

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 529 be amended to read as follows:

- 1 Page 4, delete lines 17 through 22, begin a new paragraph and
- 2 insert:
- 3 **"Sec. 1. As used in this chapter, "director" means the chief**
- 4 **executive and administrative officer of the office.**
- 5 **Sec. 2. As used in this chapter, "office" refers to the Indiana**
- 6 **office of defense development established by section 3 of this**
- 7 **chapter."**
- 8 Page 4, delete lines 38 through 42, begin a new paragraph and
- 9 insert:
- 10 **"Sec. 5. The lieutenant governor shall appoint the director of the**
- 11 **office. The director shall report directly to the lieutenant governor.**
- 12 **The director:**
- 13 **(1) is entitled to receive compensation in an amount set by the**
- 14 **lieutenant governor, subject to the approval of the budget**
- 15 **agency under IC 4-12-1-13;**
- 16 **(2) may appoint employees in the manner provided by**
- 17 **IC 4-15-2.2;**
- 18 **(3) may fix the compensation of employees of the office,**
- 19 **subject to the approval of the budget agency under**
- 20 **IC 4-12-1-13; and**
- 21 **(4) may delegate the director's authority to the appropriate**
- 22 **office staff."**
- 23 Page 5, delete lines 1 through 8.
- 24 Page 7, between lines 23 and 24, begin a new paragraph and insert:

1 "SECTION 12. IC 6-3-2-1, AS AMENDED BY P.L.172-2011,  
 2 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2013]: Sec. 1. (a) **Except as provided in section 1.6 of this**  
 4 **chapter**, each taxable year, a tax at the rate of three and four-tenths  
 5 percent (3.4%) of adjusted gross income is imposed upon the adjusted  
 6 gross income of every resident person, and on that part of the adjusted  
 7 gross income derived from sources within Indiana of every nonresident  
 8 person.

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

13 (1) Before July 1, 2012, eight and five-tenths percent (8.5%).

14 (2) After June 30, 2012, and before July 1, 2013, eight percent  
 15 (8.0%).

16 (3) After June 30, 2013, and before July 1, 2014, seven and  
 17 five-tenths percent (7.5%).

18 (4) After June 30, 2014, and before July 1, 2015, seven percent  
 19 (7.0%).

20 (5) After June 30, 2015, six and five-tenths percent (6.5%).

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

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

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

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

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

34 SECTION 13. IC 6-3-2-1.6 IS ADDED TO THE INDIANA CODE  
 35 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 36 1, 2013]: **Sec. 1.6. (a) This section applies only to taxable years**  
 37 **beginning after December 31, 2013.**

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

40 (c) **As used in this section, "qualified wind turbine facility"**  
 41 **means a facility that fabricates or manufactures wind turbines or**  
 42 **the gearbox or tower components of a wind turbine using steel**  
 43 **made in the United States.**

44 (d) **A tax at the rate of:**

45 (1) **five percent (5%) of adjusted gross income is imposed on**  
 46 **that part of the adjusted gross income of a corporation; or**

1           **(2) two and four-tenths percent (2.4%) is imposed on that part**  
 2           **of the adjusted gross income of a person;**  
 3           **that is derived from a qualified wind turbine facility that has been**  
 4           **approved by the IEDC under subsection (f). The tax rate under this**  
 5           **section applies to the taxable year in which the qualified wind**  
 6           **turbine facility begins operation and to the next succeeding taxable**  
 7           **year.**

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

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

17           **(1) The taxpayer makes a commitment to use steel made in the**  
 18           **United States to fabricate or manufacture wind turbines or**  
 19           **the gearboxes or towers for wind turbines at the taxpayer's**  
 20           **proposed qualified wind turbine facility.**

21           **(2) The amount of the average wage paid to an employee**  
 22           **working for the taxpayer exceeds by at least ten percent**  
 23           **(10%) the average wage paid to an employee in the county**  
 24           **where the taxpayer proposes to establish the qualified wind**  
 25           **turbine facility.**

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

29           **(4) The taxpayer's project is economically sound and will**  
 30           **benefit the people of Indiana by increasing opportunities for**  
 31           **employment in Indiana and strengthening the economy of**  
 32           **Indiana.**

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

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

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

42           **(g) In determining whether to approve an application for the tax**  
 43           **rate described in subsection (d), the IEDC may take into**  
 44           **consideration the following factors:**

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

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

1           **(3) The incremental payroll attributable to the project.**

2           **(4) The capital investment attributable to the project.**

3           **(5) The costs to Indiana and the affected political subdivisions**  
4           **with respect to the project.**

