayer exceeds the average wage paid to an employee in the county where the taxpayer proposes to establish the qualified wind turbine facility.

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

(4) The taxpayer'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.

(5) Receiving the tax rate provided in subsection (d) is a major factor in the taxpayer's decision to go forward with the project, and not receiving the tax rate will result in the taxpayer not creating new jobs in Indiana.

(6) The approval of the tax rate provided in subsection (d) will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(7) The taxpayer is not prohibited by subsection (h) from receiving the tax rate provided in subsection (d).

(g) In determining whether to approve an application for the tax rate described in subsection (d), the IEDC 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 costs to Indiana and the affected political subdivisions with respect to the project.

(6) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.

(h) A taxpayer may not be taxed at the tax rate described in subsection (d) if the taxpayer moves a qualified wind turbine facility in Indiana to another site in Indiana. The IEDC shall make any determinations concerning the taxpayer's eligibility for receiving the tax rate.

(i) The IEDC may enter into an agreement under this section only if the IEDC has received applications from at least two (2) separate applicants proposing to establish a qualified wind turbine facility in Indiana.

(j) The taxpayer must file with the taxpayer's annual state tax return or returns a copy of the agreement entered into by the corporation and the taxpayer under this section.

(k) The department:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a taxpayer's adjusted gross income that was derived from a qualified wind turbine facility; and

(2) may adopt other rules under IC 4-22-2 the department considers necessary to implement this section.

SECTION 4. IC 6-3.1-13-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 3.5. As used in this chapter, "enhanced credit amount" means the amount agreed to between the corporation and an applicant to establish a qualified wind turbine facility. The amount of the enhanced credit amount may not exceed the amount described in section 15.1 of this chapter.**

SECTION 5. IC 6-3.1-13-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 7.5. As used in this chapter, "qualified wind turbine facility" has the meaning set forth in IC 5-28-39-2.**

SECTION 6. IC 6-3.1-13-14, AS AMENDED BY P.L.145-2016, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2017]: Sec. 14. (a) A person that proposes a project to create new jobs in Indiana may apply, as provided in ~~section~~ **sections** 15 **and 15.1** 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) This subsection applies to taxable years beginning after December 31, 2014, and before January 1, 2019. A person that proposes to employ in Indiana students who have participated in a course of study that includes a cooperative arrangement between an educational institution and an employer for the training of students in high wage, high demand jobs that require an industry certification may apply, as provided in section 15.7 of this chapter, to the corporation to enter into a agreement for a tax credit under this chapter.

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

SECTION 7. IC 6-3.1-13-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 15.1. (a) This section applies to an application by an applicant proposing a project to establish a qualified wind turbine facility in Indiana.**

(b) In addition to a credit provided in an agreement under section 15 of this chapter, the corporation may enter into an agreement with an applicant to provide an enhanced credit amount of up to one and sixth-tenths percent (1.6%) of the incremental amount of wages subject to tax under IC 6-3 that is attributable to the applicant's qualified wind turbine project. This amount is in addition to the maximum credit amount that may be awarded under section 18(a) of this chapter. The duration of the enhanced credit part of a credit provided under this chapter may not exceed two (2) taxable years.

(c) In order for the corporation to enter into an agreement with an applicant to provide the enhanced credit amount provided in subsection (b), the corporation must determine that the following conditions are met:

(1) The applicant agrees to use steel made in the United States to fabricate or manufacture wind turbines or the gearboxes or tower components for wind turbines.

(2) The amount of the average wage to be paid to a new employee by the applicant exceeds by at least ten percent (10%) the average wage paid to an employee in the county where the applicant proposes to establish the qualified wind

turbine facility.

(3) The conditions specified in section 15 of this chapter.

(d) The corporation may enter into an agreement under this section only if the corporation has received applications from at least two (2) separate applicants proposing to establish a qualified wind turbine facility in Indiana.

SECTION 8. IC 6-3.1-13-17, AS AMENDED BY P.L.197-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 **or 15.1** 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 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.

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

(7) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.

(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.

As appropriate, the corporation shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter.

SECTION 9. IC 6-3.1-13-18, AS AMENDED BY P.L.213-2015, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. **Except as provided in section 15.1 of this chapter,** the duration of the credit may not exceed ten (10) 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. 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 **sum of the** credit amount **and the enhanced 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) For state fiscal year 2006 and each state fiscal year thereafter, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed ten million dollars ($10,000,000) per year.

(c) The aggregate amount of credits that may be awarded by the corporation under this chapter in the state fiscal year beginning July 1, 2015, for projects to create jobs in Indiana may not exceed two hundred twenty-five million dollars ($225,000,000). This subsection expires July 1, 2016.

(d) 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 10. [EFFECTIVE JULY 1, 2017] **(a) IC 6-3.1-13-3.5, IC 6-3.1-13-7.5, and IC 6-3.1-13-15.1, all as added by this act, apply**

to taxable years beginning after December 31, 2017.

(b) IC 6-3.1-13-14, IC 6-3.1-13-17, and IC 6-3.1-13-18, all as amended by this act, apply to taxable years beginning after December 31, 2017.

(c) This SECTION expires January 1, 2020.