



March 15, 2013

ENGROSSED SENATE BILL No. 244

DIGEST OF SB 244 (Updated March 13, 2013 4:49 pm - DI 51)

Citations Affected: IC 6-3.1; IC 6-3.5; IC 36-7; noncode.

Synopsis: Hoosier business investment income tax credit. 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 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
(Continued next page)

Effective: Upon passage; January 1, 2014.

**Wyss, Rogers, Hershman,
Skinner, Landske, Randolph, Kruse,
Grooms, Banks, Breaux**

(HOUSE SPONSORS — THOMPSON, STEMLER, HEUER, ZENT)

January 7, 2013, read first time and referred to Committee on Tax and Fiscal Policy.
January 29, 2013, amended, reported favorably — Do Pass.
January 31, 2013, read second time, ordered engrossed. Engrossed.
February 4, 2013, read third time, passed. Yeas 44, nays 4.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Commerce, Small Business and Economic Development.
March 14, 2013, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

ES 244—LS 6604/DI 58+



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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. Permits the office of community and rural affairs to designate an applicant rural county as a rural entrepreneurship area development incentives area. Provides for the distribution of adjusted gross income taxes annually paid by employees working in an area for a new business or annually paid by additional employees in an existing business and by the new business itself to the rural county for the development of new business opportunities in the rural county, including transfers to local or regional venture capital funds. Limits the amount that may be distributed to a particular county in any year to \$250,000. Requires a matching local grant from county economic development income tax funds to qualify for a distribution. Limits the number of counties that may receive funds for a rural entrepreneurship area development territory to 30. Appropriates money collected from counties with a rural entrepreneurship area development territory for distribution to those counties.

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March 15, 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 SENATE BILL No. 244

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

- 1 SECTION 1. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2014]: Sec. 8. (a) As used in this chapter, "qualified
4 investment" means the amount of the taxpayer's expenditures in Indiana
5 for:
6 (1) the purchase of new telecommunications, production,
7 manufacturing, fabrication, assembly, extraction, mining,
8 processing, refining, finishing, distribution, transportation, or
9 logistical distribution equipment;
10 (2) the purchase of new computers and related equipment;
11 (3) costs associated with the modernization of existing
12 telecommunications, production, manufacturing, fabrication,
13 assembly, extraction, mining, processing, refining, finishing,
14 distribution, transportation, or logistical distribution facilities;
15 (4) onsite infrastructure improvements;
16 (5) the construction of new telecommunications, production,
17 manufacturing, fabrication, assembly, extraction, mining,

ES 244—LS 6604/DI 58+



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1 processing, refining, finishing, distribution, transportation, or
2 logistical distribution facilities;

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

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

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

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

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

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

17 SECTION 2. IC 6-3.1-26-8.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JANUARY 1, 2014]: **Sec. 8.5. (a) For purposes of this**
20 **chapter, a "logistics investment" means an expenditure for one (1)**
21 **or more of the following purposes:**

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

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

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

30 **(B) Improving paved access to terminal facilities.**

31 **(C) Adding new maintenance areas.**

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

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

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

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

41 **(C) Upgrading or replacing grade crossings to increase**
42 **visibility for motorists, including improvements to**

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- 1 roadway surfaces, signage and traffic signals, and signal
 2 system upgrades and replacements to meet Federal
 3 Railroad Administration Positive Train Control
 4 regulations.
- 5 (D) Upgrading fueling facilities, including upgrading
 6 fueling and sanding locomotives or tanks, pumps, piping,
 7 containment areas, track pans, lighting, and security.
- 8 (E) Upgrading team track facilities, including railroad
 9 owned warehouses, loading docks, and transfer stations for
 10 loading and unloading freight.
- 11 (F) Upgrading shop facilities, including upgrading
 12 structures, inspection pits, drop pits, cranes, employee fall
 13 protection, lighting, climate control, and break rooms.
- 14 (4) Improving the transportation of goods by water, limited to
 15 the following:
- 16 (A) Upgrading or replacing a permanent waterside dock.
 17 (B) Upgrading or building a new terminal facility that
 18 serves waterborne transportation.
- 19 (C) Improving paved access to a waterborne terminal
 20 facility.
- 21 (D) Purchasing new equipment having a useful life of at
 22 least five (5) years, including diagnostic equipment, an oil
 23 delivery system, an air compressor, or a barge lift.
- 24 (5) Improving the transportation of goods by air, limited to
 25 the following:
- 26 (A) Upgrading or building a new cargo building, apron,
 27 hangar, warehouse facility, freight forwarding facility,
 28 cross-dock distribution facility, or aircraft maintenance
 29 facility.
- 30 (B) Improving paved access to a terminal or cargo facility.
 31 (C) Upgrading a fueling facility.
- 32 (6) Improving warehousing and logistical capabilities, limited
 33 to the following:
- 34 (A) Upgrading warehousing facilities, including upgrading
 35 loading dock doors and loading dock plates, fueling
 36 equipment, fueling installations, or dolly drop pads for
 37 trailers.
- 38 (B) Improving logistical distribution by purchasing new
 39 equipment, limited to the following:
- 40 (i) Picking modules (systems of racks, conveyors, and
 41 controllers).
- 42 (ii) Racking equipment.

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- 1 (iii) Warehouse management systems, including scanning
- 2 or coding equipment.
- 3 (iv) Security equipment.
- 4 (v) Temperature control and monitoring equipment.
- 5 (vi) Dock levelers and pallet levelers and inverters.
- 6 (vii) Conveyors and related controllers, scales, and like
- 7 equipment.
- 8 (viii) Packaging equipment.
- 9 (ix) Moving, separating, sorting, and picking equipment.

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

11 **maintenance expenses.**

12 SECTION 3. IC 6-3.1-26-14, AS AMENDED BY P.L.199-2005,

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

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

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

16 corporation, not to exceed:

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

- 26 (A) the qualified investments made by the taxpayer during
- 27 the taxable year; minus
- 28 (B) one hundred five percent (105%) of the average annual
- 29 qualified investments made by the taxpayer during the two
- 30 (2) taxable years immediately preceding the taxable year
- 31 for which the credit is being claimed. However, if the
- 32 qualified investments for the earlier year of the two (2)
- 33 year average is zero (0) and the taxpayer has not claimed
- 34 the credit for a year that precedes that year, the taxpayer
- 35 shall subtract only one hundred five percent (105%) of the
- 36 amount of the qualified investments made during the
- 37 taxable year immediately preceding the taxable year for
- 38 which the credit is being claimed.

