



April 5, 2013

**ENGROSSED
HOUSE BILL No. 1545**

DIGEST OF HB 1545 (Updated April 3, 2013 1:47 pm - DI 58)

Citations Affected: IC 5-28; IC 6-1.1; IC 6-2.5; IC 6-3; IC 6-3.1; IC 8-22; noncode.

Synopsis: Tax credits. Provides a sales tax exemption for fuel used in powering an aircraft. Adds logistics investments as a specific type of qualified investment under the Hoosier business investment tax credit. Specifies in detail the expenditures that qualify as a logistics investment. Requires the Indiana economic development corporation to find that an applicant's logistics investment project will enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving the overall Indiana economy in order to approve the applicant's project for a tax credit. Makes conforming changes to the credit application and agreement provisions. Provides that the percentage credit maximum is 25% (instead of 10%) if a qualified investment is a logistics investment. Provides that for logistics investments, the qualified
(Continued next page)

Effective: July 1, 2013; January 1, 2014.

Turner

(SENATE SPONSOR — HERSHMAN)

January 22, 2013, read first time and referred to Committee on Ways and Means.
February 18, 2013, amended, reported — Do Pass.
February 20, 2013, read second time, ordered engrossed. Engrossed.
February 25, 2013, read third time, passed. Yeas 79, nays 14.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Tax and Fiscal Policy.
April 4, 2013, amended, reported favorably — Do Pass.

C
O
P
Y

EH 1545—LS 7049/DI 92+



Digest Continued

investments used to determine the credit are based on growth in qualified investments by the taxpayer using 105% of the investments made by the taxpayer during the immediately preceding two years. Adds a \$50,000,000 state fiscal year ceiling for tax credits that are not based on logistics investments. Provides a \$10,000,000 state fiscal year ceiling for tax credits that are based on logistics investments. Requires the department of state revenue to annually report to the budget committee on the use of the tax credit for logistics investments. Makes numerous changes to the administration of the headquarters relocation tax credit, and the venture capital investment tax credit. Repeals the military base recovery tax credit, the military base investment cost credit, the capital investment tax credit, and the coal combustion product tax credit. Repeals the following tax incentives concerning airport development zones: (1) qualified employee deductions; (2) credits for qualified increased employment expenditures; (3) loan interest credits; (4) neighborhood assistance credits; and (5) investment cost credits.

C
o
p
y



April 5, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1545

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

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

- 1 SECTION 1. IC 5-28-15-5, AS AMENDED BY P.L.146-2008,
2 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2014]: Sec. 5. (a) The board has the following powers,
4 in addition to other powers that are contained in this chapter:
5 (1) To review and approve or reject all applicants for enterprise
6 zone designation, according to the criteria for designation that this
7 chapter provides.
8 (2) To waive or modify rules as provided in this chapter.
9 (3) To provide a procedure by which enterprise zones may be
10 monitored and evaluated on an annual basis.
11 (4) To adopt rules for the disqualification of a zone business from
12 eligibility for any or all incentives available to zone businesses,
13 if that zone business does not do one (1) of the following:
14 (A) If all its incentives, as contained in the summary required
15 under section 7 of this chapter, exceed one thousand dollars
16 (\$1,000) in any year, pay a registration fee to the board in an
17 amount equal to one percent (1%) of all its incentives.

EH 1545—LS 7049/DI 92+



C
O
P
Y

- 1 (B) Use all its incentives, except for the amount of the
 2 registration fee, for its property or employees in the zone.
 3 (C) Remain open and operating as a zone business for twelve
 4 (12) months of the assessment year for which the incentive is
 5 claimed.
 6 (5) To disqualify a zone business from eligibility for any or all
 7 incentives available to zone businesses in accordance with the
 8 procedures set forth in the board's rules.
 9 (6) After a recommendation from a U.E.A., to modify an
 10 enterprise zone boundary if the board determines that the
 11 modification:
 12 (A) is in the best interests of the zone; and
 13 (B) meets the threshold criteria and factors set forth in section
 14 9 of this chapter.
 15 (7) To employ staff and contract for services.
 16 (8) To receive funds from any source and expend the funds for the
 17 administration and promotion of the enterprise zone program.
 18 (9) To make determinations under IC 6-3.1-11 concerning the
 19 designation of locations as industrial recovery sites.
 20 (10) To make determinations under IC 6-3.1-11 concerning the
 21 disqualification of persons from claiming credits provided by that
 22 chapter in appropriate cases.
 23 ~~(11) To make determinations under IC 6-3.1-11.5 concerning the~~
 24 ~~designation of locations as military base recovery sites and the~~
 25 ~~availability of the credit provided by IC 6-3.1-11.5 to persons~~
 26 ~~making qualified investments in military base recovery sites.~~
 27 ~~(12) To make determinations under IC 6-3.1-11.5 concerning the~~
 28 ~~disqualification of persons from claiming the credit provided by~~
 29 ~~IC 6-3.1-11.5 in appropriate cases.~~
 30 (b) In addition to a registration fee paid under subsection (a)(4)(A),
 31 each zone business that receives an incentive described in section 3 of
 32 this chapter shall assist the zone U.E.A. in an amount determined by
 33 the legislative body of the municipality in which the zone is located. If
 34 a zone business does not assist a U.E.A., the legislative body of the
 35 municipality in which the zone is located may pass an ordinance
 36 disqualifying a zone business from eligibility for all credits or
 37 incentives available to zone businesses. If a legislative body
 38 disqualifies a zone business under this subsection, the legislative body
 39 shall notify the board, the department of local government finance, and
 40 the department of state revenue in writing not more than thirty (30)
 41 days after the passage of the ordinance disqualifying the zone business.
 42 Disqualification of a zone business under this section is effective

C
O
P
Y

1 beginning with the taxable year in which the ordinance disqualifying
2 the zone business is adopted.

3 SECTION 2. IC 5-28-28-4, AS AMENDED BY SEA 162-2013,
4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2014]: Sec. 4. As used in this chapter, "tax credit" means
6 a state tax liability credit under any of the following:

- 7 (1) IC 6-3.1-7.
8 (2) IC 6-3.1-13.
9 ~~(3) IC 6-3.1-13.5 (until January 1, 2020).~~
10 ~~(4) (3) IC 6-3.1-26.~~
11 ~~(5) (4) IC 6-3.1-27.~~
12 ~~(6) (5) IC 6-3.1-28.~~
13 ~~(7) (6) IC 6-3.1-30.~~
14 ~~(8) (7) IC 6-3.1-31.9.~~
15 ~~(9) (8) IC 6-3.1-33.~~

16 SECTION 3. IC 6-1.1-43-1, AS AMENDED BY P.L.229-2005,
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JANUARY 1, 2014]: Sec. 1. This chapter applies to the following
19 economic development incentive programs:

- 20 (1) Grants and loans provided by the Indiana economic
21 development corporation under IC 5-28 or the office of tourism
22 development under IC 5-29.
23 (2) Incentives provided in an economic revitalization area under
24 IC 6-1.1-12.1.
25 (3) Incentives provided under IC 6-3.1-13.
26 ~~(4) Incentives provided in an airport development zone under~~
27 ~~IC 8-22-3.5-14.~~

28 SECTION 4. IC 6-1.1-44-7 IS REPEALED [EFFECTIVE
29 JANUARY 1, 2014]. ~~Sec. 7: A taxpayer that obtains a credit under~~
30 ~~IC 6-3.1-25.2 may not obtain a deduction under this chapter in a~~
31 ~~taxable year.~~

32 SECTION 5. IC 6-2.5-4-5, AS AMENDED BY P.L.137-2012,
33 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JANUARY 1, 2014]: Sec. 5. (a) As used in this section, a "power
35 subsidiary" means a corporation which is owned or controlled by one
36 (1) or more public utilities that furnish or sell electrical energy, natural
37 or artificial gas, water, steam, or steam heat and which produces power
38 exclusively for the use of those public utilities.

