HOUSE BILL No. 1983

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-6.1; IC 6-3-2-8; IC 6-3-3-10; IC 6-3.1-10.

Synopsis: Enterprise zones. Adds six members to the enterprise zone board. Provides that revenue from the enterprise zone registration fee may be used for urban enterprise association projects and project administration support. Provides that if an enterprise zone business does not, before July 16, file the required verified summary of tax credits and tax exemptions claimed during the preceding year, the zone business waives those credits and exemptions unless it pays a penalty equal to 25% of the credits and exemptions provided during the preceding year. Provides that the enterprise zone board, an urban enterprise association, the department of state revenue, the department of commerce, the state board of tax commissioners, county auditors,

(Continued next page)

Effective: July 1, 1999; January 1, 2000.

Klinker, McClain, GiaQuinta, Pond

January 27, 1999, read first time and referred to Committee on Ways and Means.

and township assessors shall, upon request, provide each other with records and information (including records and information that are otherwise confidential) that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Provides that a person who receives these confidential records or information and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor. Provides that if a business has an option to purchase or lease land or other real property in an enterprise zone or owns or leases land or other real property in an enterprise zone, the business is entitled to a relocation disqualification hearing. Provides that a pass through entity is a taxpayer for purposes of allowing: (1) a pass through entity to take an enterprise zone employment expense credit; (2) a qualified employee of a pass through entity to take an enterprise zone employee wage deduction; and (3) a pass through entity or corporation to take an enterprise zone investment cost credit. Provides that a person who resides in an enterprise zone and is an employee of a nonprofit entity or local, state, or federal government is eligible for the qualified employee wage deduction. Allows certain additional enterprise zone investment cost credits related to property that: (1) has environmental contamination; (2) has perceived environmental contamination; or (2) is abandoned or otherwise under used. Allows an enterprise zone investment cost credit for high technology business operations. Allows a nonprofit corporation that is entitled to an enterprise zone investment cost credit to sell or transfer the credit.

Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1983

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

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

SECTION 1. IC 4-4-6.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is created a ~~thirteen (13)~~ **nineteen (19)** member enterprise zone board, referred to as the "board" in this chapter. The board consists of ~~nine (9)~~ **fifteen (15)** voting members and four (4) nonvoting, advisory members. **The** members **described in subsection (b)(1) through (b)(9)** serve for four (4) year terms, except that for the initial appointments to the board, six (6) members shall be appointed for two (2) year terms. ~~No~~ **Not** more than ~~seven (7)~~ **ten (10)** members may be from the same political party. The presence of at least ~~five (5)~~ **eight (8)** voting members is required to have a quorum for board meetings.

(b) The governor shall appoint ~~nine (9)~~ **fifteen (15)** enterprise zone board members as follows:

(1) A representative of business.

(2) A representative of labor.

(3) A representative of the fire prevention and building safety commission.
(4) A representative of minority business.
(5) A representative of small business.
(6) A representative of a neighborhood association.
(7) A representative of municipal government.
(8) A representative of the state department of health.
(9) The lieutenant governor or his designee.
(10) A representative of the department of state revenue.
(11) A representative of the state board of tax commissioners.
(12) A representative of the department of environmental management.
(13) A representative of the Indiana development finance authority.
(14) A representative of the Indiana business modernization and technology corporation.
(15) A representative of the department of workforce development.

(c) The president pro tempore of the state senate shall appoint two (2) state senators to the enterprise zone board.

(d) The speaker of the house of representatives shall appoint two (2) state representatives to the enterprise zone board.

(e) The four (4) legislative members appointed under subsections (c) and (d) are the nonvoting, advisory members of the board.

(f) Members may be dismissed only by the appointing authority and only for just cause. The governor shall fill any vacancy as it occurs for the remainder of the term.

(g) The governor shall designate a chairman and vice chairman every two (2) years in the month in which the first meeting of the board is held or whenever a vacancy occurs.

(h) The board by rule shall provide for the conduct of its business and the performance of its duties.

