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.)

Senator KENLEY