39 (b) A power subsidiary or a person engaged as a public utility is a
40 retail merchant making a retail transaction when the subsidiary or
41 person furnishes or sells electrical energy, natural or artificial gas,
42 water, steam, or steam heating service to a person for commercial or

C
O
P
Y



1 domestic consumption.

2 (c) Notwithstanding subsection (b), a power subsidiary or a person
3 engaged as a public utility is not a retail merchant making a retail
4 transaction in any of the following transactions:

5 (1) The power subsidiary or person provides, installs, constructs,
6 services, or removes tangible personal property which is used in
7 connection with the furnishing of the services or commodities
8 listed in subsection (b).

9 (2) The power subsidiary or person sells the services or
10 commodities listed in subsection (b) to another public utility or
11 power subsidiary described in this section or a person described
12 in section 6 of this chapter.

13 (3) The power subsidiary or person sells the services or
14 commodities listed in subsection (b) to a person for use in
15 manufacturing, mining, production, processing (after December
16 31, 2012), repairing (after December 31, 2012), refining,
17 recycling (as defined in IC 6-2.5-5-45.8), oil extraction, mineral
18 extraction, irrigation, agriculture, floriculture (after December 31,
19 2012), arboriculture (after December 31, 2012), or horticulture.
20 However, this exclusion for sales of the services and commodities
21 only applies if the services are consumed as an essential and
22 integral part of an integrated process that produces tangible
23 personal property and those sales are separately metered for the
24 excepted uses listed in this subdivision, or if those sales are not
25 separately metered but are predominately used by the purchaser
26 for the excepted uses listed in this subdivision.

27 (4) The power subsidiary or person sells the services or
28 commodities listed in subsection (b) and all the following
29 conditions are satisfied:

30 (A) The services or commodities are sold to a business that:
31 ~~after June 30, 2004:~~

32 (i) relocates all or part of its operations to a facility; or

33 (ii) expands all or part of its operations in a facility;

34 located in a military base (as defined in IC 36-7-30-1(c)), a
35 military base reuse area established under IC 36-7-30, the part
36 of an economic development area established under
37 IC 36-7-14.5-12.5 that is or formerly was a military base (as
38 defined in IC 36-7-30-1(c)), a **military base recovery site**
39 ~~designated under IC 6-3-1-11.5~~; or a qualified military base
40 enhancement area established under IC 36-7-34.

41 (B) The business uses the services or commodities in the
42 facility described in clause (A) not later than five (5) years

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(1), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

(E) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 6. IC 6-2.5-5-47 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 47. A transaction involving petroleum based fuel is exempt from the state gross retail tax if the person acquires the fuel for use in powering an aircraft.**

SECTION 7. IC 6-3-2-1.5, AS AMENDED BY P.L.180-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C
o
p
y



1 JANUARY 1, 2014]: Sec. 1.5. (a) As used in this section, "qualified
2 area" means:

- 3 (1) a military base (as defined in IC 36-7-30-1(c));
4 (2) a military base reuse area established under IC 36-7-30;
5 (3) the part of an economic development area established under
6 IC 36-7-14.5-12.5 that is or formerly was a military base (as
7 defined in IC 36-7-30-1(c)); **or**
8 ~~(4) a military base recovery site designated under IC 6-3.1-11.5;~~
9 ~~or~~
10 (5) **(4)** a qualified military base enhancement area established
11 under IC 36-7-34.

12 (b) Except as provided in subsection (e), a tax at the rate of five
13 percent (5%) of adjusted gross income is imposed on that part of the
14 adjusted gross income of a corporation that is derived from sources
15 within a qualified area if the corporation locates all or part of its
16 operations in a qualified area during the taxable year, as determined
17 under subsection (g). The tax rate under this section applies to the
18 taxable year in which the corporation locates its operations in the
19 qualified area and to the next succeeding four (4) taxable years.

20 (c) In the case of a corporation that locates all or part of its
21 operations in a qualified military base enhancement area established
22 under IC 36-7-34-4(1), the tax rate imposed under this section applies
23 to the corporation only if the corporation meets at least one (1) of the
24 following criteria:

- 25 (1) The corporation is a participant in the technology transfer
26 program conducted by the qualified military base (as defined in
27 IC 36-7-34-3).
28 (2) The corporation is a United States Department of Defense
29 contractor.
30 (3) The corporation and the qualified military base have a
31 mutually beneficial relationship evidenced by a memorandum of
32 understanding between the corporation and the United States
33 Department of Defense.

34 (d) In the case of a business that uses the services or commodities
35 in a qualified military base enhancement area established under
36 IC 36-7-34-4(2), the business must satisfy at least one (1) of the
37 following criteria:

- 38 (1) The business is a participant in the technology transfer
39 program conducted by the qualified military base (as defined in
40 IC 36-7-34-3).
41 (2) The business and the qualified military base have a mutually
42 beneficial relationship evidenced by a memorandum of

C
o
p
y



- 1 understanding between the business and the qualified military
 2 base (as defined in IC 36-7-34-3).
- 3 (e) A taxpayer is not entitled to the tax rate described in subsection
 4 (b) to the extent that the taxpayer substantially reduces or ceases its
 5 operations at another location in Indiana in order to relocate its
 6 operations within the qualified area, unless:
- 7 (1) the taxpayer had existing operations in the qualified area; and
 8 (2) the operations relocated to the qualified area are an expansion
 9 of the taxpayer's operations in the qualified area.
- 10 (f) A determination under subsection (e) that a taxpayer is not
 11 entitled to the tax rate provided by this section as a result of a
 12 substantial reduction or cessation of operations applies to the taxable
 13 year in which the substantial reduction or cessation occurs and in all
 14 subsequent years. Determinations under this section shall be made by
 15 the department of state revenue.
- 16 (g) The department of state revenue:
- 17 (1) shall adopt rules under IC 4-22-2 to establish a procedure for
 18 determining the part of a corporation's adjusted gross income that
 19 was derived from sources within a qualified area; and
 20 (2) may adopt other rules that the department considers necessary
 21 for the implementation of this chapter.
- 22 SECTION 8. IC 6-3.1-1-3, AS AMENDED BY P.L.133-2012,
 23 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JANUARY 1, 2014]: Sec. 3. A taxpayer (as defined in the following
 25 laws), pass through entity (as defined in the following laws), or
 26 shareholder, partner, or member of a pass through entity may not be
 27 granted more than one (1) tax credit under the following laws for the
 28 same project:
- 29 (1) IC 6-3.1-10 (enterprise zone investment cost credit).
 30 (2) IC 6-3.1-11 (industrial recovery tax credit).
 31 ~~(3) IC 6-3.1-11.5 (military base recovery tax credit).~~
 32 ~~(4) IC 6-3.1-11.6 (military base investment cost credit).~~
 33 ~~(5) IC 6-3.1-13.5 (capital investment tax credit) (before its~~
 34 ~~expiration on January 1, 2020).~~
 35 ~~(6) (3) IC 6-3.1-19 (community revitalization enhancement~~
 36 ~~district tax credit).~~
 37 ~~(7) (4) IC 6-3.1-24 (venture capital investment tax credit).~~
 38 ~~(8) (5) IC 6-3.1-26 (Hoosier business investment tax credit).~~
 39 ~~(9) (6) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle~~
 40 ~~manufacturer tax credit).~~
 41 If a taxpayer, pass through entity, or shareholder, partner, or member
 42 of a pass through entity has been granted more than one (1) tax credit