(i) The department of commerce shall serve as the staff of the board. If an urban enterprise association created under section 4 of this chapter requests copies of forms filed with the board, the department of commerce shall forward copies of the requested forms to the urban enterprise association.

(j) Except as provided in subsection (k), a nonlegislative member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing his duties. Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with his duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) If a nonlegislative member of the board is an elected public official of local government, the member shall not be paid a salary. However, the board member shall be reimbursed for necessary expenses that are incurred in the performance of official duties.

(l) A legislative member is entitled to reimbursement as provided by law for traveling expenses and other expenses actually incurred in connection with his duties.

SECTION 2. IC 4-4-6.1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1.3. (a) As used in this chapter, "high technology business operations" means the operations in Indiana of a business that has qualified research expense (as defined in Section 41 of the Internal Revenue Code) for the following:**

(1) Advanced computing.

(2) Advanced materials.

(3) Biotechnology.

(4) Electronic device technology.

(5) Environmental technology.

(6) Medical device technology.

(b) For purposes of this section, "advanced computing" means technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand held calculators to supercomputers and peripheral equipment.

(c) For purposes of this section, "advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value added metals, electronic materials, composites, polymers, and biomaterials.

(d) For purposes of this section, "biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic levels, as well as novel products, services, technologies, and subtechnologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

(e) For purposes of this section, "electronic device technology" means technology involving any of the following:

(1) Microelectronics.

(2) Semiconductors.

(3) Electronic equipment.
(4) Instrumentation.
(5) Radio frequency waves.
(6) Microwaves.
(7) Millimeter electronics.
(8) Optical and optic electrical devices.
(9) Data and digital communications.
(10) Imaging devices.

(f) For purposes of this section, "environmental technology" means any of the following:
(1) The assessment and prevention of threats or damage to human health or the environment.
(2) Environmental cleanup.
(3) The development of alternative energy sources.

(g) For purposes of this section, "medical device technology" means technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value or diagnostic value and is regulated by the federal Food and Drug Administration.

SECTION 3. IC 4-4-6.1-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.3. (a) The enterprise zone fund is established. Revenue from the registration fee required under section 2 of this chapter shall be deposited in the fund. The fund shall be administered by the department of commerce.

(b) Upon the recommendation of the department of commerce, the fund may be used ~~to pay~~ **for the following purposes:**
(1) Salaries of employees of the board and administrative expenses of the enterprise zone program.
(2) Subject to section 2.4 of this chapter, urban enterprise association projects and project administration support.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(c) The treasurer of state shall invest the 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.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 4. IC 4-4-6.1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.4. (a) An urban enterprise association may apply to the department of commerce for funding of urban enterprise**

association projects and project administration support. Funding under this section shall be provided from the enterprise zone fund.

(b) The board shall approve or deny applications under this section. In approving applications under this section, the board shall give priority to applications for the following projects:

(1) Projects targeting the physical redevelopment of real property.

(2) Workforce development projects.

(3) Community economic development training for urban enterprise association staff and board members.

(c) The department of commerce shall, in developing the application process that may be used by an urban enterprise association under this section, work with a recognized state enterprise zone trade association.

SECTION 5. IC 4-4-6.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. (a) Subject to subsection (c), a zone business that claims any of the incentives available to zone businesses shall, by letter postmarked before June 1 of each year:

(1) submit to the board and to the zone urban enterprise association created under section 4 of this chapter, on a form prescribed by the board, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and

(2) pay the amount specified in section 2(4) of this chapter to the board.