39 The taxpayer may carry forward any unused credit **as provided in**

40 **section 15 of this chapter.**

41 SECTION 4. IC 6-3.1-26-15, AS AMENDED BY P.L.199-2005,

42 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JANUARY 1, 2014]: Sec. 15. (a) A taxpayer may carry forward an
 2 unused credit for the number of years determined by the corporation,
 3 not to exceed nine (9) consecutive taxable years, beginning with the
 4 taxable year after the taxable year in which the taxpayer makes the
 5 qualified investment.

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

9 (c) A taxpayer may:

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

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

14 in the same taxable year.

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

18 SECTION 5. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005,
 19 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JANUARY 1, 2014]: Sec. 17. A person that proposes a
 21 project to:

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

23 **(2) substantially enhance the logistics industry by creating**
 24 **new jobs, preserving existing jobs that otherwise would be**
 25 **lost, increasing wages in Indiana, or improving the overall**
 26 **Indiana economy, in the case of a logistics investment being**
 27 **claimed by the applicant;**

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

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

37 (1) The applicant's project will:

38 **(A) raise the total earnings of employees of the applicant in**
 39 **Indiana; or**

40 **(B) substantially enhance the logistics industry by creating**
 41 **new jobs, preserving existing jobs that otherwise would be**
 42 **lost, increasing wages in Indiana, or improving the overall**



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- 1 **Indiana economy, in the case of a logistics investment being**
 2 **claimed by the applicant.**
 3 (2) The applicant's project is economically sound and will benefit
 4 the people of Indiana by increasing opportunities for employment
 5 and strengthening the economy of Indiana.
 6 (3) Receiving the tax credit is a major factor in the applicant's
 7 decision to go forward with the project and not receiving the tax
 8 credit will result in the applicant not raising the total earnings of
 9 **the applicant's** employees in Indiana, **or other employees in**
 10 **Indiana in the case of a logistics investment being claimed by**
 11 **the applicant.**
 12 (4) Awarding the tax credit will result in an overall positive fiscal
 13 impact to the state, as certified by the budget agency using the
 14 best available data.
 15 (5) The credit is not prohibited by section 19 of this chapter.
 16 (6) **In the case of a qualified investment that is not being**
 17 **claimed as a logistics investment by the applicant,** the average
 18 wage that will be paid by the taxpayer to its employees (excluding
 19 highly compensated employees) at the location after the credit is
 20 given will be at least equal to one hundred fifty percent (150%)
 21 of the hourly minimum wage under IC 22-2-2-4 or its equivalent.
 22 SECTION 7. IC 6-3.1-26-20, AS AMENDED BY P.L.4-2005,
 23 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JANUARY 1, 2014]: Sec. 20. (a) The corporation shall
 25 certify the amount of the qualified investment that is eligible for a
 26 credit under this chapter. In determining the credit amount that should
 27 be awarded, the corporation shall grant a credit only for the amount of
 28 the qualified investment that is directly related to:
 29 (1) expanding the workforce in Indiana; **or**
 30 (2) **substantially enhancing the logistics industry and**
 31 **improving the overall Indiana economy.**
 32 (b) **The total amount of credits that the corporation may**
 33 **approve under this chapter for a state fiscal year for all taxpayers**
 34 **for all qualified investments is:**
 35 (1) **fifty million dollars (\$50,000,000) for credits based on a**
 36 **qualified investment that is not being claimed as a logistics**
 37 **investment; and**
 38 (2) **ten million dollars (\$10,000,000) for credits based on a**
 39 **qualified investment that is being claimed as a logistics**
 40 **investment.**
 41 (c) **A person that desires to claim a tax credit for a qualified**
 42 **investment shall file with the department, in the form that the**

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1 department may prescribe, an application:

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

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

7 (B) subsection (b)(2);

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

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

11 (B) subsection (b)(2); and

12 (3) identifying whether the credit will be claimed during the
13 state fiscal year in which the application is filed or the
14 immediately succeeding state fiscal year.

15 (d) The department shall separately record the time of filing of
16 each application for a credit award for a qualified investment
17 covered by subsection (b)(1) and for a qualified investment covered
18 by subsection (b)(2) and shall, except as provided in subsection (e),
19 approve the credit to the taxpayer in the chronological order in
20 which the application is filed in the state fiscal year. The
21 department shall promptly notify an applicant whether, or the
22 extent to which, the tax credit is allowable in the state fiscal year
23 proposed by the taxpayer.

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

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

27 (2) subsection (b)(2);

28 including carryover credit awards covered by each subsection for
29 a previous state fiscal year, equal the maximum amount allowable
30 in the state fiscal year, an application for such a credit award that
31 is filed later for that same state fiscal year may not be granted by
32 the department. However, if an applicant for which a credit has
33 been awarded and applied for with the department fails to claim
34 the credit, an amount equal to the credit previously applied for but
35 not claimed may be allowed to the next eligible applicant or
36 applicants until the total amount has been allowed.

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

42 (1) A detailed description of the project that is the subject of the

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- 1 agreement.
- 2 (2) The first taxable year for which the credit may be claimed.
- 3 (3) The amount of the taxpayer's state tax liability for each tax in
- 4 the taxable year of the taxpayer that immediately preceded the
- 5 first taxable year in which the credit may be claimed.
- 6 (4) The maximum tax credit amount that will be allowed for each
- 7 taxable year.
- 8 (5) A requirement that the taxpayer shall maintain operations at
- 9 the project location for at least ten (10) years during the term that
- 10 the tax credit is available.
- 11 (6) A specific method for determining the number of new
- 12 employees employed during a taxable year who are performing
- 13 jobs not previously performed by an employee.
- 14 (7) A requirement that the taxpayer shall annually report to the
- 15 corporation the number of new employees who are performing
- 16 jobs not previously performed by an employee, the average wage
- 17 of the new employees, the average wage of all employees at the
- 18 location where the qualified investment is made, **if the qualified**
- 19 **investment is not being claimed as a logistics investment by**
- 20 **the applicant**, and any other information the director needs to
- 21 perform the director's duties under this chapter.
- 22 (8) A requirement that the director is authorized to verify with the
- 23 appropriate state agencies the amounts reported under subdivision
- 24 (7), and that after doing so shall issue a certificate to the taxpayer
- 25 stating that the amounts have been verified.
- 26 (9) **This subdivision applies only to a qualified investment that**
- 27 **is not being claimed as a logistics investment by the applicant.**
- 28 A requirement that the taxpayer shall pay an average wage to all
- 29 its employees other than highly compensated employees in each
- 30 taxable year that a tax credit is available that equals at least one
- 31 hundred fifty percent (150%) of the hourly minimum wage under
- 32 IC 22-2-2-4 or its equivalent.
- 33 (10) A requirement that the taxpayer will keep the qualified
- 34 investment property that is the basis for the tax credit in Indiana
- 35 for at least the lesser of its useful life for federal income tax
- 36 purposes or ten (10) years.
- 37 (11) **This subdivision applies only to a qualified investment**
- 38 **that is not being claimed as a logistics investment by the**
- 39 **applicant.** A requirement that the taxpayer will maintain at the
- 40 location where the qualified investment is made during the term
- 41 of the tax credit a total payroll that is at least equal to the payroll
- 42 level that existed before the qualified investment was made.