C
o
p
y

1 for the same project, the taxpayer, pass through entity, or shareholder,
 2 partner, or member of a pass through entity must elect to apply only
 3 one (1) of the tax credits in the manner and form prescribed by the
 4 department.

5 SECTION 9. IC 6-3.1-11-1, AS AMENDED BY P.L.113-2011,
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2013]: Sec. 1. As used in this chapter, "applicable percentage"
 8 means the percentage determined as follows:

9 (1) If a plant that is located on an industrial recovery site was
 10 placed in service at least fifteen (15) years ago but less than thirty

11 (30) years ago, the applicable percentage is fifteen percent (15%).

12 (2) If a plant that is located on an industrial recovery site was
 13 placed in service at least thirty (30) years ago but less than forty
 14 (40) years ago, the applicable percentage is twenty percent (20%).

15 (3) If a plant that is located on an industrial recovery site was
 16 placed in service at least forty (40) years ago, the applicable
 17 percentage is twenty-five percent (25%).

18 The time that has expired since a plant was placed in service shall be
 19 determined as of the date that an application is filed with the ~~board~~
 20 **corporation** for designation of the location as an industrial recovery
 21 site under this chapter.

22 SECTION 10. IC 6-3.1-11-2 IS REPEALED [EFFECTIVE JULY
 23 1, 2013]. ~~Sec. 2: As used in this chapter, "board" means the board of~~
 24 ~~the Indiana economic development corporation created under~~
 25 ~~IC 5-28-4.~~

26 SECTION 11. IC 6-3.1-11-2.5 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. As used in this chapter,**
 29 **"corporation" refers to the Indiana economic development**
 30 **corporation created under IC 5-28-3 unless the context clearly**
 31 **denotes otherwise.**

32 SECTION 12. IC 6-3.1-11-10 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. As used in this
 34 chapter, "qualified investment" means the amount of the taxpayer's
 35 expenditures for rehabilitation of property located within an industrial
 36 recovery site. ~~under a plan contained in an application approved by the~~
 37 ~~board under section 18 of this chapter. An expenditure for purposes or~~
 38 ~~by persons not covered by such a plan may not be a qualified~~
 39 ~~investment.~~

40 SECTION 13. IC 6-3.1-11-15, AS AMENDED BY P.L.113-2011,
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2013]: Sec. 15. As used in this chapter, "vacant industrial



C
o
p
y

1 facility" means a tract of land on which there is located a plant that:

2 (1) has:

3 (A) for taxable years beginning after December 31, 2010, and
4 beginning before January 1, 2015, at least fifty thousand
5 (50,000) square feet of floor space; or

6 (B) for taxable years beginning after December 31, 2014, at
7 least one hundred thousand (100,000) square feet of floor
8 space; **and**

9 (2) was placed in service at least fifteen (15) years ago. **and**

10 (3) has been vacant for at least one (1) year; unless the tract and
11 the plant are owned by a municipality or a county; in which case
12 the one (1) year requirement does not apply.

13 SECTION 14. IC 6-3.1-11-18 IS REPEALED [EFFECTIVE JULY
14 1, 2013]. Sec. 18: (a) After approval by ordinance or resolution of the
15 legislative body; the executive of any municipality may submit an
16 application to the board requesting that a vacant industrial facility
17 within the municipality be designated as an industrial recovery site.
18 After approval by resolution of the legislative body; the executive of
19 any county may submit an application to the board requesting that a
20 vacant industrial facility within the county; but not within any
21 municipality; be designated as an industrial recovery site. In addition
22 to any other information required by the board; the application shall
23 include a description of the plan proposed by the municipality or
24 county for development and use of the vacant industrial facility.

25 (b) If the property described in the application submitted to the
26 board meets the definition of a vacant industrial facility as of the date
27 of filing of the application; the board shall:

28 (1) evaluate the application;

29 (2) arrive at a decision based on the factors set forth in section 19
30 of this chapter; and

31 (3) either designate the property as an industrial recovery site or
32 reject the application.

33 (c) If the board determines that:

34 (1) a substantial reduction or cessation of operations at a facility
35 in Indiana after January 1, 1987; has created a vacant industrial
36 facility; and

37 (2) the operations formerly located at that facility have been
38 relocated to a specific site or sites outside the United States;

39 the facility may be designated as an industrial recovery site only if it
40 has been donated or sold to the municipality. Such a facility may be
41 designated as an industrial recovery site whether it is owned by the
42 municipality or by a taxpayer who acquired it from the municipality

EH 1545—LS 7049/DI 92+



C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

after the donation or sale:

SECTION 15. IC 6-3.1-11-19, AS AMENDED BY P.L.146-2008, SECTION 324, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. The **board corporation** shall consider the following factors in evaluating applications filed under this chapter:

(1) The level of distress in the surrounding community caused by the loss of jobs at the vacant industrial facility.

~~(2) The desirability of the intended use of the vacant industrial facility under the plan proposed by the municipality or county and the likelihood that the implementation of the plan will improve the economic and employment conditions in the surrounding community.~~

~~(3) (2) Evidence of support for the designation by residents, businesses, and private organizations in the surrounding community.~~

~~(4) (3) Evidence of a commitment by private or governmental entities to provide financial assistance in implementing the plan proposed by the municipality or county, including the application of IC 36-7-12, IC 36-7-13, IC 36-7-14, or IC 36-7-15.1 to assist in the financing of improvements or redevelopment activities benefiting the vacant industrial facility.~~

~~(5) Evidence of efforts by the municipality or county to implement the proposed plan without additional financial assistance from the state.~~

~~(6) (4) Whether the industrial recovery site is within an economic revitalization area designated under IC 6-1.1-12.1.~~

SECTION 16. IC 6-3.1-11-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. A taxpayer is not entitled to claim the credit provided by this chapter ~~to the extent that it~~ **if the corporation determines that the taxpayer has** substantially ~~reduces reduced or ceases ceased~~ its operations in Indiana in order to relocate them within the industrial recovery site. A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations ~~shall apply~~ **applies** to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the board.~~

SECTION 17. IC 6-3.1-11-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. To receive the credit provided by this chapter, a taxpayer must claim the credit on the

C
o
p
y



1 taxpayer's annual state tax return or returns in the manner prescribed
2 by the department of state revenue. The taxpayer shall submit to the
3 department of state revenue the certification of the ~~board~~ **corporation**
4 stating the percentage of credit allowable under this chapter and all
5 other information that the department determines is necessary for the
6 calculation of the credit provided by this chapter and for the
7 determination of whether an expenditure was for a qualified
8 investment.