(b) In order to determine the accuracy of the summary submitted under subsection (a) the board is entitled to obtain copies of a zone business' tax records directly from the department of state revenue, the state board of tax commissioners, or a county official, notwithstanding the provisions of any other law. A summary submitted to a board or zone urban enterprise association, or a record obtained by the board, under this section is confidential. A board member, an urban enterprise association member or an agent of a board member or an urban enterprise association member, who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The board may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the board by letter postmarked before June 1. The application must be in the form specified by the board. The extension may not be for a period that is longer than forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business **that did not comply with subsection (a) before June 1 and did not file for an extension under subsection (c) before June 1** complies with subsection (a) ~~after~~ **before** July ~~15,~~ **16,** the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, **unless the zone business pays to the board a penalty equal to twenty-five percent (25%) of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the board before July 16 of that year. The board shall deposit any penalty payments received under this subsection in the enterprise zone fund.**

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) ~~before June 1 without filing for and being granted an extension by the board as provided under subsection (c) or if a zone business fails to comply with subsection (a)~~ before July 16 ~~if an extension of time has been granted by the board under subsection (c),~~ **and does not pay a penalty under subsection (d) by letter postmarked before July 16 of the year,** the zone business:

(1) is denied all of the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and

(2) is disqualified from further participation in the enterprise zone program under this chapter until the zone business:

(A) petitions the board for readmission to the enterprise zone program under this chapter; and

(B) pays a civil penalty of one hundred dollars ($100).

SECTION 6. IC 4-4-6.1-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.6. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:**

(1) The board.

(2) An urban enterprise association.

(3) The department of state revenue.

(4) The department of commerce.

(5) The state board of tax commissioners.

(6) A county auditor.

(7) A township assessor.

(b) A person listed in subsection (a) may request a second person described in subsection (a) to provide any records or other information maintained by the second person that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person to whom the request is made under this section must comply with the request. A person receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person who receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

SECTION 7. IC 4-4-6.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Any business which substantially reduces or ceases an operation located in Indiana and outside an enterprise zone (referred to as a non-zone operation) in order to relocate in an Indiana enterprise zone is disqualified from benefits or incentives available to zone businesses. **If a business has an option to purchase or lease land or other real property in an enterprise zone or owns or is leasing land or other real property in an enterprise zone, the business shall be allowed a hearing by a hearing panel under this section.** Determinations under this section shall be made by a hearing panel composed of the chairman of the board or the chairman's designee, the commissioner of the department of state revenue or the commissioner's designee, and the chairman of the state board of tax commissioners or the chairman's designee. The panel, after an evidentiary hearing held subsequent to the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order shall be based on the following criteria and subsection (b):

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees shall be considered a business operation.

(2) With respect to a non-zone operation, any of the following that occurs during the twelve (12) months before relocation in the zone as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to zone businesses if the business relocates its non-zone operation for any of the following reasons:

(1) The lease on property necessary for the non-zone operation has been involuntarily lost through no fault of the business.

(2) The space available at the location of the non-zone operation cannot accommodate planned expansion needed by the business.

(3) The building for the non-zone operation has been certified as uninhabitable by a state or local building authority.

(4) The building for the non-zone operation has been totally destroyed through no fault of the business.

(5) The renovation and construction costs at the location of the non-zone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the zone, as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under subdivision (3) or (4) only if renovation and construction costs at the location of the non-zone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the zone. These costs must be certified by three (3) independent estimates.

(c) The hearing panel shall cause to be delivered to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and these persons shall be considered parties for the purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, within ten (10) days of the party's receipt of the recommended order, file written objections with the board. If the objections are filed, the board shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, may amend or modify the recommendations, or may make such order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

SECTION 8. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, ~~or by~~ an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4),~~ **IC 6-3-2-2.8(4),** or ~~(5)~~ **IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government** and who:

(1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;

(2) performs services for the taxpayer, ~~or~~ **the** employer, **the nonprofit entity, the state, the political subdivision, or the United States government,** ninety percent (90%) of which are directly related to:

(A) the conduct of the taxpayer's or employer's trade or business; **or**

(B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;

that is located in an enterprise zone; and

(3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) For purposes of this section, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

(c) For purposes of this section, "taxpayer" includes a pass through entity.

~~(b)~~ **(d)** Except as provided in subsection ~~(c),~~ **(e),** a qualified employee is entitled to **a** deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or

(2) seven thousand five hundred dollars ($7,500).