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1 (12) A requirement that the taxpayer shall provide written
 2 notification to the director and the corporation not more than
 3 thirty (30) days after the taxpayer makes or receives a proposal
 4 that would transfer the taxpayer's state tax liability obligations to
 5 a successor taxpayer.

6 (13) Any other performance conditions that the corporation
 7 determines are appropriate.

8 SECTION 9. IC 6-3.1-26-25, AS AMENDED BY P.L.4-2005,
 9 SECTION 113, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JANUARY 1, 2014]: Sec. 25. (a) On a biennial basis,
 11 the corporation shall provide for an evaluation of the tax credit
 12 program. The evaluation must include an assessment of the
 13 effectiveness of the program in creating new jobs and increasing wages
 14 in Indiana and of the revenue impact of the program and may include
 15 a review of the practices and experiences of other states with similar
 16 programs. The director shall submit a report on the evaluation to the
 17 governor, the president pro tempore of the senate, and the speaker of
 18 the house of representatives after June 30 and before November 1 in
 19 each odd-numbered year. The report provided to the president pro
 20 tempore of the senate and the speaker of the house of representatives
 21 must be in an electronic format under IC 5-14-6.

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

27 (1) **Summary information regarding the taxpayers and the use**
 28 **of the credit, including the amount of credits approved, the**
 29 **number of taxpayers applying for the credit and claiming the**
 30 **credit, the number of employees who are employed in Indiana**
 31 **by the taxpayers claiming the credit, the amount and type of**
 32 **new qualified expenditures for which the credit was granted,**
 33 **the total dollar amount of new credits claimed and the**
 34 **average amount of the credit claimed per taxpayer, the**
 35 **amount of credits to be carried forward to a subsequent**
 36 **taxable year, and the percentage of the total credits claimed**
 37 **as compared to the total adjusted gross income of all the**
 38 **taxpayers claiming the credit.**

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

42 SECTION 10. IC 6-3.5-7-13.5, AS ADDED BY P.L.137-2006,

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1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 13.5. (a) The general assembly finds that
3 counties and municipalities in Indiana have a need to foster economic
4 development, the development of new technology, and industrial and
5 commercial growth. The general assembly finds that it is necessary and
6 proper to provide an alternative method for counties and municipalities
7 to foster the following:

- 8 (1) Economic development.
- 9 (2) The development of new technology.
- 10 (3) Industrial and commercial growth.
- 11 (4) Employment opportunities.
- 12 (5) The diversification of industry and commerce.

13 The fostering of economic development and the development of new
14 technology under this section or section 13.6 of this chapter for the
15 benefit of the general public, including industrial and commercial
16 enterprises, is a public purpose.

17 (b) The fiscal bodies of two (2) or more counties or municipalities
18 may, by resolution, do the following:

- 19 (1) Determine that part or all the taxes received by the units under
20 this chapter should be combined to foster:
 - 21 (A) economic development;
 - 22 (B) the development of new technology; and
 - 23 (C) industrial and commercial growth.

24 (2) Establish a regional venture capital fund.

25 (c) Each unit participating in a regional venture capital fund
26 established under subsection (b) may deposit the following in the fund:

- 27 (1) Taxes distributed to the unit under this chapter.
- 28 (2) The proceeds of public or private grants.

29 **(3) Revenues received by a county under IC 36-7-37.**

30 (d) A regional venture capital fund shall be administered by a
31 governing board. The expenses of administering the fund shall be paid
32 from money in the fund. The governing board shall invest the money
33 in the fund not currently needed to meet the obligations of the fund in
34 the same manner as other public money may be invested. Interest that
35 accrues from these investments shall be deposited into the fund. The
36 fund is subject to an annual audit by the state board of accounts. The
37 fund shall bear the full costs of the audit.

38 (e) The fiscal body of each participating unit shall approve an
39 interlocal agreement created under IC 36-1-7 establishing the terms for
40 the administration of the regional venture capital fund. The terms must
41 include the following:

- 42 (1) The membership of the governing board.

ES 244—LS 6604/DI 58+



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- 1 (2) The amount of each unit's contribution to the fund.
- 2 (3) The procedures and criteria under which the governing board
- 3 may loan or grant money from the fund.
- 4 (4) The procedures for the dissolution of the fund and for the
- 5 distribution of money remaining in the fund at the time of the
- 6 dissolution.
- 7 (f) An interlocal agreement made by the participating units under
- 8 subsection (e) must provide that:
- 9 (1) each of the participating units is represented by at least one (1)
- 10 member of the governing board; and
- 11 (2) the membership of the governing board is established on a
- 12 bipartisan basis so that the number of the members of the
- 13 governing board who are members of one (1) political party may
- 14 not exceed the number of members of the governing board
- 15 required to establish a quorum.
- 16 (g) A majority of the governing board constitutes a quorum, and the
- 17 concurrence of a majority of the governing board is necessary to
- 18 authorize any action.
- 19 (h) An interlocal agreement made by the participating units under
- 20 subsection (e) must be submitted to the Indiana economic development
- 21 corporation for approval before the participating units may contribute
- 22 to the fund.
- 23 (i) A majority of members of a governing board of a regional
- 24 venture capital fund established under this section must have at least
- 25 five (5) years of experience in business, finance, or venture capital.
- 26 (j) The governing board of the fund may loan or grant money from
- 27 the fund to a private or public entity if the governing board finds that
- 28 the loan or grant will be used by the borrower or grantee for at least one
- 29 (1) of the following economic development purposes:
- 30 (1) To promote significant employment opportunities for the
- 31 residents of the units participating in the regional venture capital
- 32 fund.
- 33 (2) To attract a major new business enterprise to a participating
- 34 unit.
- 35 (3) To develop, retain, or expand a significant business enterprise
- 36 in a participating unit.
- 37 (k) The expenditures of a borrower or grantee of money from a
- 38 regional venture capital fund that are considered to be for an economic
- 39 development purpose include expenditures for any of the following:
- 40 (1) Research and development of technology.
- 41 (2) Job training and education.
- 42 (3) Acquisition of property interests.