9 SECTION 18. IC 6-3.1-11.5 IS REPEALED [EFFECTIVE
10 JANUARY 1, 2014]. (Military Base Recovery Tax Credit).

11 SECTION 19. IC 6-3.1-11.6 IS REPEALED [EFFECTIVE
12 JANUARY 1, 2014]. (Military Base Investment Cost Credit).

13 SECTION 20. IC 6-3.1-13.5 IS REPEALED [EFFECTIVE
14 JANUARY 1, 2014]. (Capital Investment Tax Credit).

15 SECTION 21. IC 6-3.1-24-9, AS AMENDED BY P.L.137-2012,
16 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]: Sec. 9. (a) The total amount of tax credits that may be
18 ~~allowed~~ **approved by the corporation** under this chapter in a
19 particular calendar year for qualified investment capital provided
20 during that calendar year may not exceed twelve million five hundred
21 thousand dollars (\$12,500,000). ~~The Indiana economic development~~
22 ~~corporation may not certify a proposed investment plan under section~~
23 ~~12.5 of this chapter if the proposed investment would result in the total~~
24 ~~amount of the tax credits certified for the calendar year exceeding~~
25 ~~twelve million five hundred thousand dollars (\$12,500,000). An~~
26 ~~amount of an unused credit carried over by a taxpayer from a previous~~
27 ~~calendar year may not be considered in determining the amount of~~
28 ~~proposed investments that the Indiana economic development~~
29 ~~corporation may certify under this chapter.~~

30 (b) Notwithstanding the other provisions of this chapter, a taxpayer
31 is not entitled to a credit for providing qualified investment capital to
32 a qualified Indiana business after December 31, 2016. However, this
33 subsection may not be construed to prevent a taxpayer from carrying
34 over to a taxable year beginning after December 31, 2016, an unused
35 tax credit attributable to an investment occurring before January 1,
36 2017.

37 SECTION 22. IC 6-3.1-25.2 IS REPEALED [EFFECTIVE
38 JANUARY 1, 2014]. (Coal Combustion Product Tax Credit).

39 SECTION 23. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006,
40 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "qualified
42 investment" means the amount of the taxpayer's expenditures in Indiana

C
o
p
y



- 1 for:
- 2 (1) the purchase of new telecommunications, production,
- 3 manufacturing, fabrication, assembly, extraction, mining,
- 4 processing, refining, finishing, distribution, transportation, or
- 5 logistical distribution equipment;
- 6 (2) the purchase of new computers and related equipment;
- 7 (3) costs associated with the modernization of existing
- 8 telecommunications, production, manufacturing, fabrication,
- 9 assembly, extraction, mining, processing, refining, finishing,
- 10 distribution, transportation, or logistical distribution facilities;
- 11 (4) onsite infrastructure improvements;
- 12 (5) the construction of new telecommunications, production,
- 13 manufacturing, fabrication, assembly, extraction, mining,
- 14 processing, refining, finishing, distribution, transportation, or
- 15 logistical distribution facilities;
- 16 (6) costs associated with retooling existing machinery and
- 17 equipment;
- 18 (7) costs associated with the construction of special purpose
- 19 buildings and foundations for use in the computer, software,
- 20 biological sciences, or telecommunications industry; ~~and~~
- 21 (8) costs associated with the purchase of machinery, equipment,
- 22 or special purpose buildings used to make motion pictures or
- 23 audio productions; **and**
- 24 **(9) a logistics investment, as described in section 8.5 of this**
- 25 **chapter;**
- 26 that are certified by the corporation under this chapter as being eligible
- 27 for the credit under this chapter.
- 28 (b) The term does not include property that can be readily moved
- 29 outside Indiana.
- 30 SECTION 24. IC 6-3.1-26-8.5 IS ADDED TO THE INDIANA
- 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JANUARY 1, 2014]: **Sec. 8.5. (a) For purposes of this**
- 33 **chapter, a "logistics investment" means an expenditure for one (1)**
- 34 **or more of the following purposes:**
- 35 **(1) Making an improvement to real property located in**
- 36 **Indiana that is related to constructing a new, or modernizing**
- 37 **an existing, transportation or logistical distribution facility.**
- 38 **(2) Improving the transportation of goods on Indiana**
- 39 **highways, limited to the following:**
- 40 **(A) Upgrading terminal facilities that serve tractors (as**
- 41 **defined in IC 9-13-2-180) and semitrailers (as defined in**
- 42 **IC 9-13-2-164).**



C
O
P
Y

- 1 **(B) Improving paved access to terminal facilities.**
- 2 **(C) Adding new maintenance areas.**
- 3 **(D) Purchasing new shop equipment having a useful life of**
- 4 **at least five (5) years, such as diagnostic equipment, oil**
- 5 **delivery systems, air compressors, and truck lifts.**
- 6 **(3) Improving the transportation of goods by rail, limited to**
- 7 **the following:**
- 8 **(A) Upgrading or building mainline, secondary, yard, and**
- 9 **spur trackage.**
- 10 **(B) Upgrading or replacing bridges to obtain higher load**
- 11 **bearing capability.**
- 12 **(C) Upgrading or replacing grade crossings to increase**
- 13 **visibility for motorists, including improvements to**
- 14 **roadway surfaces, signage and traffic signals, and signal**
- 15 **system upgrades and replacements to meet Federal**
- 16 **Railroad Administration Positive Train Control**
- 17 **regulations.**
- 18 **(D) Upgrading fueling facilities, including upgrading**
- 19 **fueling and sanding locomotives or tanks, pumps, piping,**
- 20 **containment areas, track pans, lighting, and security.**
- 21 **(E) Upgrading team track facilities, including railroad**
- 22 **owned warehouses, loading docks, and transfer stations for**
- 23 **loading and unloading freight.**
- 24 **(F) Upgrading shop facilities, including upgrading**
- 25 **structures, inspection pits, drop pits, cranes, employee fall**
- 26 **protection, lighting, climate control, and break rooms.**
- 27 **(4) Improving the transportation of goods by water, limited to**
- 28 **the following:**
- 29 **(A) Upgrading or replacing a permanent waterside dock.**
- 30 **(B) Upgrading or building a new terminal facility that**
- 31 **serves waterborne transportation.**
- 32 **(C) Improving paved access to a waterborne terminal**
- 33 **facility.**
- 34 **(D) Purchasing new equipment having a useful life of at**
- 35 **least five (5) years, including diagnostic equipment, an oil**
- 36 **delivery system, an air compressor, or a barge lift.**
- 37 **(5) Improving the transportation of goods by air, limited to**
- 38 **the following:**
- 39 **(A) Upgrading or building a new cargo building, apron,**
- 40 **hangar, warehouse facility, freight forwarding facility,**
- 41 **cross-dock distribution facility, or aircraft maintenance**
- 42 **facility.**

