

SENATE BILL No. 216

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-13.

Synopsis: EDGE tax credits. Amends the definition of "incremental income tax withholdings" for purposes of the economic development for a growing economy (EDGE) tax credit to accommodate nonresident employees. Provides that, for purposes of the EDGE tax credit, the term "new employee" includes a full-time employee who resides outside Indiana.

Effective: July 1, 2021.

Holdman

January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 216

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 6-3.1-13-5, AS AMENDED BY P.L.158-2019,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 5. (a) As used in this chapter, "incremental
4 income tax withholdings" means **the following**:
5 **(1) For tax credits awarded before July 1, 2021**, either:
6 ~~(1)~~ **(A)** the total amount withheld under IC 6-3-4-8 by the
7 taxpayer during the taxable year from the compensation of
8 new employees; or
9 ~~(2)~~ **(B)** the sum of:
10 ~~(A)~~ **(i)** the total amount withheld under IC 6-3-4-8 by the
11 taxpayer during the taxable year from the compensation of
12 new employees; plus
13 ~~(B)~~ **(ii)** the additional amount that would have been withheld
14 under IC 6-3-4-8 by the taxpayer during the taxable year
15 from the compensation of new employees as if the new
16 Indiana nonresident employees had been Indiana residents;
17 as determined by the corporation.



- 1 **(2) For tax credits awarded after June 30, 2021, the sum of:**
 2 **(A) the total amount withheld under IC 6-3-4-8 by the**
 3 **taxpayer during the taxable year from the compensation of**
 4 **new Indiana resident employees; plus**
 5 **(B) the additional amount that would have been withheld**
 6 **under IC 6-3-4-8 by the taxpayer during the taxable year**
 7 **from the compensation of new employees as if the new**
 8 **Indiana nonresident employees had been Indiana residents.**

9 (b) The term does not include any amount withheld from an
 10 individual or an additional amount described in subsection ~~(a)(2)~~
 11 **(a)(1)(B) or (a)(2)** for an individual for services provided in Indiana as
 12 an employee, if the:

- 13 (1) individual was, during the period of service, prohibited from
 14 being hired as an employee under 8 U.S.C. 1324a; and
 15 (2) taxpayer was not enrolled and participating in the E-Verify
 16 program (as defined in IC 22-5-1.7-3) during the time the
 17 taxpayer conducted business in Indiana in the taxable year.

18 SECTION 2. IC 6-3.1-13-6 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) As used in this
 20 chapter, "new employee" means a full-time employee first employed by
 21 a taxpayer in the project that is the subject of a tax credit agreement
 22 and who is employed after the taxpayer enters into the tax credit
 23 agreement. **For tax credits awarded after June 30, 2021, the term**
 24 **includes a full-time employee who resides outside Indiana.**

25 (b) The term "new employee" does not include:

- 26 (1) an employee of the taxpayer who performs a job that was
 27 previously performed by another employee, if that job existed for
 28 at least six (6) months before hiring the new employee;
 29 (2) an employee of the taxpayer who was previously employed in
 30 Indiana by a related member of the taxpayer and whose
 31 employment was shifted to the taxpayer after the taxpayer entered
 32 into the tax credit agreement; or
 33 (3) a child, grandchild, parent, or spouse, other than a spouse who
 34 is legally separated from the individual, of any individual who is
 35 an employee of the taxpayer and who has a direct or an indirect
 36 ownership interest of at least five percent (5%) in the profits,
 37 capital, or value of the taxpayer (an ownership interest shall be
 38 determined in accordance with Section 1563 of the Internal
 39 Revenue Code and regulations prescribed under that Section).

40 (c) Notwithstanding subsection (b)(1), if a new employee performs
 41 a job that was previously performed by an employee who was:

- 42 (1) treated under the agreement as a new employee; and



- 1 (2) promoted by the taxpayer to another job;
- 2 the employee may be considered a new employee under the agreement.
- 3 (d) Notwithstanding subsection (a), the board may credit awards to
- 4 an applicant that met the conditions of this chapter at the time of the
- 5 applicant's location or expansion decision, if:
- 6 (1) the applicant is in receipt of a letter from the department of
- 7 commerce stating an intent to enter into a credit agreement; and
- 8 (2) the letter described in subdivision (1) is issued by the
- 9 department of commerce not later than March 15, 1994.