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- 1 (4) Infrastructure improvements.
- 2 (5) New buildings or structures.
- 3 (6) Rehabilitation, renovation, or enlargement of buildings or
- 4 structures.
- 5 (7) Machinery, equipment, and furnishings.
- 6 (8) Funding small business development with respect to:
- 7 (A) prototype products or processes;
- 8 (B) marketing studies to determine the feasibility of new
- 9 products or processes; or
- 10 (C) business plans for the development and production of new
- 11 products or processes.
- 12 SECTION 11. IC 6-3.5-7-13.6, AS ADDED BY P.L.137-2006,
- 13 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 13.6. (a) The fiscal body of a county or
- 15 municipality may, by resolution, establish a local venture capital fund.
- 16 (b) A unit establishing a local venture capital fund under subsection
- 17 (a) may deposit the following in the fund:
- 18 (1) Taxes distributed to the unit under this chapter.
- 19 (2) The proceeds of public or private grants.
- 20 **(3) Revenues received by a county under IC 36-7-37.**
- 21 (c) A local venture capital fund shall be administered by a
- 22 governing board. The expenses of administering the fund shall be paid
- 23 from money in the fund. The governing board shall invest the money
- 24 in the fund not currently needed to meet the obligations of the fund in
- 25 the same manner as other public money may be invested. Interest that
- 26 accrues from these investments shall be deposited into the fund. The
- 27 fund is subject to an annual audit by the state board of accounts. The
- 28 fund shall bear the full costs of the audit.
- 29 (d) The fiscal body of a unit establishing a local venture capital fund
- 30 under subsection (a) shall establish the terms for the administration of
- 31 the local venture capital fund. The terms must include the following:
- 32 (1) The membership of the governing board.
- 33 (2) The amount of the unit's contribution to the fund.
- 34 (3) The procedures and criteria under which the governing board
- 35 may loan or grant money from the fund.
- 36 (4) The procedures for the dissolution of the fund and for the
- 37 distribution of money remaining in the fund at the time of the
- 38 dissolution.
- 39 (e) A unit establishing a local venture capital fund under subsection
- 40 (a) must be represented by at least one (1) member of the governing
- 41 board.
- 42 (f) The membership of the governing board must be established on

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1 a bipartisan basis so that the number of the members of the governing
2 board who are members of one (1) political party may not exceed the
3 number of members of the governing board required to establish a
4 quorum.

5 (g) A majority of the governing board constitutes a quorum, and the
6 concurrence of a majority of the governing board is necessary to
7 authorize any action.

8 (h) The terms established under subsection (d) for the
9 administration of the local venture capital fund must be submitted to
10 the Indiana economic development corporation for approval before a
11 unit may contribute to the fund.

12 (i) A majority of members of a governing board of a local venture
13 capital fund established under this section must have at least five (5)
14 years of experience in business, finance, or venture capital.

15 (j) The governing board of the fund may loan or grant money from
16 the fund to a private or public entity if the governing board finds that
17 the loan or grant will be used by the borrower or grantee for at least one
18 (1) of the following economic development purposes:

- 19 (1) To promote significant employment opportunities for the
- 20 residents of the unit establishing the local venture capital fund.
- 21 (2) To attract a major new business enterprise to the unit.
- 22 (3) To develop, retain, or expand a significant business enterprise
- 23 in the unit.

24 (k) The expenditures of a borrower or grantee of money from a local
25 venture capital fund that are considered to be for an economic
26 development purpose include expenditures for any of the following:

- 27 (1) Research and development of technology.
- 28 (2) Job training and education.
- 29 (3) Acquisition of property interests.
- 30 (4) Infrastructure improvements.
- 31 (5) New buildings or structures.
- 32 (6) Rehabilitation, renovation, or enlargement of buildings or
- 33 structures.
- 34 (7) Machinery, equipment, and furnishings.
- 35 (8) Funding small business development with respect to:
 - 36 (A) prototype products or processes;
 - 37 (B) marketing studies to determine the feasibility of new
 - 38 products or processes; or
 - 39 (C) business plans for the development and production of new
 - 40 products or processes.

41 SECTION 12. IC 36-7-37 IS ADDED TO THE INDIANA CODE
42 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]:
 2 **Chapter 37. Rural Entrepreneurship Area Development**
 3 **Incentives**
 4 **Sec. 1. This chapter applies to a rural county.**
 5 **Sec. 2. The purpose of this chapter is to:**
 6 (1) establish and fund programs to identify entrepreneurs
 7 with marketable ideas; and
 8 (2) support the organization and development of new
 9 businesses in rural counties.
 10 **Sec. 3. The general assembly finds that establishing and**
 11 **supporting new businesses in rural counties serve a public purpose**
 12 **that benefits the general welfare of rural counties by encouraging**
 13 **investment, job creation and retention, economic growth, and more**
 14 **diverse economies.**
 15 **Sec. 4. As used in this chapter, "agreement" refers to an**
 16 **agreement between the office and a county establishing the terms**
 17 **and conditions governing an area established under this chapter.**
 18 **Sec. 5. As used in this chapter, "area" refers to a rural**
 19 **entrepreneurship area development incentives area established**
 20 **under this chapter.**
 21 **Sec. 6. As used in this chapter, "corporation" refers to the**
 22 **Indiana economic development corporation.**
 23 **Sec. 7. As used in this chapter, "department" refers to the**
 24 **department of state revenue.**
 25 **Sec. 8. As used in this chapter, "income tax incremental**
 26 **revenue" means the remainder of:**
 27 (1) the sum of:
 28 (A) the total amount of state adjusted gross income taxes
 29 paid by employees of new businesses, regardless of county
 30 of residence, that are employed in any part of the territory
 31 comprising an area with respect to wages and salary
 32 earned for work in the area for a particular state fiscal
 33 year;
 34 (B) the total amount of state adjusted gross income taxes
 35 paid by additional employees of existing businesses in the
 36 territory, regardless of county of residence, that are
 37 employed as a result of expansion after the date of the
 38 establishment of the territory with respect to wages and
 39 salary earned for work in the area for a particular state
 40 fiscal year; plus
 41 (C) the total amount of state adjusted gross income taxes
 42 paid by new businesses located in any part of the territory

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1 comprising an area with respect to income sourced to the
 2 area for a particular state fiscal year; minus
 3 (2) the sum of:
 4 (A) the tax credits awarded by the corporation under
 5 IC 6-3.1-13 to new businesses operating in the territory
 6 comprising an area as the result of wages earned for work
 7 in any part of the territory comprising an area for the state
 8 fiscal year; plus
 9 (B) the total amount of the incremental state adjusted
 10 gross income taxes paid by existing businesses as a result
 11 of expansion with no state incentives and with creation of
 12 one (1) or more additional jobs, located in any part of the
 13 territory comprising an area with respect to income
 14 sourced to the area for a particular state fiscal year, after
 15 the date of the establishment of the territory;
 16 as determined by the department.