COPY



- 1 **(B) Improving paved access to a terminal or cargo facility.**
- 2 **(C) Upgrading a fueling facility.**
- 3 **(6) Improving warehousing and logistical capabilities, limited**
- 4 **to the following:**
- 5 **(A) Upgrading warehousing facilities, including upgrading**
- 6 **loading dock doors and loading dock plates, fueling**
- 7 **equipment, fueling installations, or dolly drop pads for**
- 8 **trailers.**
- 9 **(B) Improving logistical distribution by purchasing new**
- 10 **equipment, limited to the following:**
- 11 **(i) Picking modules (systems of racks, conveyors, and**
- 12 **controllers).**
- 13 **(ii) Racking equipment.**
- 14 **(iii) Warehouse management systems, including scanning**
- 15 **or coding equipment.**
- 16 **(iv) Security equipment.**
- 17 **(v) Temperature control and monitoring equipment.**
- 18 **(vi) Dock levelers and pallet levelers and inverters.**
- 19 **(vii) Conveyors and related controllers, scales, and like**
- 20 **equipment.**
- 21 **(viii) Packaging equipment.**
- 22 **(ix) Moving, separating, sorting, and picking equipment.**

23 **A logistics investment does not include an expenditure for**

24 **maintenance expenses.**

25 SECTION 25. IC 6-3.1-26-14, AS AMENDED BY P.L.199-2005,

26 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

27 JANUARY 1, 2014]: Sec. 14. The total amount of a tax credit claimed

28 for a taxable year under this chapter is a percentage determined by the

29 corporation, not to exceed:

- 30 **(1) ten percent (10%), of the amount of a qualified investment**
- 31 **made by the taxpayer in Indiana during that taxable year, if the**
- 32 **qualified investment is not a logistics investment; and**
- 33 **(2) twenty-five percent (25%) of the amount of a qualified**
- 34 **investment made by the taxpayer in Indiana during that**
- 35 **taxable year, if the qualified investment is a logistics**
- 36 **investment. For purposes of this subdivision, the amount of a**
- 37 **qualified investment that is used to determine the credit is**
- 38 **limited to the difference of:**
- 39 **(A) the qualified investments made by the taxpayer during**
- 40 **the taxable year; minus**
- 41 **(B) one hundred five percent (105%) of the average annual**
- 42 **qualified investments made by the taxpayer during the two**

C
o
p
y



1 **(2) taxable years immediately preceding the taxable year**
 2 **for which the credit is being claimed. However, if the**
 3 **qualified investments for the earlier year of the two (2)**
 4 **year average is zero (0) and the taxpayer has not claimed**
 5 **the credit for a year that precedes that year, the taxpayer**
 6 **shall subtract only one hundred five percent (105%) of the**
 7 **amount of the qualified investments made during the**
 8 **taxable year immediately preceding the taxable year for**
 9 **which the credit is being claimed.**

10 The taxpayer may carry forward any unused credit **as provided in**
 11 **section 15 of this chapter.**

12 SECTION 26. IC 6-3.1-26-15, AS AMENDED BY P.L.199-2005,
 13 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2014]: Sec. 15. (a) A taxpayer may carry forward an
 15 unused credit for the number of years determined by the corporation,
 16 not to exceed nine (9) consecutive taxable years, beginning with the
 17 taxable year after the taxable year in which the taxpayer makes the
 18 qualified investment.

19 (b) The amount that a taxpayer may carry forward to a particular
 20 taxable year under this section equals the unused part of a credit
 21 allowed under this chapter.

22 (c) A taxpayer may:

23 (1) claim a tax credit under this chapter for a qualified
 24 investment; and

25 (2) carry forward a remainder for one (1) or more different
 26 qualified investments;

27 in the same taxable year.

28 (d) ~~The total amount of each tax credit claimed under this chapter~~
 29 ~~may not exceed ten percent (10%) of the qualified investment for~~
 30 ~~which the tax credit is claimed.~~

31 SECTION 27. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005,
 32 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JANUARY 1, 2014]: Sec. 17. A person that proposes a
 34 project to:

35 **(1) create new jobs or increase wage levels in Indiana; or**

36 **(2) substantially enhance the logistics industry by creating**
 37 **new jobs, preserving existing jobs that otherwise would be**
 38 **lost, increasing wages in Indiana, or improving the overall**
 39 **Indiana economy, in the case of a logistics investment being**
 40 **claimed by the applicant;**

41 may apply to the corporation before the taxpayer makes the qualified
 42 investment to enter into an agreement for a tax credit under this

C
O
P
Y



1 chapter. The director shall prescribe the form of the application.

2 SECTION 28. IC 6-3.1-26-18, AS AMENDED BY P.L.1-2006,
3 SECTION 143, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JANUARY 1, 2014]: Sec. 18. After receipt of an
5 application, the corporation may enter into an agreement with the
6 applicant for a credit under this chapter if the corporation determines
7 that all the following conditions exist:

8 (1) The applicant's project will:

9 (A) raise the total earnings of employees of the applicant in
10 Indiana; or

11 (B) **substantially enhance the logistics industry by creating**
12 **new jobs, preserving existing jobs that otherwise would be**
13 **lost, increasing wages in Indiana, or improving the overall**
14 **Indiana economy, in the case of a logistics investment being**
15 **claimed by the applicant.**

16 (2) The applicant's project is economically sound and will benefit
17 the people of Indiana by increasing opportunities for employment
18 and strengthening the economy of Indiana.

19 (3) Receiving the tax credit is a major factor in the applicant's
20 decision to go forward with the project and not receiving the tax
21 credit will result in the applicant not raising the total earnings of
22 **the applicant's** employees in Indiana, **or other employees in**
23 **Indiana in the case of a logistics investment being claimed by**
24 **the applicant.**

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

28 (5) The credit is not prohibited by section 19 of this chapter.

29 (6) **In the case of a qualified investment that is not being**
30 **claimed as a logistics investment by the applicant,** the average
31 wage that will be paid by the taxpayer to its employees (excluding
32 highly compensated employees) at the location after the credit is
33 given will be at least equal to one hundred fifty percent (150%)
34 of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

35 SECTION 29. IC 6-3.1-26-20, AS AMENDED BY P.L.4-2005,
36 SECTION 109, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JANUARY 1, 2014]: Sec. 20. (a) The corporation shall
38 certify the amount of the qualified investment that is eligible for a
39 credit under this chapter. In determining the credit amount that should
40 be awarded, the corporation shall grant a credit only for the amount of
41 the qualified investment that is directly related to:

42 (1) expanding the workforce in Indiana; or

EH 1545—LS 7049/DI 92+



C
O
P
Y

- 1 (2) substantially enhancing the logistics industry and
- 2 improving the overall Indiana economy.
- 3 (b) The total amount of credits that the corporation may
- 4 approve under this chapter for a state fiscal year for all taxpayers
- 5 for all qualified investments is:
- 6 (1) fifty million dollars (\$50,000,000) for credits based on a
- 7 qualified investment that is not being claimed as a logistics
- 8 investment; and
- 9 (2) ten million dollars (\$10,000,000) for credits based on a
- 10 qualified investment that is being claimed as a logistics
- 11 investment.
- 12 (c) A person that desires to claim a tax credit for a qualified
- 13 investment shall file with the department, in the form that the
- 14 department may prescribe, an application:
- 15 (1) stating separately the amount of the credit awards for
- 16 qualified investments that have been granted to the taxpayer
- 17 by the corporation that will be claimed as a credit that is
- 18 covered by:
- 19 (A) subsection (b)(1); and
- 20 (B) subsection (b)(2);
- 21 (2) stating separately the amount sought to be claimed as a
- 22 credit that is covered by:
- 23 (A) subsection (b)(1); and
- 24 (B) subsection (b)(2); and
- 25 (3) identifying whether the credit will be claimed during the
- 26 state fiscal year in which the application is filed or the
- 27 immediately succeeding state fiscal year.
- 28 (d) The department shall separately record the time of filing of
- 29 each application for a credit award for a qualified investment
- 30 covered by subsection (b)(1) and for a qualified investment covered
- 31 by subsection (b)(2) and shall, except as provided in subsection (e),
- 32 approve the credit to the taxpayer in the chronological order in
- 33 which the application is filed in the state fiscal year. The
- 34 department shall promptly notify an applicant whether, or the
- 35 extent to which, the tax credit is allowable in the state fiscal year
- 36 proposed by the taxpayer.
- 37 (e) If the total credit awards for qualified investments that are
- 38 covered by:
- 39 (1) subsection (b)(1); and
- 40 (2) subsection (b)(2);
- 41 including carryover credit awards covered by each subsection for
- 42 a previous state fiscal year, equal the maximum amount allowable

COPY



1 **in the state fiscal year, an application for such a credit award that**
2 **is filed later for that same state fiscal year may not be granted by**
3 **the department. However, if an applicant for which a credit has**
4 **been awarded and applied for with the department fails to claim**
5 **the credit, an amount equal to the credit previously applied for but**
6 **not claimed may be allowed to the next eligible applicant or**
7 **applicants until the total amount has been allowed.**

8 SECTION 30. IC 6-3.1-26-21, AS AMENDED BY P.L.4-2005,
9 SECTION 110, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JANUARY 1, 2014]: Sec. 21. The corporation shall
11 enter into an agreement with an applicant that is awarded a credit under
12 this chapter. The agreement must include all the following:

- 13 (1) A detailed description of the project that is the subject of the
14 agreement.
- 15 (2) The first taxable year for which the credit may be claimed.
- 16 (3) The amount of the taxpayer's state tax liability for each tax in
17 the taxable year of the taxpayer that immediately preceded the
18 first taxable year in which the credit may be claimed.
- 19 (4) The maximum tax credit amount that will be allowed for each
20 taxable year.
- 21 (5) A requirement that the taxpayer shall maintain operations at
22 the project location for at least ten (10) years during the term that
23 the tax credit is available.
- 24 (6) A specific method for determining the number of new
25 employees employed during a taxable year who are performing
26 jobs not previously performed by an employee.
- 27 (7) A requirement that the taxpayer shall annually report to the
28 corporation the number of new employees who are performing
29 jobs not previously performed by an employee, the average wage
30 of the new employees, the average wage of all employees at the
31 location where the qualified investment is made, **if the qualified**
32 **investment is not being claimed as a logistics investment by**
33 **the applicant**, and any other information the director needs to
34 perform the director's duties under this chapter.
- 35 (8) A requirement that the director is authorized to verify with the
36 appropriate state agencies the amounts reported under subdivision
37 (7), and that after doing so shall issue a certificate to the taxpayer
38 stating that the amounts have been verified.
- 39 (9) **This subdivision applies only to a qualified investment that**
40 **is not being claimed as a logistics investment by the applicant.**
41 A requirement that the taxpayer shall pay an average wage to all
42 its employees other than highly compensated employees in each

C
o
p
y



- 1 taxable year that a tax credit is available that equals at least one
- 2 hundred fifty percent (150%) of the hourly minimum wage under
- 3 IC 22-2-2-4 or its equivalent.
- 4 (10) A requirement that the taxpayer will keep the qualified
- 5 investment property that is the basis for the tax credit in Indiana
- 6 for at least the lesser of its useful life for federal income tax
- 7 purposes or ten (10) years.
- 8 (11) **This subdivision applies only to a qualified investment**
- 9 **that is not being claimed as a logistics investment by the**
- 10 **applicant.** A requirement that the taxpayer will maintain at the
- 11 location where the qualified investment is made during the term
- 12 of the tax credit a total payroll that is at least equal to the payroll
- 13 level that existed before the qualified investment was made.
- 14 (12) A requirement that the taxpayer shall provide written
- 15 notification to the director and the corporation not more than
- 16 thirty (30) days after the taxpayer makes or receives a proposal
- 17 that would transfer the taxpayer's state tax liability obligations to
- 18 a successor taxpayer.
- 19 (13) Any other performance conditions that the corporation
- 20 determines are appropriate.

21 SECTION 31. IC 6-3.1-26-25, AS AMENDED BY P.L.4-2005,
 22 SECTION 113, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JANUARY 1, 2014]: Sec. 25. (a) On a biennial basis,
 24 the corporation shall provide for an evaluation of the tax credit
 25 program. The evaluation must include an assessment of the
 26 effectiveness of the program in creating new jobs and increasing wages
 27 in Indiana and of the revenue impact of the program and may include
 28 a review of the practices and experiences of other states with similar
 29 programs. The director shall submit a report on the evaluation to the
 30 governor, the president pro tempore of the senate, and the speaker of
 31 the house of representatives after June 30 and before November 1 in
 32 each odd-numbered year. The report provided to the president pro
 33 tempore of the senate and the speaker of the house of representatives
 34 must be in an electronic format under IC 5-14-6.

35 (b) **The department shall report, not later than December 15**
 36 **each year, to the budget committee concerning the use of the credit**
 37 **for logistic investments under this chapter. The report must**
 38 **include the following with regard to the previous state fiscal year**
 39 **for logistics investments:**

- 40 (1) **Summary information regarding the taxpayers and the use**
- 41 **of the credit, including the amount of credits approved, the**
- 42 **number of taxpayers applying for the credit and claiming the**

COPY



1 credit, the number of employees who are employed in Indiana
2 by the taxpayers claiming the credit, the amount and type of
3 new qualified expenditures for which the credit was granted,
4 the total dollar amount of new credits claimed and the
5 average amount of the credit claimed per taxpayer, the
6 amount of credits to be carried forward to a subsequent
7 taxable year, and the percentage of the total credits claimed
8 as compared to the total adjusted gross income of all the
9 taxpayers claiming the credit.

