

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1347 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 energy.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 8 JANUARY 1, 2010]:
- 9 **Chapter 33. Business Renewable Energy Investment Tax Credit**
- 10 **Sec. 1. This chapter applies only to taxable years beginning after**
- 11 **December 31, 2010.**
- 12 **Sec. 2. As used in this chapter, "business entity" means an**
- 13 **individual engaged in a trade or business, a partnership, a limited**
- 14 **liability company, a limited liability partnership, or a corporation.**
- 15 **Sec. 3. As used in this chapter, "IEDC" refers to the Indiana**
- 16 **economic development corporation established by IC 5-28-3-1.**
- 17 **Sec. 4. As used in this chapter, "pass through entity" means a:**
- 18 **(1) corporation that is exempt from the adjusted gross income**
- 19 **tax under IC 6-3-2-2.8(2);**
- 20 **(2) partnership;**
- 21 **(3) trust;**
- 22 **(4) limited liability company; or**
- 23 **(5) limited liability partnership.**
- 24 **Sec. 5. As used in this chapter, "qualified capital investment"**

1 means an expenditure for depreciable property that conforms to
 2 the terms and conditions of a credit award by the IEDC under this
 3 chapter. The term does not include an expenditure for inventory.

4 **Sec. 6. As used in this chapter, "renewable or alternative energy
 5 technology" means the following:**

- 6 (1) Solar panels that convert sunlight into electricity.
- 7 (2) Solar technologies that use optical techniques to generate
 8 heat to power turbines or heat engines for the production of
 9 electricity.
- 10 (3) Wind turbines that convert wind energy into electricity.
- 11 (4) Electrochemical devices known as fuel cells that combine
 12 hydrogen and oxygen to produce electricity.
- 13 (5) Anaerobic digestion systems in which organic waste is
 14 composted to produce gases that are burned as fuel to
 15 produce electricity.
- 16 (6) Geothermal energy systems, including geothermal systems
 17 for:
 - 18 (A) the generation of electricity; or
 - 19 (B) heating and cooling.
- 20 (7) Commercial building technologies that contribute to
 21 certification under any of the following standards or rating
 22 systems:
 - 23 (A) Green Globes.
 - 24 (B) Leadership in Energy and Environmental Design
 25 (LEED).
 - 26 (C) An American National Standards Institute (ANSI)
 27 green building standard.

28 **Sec. 7. As used in this chapter, "state tax liability" means a
 29 taxpayer's total tax liability that is incurred under:**

- 30 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 31 (2) IC 27-1-18-2 (the insurance premiums tax); and
- 32 (3) IC 6-5.5 (the financial institutions tax);

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

36 **Sec. 8. Each taxable year beginning after December 31, 2010, a
 37 business entity that meets the terms of a credit award agreement
 38 entered into under section 14 of this chapter is entitled to a credit
 39 against the business entity's state tax liability for amounts that the
 40 business entity expends during the taxable year for a qualified
 41 capital investment in renewable or alternative energy technology.
 42 The amount of the credit is:**

- 43 (1) the percentage awarded to the business entity by the
 44 IEDC, not to exceed ten percent (10%); multiplied by
- 45 (2) the amount of the business entity's qualified capital
 46 investment in renewable or alternative energy technology for
 47 the taxable year.

1 **Sec. 9. (a) A taxpayer may carry forward an unused credit**
2 **provided by this chapter for the number of years determined by**
3 **the IEDC, not to exceed nine (9) consecutive taxable years,**
4 **beginning with the taxable year after the taxable year in which the**
5 **taxpayer makes the qualified capital investment.**

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

9 **(c) A taxpayer may:**

10 **(1) claim a tax credit under this chapter for a qualified capital**
11 **investment; and**

12 **(2) carry forward a remainder for one (1) or more different**
13 **qualified capital investments;**
14 **in the same taxable year.**

15 **(d) A taxpayer may not carry back an unused credit provided**
16 **by this chapter to a taxable year before the taxable year in which**
17 **the taxpayer makes the qualified capital investment. A taxpayer**
18 **may not claim a refund for an unused credit provided by this**
19 **chapter.**