17 Sec. 9. As used in this chapter, "incubator" means a facility in
 18 which space may be leased by a tenant and in which management
 19 provides access to business development services for use by
 20 tenants.

21 Sec. 10. As used in this chapter, "office" refers to the office of
 22 community and rural affairs established by IC 4-4-9.7-4.

23 Sec. 11. As used in this chapter, "new business" refers to a
 24 business entity certified by the office as a new business under
 25 section 19 of this chapter.

26 Sec. 12. As used in this chapter, "READI fund" refers to a rural
 27 entrepreneurship area development incentives fund established by
 28 a rural county under section 23 of this chapter.

29 Sec. 13. As used in this chapter, "rural county" refers to a
 30 county having a population of less than fifty thousand (50,000).

31 Sec. 14. As used in this chapter, "tax incentive zone" refers to
 32 the territory of any of the following:

- 33 (1) A community revitalization enhancement district
 34 established under IC 36-7-13.
- 35 (2) A professional sports and convention development area
 36 established under IC 36-7-31.3.
- 37 (3) A certified technology park established under IC 36-7-32.
- 38 (4) Any other area in which a law permits adjusted gross
 39 income taxes imposed on a taxable event in the area to be
 40 distributed to an employer located in the area or a political
 41 subdivision in the area for a local business, economic
 42 development, or a governmental purpose.

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1 **Sec. 15. A rural county may apply to the office for designation**
2 **of the county as a rural entrepreneurship area development**
3 **incentives area. The application must:**

- 4 **(1) be in a form specified by the office;**
- 5 **(2) include a copy of an ordinance adopted by the county**
6 **legislative body designating the territory of the county that is**
7 **outside the boundaries of a tax incentive zone as an area;**
- 8 **(3) include a copy of an ordinance adopted by the county**
9 **legislative body committing up to two hundred fifty thousand**
10 **dollars (\$250,000) each state fiscal year of the county's**
11 **economic development income tax funds to a dollar-for-dollar**
12 **match to the income incremental revenue received from the**
13 **treasurer of state under section 22 of this chapter; and**
- 14 **(4) include information that the office determines necessary**
15 **for evaluating the application under section 16 of this chapter.**

16 **Sec. 16. (a) The office may approve an application from a rural**
17 **county and designate the county as an area if the county:**

- 18 **(1) submits a written plan for supporting entrepreneurship**
19 **and the establishment of new businesses in the area that meets**
20 **the requirements of the office; and**
- 21 **(2) agrees in writing to the terms and conditions specified by**
22 **the office.**

23 **(b) The territory of an area designated under this section**
24 **consists of all the territory in the county that is outside the**
25 **boundaries of a tax incentive zone.**

26 **Sec. 17. An area is established on the date on which the county**
27 **approved under section 16 of this chapter and the office enter into**
28 **a written agreement specifying the terms and conditions governing**
29 **the area. An area continues in existence until the earliest of the**
30 **following:**

- 31 **(1) January 1, 2024.**
- 32 **(2) The date specified in an ordinance adopted by the**
33 **legislative body for the county nominating the county for**
34 **designation as an area.**
- 35 **(3) The date that the office terminates the area under section**
36 **21 of this chapter.**

37 **Sec. 18. The office shall send a certified copy of the designation**
38 **of a county as an area to the department.**

39 **Sec. 19. The office shall determine whether a business in a rural**
40 **county is a new business and may certify the business as a new**
41 **business if the office determines that the new business meets all the**
42 **following criteria:**

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- 1 **(1) The business is established or organized to do business in**
- 2 **Indiana less than one (1) year before the business locates**
- 3 **business operations in an area.**
- 4 **(2) The business initially locates business operations in an**
- 5 **area after the date the area is designated as an area by the**
- 6 **office.**
- 7 **(3) The business conducts business operations in the area to**
- 8 **provide goods or services for profit.**
- 9 **(4) The business meets any other criteria specified by the**
- 10 **office.**

11 **Sec. 20. (a) The county auditor of a county designated as an area**
 12 **shall send to the department:**

- 13 **(1) a certified copy of the designation of the county as an area;**
- 14 **(2) a certified copy of the agreement entered into with the**
- 15 **office for the area; and**
- 16 **(3) a complete list of the new business employers in the area,**
- 17 **including any other identifying information required by the**
- 18 **department.**

19 **(b) The county auditor shall update the list provided to the**
 20 **department under subsection (a)(3) at least annually before July 1**
 21 **of each year.**

22 **Sec. 21. The office may not terminate an area for a violation of**
 23 **the agreement described in section 17 of this chapter until the**
 24 **office has conducted a public hearing for the purpose of giving all**
 25 **interested parties an opportunity to comment on the proposal to**
 26 **terminate the area. Notice of the hearing must be given at least**
 27 **fourteen (14) days before the hearing in accordance with**
 28 **IC 5-14-1.5-5(b).**

29 **Sec. 22. (a) Before the first business day in October of each year,**
 30 **the department shall:**

- 31 **(1) calculate the income tax incremental revenue for the**
- 32 **preceding state fiscal year for each area designated under this**
- 33 **chapter; and**
- 34 **(2) upon approval of the state board of accounts and the**
- 35 **corporation, direct the treasurer of state to distribute the**
- 36 **amount determined under subdivision (1) for each area to the**
- 37 **county treasurer of the county designating the area.**

38 **However, the amount distributed in a particular state fiscal year**
 39 **to a particular county under this section may not exceed two**
 40 **hundred fifty thousand dollars (\$250,000), and the total number of**
 41 **counties to receive the distribution in a state fiscal year does not**
 42 **exceed thirty (30).**

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1 (b) A sufficient amount is annually appropriated from the state
2 general fund to make the distributions required by this section.

3 Sec. 23. (a) Each county that establishes an area under this
4 chapter shall establish a rural entrepreneurship area development
5 incentives (READI) fund for the county to receive money
6 distributed under section 22 of this chapter.

7 (b) Money deposited in the READI fund may be used by the
8 county only for one (1) or more of the following purposes:

9 (1) Transferring money to a revolving fund established under
10 section 24 of this chapter for purposes of the revolving fund.

11 (2) Transferring money to a regional venture capital fund
12 established under IC 6-3.5-7-13.5 or a local venture capital
13 fund established under IC 6-3.5-7-13.6 for purposes of the
14 funds.