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

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

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

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

19           **(k) The department of state revenue:**

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

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

26           **SECTION 14. IC 6-3.1-13-3.5 IS ADDED TO THE INDIANA**  
27           **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
28           **[EFFECTIVE JULY 1, 2013]: Sec. 3.5. As used in this chapter,**  
29           **"enhanced credit amount" means the amount agreed to between**  
30           **the corporation and an applicant to establish a qualified wind**  
31           **turbine facility. The amount of the enhanced credit amount may**  
32           **not exceed the amount described in section 15.1 of this chapter.**

33           **SECTION 15. IC 6-3.1-13-7.5 IS ADDED TO THE INDIANA**  
34           **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
35           **[EFFECTIVE JULY 1, 2013]: Sec. 7.5. As used in this chapter,**  
36           **"qualified wind turbine facility" has the meaning set forth in**  
37           **IC 6-3-2-1.6(c).**

38           **SECTION 16. IC 6-3.1-13-14, AS AMENDED BY P.L.4-2005,**  
39           **SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**  
40           **JULY 1, 2013]: Sec. 14. A person that proposes a project to create new**  
41           **jobs in Indiana may apply, as provided in ~~section~~ sections 15 and 15.1**  
42           **of this chapter, to the corporation to enter into an agreement for a tax**  
43           **credit under this chapter. A person that proposes to retain existing jobs**  
44           **in Indiana may apply, as provided in section 15.5 of this chapter, to the**  
45           **corporation to enter into an agreement for a tax credit under this**  
46           **chapter. The director shall prescribe the form of the application.**

1 SECTION 17. IC 6-3.1-13-15.1 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2013]: **Sec. 15.1. (a) This section applies to an**  
 4 **application by an applicant proposing a project to establish a**  
 5 **qualified wind turbine facility in Indiana.**

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

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

20 **(1) The applicant agrees to use steel made in the United States**  
 21 **to fabricate or manufacture wind turbines or the gearboxes or**  
 22 **towers for wind turbines.**

23 **(2) The amount of the average wage to be paid to a new**  
 24 **employee by the applicant exceeds by at least ten percent**  
 25 **(10%) the average wage paid to an employee in the county**  
 26 **where the applicant proposes to establish the qualified wind**  
 27 **turbine facility.**

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

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

33 SECTION 18. IC 6-3.1-13-17, AS AMENDED BY P.L.197-2005,  
 34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2013]: Sec. 17. In determining the credit amount that should  
 36 be awarded to an applicant under section 15 **or 15.1** of this chapter that  
 37 proposes a project to create jobs in Indiana, the corporation may take  
 38 into consideration the following factors:

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

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

42 **(3) The incremental payroll attributable to the project.**

43 **(4) The capital investment attributable to the project.**

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

46 **(A) within the county in which the project will be located, in**

1 the case of an application submitted before January 1, 2006; or  
 2 (B) in the case of an application submitted after December 31,  
 3 2005:

4 (i) to all employees working in the same NAICS industry  
 5 sector to which the applicant's business belongs in the  
 6 county in which the applicant's business is located, if there  
 7 is more than one (1) business in that NAICS industry sector  
 8 in the county in which the applicant's business is located;

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

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

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

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

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

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

31 SECTION 19. IC 6-3.1-13-18, AS AMENDED BY P.L.171-2011,  
 32 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2013]: Sec. 18. (a) The corporation shall determine the  
 34 amount and duration of a tax credit awarded under this chapter. **Except**  
 35 **as provided in section 15.1 of this chapter**, the duration of the credit  
 36 may not exceed ten (10) taxable years. The credit may be stated as a  
 37 percentage of the incremental income tax withholdings attributable to  
 38 the applicant's project and may include a fixed dollar limitation. In the  
 39 case of a credit awarded for a project to create new jobs in Indiana, the  
 40 credit amount may not exceed the incremental income tax  
 41 withholdings. However, the **sum of the** credit amount **and the**  
 42 **enhanced credit amount** claimed for a taxable year may exceed the  
 43 taxpayer's state tax liability for the taxable year, in which case the  
 44 excess may, at the discretion of the corporation, be refunded to the  
 45 taxpayer.

46 (b) For state fiscal year 2006 and each state fiscal year thereafter,

1 the aggregate amount of credits awarded under this chapter for projects  
2 to retain existing jobs in Indiana may not exceed ten million dollars  
3 (\$10,000,000) per year.

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

12 Page 10, line 1, after "agency" insert "**Indiana**".

13 Renumber all SECTIONS consecutively.

(Reference is to ESB 529 as printed March 12, 2013.)

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Representative Moseley