

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Planning and Economic Development, to which was referred Senate Bill No. 394, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 8, after "provide" insert "**the following:**".
- 2 Page 1, delete lines 9 through 12, begin a new line block indented
- 3 and insert:
- 4 "**(1) Tax incentives to investors in small businesses that create**
- 5 **high-wage, high-skilled positions in high-growth industries**
- 6 **located in Indiana.**
- 7 **(2) Encouragement for the formation of capital to make**
- 8 **follow-on investments in these companies as they grow beyond**
- 9 **the small business size regulations of the United States Small**
- 10 **Business Administration's Small Business Investment**
- 11 **Company program."**
- 12 Page 3, line 4, delete "licensed to do business in Indiana".
- 13 Page 3, line 19, delete "to equity holders of a local certified".
- 14 Page 3, line 20, delete "equity pool".
- 15 Page 3, line 23, delete "in an amount that does" and insert "**payable**
- 16 **from,**".
- 17 Page 3, delete line 24.
- 18 Page 3, line 25, delete "the local certified equity pool,".
- 19 Page 3, line 27, after "of" insert ",".
- 20 Page 3, line 36, delete "or" and insert "**and**".
- 21 Page 3, between lines 41 and 42, begin a new paragraph and insert:

- 1 **"Sec. 14. As used in this article, "restricted capital" means**
2 **either:**
3 **(1) the portion of an investor's capital that may only be**
4 **invested in qualified Indiana businesses; or**
5 **(2) the portion of a local certified equity pool's funds that may**
6 **only be invested in qualified Indiana businesses."**
7 Page 3, line 42, delete "14" and insert "**15**".
8 Page 4, between lines 11 and 12, begin a new paragraph and insert:
9 **"Sec. 16. As used in this article, "unrestricted capital" means**
10 **either:**
11 **(1) the portion of an investor's capital that may be invested in**
12 **a business other than a qualified Indiana business; or**
13 **(2) the portion of a local certified equity pool's funds that may**
14 **be invested in businesses other than a qualified Indiana**
15 **business."**
16 Page 4, line 14, delete "in Section 121.201" and insert "**by**".
17 Page 4, line 15, before "the small" delete "of".
18 Page 4, line 16, delete "Administration (13 C.F.R. 121.201));" and
19 insert "**Administration's Small Business Investment Company**
20 **(SBIC) program (13 CFR 121.301(c));**
21 **(2) meet the eligibility criteria of IC 4-4-26-25 (the authority's**
22 **triple cap loan guarantee program concerning high growth**
23 **companies and high skilled jobs (as defined in**
24 **IC 4-4-10.9-9.5));**
25 **(3) have their headquarters located in Indiana;"**
26 Page 4, line 17, delete "(2)" and insert "**(4)**".
27 Page 4, line 19, delete "(3)" and insert "**(5)**".
28 Page 4, delete lines 33 through 41.
29 Page 4, line 42, delete "5" and insert "**4**".
30 Page 5, line 7, delete "4" and insert "**3**".
31 Page 5, delete lines 15 through 22.
32 Page 5, line 23, delete "5" and insert "**4**".
33 Page 6, line 32, delete "6" and insert "**5**".
34 Page 6, line 34, delete "make qualified investments according to the
35 following" and insert "**, within five (5) years after receiving an**
36 **allocation of tax credits, invest restricted capital in an amount**
37 **equal to twice the amount of tax credits allocated to the local**
38 **certified equity pool."**
39 Page 6, delete lines 35 through 42.
40 Page 7, delete lines 1 through 2.
41 Page 7, delete lines 9 through 17.
42 Page 7, line 18, delete "3" and insert "**2**".

