February 21, 2012

ENGROSSED
SENATE BILL No. 321

DIGEST OF SB 321 (Updated February 16, 2012 11:12 am - DI 113)

Citations Affected: IC 6-3.1; noncode.

Synopsis: Transportation and logistics income tax credit. Provides an income tax credit for new expenditures made before January 1, 2018, by a taxpayer for expenditures related to a project that will substantially enhance the logistics industry, create new jobs, preserve existing jobs that otherwise would be lost, increase wages in Indiana, and improve the overall Indiana economy. Specifies that covered expenditures include those for real property improvements related to a transportation or logistical distribution facility, improving the transportation of goods on Indiana highways, rail, water, and air, improving warehousing and logistical capabilities, and implementing required federal homeland security measures. Requires the Indiana economic development corporation (IEDC) to approve the credit. Requires the IEDC to make determinations in the award of the credit. Requires the taxpayer to enter

(Continued next page)

Effective: July 1, 2012; January 1, 2013.

Wyss, Lawson C, Hershman,
Randolph, Skinner, Delph
(HOUSE SPONSORS — THOMPSON, STEMLER)

January 5, 2012, read first time and referred to Committee on Tax and Fiscal Policy.
January 25, 2012, amended, reported favorably — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Commerce, Small Business and Economic Development.
February 20, 2012, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

into an agreement with the IEDC that covers the benefits of the project, the expected performance by the taxpayer, and the credit amount. Requires reports by the taxpayer to the IEDC and requires the IEDC to monitor the performance of the taxpayer. Provides that the amount of the approved credit for a taxable year may not exceed: (1) 25%; multiplied by (2) the amount of the new qualified expenditures made by the taxpayer during the taxable year. Limits the credit that may be claimed for a taxable year to the taxpayer's state tax liability for that taxable year. Allows the taxpayer to carry over any unused credit for nine years. Provides that the credit may not be refunded, carried back, or transferred to another taxpayer. Limits the credit to $20,000,000 for each state fiscal year. Requires the department of state revenue to annually report to the state budget committee concerning the use of the credit, including summary information and the name and address of each taxpayer claiming the credit and the credit amount claimed by each taxpayer. Requires the IEDC to report to the general assembly regarding the credit.

February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED
SENATE BILL No. 321

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 JULY 1, 2012]:

Chapter 34. Transportation and Logistics Tax Credit

Sec. 1. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 2. As used in this chapter, "director" means the president of the corporation.

Sec. 3. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
(2) a partnership;
(3) a trust;
(4) a limited liability company; or
(5) a limited liability partnership.

Sec. 4. As used in this chapter, "qualified expenditure" means an expenditure described in section 8 of this chapter.

Sec. 5. 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. 6. As used in this chapter, "taxpayer" means an individual, a corporation, a pass through entity, or another entity that has state tax liability.

Sec. 7. (a) Subject to the limit on the annual amount of credits, the making of credit awards by the corporation, and the conditions set forth in this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability in a taxable year for making new qualified expenditures after June 30, 2012, and before January 1, 2018. New qualified expenditures made after June 30, 2012, and before July 1, 2013, may be used as the basis for claiming a credit, but may not be claimed or used as a basis for estimated payments until after June 30, 2013.

(b) The amount of new qualified expenditures made by a taxpayer during the taxable year is the difference of:

(1) the qualified expenditures made by the taxpayer during the taxable year; minus

(2) the average annual qualified expenditures made by the taxpayer during the two (2) taxable years immediately preceding the taxable year for which the credit is being claimed multiplied by one and one tenth (1.1).

However, if the qualified expenditures for the earlier year of the two (2) year average is zero (0) and the taxpayer has not claimed the credit for a year that precedes that year, the taxpayer shall, for purposes of subdivision (2), subtract only the amount of the qualified expenditures made during the taxable year immediately preceding the taxable year for which the credit is being claimed.

Sec. 8. (a) For purposes of this chapter, a qualified expenditure is an expenditure for one (1) or more of the following purposes:

(1) Making an improvement to real property located in Indiana that is related to constructing a new, or modernizing an existing, transportation or logistical distribution facility.

(2) Improving the transportation of goods on Indiana highways, limited to the following:

(A) Upgrading terminal facilities that serve tractors (as

defined in IC 9-13-2-180) and semitrailers (as defined in IC 9-13-2-164).