15 (3) Incubator development and operation.

16 (4) Accelerator development and operation.

17 (5) Small business support services.

18 (6) Assisting in the deployment of high speed Internet service
19 (as defined by IC 5-28-33-2) within the county.

20 (c) The fund may not be used for the administrative expenses of
21 the fund.

22 Sec. 24. (a) A county designated as an area may establish a
23 revolving fund to provide loans to new businesses in the county's
24 area.

25 (b) The county may loan money in the revolving fund
26 established under this section to a new business if the county fiscal
27 body finds that the loan will be used by the new business for one (1)
28 or more of the following economic development purposes:

29 (1) Promoting significant opportunities for the gainful
30 employment of Indiana residents in the county's area.

31 (2) Attracting a new business to the county's area.

32 (3) Retaining or expanding the operations of a new business
33 in the county's area.

34 (c) The county may make the loan from a revolving fund
35 established under this section on the terms approved by the county
36 fiscal body.

37 (d) Amounts paid on a loan made from a revolving fund
38 established under this section shall be deposited in the revolving
39 fund.

40 Sec. 25. A county may not issue bonds that:

41 (1) pledge money deposited in the county's READI fund to
42 repayment of interest or principal on the bonds; or

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1 (2) guarantee repayment of any public or private obligation
2 from money in the READI fund.
3 **Sec. 26.** Two (2) or more counties may enter into a written
4 agreement under this section to jointly carry out the purposes of
5 this chapter in the counties that are parties to the agreement.
6 Counties choosing to form a joint agreement under this section
7 shall be recognized as one (1) county for the purposes of section
8 22(a)(2) of this chapter.
9 **Sec. 27. (a)** The state board of accounts shall audit each READI
10 fund every two (2) years to determine whether:
11 (1) the appropriate amount of revenue is being transferred
12 from the state to the county; and
13 (2) money in the county's READI fund is being used for
14 purposes permitted by this chapter.
15 **(b)** The state board of accounts shall audit each revolving fund
16 established under this chapter every two (2) years to determine
17 whether loans are being made and repaid in compliance with any
18 applicable statutes and the terms imposed by the county fiscal body
19 under section 24 of this chapter.
20 **Sec. 28.** Upon termination of an area, the balance of any READI
21 fund or revolving loan fund established under section 24 of this
22 chapter and any amounts due to either fund shall be transferred to
23 the state general fund.
24 **Sec. 29.** Notwithstanding any other law, a tax incentive zone
25 may not be established or expanded in a county:
26 (1) after the date an area is established in the county; and
27 (2) before the date the area terminates;
28 without the approval of the county legislative body.
29 **Sec. 30.** This chapter expires January 1, 2024.
30 SECTION 13. [EFFECTIVE JANUARY 1, 2014] (a) IC 6-3.1-26-8,
31 IC 6-3.1-26-14, IC 6-3.1-26-17, IC 6-3.1-26-18, IC 6-3.1-26-20,
32 IC 6-3.1-26-21, and IC 6-3.1-26-25, all as amended by this act, and
33 IC 6-3.1-26-8.5, as amended by this act, apply to taxable years
34 beginning after December 31, 2013.
35 **(b)** This SECTION expires January 1, 2017.
36 SECTION 14. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 244, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: 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 2. IC 6-3.1-26-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

ES 244—LS 6604/DI 58+



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[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.

(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.

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- (C) Improving paved access to a waterborne terminal facility.
 - (D) Purchasing new equipment having a useful life of at least five (5) years, including diagnostic equipment, an oil delivery system, an air compressor, or a barge lift.
 - (5) Improving the transportation of goods by air, limited to the following:
 - (A) Upgrading or building a new cargo building, apron, hangar, warehouse facility, freight forwarding facility, cross-dock distribution facility, or aircraft maintenance facility.
 - (B) Improving paved access to a terminal or cargo facility.
 - (C) Upgrading a fueling facility.
 - (6) Improving warehousing and logistical capabilities, limited to the following:
 - (A) Upgrading warehousing facilities, including upgrading loading dock doors and loading dock plates, fueling equipment, fueling installations, or dolly drop pads for trailers.
 - (B) Improving logistical distribution by purchasing new equipment, limited to the following:
 - (i) Picking modules (systems of racks, conveyors, and controllers).
 - (ii) Racking equipment.
 - (iii) Warehouse management systems, including scanning or coding equipment.
 - (iv) Security equipment.
 - (v) Temperature control and monitoring equipment.
 - (vi) Dock levelers and pallet levelers and inverters.
 - (vii) Conveyors and related controllers, scales, and like equipment.
 - (viii) Packaging equipment.
 - (ix) Moving, separating, sorting, and picking equipment.
- A logistics investment does not include an expenditure for maintenance expenses."**
- Page 2, delete lines 1 through 26.
- Page 2, line 34, delete "capital" and insert "**logistics**".
- Page 2, line 37, delete "capital" and insert "**logistics**".
- Page 3, line 38, delete "and improve" and insert "**by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving**".
- Page 3, line 39, after "economy" insert "**, in the case of a logistics**

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investment being claimed by the applicant".

Page 4, line 12, delete "or".

Page 4, line 12, delete "." and insert ", or improving the overall Indiana economy, in the case of a logistics investment being claimed by the applicant.".

Page 4, line 19, before "employees" insert "the applicant's".

Page 4, line 19, delete "." and insert ", or other employees in Indiana in the case of a logistics investment being claimed by the applicant.".

Page 4, line 24, delete "The" and insert "In the case of a qualified investment that is not being claimed as a logistics investment by the applicant, the".

Page 4, delete lines 39 through 42, begin a new paragraph and insert:

"(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

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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.".

Page 5, delete lines 1 through 40, begin a new paragraph and insert:
 "SECTION 9. 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

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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.

SECTION 10. 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

ES 244—LS 6604/DI 58+



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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."

Page 5, line 41, after "IC 6-3.1-26-8," insert "**IC 6-3.1-26-8.5**,"

Page 5, line 42, after "IC 6-3.1-26-20," insert "**IC 6-3.1-26-21**,"

Page 6, line 1, delete "IC 6-3.1-26-26," and insert "**IC 6-3.1-26-25**,"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 244 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 2.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 244, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Page 9, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 10. IC 6-3.5-7-13.5, AS ADDED BY P.L.137-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. (a) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development, the development of new technology, and industrial and commercial growth. The general assembly finds that it is necessary and proper to provide an alternative method for counties and municipalities to foster the following:

- (1) Economic development.
- (2) The development of new technology.
- (3) Industrial and commercial growth.
- (4) Employment opportunities.
- (5) The diversification of industry and commerce.

