Reprinted
April 10, 2013

ENGROSSED
HOUSE BILL No. 1545

DIGEST OF HB 1545 (Updated April 9, 2013 8:19 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 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

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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.
April 9, 2013, read second time, amended, ordered engrossed.

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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. (5) Investment cost credits. Removes two unused definitions.

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April 10, 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.

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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:

SECTION 1. IC 5-28-15-5, AS AMENDED BY P.L.146-2008, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(4) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars ($1,000) in any year, pay a registration fee to the board in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.

(10) To make determinations under IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by that chapter in appropriate cases.

~~(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.~~

~~(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.~~

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective

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

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

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

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

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

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

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

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

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domestic consumption.

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

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

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

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

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

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

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

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

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), ~~a military base recovery site designated under IC 6-3.1-11.5,~~ or a qualified military base enhancement area established under IC 36-7-34.

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

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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

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

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)); **or**

~~(4) a military base recovery site designated under IC 6-3.1-11.5; or~~

~~(5)~~ **(4)** a qualified military base enhancement area established under IC 36-7-34.

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

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

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

(2) The corporation is a United States Department of Defense contractor.

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

(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(2), the business must satisfy at least one (1) of the following criteria:

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

(2) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of

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understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

(e) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the taxpayer had existing operations in the qualified area; and

(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(f) A determination under subsection (e) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to 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 department of state revenue.

(g) The department of state revenue:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and

(2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 8. IC 6-3.1-1-3, AS AMENDED BY P.L.133-2012, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 3. A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity may not be granted more than one (1) tax credit under the following laws for the same project:

(1) IC 6-3.1-10 (enterprise zone investment cost credit).

(2) IC 6-3.1-11 (industrial recovery tax credit).

~~(3) IC 6-3.1-11.5 (military base recovery tax credit).~~

~~(4) IC 6-3.1-11.6 (military base investment cost credit).~~

~~(5) IC 6-3.1-13.5 (capital investment tax credit) (before its expiration on January 1, 2020).~~

~~(6)~~ **(3)** IC 6-3.1-19 (community revitalization enhancement district tax credit).

~~(7)~~ **(4)** IC 6-3.1-24 (venture capital investment tax credit).

~~(8)~~ **(5)** IC 6-3.1-26 (Hoosier business investment tax credit).

~~(9)~~ **(6)** IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer tax credit).

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit

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

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

(1) If a plant that is located on an industrial recovery site was placed in service at least fifteen (15) years ago but less than thirty (30) years ago, the applicable percentage is fifteen percent (15%).

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

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

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

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

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

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

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

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

(1) has:

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

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

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

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

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

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

~~(1) evaluate the application;~~

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

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

~~(c) If the board determines that:~~

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

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

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

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~~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

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

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

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

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

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

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

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

SECTION 23. IC 6-3.1-26-1 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 1. As used in this chapter, "base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment.~~

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SECTION 24. IC 6-3.1-26-4 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 4. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.~~

SECTION 25. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures in Indiana for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

(4) onsite infrastructure improvements;

(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

(6) costs associated with retooling existing machinery and equipment;

(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry; ~~and~~

(8) costs associated with the purchase of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions; **and**

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

that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

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

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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

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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 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

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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 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**

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(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 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,

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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);

(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

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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.

(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

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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.

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

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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.

SECTION 34. IC 6-3.1-30-1, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. As used in this chapter, "corporate headquarters" means the building or buildings where **one (1) or more of the following are located:**

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

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

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

SECTION 35. IC 6-3.1-30-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 1.5. As used in this chapter, "corporation" refers to the Indiana economic development corporation created under IC 5-28-3 unless the context clearly denotes otherwise.**

SECTION 36. IC 6-3.1-30-2, AS AMENDED BY P.L.137-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "eligible business" means a business that:

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

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

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

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

(5) commits contractually to relocating its corporate headquarters to Indiana.

SECTION 37. IC 6-3.1-30-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7.5. The corporation shall do the following:**

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

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

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

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

SECTION 38. IC 6-3.1-30-8, AS AMENDED BY P.L.1-2007, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) **If the corporation certifies that** a taxpayer: ~~that:~~

(1) is an eligible business;

(2) completes a qualifying project;

(3) incurs relocation costs; and

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

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

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

(1) individuals who:

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

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

(2) individuals who:

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

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

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

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

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

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

SECTION 40. IC 6-3.1-30-12, AS AMENDED BY P.L.137-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department **the corporation's certification of the following information:**

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

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

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

SECTION 41. IC 8-22-3.5-14 IS REPEALED [EFFECTIVE JANUARY 1, 2014]. ~~Sec. 14. (a) This section applies only to an airport development zone that is in a:~~

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

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

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

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

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

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

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

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

~~(c) Before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However, notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the debt service fund established under section 9(e)(2) of this chapter. If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).~~

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

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

SECTION 42. [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.**

(b) This SECTION expires January 1, 2017.

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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**

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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.

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(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.

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(viii) Packaging equipment.

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

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

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(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

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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

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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.

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(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);

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(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.

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(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.

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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.**

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(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.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1545 be amended to read as follows:

Page 11, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 22. IC 6-3.1-26-1 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 1. As used in this chapter, "base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment.~~

SECTION 23. IC 6-3.1-26-4 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 4. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.~~".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1585 as printed April 5, 2013.)

HERSHMAN

C o p y