(B) Improving paved access to terminal facilities.

(C) Adding new maintenance areas.

(D) Purchasing new shop equipment having a useful life of at least five (5) years, such as diagnostic equipment, oil delivery systems, air compressors, and truck lifts.

(3) Improving the transportation of goods by rail, limited to the following:

(A) Upgrading or building mainline, secondary, yard, and spur trackage.

(B) Upgrading or replacing bridges to obtain higher load bearing capability.

(C) Upgrading or replacing grade crossings to increase visibility for motorists, including improvements to roadway surfaces, signage and traffic signals, and signal system upgrades and replacements to meet Federal Railroad Administration Positive Train Control regulations.

(D) Upgrading fueling facilities, including upgrading fueling and sanding locomotives or tanks, pumps, piping, containment areas, track pans, lighting, and security.

(E) Upgrading team track facilities, including railroad owned warehouses, loading docks, and transfer stations for loading and unloading freight.

(F) Upgrading shop facilities, including upgrading structures, inspection pits, drop pits, cranes, employee fall protection, lighting, climate control, and break rooms.

(4) Improving the transportation of goods by water, limited to the following:

(A) Upgrading or replacing a permanent waterside dock.

(B) Upgrading or building a new terminal facility that serves waterborne transportation.

(C) Improving paved access to a waterborne terminal facility.

(D) Purchasing new equipment having a useful life of at least five (5) years, including diagnostic equipment, an oil delivery system, an air compressor, or a barge lift.

(5) Improving the transportation of goods by air, limited to the following:

(A) Upgrading or building a new cargo building, apron, hangar, warehouse facility, freight forwarding facility,

cross-dock distribution facility, or aircraft maintenance facility.

(B) Improving paved access to a terminal or cargo facility.

(C) Upgrading a fueling facility.

(6) Improving warehousing and logistical capabilities, limited to the following:

(A) Upgrading warehousing facilities, including upgrading loading dock doors and loading dock plates, fueling equipment, fueling installations, or dolly drop pads for trailers.

(B) Improving logistical distribution by purchasing new equipment, limited to the following:

(i) Picking modules (systems of racks, conveyors, and controllers).

(ii) Racking equipment.

(iii) Warehouse management systems, including scanning or coding equipment.

(iv) Security equipment.

(v) Temperature control and monitoring equipment.

(vi) Dock levelers and pallet levelers and inverters.

(vii) Conveyors and related controllers, scales, and like equipment.

(viii) Packaging equipment.

(ix) Moving, separating, sorting, and picking equipment.

(7) Implementing a homeland security measure to comply with federal homeland security requirements, limited to the following:

(A) Gates, fencing, and checkpoints.

(B) Tank and grain elevator access restrictions.

(C) Tunnel emergency access restrictions.

(D) Security alarms.

(E) Lighting and motion sensors.

(F) Heavy duty locks.

(G) Valve locks for anhydrous ammonia nurse tanks.

(H) Employee security training.

A taxpayer must obtain the certification of the department of homeland security (IC 10-19-2-1) that an expenditure under this subdivision is a qualified expenditure for purposes of this chapter before claiming the tax credit. The department of homeland security, in consultation with the department, shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement a certification process for

purposes of this subdivision. In determining whether a homeland security measure complies with federal homeland security requirements for purposes of the credit provided by this chapter, the department shall apply the standards set forth in the United States Department of Homeland Security Chemical Facility Anti-terrorism Standards regulations (6 CFR Part 27) adopted under federal Public Law 109-295.

A qualified expenditure does not include an expenditure for maintenance expenses.

Sec. 9. (a) The corporation may make credit awards under this chapter if the new qualified expenditures will substantially enhance the logistics industry, create new jobs, preserve existing jobs that otherwise would be lost, increase wages in Indiana, and improve the overall Indiana economy.

(b) A person that proposes a project that involves new qualified expenditures in Indiana may apply to the corporation to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the applicant's project will substantially enhance the logistics industry and all the following conditions exist:

(1) The project will create new jobs, preserve existing jobs that otherwise would be lost, or increase wages in Indiana.

(2) The project is economically sound and will improve the Indiana economy.