The fostering of economic development and the development of new technology under this section or section 13.6 of this chapter for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

(b) The fiscal bodies of two (2) or more counties or municipalities may, by resolution, do the following:

- (1) Determine that part or all the taxes received by the units under this chapter should be combined to foster:
 - (A) economic development;
 - (B) the development of new technology; and
 - (C) industrial and commercial growth.
- (2) Establish a regional venture capital fund.

(c) Each unit participating in a regional venture capital fund established under subsection (b) may deposit the following in the fund:

- (1) Taxes distributed to the unit under this chapter.
- (2) The proceeds of public or private grants.

(3) Revenues received by a county under IC 36-7-37.

(d) A regional venture capital fund shall be administered by a

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governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(e) The fiscal body of each participating unit shall approve an interlocal agreement created under IC 36-1-7 establishing the terms for the administration of the regional venture capital fund. The terms must include the following:

- (1) The membership of the governing board.
- (2) The amount of each unit's contribution to the fund.
- (3) The procedures and criteria under which the governing board may loan or grant money from the fund.
- (4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(f) An interlocal agreement made by the participating units under subsection (e) must provide that:

- (1) each of the participating units is represented by at least one (1) member of the governing board; and
- (2) the membership of the governing board is established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) An interlocal agreement made by the participating units under subsection (e) must be submitted to the Indiana economic development corporation for approval before the participating units may contribute to the fund.

(i) A majority of members of a governing board of a regional venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

- (1) To promote significant employment opportunities for the

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residents of the units participating in the regional venture capital fund.

(2) To attract a major new business enterprise to a participating unit.

(3) To develop, retain, or expand a significant business enterprise in a participating unit.

(k) The expenditures of a borrower or grantee of money from a regional venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 11. IC 6-3.5-7-13.6, AS ADDED BY P.L.137-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.6. (a) The fiscal body of a county or municipality may, by resolution, establish a local venture capital fund.

(b) A unit establishing a local venture capital fund under subsection (a) may deposit the following in the fund:

(1) Taxes distributed to the unit under this chapter.

(2) The proceeds of public or private grants.

(3) Revenues received by a county under IC 36-7-37.

(c) A local venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(d) The fiscal body of a unit establishing a local venture capital fund under subsection (a) shall establish the terms for the administration of

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the local venture capital fund. The terms must include the following:

- (1) The membership of the governing board.
 - (2) The amount of the unit's contribution to the fund.
 - (3) The procedures and criteria under which the governing board may loan or grant money from the fund.
 - (4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.
- (e) A unit establishing a local venture capital fund under subsection (a) must be represented by at least one (1) member of the governing board.
- (f) The membership of the governing board must be established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.
- (g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.
- (h) The terms established under subsection (d) for the administration of the local venture capital fund must be submitted to the Indiana economic development corporation for approval before a unit may contribute to the fund.
- (i) A majority of members of a governing board of a local venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.
- (j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:
- (1) To promote significant employment opportunities for the residents of the unit establishing the local venture capital fund.
 - (2) To attract a major new business enterprise to the unit.
 - (3) To develop, retain, or expand a significant business enterprise in the unit.
- (k) The expenditures of a borrower or grantee of money from a local venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:
- (1) Research and development of technology.
 - (2) Job training and education.
 - (3) Acquisition of property interests.
 - (4) Infrastructure improvements.

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- (5) New buildings or structures.
- (6) Rehabilitation, renovation, or enlargement of buildings or structures.
- (7) Machinery, equipment, and furnishings.
- (8) Funding small business development with respect to:
 - (A) prototype products or processes;
 - (B) marketing studies to determine the feasibility of new products or processes; or
 - (C) business plans for the development and production of new products or processes.

SECTION 12. IC 36-7-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 37. Rural Entrepreneurship Area Development Incentives

Sec. 1. This chapter applies to a rural county.

Sec. 2. The purpose of this chapter is to:

- (1) establish and fund programs to identify entrepreneurs with marketable ideas; and
- (2) support the organization and development of new businesses in rural counties.

Sec. 3. The general assembly finds that establishing and supporting new businesses in rural counties serve a public purpose that benefits the general welfare of rural counties by encouraging investment, job creation and retention, economic growth, and more diverse economies.

Sec. 4. As used in this chapter, "agreement" refers to an agreement between the office and a county establishing the terms and conditions governing an area established under this chapter.

Sec. 5. As used in this chapter, "area" refers to a rural entrepreneurship area development incentives area established under this chapter.

Sec. 6. As used in this chapter, "corporation" refers to the Indiana economic development corporation.

Sec. 7. As used in this chapter, "department" refers to the department of state revenue.

Sec. 8. As used in this chapter, "income tax incremental revenue" means the remainder of:

- (1) the sum of:
 - (A) the total amount of state adjusted gross income taxes paid by employees of new businesses, regardless of county of residence, that are employed in any part of the territory

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comprising an area with respect to wages and salary earned for work in the area for a particular state fiscal year;

(B) the total amount of state adjusted gross income taxes paid by additional employees of existing businesses in the territory, regardless of county of residence, that are employed as a result of expansion after the date of the establishment of the territory with respect to wages and salary earned for work in the area for a particular state fiscal year; plus

(C) the total amount of state adjusted gross income taxes paid by new businesses located in any part of the territory comprising an area with respect to income sourced to the area for a particular state fiscal year; minus

(2) the sum of:

(A) the tax credits awarded by the corporation under IC 6-3.1-13 to new businesses operating in the territory comprising an area as the result of wages earned for work in any part of the territory comprising an area for the state fiscal year; plus

(B) the total amount of the incremental state adjusted gross income taxes paid by existing businesses as a result of expansion with no state incentives and with creation of one (1) or more additional jobs, located in any part of the territory comprising an area with respect to income sourced to the area for a particular state fiscal year, after the date of the establishment of the territory;

as determined by the department.

Sec. 9. As used in this chapter, "incubator" means a facility in which space may be leased by a tenant and in which management provides access to business development services for use by tenants.

Sec. 10. As used in this chapter, "office" refers to the office of community and rural affairs established by IC 4-4-9.7-4.

Sec. 11. As used in this chapter, "new business" refers to a business entity certified by the office as a new business under section 19 of this chapter.

Sec. 12. As used in this chapter, "READI fund" refers to a rural entrepreneurship area development incentives fund established by a rural county under section 23 of this chapter.

Sec. 13. As used in this chapter, "rural county" refers to a county having a population of less than fifty thousand (50,000).