- 1 Page 7, delete lines 22 through 30.
- 2 Page 7, line 31, delete "6" and insert "3".
- 3 Page 7, line 39, delete "IC 4-35-9-3" and insert "**IC 4-35-8-3**".
- 4 Page 8, line 18, delete "ninety (90)" and insert "**one hundred**
- 5 **twenty (120)**".
- 6 Page 8, line 21, delete "7" and insert "4".
- 7 Page 8, line 21, delete "6(4)" and insert "**3(4)**".
- 8 Page 8, line 26, delete "limits" and insert "**limit**".
- 9 Page 8, line 28, delete "8" and insert "5".
- 10 Page 8, line 34, delete "7" and insert "6".
- 11 Page 8, delete lines 37 through 42.
- 12 Page 9, delete lines 1 through 5.
- 13 Page 9, line 6, delete "4" and insert "2".
- 14 Page 9, line 25, delete "ten" and insert "**five**".
- 15 Page 9, line 25, delete "(10%" and insert "**(5%)**".
- 16 Page 9, line 29, delete "8" and insert "7".
- 17 Page 9, line 37, delete "IC 4-35-6-8" and insert "**IC 4-35-5-5**".
- 18 Page 9, line 38, delete "IC 4-35-6" and insert "**IC 4-35-5**".
- 19 Page 10, line 6, delete "IC 4-35-6" and insert "**IC 4-35-5**".
- 20 Page 10, line 11, delete "IC 4-35-6-1" and insert "**IC 4-35-5-1**".
- 21 Page 10, line 11, after "recapture" insert "**from the decertified local**
- 22 **certified equity pool**".
- 23 Page 10, line 12, delete "IC 4-35-9" and insert "**IC 4-35-8**".
- 24 Page 10, delete lines 15 through 26.
- 25 Page 10, line 27, delete "6" and insert "5".
- 26 Page 10, line 28, after "its" insert "**restricted**".
- 27 Page 10, line 32, delete "7" and insert "6".
- 28 Page 10, line 33, after "its" insert "**restricted**".
- 29 Page 10, line 36, delete "IC 4-35-6-6(3)" and insert
- 30 "**IC 4-35-5-6(3)**".
- 31 Page 10, line 37, delete "8" and insert "7".
- 32 Page 10, line 38, delete "whose tax credit has been subject to
- 33 recapture or" and insert "**of the:**
- 34 **(1) decertification of the local certified equity pool;**
- 35 **(2) recapture of the tax credit from the local certified equity**
- 36 **pool; and**
- 37 **(3) forfeiture of all future tax to be claimed by investors with**
- 38 **respect to the investor's investment in the local certified**
- 39 **equity pool;**".
- 40 Page 10, line 39, delete "forfeiture,".
- 41 Page 10, line 39, before "using" begin a new line blocked left.
- 42 Page 10, line 40, delete "9" and insert "8".

- 1 Page 11, line 3, delete "9" and insert "**8**".
- 2 Page 11, line 4, delete "5" and insert "**6**".
- 3 Page 11, line 5, delete "in the year of the investor's".
- 4 Page 11, line 6, delete "investment".
- 5 Page 11, line 7, after "of" insert "**restricted**".
- 6 Page 11, between lines 8 and 9, begin a new paragraph and insert:
- 7 "**Sec. 2. The amount of tax credit that an investor may claim in**
- 8 **a taxable year may not exceed the amount of restricted capital**
- 9 **deposited in the certified local equity pool.**".
- 10 Page 11, line 9, delete "2" and insert "**3**".
- 11 Page 11, line 13, delete "3" and insert "**4**".
- 12 Page 11, line 15, delete "ten" and insert "**seven**".
- 13 Page 11, line 15, after "million" insert "**five hundred thousand**".
- 14 Page 11, line 15, delete "(\$10,000,000)" and insert "**(\$7,500,000)**".
- 15 Page 11, line 16, delete "4" and insert "**5**".
- 16 Page 11, line 20, delete "five (5)" and insert "**ten (10)**".
- 17 Page 11, line 24, delete "5" and insert "**6**".
- 18 Page 11, line 31, delete "IC 4-35-10" and insert "**IC 4-35-9**".
- 19 Page 11, line 35, delete "IC 4-35-10" and insert "**IC 4-35-9**".
- 20 Page 11, line 37, delete "IC 4-35-10" and insert "**IC 4-35-9**".
- 21 Page 11, delete lines 38 through 42.
- 22 Page 12, delete lines 1 through 9.
- 23 Page 12, line 10, delete "10" and insert "**9**".
- 24 Page 12, line 13, delete "budget director" and insert "**department**
- 25 **of state revenue**".
- 26 Page 12, line 15, delete "budget director" and insert "**commissioner**
- 27 **of the department of state revenue**".
- 28 Page 12, line 18, delete "budget director" and insert "**commissioner**
- 29 **of the department of state revenue**".
- 30 Page 12, line 20, delete "After review by the budget committee, the
- 31 budget" and insert "**The department of state revenue**".
- 32 Page 12, line 21, delete "director".
- 33 Page 12, line 22, delete "IC 4-35-9" and insert "**IC 4-35-8**".
- 34 Page 12, between lines 30 and 31, begin a new paragraph and insert:
- 35 "**Chapter 10. Amount of Tax Credits Available for Allocation**
- 36 **Sec. 1. The aggregate amount of tax credits available for**
- 37 **allocation is forty million dollars (\$40,000,000), plus the cumulative**
- 38 **amount of tax credits approved by the commissioner of the**
- 39 **department of state revenue as described in IC 4-35-9-4, less the**
- 40 **cumulative amount of tax credits previously allocated by the**
- 41 **advisory board in accordance with the provisions of IC 4-35-11.**
- 42 **Sec. 2. Tax credits reclaimed under IC 4-35-7 must be added to**

1 the total amount of tax credits available for allocation under
2 section 1 of this chapter.