(3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(c) Determinations under this section shall be made by the corporation.

Sec. 10. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the new qualified expenditures and the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each

tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the new qualified expenditures are made, and any other information the director needs to perform the director's duties under this chapter.

(6) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (5), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(7) A requirement that the taxpayer will maintain at the location where the new qualified expenditures are made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified expenditures were made.

(8) Any other performance conditions that the corporation determines are appropriate.

(c) If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 11. (a) A taxpayer that:

(1) is awarded a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit award under this chapter.

(b) The total amount of a tax credit award for a taxable year under this chapter is a percentage determined by the corporation, not to exceed twenty-five percent (25%) of the amount of the new qualified expenditures made by the taxpayer in Indiana during that taxable year.

(c) The corporation shall certify the amount of the new qualified expenditures that are eligible for a credit under this chapter.

(d) A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 12. (a) If the amount of the credit under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. However, the carryover period may not exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer is first granted the credit. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a refund or carryback of any unused credit.

(c) A taxpayer may not assign, convey, sell, or otherwise transfer the credit to any other taxpayer.

Sec. 13. If a pass through entity does not have state tax liability against which the tax credit may be applied, a shareholder or partner 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 or partner is entitled.

Sec. 14. (a) The total amount of credits allowed under this chapter may not exceed in the aggregate twenty million dollars ($20,000,000) for all taxpayers per state fiscal year.

(b) Any person that desires to claim a tax credit provided in this chapter shall file with the department, in the form that the department may prescribe, an application:

(1) stating the amount of the new qualified expenditures that

have been approved by the corporation;
(2) stating the amount sought to be claimed as a credit; and
(3) identifying whether the credit will be claimed during the state fiscal year in which the application is filed or the immediately succeeding state fiscal year.

(c) The department shall record the time of filing of each application for a credit under this chapter and shall, except as provided in subsection (d), grant the credit to the taxpayer in the chronological order in which the application is filed in the state fiscal year, if the taxpayer's proposed new qualified expenditures and the taxpayer otherwise qualify for a credit under this chapter. The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year proposed by the taxpayer.

(d) If the total credits approved under this section, including carryover credits approved for a previous state fiscal year, equal the maximum amount allowable in the state fiscal year, an application for the credit that is filed later for that same state fiscal year may not be approved. However, if an applicant for which a credit has been approved fails to claim the credit applied for, 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) To receive the credit provided by this chapter, a taxpayer must have an approved application and claim the credit in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit, for the determination of whether an expenditure is a new qualified expenditure, and for the department to fulfill the reporting requirements of this chapter.

Sec. 15. The department shall report, not later than December 15 each year, to the budget committee concerning the use of the credit under this chapter. The report must include the following with regard to the previous state fiscal year:
(1) Summary information regarding the taxpayers and the use of the credit, including the amount of credits approved, the number of taxpayers applying for the credit and claiming the credit, the number of employees who are employed in Indiana by the taxpayers claiming the credit, the amount and type of new qualified expenditures for which the credit was granted, the total dollar amount of new credits claimed and the

average amount of the credit claimed per taxpayer, the amount of credits to be carried forward to a subsequent taxable year, and the percentage of the total credits claimed as compared to the total adjusted gross income of all the taxpayers claiming the credit.

(2) The name and address of each taxpayer claiming the credit and the amount of the credit applied for by and granted to each taxpayer.

Sec. 16. On a biennial basis, the corporation shall provide for an evaluation of the tax credit program established by this chapter. The evaluation must include an assessment of the effectiveness of the program in substantially enhancing the logistics industry, creating new jobs, increasing wages in Indiana, and improving the overall Indiana economy. The evaluation may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year. The report provided to the president pro tempore of the senate and the speaker of the house of representatives must be in an electronic format under IC 5-14-6.

SECTION 2. [EFFECTIVE JANUARY 1, 2013] **(a) IC 6-3.1-34, as added by this act, applies to taxable years beginning after December 31, 2012.**

(b) This SECTION expires January 1, 2015.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 321, 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:

Page 2, delete lines 30 through 42 and insert:

"**an expenditure for making an improvement to real property located in Indiana that is related to constructing a new, or modernizing an existing, multimodal transportation facility that increases efficiency in the intermodal transportation of goods.**".