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Sec. 14. As used in this chapter, "tax incentive zone" refers to the territory of any of the following:

- (1) A community revitalization enhancement district established under IC 36-7-13.
- (2) A professional sports and convention development area established under IC 36-7-31.3.
- (3) A certified technology park established under IC 36-7-32.
- (4) Any other area in which a law permits adjusted gross income taxes imposed on a taxable event in the area to be distributed to an employer located in the area or a political subdivision in the area for a local business, economic development, or a governmental purpose.

Sec. 15. A rural county may apply to the office for designation of the county as a rural entrepreneurship area development incentives area. The application must:

- (1) be in a form specified by the office;
- (2) include a copy of an ordinance adopted by the county legislative body designating the territory of the county that is outside the boundaries of a tax incentive zone as an area;
- (3) include a copy of an ordinance adopted by the county legislative body committing up to two hundred fifty thousand dollars (\$250,000) each state fiscal year of the county's economic development income tax funds to a dollar-for-dollar match to the income incremental revenue received from the treasurer of state under section 22 of this chapter; and
- (4) include information that the office determines necessary for evaluating the application under section 16 of this chapter.

Sec. 16. (a) The office may approve an application from a rural county and designate the county as an area if the county:

- (1) submits a written plan for supporting entrepreneurship and the establishment of new businesses in the area that meets the requirements of the office; and
- (2) agrees in writing to the terms and conditions specified by the office.

(b) The territory of an area designated under this section consists of all the territory in the county that is outside the boundaries of a tax incentive zone.

Sec. 17. An area is established on the date on which the county approved under section 16 of this chapter and the office enter into a written agreement specifying the terms and conditions governing the area. An area continues in existence until the earliest of the following:

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- (1) January 1, 2024.
- (2) The date specified in an ordinance adopted by the legislative body for the county nominating the county for designation as an area.
- (3) The date that the office terminates the area under section 21 of this chapter.

Sec. 18. The office shall send a certified copy of the designation of a county as an area to the department.

Sec. 19. The office shall determine whether a business in a rural county is a new business and may certify the business as a new business if the office determines that the new business meets all the following criteria:

- (1) The business is established or organized to do business in Indiana less than one (1) year before the business locates business operations in an area.
- (2) The business initially locates business operations in an area after the date the area is designated as an area by the office.
- (3) The business conducts business operations in the area to provide goods or services for profit.
- (4) The business meets any other criteria specified by the office.

Sec. 20. (a) The county auditor of a county designated as an area shall send to the department:

- (1) a certified copy of the designation of the county as an area;
- (2) a certified copy of the agreement entered into with the office for the area; and
- (3) a complete list of the new business employers in the area, including any other identifying information required by the department.

(b) The county auditor shall update the list provided to the department under subsection (a)(3) at least annually before July 1 of each year.

Sec. 21. The office may not terminate an area for a violation of the agreement described in section 17 of this chapter until the office has conducted a public hearing for the purpose of giving all interested parties an opportunity to comment on the proposal to terminate the area. Notice of the hearing must be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

Sec. 22. (a) Before the first business day in October of each year, the department shall:

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(1) calculate the income tax incremental revenue for the preceding state fiscal year for each area designated under this chapter; and

(2) upon approval of the state board of accounts and the corporation, direct the treasurer of state to distribute the amount determined under subdivision (1) for each area to the county treasurer of the county designating the area.

However, the amount distributed in a particular state fiscal year to a particular county under this section may not exceed two hundred fifty thousand dollars (\$250,000), and the total number of counties to receive the distribution in a state fiscal year does not exceed thirty (30).

(b) A sufficient amount is annually appropriated from the state general fund to make the distributions required by this section.

Sec. 23. (a) Each county that establishes an area under this chapter shall establish a rural entrepreneurship area development incentives (READI) fund for the county to receive money distributed under section 22 of this chapter.

(b) Money deposited in the READI fund may be used by the county only for one (1) or more of the following purposes:

(1) Transferring money to a revolving fund established under section 24 of this chapter for purposes of the revolving fund.

(2) Transferring money to a regional venture capital fund established under IC 6-3.5-7-13.5 or a local venture capital fund established under IC 6-3.5-7-13.6 for purposes of the funds.

(3) Incubator development and operation.

(4) Accelerator development and operation.

(5) Small business support services.

(6) Assisting in the deployment of high speed Internet service (as defined by IC 5-28-33-2) within the county.

(c) The fund may not be used for the administrative expenses of the fund.

Sec. 24. (a) A county designated as an area may establish a revolving fund to provide loans to new businesses in the county's area.

(b) The county may loan money in the revolving fund established under this section to a new business if the county fiscal body finds that the loan will be used by the new business for one (1) or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of Indiana residents in the county's area.

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- (2) Attracting a new business to the county's area.
- (3) Retaining or expanding the operations of a new business in the county's area.

(c) The county may make the loan from a revolving fund established under this section on the terms approved by the county fiscal body.

(d) Amounts paid on a loan made from a revolving fund established under this section shall be deposited in the revolving fund.

Sec. 25. A county may not issue bonds that:

- (1) pledge money deposited in the county's READI fund to repayment of interest or principal on the bonds; or
- (2) guarantee repayment of any public or private obligation from money in the READI fund.

Sec. 26. Two (2) or more counties may enter into a written agreement under this section to jointly carry out the purposes of this chapter in the counties that are parties to the agreement. Counties choosing to form a joint agreement under this section shall be recognized as one (1) county for the purposes of section 22(a)(2) of this chapter.

Sec. 27. (a) The state board of accounts shall audit each READI fund every two (2) years to determine whether:

- (1) the appropriate amount of revenue is being transferred from the state to the county; and
- (2) money in the county's READI fund is being used for purposes permitted by this chapter.

(b) The state board of accounts shall audit each revolving fund established under this chapter every two (2) years to determine whether loans are being made and repaid in compliance with any applicable statutes and the terms imposed by the county fiscal body under section 24 of this chapter.

Sec. 28. Upon termination of an area, the balance of any READI fund or revolving loan fund established under section 24 of this chapter and any amounts due to either fund shall be transferred to the state general fund.

Sec. 29. Notwithstanding any other law, a tax incentive zone may not be established or expanded in a county:

- (1) after the date an area is established in the county; and
- (2) before the date the area terminates;

without the approval of the county legislative body.

Sec. 30. This chapter expires January 1, 2024."

Page 10, line 1, delete "IC 6-3.1-26-8.5,".

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Page 10, line 3, after "act," insert "**and IC 6-3.1-26-8.5, as amended by this act,**".

Page 10, after line 5, begin a new paragraph and insert:
"SECTION 14. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 244 as printed January 30, 2013.)

MESSMER, Chair

Committee Vote: yeas 12, nays 0.

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