3 **Chapter 11. Allocation of Tax Credits**

4 **Sec. 1. A tax credit allocation advisory board is established to**
5 **allocate tax credits to local certified equity pools. The advisory**
6 **board has six (6) members. The director of the authority serves as**
7 **the secretary of the advisory board and is the member responsible**
8 **for calling meetings and maintaining minutes of all advisory board**
9 **meetings. The governor shall appoint the remaining five (5)**
10 **members. The term of an appointed member is three (3) years. At**
11 **least three (3) members of the tax credit allocation advisory board**
12 **must also be members of the Indiana twenty-first century research**
13 **and technology fund board.**

14 **Sec. 2. To be eligible for an allocation of tax credits by the**
15 **advisory board, a local certified equity pool must submit to the tax**
16 **credit allocation advisory board copies of signed, binding**
17 **commitment letters from its investors. The commitment letters**
18 **must state the amount of funds to be invested in the local certified**
19 **equity pool subject only to confirmation of an allocation of tax**
20 **credits to the local certified equity pool.**

21 **Sec. 3. A local certified equity pool must have a minimum of ten**
22 **million dollars (\$10,000,000) in committed funds to be eligible for**
23 **an allocation of tax credits, of which five million dollars**
24 **(\$5,000,000) must be restricted capital.**

25 **Sec. 4. The tax credit allocation advisory board shall receive**
26 **requests from local certified equity pools for an allocation of tax**
27 **credits by the tax credit allocation advisory board on an on-going**
28 **basis. Not later than thirty (30) days after the date of application,**
29 **the authority shall either:**

30 **(1) issue a written confirmation of eligibility for an allocation**
31 **of tax credits; or**

32 **(2) refuse the application and communicate in detail to the**
33 **applicant the grounds for refusal, including the authority's**
34 **suggestions for the removal of those grounds.**

35 **Sec. 5. The tax credit allocation advisory board shall allocate tax**
36 **credits to a certified local equity pool equal to fifty percent (50%)**
37 **of the restricted capital to be invested in the certified local equity**
38 **pool.**

39 **Sec. 6. Once a year, during the first week in December, the tax**
40 **credit allocation advisory board shall allocate tax credits, subject**
41 **to their availability, to all eligible local certified equity pools under**
42 **section 5 of this chapter.**

1 **Sec. 7. The tax credit allocation advisory board shall allocate at**
 2 **least fifteen million dollars (\$15,000,000) in tax credits to local**
 3 **certified equity pools with their place of business located outside**
 4 **the area within the Indianapolis Metropolitan Statistical Area**
 5 **designated by the federal Office of Management and Budget (FIPS**
 6 **Code 3480).**

7 **Sec. 8. Whenever the total amount of requests for an allocation**
 8 **of tax credits exceeds the total amount of tax credits available for**
 9 **allocation as determined under IC 4-35-10 and this chapter, the tax**
 10 **credit allocation advisory board shall allocate tax credits according**
 11 **to the proportional amount of restricted capital invested in each**
 12 **local certified equity pool.**

13 **Chapter 12. Restrictions on Claims for Tax Credits**

14 **Sec. 1. The maximum amount of tax credits that may be claimed**
 15 **in a given year is ten million dollars (\$10,000,000), plus the**
 16 **cumulative sum of unclaimed tax credits from prior years.**

17 **Sec. 2. Whenever the dollar sum of claims for tax credits**
 18 **exceeds the total dollar amount of tax credits available as**
 19 **determined under section 1 of this chapter, tax credits must be**
 20 **awarded according to the proportional amount of tax credits**
 21 **claimed by each investor.**

22 **Sec. 3. Investors may carry forward to future taxable years any**
 23 **tax credits that were reduced under section 2 of this chapter."**

24 Page 12, line 31, delete "11" and insert "13".

25 Page 13, line 1, delete "IC 4-35-6-1" and insert "IC 4-35-5-1".

26 Page 13, line 14, delete "12" and insert "14".

27 Page 13, line 21, delete "IC 4-35-9" and insert "(a) IC 4-35-8".

28 Page 13, between lines 23 and 24, begin a new paragraph and insert:

29 **"(b) Notwithstanding IC 4-35-4-1 and IC 4-35-14-1, both as**
 30 **added by this act, the authority (as defined in IC 4-35-2-2), as**
 31 **added by this act, may adopt rules to carry out IC 4-35, as added**
 32 **by this act, in the same manner as an emergency rule is adopted**
 33 **under IC 4-22-2-37.1. A rule adopted under this subsection is**
 34 **effective when it is filed with the secretary of state. A rule adopted**
 35 **under this subsection expires on the earlier of the following:**

36 **(1) The date that a rule is adopted under this subsection to**
 37 **repeal or supersede a prior rule adopted under this**
 38 **subsection.**

- 1 **(2) The date that a permanent rule is adopted under IC 4-22-2**
 - 2 **to repeal or supersede a rule adopted under this subsection.**
 - 3 **(3) July 1, 2001."**
- (Reference is to SB 394 as introduced.)

and when so amended that said bill do pass and be reassigned to the Senate Committee on Finance.

Committee Vote: Yeas 10, Nays 0.

Senator Lubbers, Chairperson