Delete page 3.

Page 4, delete lines 1 through 37.

Page 5, line 19, delete "twenty-five million dollars" and insert "**ten million dollars ($10,000,000)**".

Page 5, line 20, delete "($25,000,000)".

Page 5, line 20, delete "However, the".

Page 5, delete lines 21 through 25.

and when so amended that said bill do pass.

(Reference is to SB 321 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 321 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert the following:

"**Sec. 1. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.**

Sec. 2. As used in this chapter, "director" means the president of the corporation.".

Page 1, line 5, delete "1." and insert "**3.**".

Page 1, line 12, delete "2." and insert "**4.**".

Page 1, line 13, delete "6" and insert "**8**".

Page 1, line 14, delete "3." and insert "**5.**".

Page 2, line 5, delete "4." and insert "**6.**".

Page 2, line 8, delete "5." and insert "**7.**".

Page 2, line 8, after "credits" insert "**,**".

Page 2, line 9, delete "granted under section 9 of" and insert "**the making of credit awards by the corporation, and the conditions set forth in**".

Page 2, delete lines 26 through 33 and insert:

"**Sec. 8. (a) For purposes of this chapter, a qualified expenditure is an expenditure for one (1) or more of the following purposes:**

(1) Making an improvement to real property located in Indiana that is related to constructing a new, or modernizing an existing, transportation or logistical distribution facility.

(2) Improving the transportation of goods on Indiana highways, limited to the following:

(A) Upgrading terminal facilities that serve tractors (as defined in IC 9-13-2-180) and semitrailers (as defined in IC 9-13-2-164).

(B) Improving paved access to terminal facilities.

(C) Adding new maintenance areas.

(D) Purchasing new shop equipment having a useful life of at least five (5) years, such as diagnostic equipment, oil delivery systems, air compressors, and truck lifts.

(3) Improving the transportation of goods by rail, limited to the following:

(A) Upgrading or building mainline, secondary, yard, and spur trackage.

(B) Upgrading or replacing bridges to obtain higher load bearing capability.

(C) Upgrading or replacing grade crossings to increase visibility for motorists, including improvements to roadway surfaces, signage and traffic signals, and signal system upgrades and replacements to meet Federal Railroad Administration Positive Train Control regulations.

(D) Upgrading fueling facilities, including upgrading fueling and sanding locomotives or tanks, pumps, piping, containment areas, track pans, lighting, and security.

(E) Upgrading team track facilities, including railroad owned warehouses, loading docks, and transfer stations for loading and unloading freight.

(F) Upgrading shop facilities, including upgrading structures, inspection pits, drop pits, cranes, employee fall protection, lighting, climate control, and break rooms.

(4) Improving the transportation of goods by water, limited to the following:

(A) Upgrading or replacing a permanent waterside dock.

(B) Upgrading or building a new terminal facility that serves waterborne transportation.

(C) Improving paved access to a waterborne terminal facility.

(D) Purchasing new equipment having a useful life of at least five (5) years, including diagnostic equipment, an oil delivery system, an air compressor, or a barge lift.

(5) Improving the transportation of goods by air, limited to the following:

(A) Upgrading or building a new cargo building, apron, hangar, warehouse facility, freight forwarding facility, cross-dock distribution facility, or aircraft maintenance facility.

(B) Improving paved access to a terminal or cargo facility.

(C) Upgrading a fueling facility.

(6) Improving warehousing and logistical capabilities, limited to the following:

(A) Upgrading warehousing facilities, including upgrading loading dock doors and loading dock plates, fueling equipment, fueling installations, or dolly drop pads for trailers.

(B) Improving logistical distribution by purchasing new equipment, limited to the following:

(i) Picking modules (systems of racks, conveyors, and controllers).

(ii) Racking equipment.

(iii) Warehouse management systems, including scanning or coding equipment.

(iv) Security equipment.

(v) Temperature control and monitoring equipment.

(vi) Dock levelers and pallet levelers and inverters.

(vii) Conveyors and related controllers, scales, and like equipment.

(viii) Packaging equipment.

(ix) Moving, separating, sorting, and picking equipment.

A qualified expenditure does not include an expenditure for maintenance expenses.