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

13 SECTION 32. IC 6-3.1-30-1, AS ADDED BY P.L.193-2005,
14 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2013]: Sec. 1. As used in this chapter, "corporate
16 headquarters" means the building or buildings where **one (1) or more**
17 **of the following are located:**

18 (1) The principal offices of the principal executive officers of an
19 eligible business. ~~are located.~~

20 (2) **The principal offices of a division or similar subdivision of**
21 **an eligible business.**

22 (3) **A research and development center of an eligible business.**

23 SECTION 33. IC 6-3.1-30-1.5 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. As used in this chapter,**
26 **"corporation" refers to the Indiana economic development**
27 **corporation created under IC 5-28-3 unless the context clearly**
28 **denotes otherwise.**

29 SECTION 34. IC 6-3.1-30-2, AS AMENDED BY P.L.137-2006,
30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2013]: Sec. 2. As used in this chapter, "eligible business"
32 means a business that:

33 (1) is engaged in either interstate or intrastate commerce;

34 (2) maintains a corporate headquarters at a location outside
35 Indiana;

36 (3) has not previously maintained a corporate headquarters at a
37 location in Indiana;

38 (4) had annual worldwide revenues of at least ~~one hundred fifty~~
39 million dollars ~~(\$100,000,000)~~ **(\$50,000,000)** for the taxable year
40 immediately preceding the business's application for a tax credit
41 under section 12 of this chapter; and

42 (5) commits contractually to relocating its corporate headquarters

C
o
p
y



1 to Indiana.

2 SECTION 35. IC 6-3.1-30-7.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2013]: **Sec. 7.5. The corporation shall do the**
5 **following:**

6 (1) **Evaluate a taxpayer's relocation project for the taxpayer's**
7 **eligibility for a tax credit under this chapter.**

8 (2) **Certify the eligibility of taxpayers that meet the**
9 **requirements for a tax credit under this chapter.**

10 (3) **Determine the percentage used to calculate the amount of**
11 **a tax credit under section 9 of this chapter.**

12 (4) **Certify the information required under section 12 of this**
13 **chapter.**

14 SECTION 36. IC 6-3.1-30-8, AS AMENDED BY P.L.1-2007,
15 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2013]: **Sec. 8. (a) If the corporation certifies that** a taxpayer:
17 **that:**

18 (1) is an eligible business;

19 (2) completes a qualifying project;

20 (3) incurs relocation costs; and

21 (4) employs at least seventy-five (75) employees in Indiana;

22 **the taxpayer** is entitled to a credit against the taxpayer's state tax
23 liability for the taxable year in which the relocation costs are incurred.
24 The credit allowed under this section is equal to the amount determined
25 under section 9 of this chapter.

26 (b) For purposes of establishing the employment level required by
27 subsection (a)(4), a taxpayer may include:

28 (1) individuals who:

29 (A) were employed in Indiana by the taxpayer before the
30 taxpayer commenced a qualifying project; and

31 (B) remain employed in Indiana after the completion of the
32 taxpayer's qualifying project; and

33 (2) individuals who:

34 (A) were not employed in Indiana by the taxpayer before the
35 taxpayer commenced a qualifying project; and

36 (B) are employed in Indiana by the taxpayer as a result of the
37 completion of the taxpayer's qualifying project.

38 SECTION 37. IC 6-3.1-30-9, AS ADDED BY P.L.193-2005,
39 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013]: **Sec. 9. (a) Subject to subsection (b), the amount of the**
41 **credit to which a taxpayer is entitled under section 8 of this chapter**
42 **equals the product of:**

C
o
p
y



1 (1) a percentage determined by the corporation that may not
2 exceed fifty percent (50%); multiplied by

3 (2) the amount of the taxpayer's relocation costs in the taxable
4 year.

5 (b) The credit to which a taxpayer is entitled under section 8 of this
6 chapter may not reduce the taxpayer's state tax liability below the
7 amount of the taxpayer's state tax liability in the taxable year
8 immediately preceding the taxable year in which the taxpayer first
9 incurred relocation costs.

10 SECTION 38. IC 6-3.1-30-12, AS AMENDED BY P.L.137-2006,
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 12. To receive the credit provided by this chapter,
13 a taxpayer must claim the credit on the taxpayer's state tax return or
14 returns in the manner prescribed by the department. The taxpayer shall
15 submit to the department **the corporation's certification of the**
16 **following information:**

17 (1) Proof of the taxpayer's relocation costs.

18 (2) Proof that the taxpayer is employing in Indiana the number of
19 employees required by section 8 of this chapter. ~~and~~

20 (3) All other information that the department determines is
21 necessary for the calculation of the credit provided by this
22 chapter.

23 SECTION 39. IC 8-22-3.5-14 IS REPEALED [EFFECTIVE
24 JANUARY 1, 2014]. Sec. 14. (a) ~~This section applies only to an airport~~
25 ~~development zone that is in a:~~

26 (1) ~~city described in section 1(2) or 1(7) of this chapter; or~~

27 (2) ~~county described in section 1(3), 1(4), or 1(6) of this chapter.~~

28 (b) ~~Notwithstanding any other law, a business or an employee of a~~
29 ~~business that is located in an airport development zone is entitled to the~~
30 ~~benefits provided by the following statutes, as if the business were~~
31 ~~located in an enterprise zone:~~

32 (1) ~~IC 6-3-2-8.~~

33 (2) ~~IC 6-3-3-10.~~

34 (3) ~~IC 6-3.1-7.~~

35 (4) ~~IC 6-3.1-9.~~

36 (5) ~~IC 6-3.1-10-6.~~

37 (c) ~~Before June 1 of each year, a business described in subsection~~
38 ~~(b) must pay a fee equal to the amount of the fee that is required for~~
39 ~~enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However,~~
40 ~~notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the~~
41 ~~debt service fund established under section 9(e)(2) of this chapter. If~~
42 ~~the commission determines that a business has failed to pay the fee~~

EH 1545—LS 7049/DI 92+



C
o
p
y

1 required by this subsection; the business is not eligible for any of the
2 benefits described in subsection (b).

3 (d) A business that receives any of the benefits described in
4 subsection (b) must use all of those benefits; except for the amount of
5 the fee required by subsection (c); for its property or employees in the
6 airport development zone and to assist the commission. If the
7 commission determines that a business has failed to use its benefits in
8 the manner required by this subsection; the business is not eligible for
9 any of the benefits described in subsection (b).

10 (e) If the commission determines that a business has failed to pay
11 the fee required by subsection (c) or has failed to use benefits in the
12 manner required by subsection (d); the commission shall provide
13 written notice of the determination to the department of state revenue;
14 the department of local government finance; and the county auditor:

15 SECTION 40. [EFFECTIVE JANUARY 1, 2014] (a) IC 6-3.1-26-8,
16 IC 6-3.1-26-8.5, IC 6-3.1-26-14, IC 6-3.1-26-17, IC 6-3.1-26-18,
17 IC 6-3.1-26-20, IC 6-3.1-26-21, and IC 6-3.1-26-25, all as amended
18 by this act, apply to taxable years beginning after December 31,
19 2013.

20 (b) This SECTION expires January 1, 2017.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1545, 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:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 21.

Page 9, line 28, after "(9)" insert "(6)".

Page 9, line 28, reset in roman "IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer".

Page 9, reset in roman line 29.

Page 13, line 7, strike "allowed" and insert "**approved by the corporation**".

Page 18, delete lines 33 through 35.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1545 as introduced.)

