HOUSE BILL No. 1389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-34.

Synopsis: Endow Indiana program. Provides that the Indiana economic development corporation shall administer a grant and tax credit program that encourages philanthropy in Indiana.

Effective: January 1, 2017.

GiaQuinta

January 13, 2016, read first time and referred to Committee on Ways and Means.

Introduced

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1389

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]:

Chapter 34. Endow Indiana Income Tax Credit

Sec. 1. This chapter applies to taxable years beginning after December 31, 2016.

Sec. 2. As used in this chapter, "board" means the governing board of the lead philanthropic entity identified by the IEDC.

Sec. 3. As used in this chapter, "community affiliate organization" means a group of at least five (5) community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in Indiana with the intention of establishing a community affiliate endowment fund.

Sec. 4. As used in this chapter, "endow Indiana qualified community foundation" means a community foundation organized or operating in Indiana that substantially complies with the

national standards established by the national Council on Foundations as determined by the IEDC in collaboration with the Indiana Philanthropy Alliance.

Sec. 5. As used in this chapter, "endowment gift" means an irrevocable contribution to a permanent endowment held by an endow Indiana qualified community foundation.

Sec. 6. As used in this chapter, "IEDC" refers to the Indiana economic development corporation.

Sec. 7. As used in this chapter, "lead philanthropic entity" means the entity identified by the IEDC under this chapter.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 9. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 10. The IEDC shall identify a lead philanthropic entity for purposes of encouraging the development of qualified community foundations in Indiana. A lead philanthropic entity must meet all the following qualifications:

(1) The entity must be a nonprofit entity that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(2) The entity must be a statewide organization with membership consisting of organizations, such as community, corporate, and private foundations, whose principal function is the making of grants within Indiana.

(3) The entity must have at least forty (40) members, and that membership must include qualified community foundations.

Sec. 11. A lead philanthropic entity may receive a grant from the IEDC. The board shall use a grant to award endow Indiana grants to qualified community foundations and to community affiliate organizations that do all the following:

(1) Provide the board with all the information required by the board.

(2) Demonstrate a dollar for dollar funding match in a form approved by the board.

(3) Identify an endow Indiana qualified community foundation to hold all funds.

(4) Provide a plan to the board demonstrating the method for distributing endow Indiana grants received from the board to organizations within the community or geographic area as defined by the endow Indiana qualified community foundation or the community affiliate organization.

Sec. 12. Endow Indiana grants awarded to endow Indiana qualified community foundations and to community affiliate organizations may not exceed twenty-five thousand dollars ($25,000) per foundation or organization unless a foundation or organization demonstrates a multiple county or regional approach. Endow Indiana grants may be awarded on an annual basis with not more than three (3) grants being awarded within a county in a state fiscal year.

Sec. 13. In ranking applications for grants, the board shall consider a variety of factors, including the following:

(1) The demonstrated need for financial assistance.

(2) The potential for future philanthropic activity in the area represented by or being considered for assistance.

(3) The proportion of the funding match being provided.

(4) For community affiliate organizations, the demonstrated need for the creation of a community affiliate endowment fund in the applicant's geographic area.

(5) The identification of community needs and the manner in which additional funding will address those needs.

(6) The geographic diversity of awards.

Sec. 14. A lead philanthropic entity may not use more than five percent (5%) of a grant received from the IEDC for administrative purposes.

Sec. 15. (a) If a taxpayer makes an endowment gift to an endow Indiana qualified community foundation that satisfies the following conditions, the taxpayer is entitled to a credit under this chapter against the taxpayer's state tax liability for that taxable year:

(1) The endowment gift must be for a permanent endowment fund established to benefit a charitable cause in Indiana.

(2) The endowment gift may not be deductible in determining state tax liability.

(3) The endowment gift has been approved by the IEDC for the state fiscal year.

(b) A taxpayer claiming a credit under this chapter shall submit to the department a copy of the IEDC's approval under this

chapter for the taxable year.

(c) The amount of the credit is twenty-five percent (25%) of the amount of the endowment gift made during the taxable year.

Sec. 16. If a pass through entity does not have state tax liability against which the credit may be applied, a shareholder or partner of the pass through entity is entitled to a credit equal to:

(1) the credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 17. (a) A person that proposes an endowment gift must apply to the IEDC to enter into an agreement for a credit under this chapter before the taxpayer makes the endowment gift. The director shall prescribe the form of the application.

(b) After receipt of an application, the IEDC may enter into an agreement with the applicant for a credit under this chapter if the IEDC determines that the endowment gift satisfies the requirements of this chapter. The IEDC shall certify the amount of the endowment gift that is approved for a credit under this chapter and the state fiscal year for which the taxpayer may claim the credit.

(c) The IEDC shall separately record the time of filing of each application for a credit award for an endowment gift and shall approve the credit to a taxpayer in the chronological order in which the application is filed in the state fiscal year. The department shall promptly notify an applicant whether, or the extent to which, the credit is allowable in the state fiscal year proposed by the taxpayer.

(d) If the total credit awards for endowment gifts, including carryover credit awards for a previous state fiscal year, equal the maximum amount allowable in the state fiscal year, an application for such a credit award that is filed later for that same state fiscal year may not be granted by the IEDC. However, if an applicant for which a credit has been awarded and applied for with the IEDC fails to claim the credit, an amount equal to the credit previously applied for but not claimed may be allowed to the next eligible applicant or applicants until the total amount has been allowed.

(e) The IEDC shall develop a system for registering and approving credits under this section and shall control the distribution of all credits to taxpayers providing an endowment gift subject to this chapter.

(f) The board of the IEDC shall adopt written policies and

guidance for the qualification and administration of endowment gifts.

Sec. 18. (a) The total amount of credits that the IEDC may approve under this chapter for a state fiscal year for all taxpayers for all endowment gifts is six million dollars ($6,000,000).

(b) The maximum amount of credits granted to a taxpayer may not exceed five percent (5%) of the aggregate amount of credits approved for a state fiscal year.

(c) Ten percent (10%) of the aggregate amount of credits approved for a state fiscal year must be reserved for those endowment gifts that are thirty thousand dollars ($30,000) or less. If by April 1 of each year the entire ten percent (10%) of the reserved credits is not approved for that state fiscal year, the remaining credits shall be made available to any other eligible applicants.

Sec. 19. (a) A taxpayer may carry forward an unused credit for five (5) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the endowment gift.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the unused part of a credit allowed under this chapter.

(c) A taxpayer may:

(1) claim a credit under this chapter for an endowment gift; and

(2) carry forward a remainder for one (1) or more different endowment gifts;

in the same taxable year.

(d) A credit may not be carried back to a taxable year that is before the taxable year in which the taxpayer claims the tax credit.

(e) A credit may not be assigned or transferred to any other taxpayer.