Sec. 9. (a) The corporation may make credit awards under this chapter if the new qualified expenditures will substantially enhance

the logistics industry, create new jobs, preserve existing jobs that otherwise would be lost, increase wages in Indiana, and improve the overall Indiana economy.

(b) A person that proposes a project that involves new qualified expenditures in Indiana may apply to the corporation to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the applicant's project will substantially enhance the logistics industry and all the following conditions exist:

(1) The project will create new jobs, preserve existing jobs that otherwise would be lost, or increase wages in Indiana.

(2) The project is economically sound and will improve the Indiana economy.

(3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(c) Determinations under this section shall be made by the corporation.

Sec. 10. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the new qualified expenditures and the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the new qualified expenditures are made, and any other information the

director needs to perform the director's duties under this chapter.

(6) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (5), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(7) A requirement that the taxpayer will maintain at the location where the new qualified expenditures are made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified expenditures were made.

(8) Any other performance conditions that the corporation determines are appropriate.

(c) If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 11. (a) A taxpayer that:

(1) is awarded a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit award under this chapter.

(b) The total amount of a tax credit award for a taxable year under this chapter is a percentage determined by the corporation, not to exceed twenty-five percent (25%) of the amount of the new qualified expenditures made by the taxpayer in Indiana during that taxable year.

(c) The corporation shall certify the amount of the new qualified expenditures that are eligible for a credit under this chapter.

(d) A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year.

However, failure to submit a copy of the certificate does not invalidate a claim for a credit.".

Page 2, line 34, delete "7." and insert "**12.**".

Page 3, line 6, delete "8." and insert "**13.**".

Page 3, line 14, delete "9." and insert "**14.**".

Page 3, line 20, after "that" insert "**have been approved by the corporation;**".

Page 3, delete lines 21 and 22.

Page 4, line 11, delete "10." and insert "**15.**".

Page 4, between lines 29 and 30, begin a new paragraph and insert the following:

"**Sec. 16. On a biennial basis, the corporation shall provide for an evaluation of the tax credit program established by this chapter. The evaluation must include an assessment of the effectiveness of the program in substantially enhancing the logistics industry, creating new jobs, increasing wages in Indiana, and improving the overall Indiana economy. The evaluation may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year. The report provided to the president pro tempore of the senate and the speaker of the house of representatives must be in an electronic format under IC 5-14-6.**".

(Reference is to SB 321 as printed January 26, 2012.)

KENLEY

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 321, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JULY 1, 2012]".

Page 2, line 16, after "expenditures" insert "**after June 30, 2012, and**".

Page 2, line 16, delete "2019." and insert "**2018. New qualified expenditures made after June 30, 2012, and before July 1, 2013, may be used as the basis for claiming a credit, but may not be claimed or used as a basis for estimated payments until after June 30, 2013.**".

Page 2, line 24, after "claimed" delete "." and insert "**multiplied by one and one tenth (1.1).**".

Page 4, between lines 20 and 21, begin a new line block indented and insert:

"**(7) Implementing a homeland security measure to comply with federal homeland security requirements, limited to the following:**

(A) Gates, fencing, and checkpoints.

(B) Tank and grain elevator access restrictions.

(C) Tunnel emergency access restrictions.

(D) Security alarms.

(E) Lighting and motion sensors.

(F) Heavy duty locks.

(G) Valve locks for anhydrous ammonia nurse tanks.

(H) Employee security training.

A taxpayer must obtain the certification of the department of homeland security (IC 10-19-2-1) that an expenditure under this subdivision is a qualified expenditure for purposes of this chapter before claiming the tax credit. The department of homeland security, in consultation with the department, shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement a certification process for purposes of this subdivision. In determining whether a homeland security measure complies with federal homeland security requirements for purposes of the credit provided by this chapter, the department shall apply the standards set forth in the United States Department of Homeland Security Chemical Facility Anti-terrorism Standards regulations (6 CFR Part 27) adopted under federal Public Law 109-295.".

Page 7, line 8, delete "ten" and insert "**twenty**".

Page 7, line 9, delete "($10,000,000)" and insert "**($20,000,000)**".

and when so amended that said bill do pass.

(Reference is to SB 321 as reprinted January 31, 2012.)

STEMLER, Chair

Committee Vote: yeas 12, nays 0.