BROWN T, Chair

Committee Vote: yeas 19, nays 3.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1545, 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 3, line 3, delete "P.L.133-2012," and insert "SEA 162-2013, SECTION 5,".

Page 3, line 4, delete "SECTION 48,".

Page 3, between lines 13 and 14, begin a new line block indented and insert:

~~"(8) (7) IC 6-3.1-31.9.~~

~~"(9) (8) IC 6-3.1-33."~~

Page 5, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 6. IC 6-2.5-5-47 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 47. A transaction involving petroleum based fuel is**

EH 1545—LS 7049/DI 92+



C
O
P
Y

exempt from the state gross retail tax if the person acquires the fuel for use in powering an aircraft."

Page 11, delete lines 31 through 37.

Page 12, delete lines 23 through 30, begin a new line block indented and insert:

"(9) a logistics investment, as described in section 8.5 of this chapter;"

Page 12, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 26. IC 6-3.1-26-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 8.5. (a) For purposes of this chapter, a "logistics investment" means 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.

C
O
P
Y



- (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.

C
O
P
Y



(viii) **Packaging equipment.**

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

A logistics investment does not include an expenditure for maintenance expenses.

SECTION 27. IC 6-3.1-26-14, AS AMENDED BY P.L.199-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 14. The total amount of a tax credit claimed for a taxable year under this chapter is a percentage determined by the corporation, not to exceed:

- (1) ten percent (10%), of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year, **if the qualified investment is not a logistics investment; and**
- (2) **twenty-five percent (25%) of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year, if the qualified investment is a logistics investment. For purposes of this subdivision, the amount of a qualified investment that is used to determine the credit is limited to the difference of:**

(A) **the qualified investments made by the taxpayer during the taxable year; minus**

(B) **one hundred five percent (105%) of the average annual qualified investments made by the taxpayer during the two (2) taxable years immediately preceding the taxable year for which the credit is being claimed. However, if the qualified investments 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 subtract only one hundred five percent (105%) of the amount of the qualified investments made during the taxable year immediately preceding the taxable year for which the credit is being claimed.**

The taxpayer may carry forward any unused credit **as provided in section 15 of this chapter.**

SECTION 28. IC 6-3.1-26-15, AS AMENDED BY P.L.199-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 15. (a) A taxpayer may carry forward an unused credit for the number of years determined by the corporation, not to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the unused part of a credit

C
O
P
Y



allowed under this chapter.

(c) A taxpayer may:

- (1) claim a tax credit under this chapter for a qualified investment; and
- (2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed ten percent (10%) of the qualified investment for which the tax credit is claimed:

SECTION 29. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 17. A person that proposes a project to:

- (1) create new jobs or increase wage levels in Indiana; or
- (2) substantially enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving the overall Indiana economy, in the case of a logistics investment being claimed by the applicant;**

may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

SECTION 30. IC 6-3.1-26-18, AS AMENDED BY P.L.1-2006, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 18. 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 all the following conditions exist:

- (1) The applicant's project will:
 - (A) raise the total earnings of employees of the applicant in Indiana; or**
 - (B) substantially enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving the overall Indiana economy, in the case of a logistics investment being claimed by the applicant.**
- (2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.
- (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

C
O
P
Y



credit will result in the applicant not raising the total earnings of **the applicant's** employees in Indiana, **or other employees in Indiana in the case of a logistics investment being claimed by the applicant.**

(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.

(5) The credit is not prohibited by section 19 of this chapter.

(6) **In the case of a qualified investment that is not being claimed as a logistics investment by the applicant,** the average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

SECTION 31. IC 6-3.1-26-20, AS AMENDED BY P.L.4-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 20. **(a)** The corporation shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the corporation shall grant a credit only for the amount of the qualified investment that is directly related to:

- (1) expanding the workforce in Indiana; **or**
- (2) **substantially enhancing the logistics industry and improving the overall Indiana economy.**

(b) The total amount of credits that the corporation may approve under this chapter for a state fiscal year for all taxpayers for all qualified investments is:

- (1) fifty million dollars (\$50,000,000) for credits based on a qualified investment that is not being claimed as a logistics investment; and
- (2) ten million dollars (\$10,000,000) for credits based on a qualified investment that is being claimed as a logistics investment.

(c) A person that desires to claim a tax credit for a qualified investment shall file with the department, in the form that the department may prescribe, an application:

(1) stating separately the amount of the credit awards for qualified investments that have been granted to the taxpayer by the corporation that will be claimed as a credit that is covered by:

- (A) subsection (b)(1); and**
- (B) subsection (b)(2);**



C
O
P
Y

(2) stating separately the amount sought to be claimed as a credit that is covered by:

(A) subsection (b)(1); and

(B) subsection (b)(2); 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.

(d) The department shall separately record the time of filing of each application for a credit award for a qualified investment covered by subsection (b)(1) and for a qualified investment covered by subsection (b)(2) and shall, except as provided in subsection (e), approve the credit to the taxpayer in the chronological order in which the application is filed in the state fiscal year. 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.

(e) If the total credit awards for qualified investments that are covered by:

(1) subsection (b)(1); and

(2) subsection (b)(2);

including carryover credit awards covered by each subsection for a previous state fiscal year, equal the maximum amount allowable in the state fiscal year, an application for such a credit award that is filed later for that same state fiscal year may not be granted by the department. However, if an applicant for which a credit has been awarded and applied for with the department fails to claim the credit, 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.

SECTION 32. IC 6-3.1-26-21, AS AMENDED BY P.L.4-2005, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 21. 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 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.

C
O
P
Y



- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) 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 qualified investment is made, **if the qualified investment is not being claimed as a logistics investment by the applicant**, and any other information the director needs to perform the director's duties under this chapter.
- (8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) **This subdivision applies only to a qualified investment that is not being claimed as a logistics investment by the applicant.** A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.
- (10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.
- (11) **This subdivision applies only to a qualified investment that is not being claimed as a logistics investment by the applicant.** A requirement that the taxpayer will maintain at the location where the qualified investment is 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 investment was made.
- (12) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.
- (13) Any other performance conditions that the corporation determines are appropriate.

C
O
P
Y

SECTION 33. IC 6-3.1-26-25, AS AMENDED BY P.L.4-2005, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 25. **(a)** On a biennial basis, the corporation shall provide for an evaluation of the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and 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.

(b) The department shall report, not later than December 15 each year, to the budget committee concerning the use of the credit for logistic investments under this chapter. The report must include the following with regard to the previous state fiscal year for logistics investments:

(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."

Delete page 13.

Page 14, delete lines 1 through 26.

Page 17, after line 28, begin a new paragraph and insert:

"SECTION 37. [EFFECTIVE JANUARY 1, 2014] **(a)** IC 6-3.1-26-8, IC 6-3.1-26-8.5, IC 6-3.1-26-14, IC 6-3.1-26-17, IC 6-3.1-26-18, IC 6-3.1-26-20, IC 6-3.1-26-21, and IC 6-3.1-26-25, all as amended by this act, apply to taxable years beginning after December 31, 2013.

EH 1545—LS 7049/DI 92+



C
O
P
Y

(b) This SECTION expires January 1, 2017."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1545 as printed February 18, 2013.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 3.

C
o
p
y