20 **Sec. 10. If a pass through entity does not have state tax liability**
21 **against which the tax credit provided by this chapter may be**
22 **applied, a shareholder or partner of the pass through entity is**
23 **entitled to a tax credit equal to:**

24 **(1) the amount of the tax credit determined for the pass**
25 **through entity for the taxable year; multiplied by**

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

28 **Sec. 11. The IEDC may approve credit awards under this**
29 **chapter to encourage business entities to make capital investments**
30 **in renewable or alternative energy technology in Indiana.**

31 **Sec. 12. A business entity may apply to the IEDC for a credit**
32 **award under this chapter for a proposed capital investment in**
33 **renewable or alternative energy technology in Indiana. The IEDC**
34 **shall prescribe the form of the application.**

35 **Sec. 13. (a) The IEDC may not make a credit award under this**
36 **chapter unless the proposed capital investment in renewable or**
37 **alternative energy technology conforms with the following**
38 **requirements:**

39 **(1) The proposed capital investment is located in Indiana.**

40 **(2) The proposed capital investment consists of depreciable**
41 **property that implements a renewable or alternative energy**
42 **technology.**

43 **(b) The IEDC may make a credit award under this chapter only**
44 **for proposed capital investments in renewable or alternative**
45 **energy technology. The IEDC may not make credit awards under**
46 **this chapter for investments in renewable or alternative energy**
47 **technology that are accomplished before the date on which the**

1 business entity's application is submitted to the IEDC. If an
2 investment in renewable or alternative energy technology is
3 partially completed before the date on which the business entity's
4 application is submitted to the IEDC, the IEDC may make a credit
5 award for the part of the investment that occurs on or after the
6 date on which the business entity's application is submitted to the
7 IEDC.

8 Sec. 14. (a) After receipt of an application, the IEDC shall
9 review the application to determine whether the requirements of
10 section 13 of this chapter are met. If the IEDC determines that the
11 proposed capital investment in renewable or alternative energy
12 technology is not eligible for a credit award, the IEDC promptly
13 shall issue a letter notifying the applicant that the application is
14 denied.

15 (b) If the IEDC determines that a proposed capital investment
16 in renewable or alternative energy technology is eligible for a
17 credit award, the IEDC promptly shall prepare a credit award
18 agreement that specifies the terms of the credit award. The credit
19 award agreement must contain the following provisions:

20 (1) An award of the credit percentage to be applied under
21 section 8 of this chapter.

22 (2) A provision that requires the applicant business entity to
23 remain for ten (10) years at the location where the renewable
24 or alternative energy technology is installed.

25 (3) Any other reasonable provision that the IEDC determines
26 is advisable.

27 After the IEDC has prepared the credit award agreement, the
28 IEDC promptly shall send a letter of notification along with the
29 credit award agreement to the applicant business entity.

30 (c) A business entity is not eligible for the credit provided by this
31 chapter unless the business entity enters into a credit award
32 agreement with the IEDC.

33 Sec. 15. The department may require a taxpayer claiming a
34 credit under this chapter to submit supporting documentation with
35 the taxpayer's return.

36 Sec. 16. If the IEDC suspects that a taxpayer who has received
37 a credit under this chapter is not complying with the requirements
38 of the taxpayer's credit award agreement or this chapter, the IEDC
39 shall give the taxpayer an opportunity to explain the
40 noncompliance. If the IEDC determines that the taxpayer is not
41 complying with the requirements of the credit award agreement or
42 this chapter, the IEDC shall notify the department of the
43 noncompliance and request an assessment. The department, with
44 the assistance of the IEDC, shall determine the amount of the
45 assessment, which may not exceed the sum of any previously
46 allowed credits under this chapter, and shall make an assessment
47 against the taxpayer under IC 6-8.1.

1 **Sec. 17. Notwithstanding the other provisions of this chapter,**
2 **the IEDC may not approve an application for a credit award under**
3 **this chapter after December 31, 2012. However, this section does**
4 **not prevent a taxpayer from carrying forward an unused tax credit**
5 **attributable to a qualified capital investment made before January**
6 **1, 2013, to a taxable year beginning after December 31, 2012, in the**
7 **manner provided by section 9 of this chapter."**

8 Renumber all SECTIONS consecutively.
 (Reference is to HB 1347 as printed February 3, 2009.)

Representative Koch