~~(c)~~ **(e)** No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides.

SECTION 9. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) As used in this section:

"Base period wages" means wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;
(4) limited liability company; or
(5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

(1) has his principal place of residence in the enterprise zone in which he is employed;
(2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone; and
(3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone.

"Qualified increased employment expenditures" means the following:

(1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.
(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(1) IC 6-2.1 (gross income tax) with respect to enterprise zone gross income;
(2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;
(3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and
(4) IC 6-5.5 (the financial institutions 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 section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or

(2) one thousand five hundred dollars ($1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax 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, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 10. IC 6-3.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. ~~(a)~~ As used in this chapter, "taxpayer" means **the following:**

(1) Any individual that has any state tax liability.

~~(b) Notwithstanding subsection (a), for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000), "taxpayer" includes a pass through entity.~~

(2) A corporation that has any state tax liability.

(3) A pass through entity (as defined in IC 6-3-3-10).

(4) A nonprofit corporation.

SECTION 11. IC 6-3.1-10-6.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 6.6. (a) If a nonprofit corporation is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, the nonprofit corporation may sell or otherwise transfer the credit to another taxpayer.**

(b) A nonprofit corporation that sells or transfers a credit under subsection (a) must at the time of the sale or transfer provide to the department, on forms prescribed by the department, any information reasonably requested by the department.

SECTION 12. IC 6-3.1-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) To be entitled to a credit, a taxpayer must request the department of commerce to determine:

(1) whether a purchase of an ownership interest in a business located in an enterprise zone is a qualified investment; and

(2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) The department of commerce shall find that a purchase is a qualified investment if:

(1) the business is viable;

(2) the business has not been disqualified from enterprise zone incentives or benefits under IC 4-4-6.1;

(3) the taxpayer has a legitimate purpose for purchase of the ownership interest;

(4) the purchase would not be made unless a credit is allowed under this chapter; and

(5) **in the case of a business that has not commenced any business operations or is a start-up business,** the purchase is critical to the commencement, enhancement, or expansion of business operations in the zone and will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the enterprise zone.

The department may delay making a finding under this subsection if, at the time the request is filed under subsection (a), an urban enterprise zone association has made a recommendation that the business be disqualified from enterprise zone incentives or benefits under IC 4-4-6.1 and the enterprise zone board has not acted on that request. The delay by the department may not last for more than sixty (60) days.

(c) If the department of commerce finds that a purchase is a qualified investment, the department shall certify the percentage credit to be allowed under this chapter based upon the following:

(1) A percentage credit of ten percent (10%) may be allowed ~~based upon the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.~~ **for:**

(A) the redevelopment and environmental remediation of real property that has environmental contamination;

(B) the redevelopment of real property that has perceived environmental contamination; or

(C) the redevelopment of real property that is abandoned or otherwise under used.

A taxpayer may receive a credit under clause (A) in addition to any other credits the taxpayer is otherwise entitled to

receive. A credit may not be granted to a taxpayer unless the taxpayer has not contributed to the contamination and has never had an ownership interest in an entity that contributed to the contamination.

(2) A percentage credit of two percent (2%) may be allowed for business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual.

(3) A percentage credit of five percent (5%) may be allowed for business operations in the manufacturing codes of the SIC Manual.

(4) A percentage credit of five percent (5%) may be allowed for high technology business operations (as defined in IC 4-4-6.1-1.3.)

~~(4)~~ **(5)** A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

~~(5)~~ **(6)** A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.

~~(6)~~ **(7)** A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than $25,001	1%
$25,001 to $50,000	2%
$50,001 to $100,000	3%
$100,001 to $200,000	4%
More than $200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

SECTION 13. [EFFECTIVE JANUARY 1, 2000] **IC 6-3-2-8,**

IC 6-3-3-10, IC 6-3.1-10-4, IC 6-3.1-10-6.6, and IC 6-3.1-10-8, all as amended or added by this act, apply only to taxable years beginning after December 31, 1999.