



February 18, 2013

HOUSE BILL No. 1545

DIGEST OF HB 1545 (Updated February 17, 2013 7:58 pm - DI 113)

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

Synopsis: Tax credits. Makes numerous changes to the administration of the Hoosier business investment tax credit, the headquarters relocation tax credit, and the venture capital investment tax credit. Repeals the military base recovery tax credit, the military base investment cost credit, the capital investment tax credit, and the coal combustion product tax credit. Repeals the following tax incentives concerning airport development zones: (1) qualified employee deductions; (2) credits for qualified increased employment expenditures; (3) loan interest credits; (4) neighborhood assistance credits; and (5) investment cost credits.

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

Turner

January 22, 2013, read first time and referred to Committee on Ways and Means.
February 18, 2013, amended, reported — Do Pass.

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February 18, 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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HOUSE BILL No. 1545

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

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

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

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

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

3 SECTION 2. IC 5-28-28-4, AS AMENDED BY P.L.133-2012,
4 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2014]: Sec. 4. As used in this chapter, "tax credit" means
6 a state tax liability credit under any of the following:

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

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

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

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

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

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

42 (c) Notwithstanding subsection (b), a power subsidiary or a person

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1 engaged as a public utility is not a retail merchant making a retail
2 transaction in any of the following transactions:

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

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

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

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

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

- 30 (i) relocates all or part of its operations to a facility; or
31 (ii) expands all or part of its operations in a facility;

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

39 (B) The business uses the services or commodities in the
40 facility described in clause (A) not later than five (5) years
41 after the operations that are relocated to the facility or
42 expanded in the facility commence.

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- 1 (C) The sales of the services or commodities are separately
- 2 metered for use by the relocated or expanded operations.
- 3 (D) In the case of a business that uses the services or
- 4 commodities in a qualified military base enhancement area
- 5 established under IC 36-7-34-4(1), the business must satisfy at
- 6 least one (1) of the following criteria:
- 7 (i) The business is a participant in the technology transfer
- 8 program conducted by the qualified military base (as defined
- 9 in IC 36-7-34-3).
- 10 (ii) The business is a United States Department of Defense
- 11 contractor.
- 12 (iii) The business and the qualified military base have a
- 13 mutually beneficial relationship evidenced by a
- 14 memorandum of understanding between the business and
- 15 the United States Department of Defense.
- 16 (E) In the case of a business that uses the services or
- 17 commodities in a qualified military base enhancement area
- 18 established under IC 36-7-34-4(2), the business must satisfy at
- 19 least one (1) of the following criteria:
- 20 (i) The business is a participant in the technology transfer
- 21 program conducted by the qualified military base (as defined
- 22 in IC 36-7-34-3).
- 23 (ii) The business and the qualified military base have a
- 24 mutually beneficial relationship evidenced by a
- 25 memorandum of understanding between the business and
- 26 the qualified military base (as defined in IC 36-7-34-3).
- 27 However, this subdivision does not apply to a business that
- 28 substantially reduces or ceases its operations at another location
- 29 in Indiana in order to relocate its operations in an area described
- 30 in this subdivision, unless the department determines that the
- 31 business had existing operations in the area described in this
- 32 subdivision and that the operations relocated to the area are an
- 33 expansion of the business's operations in the area.
- 34 SECTION 6. IC 6-3-2-1.5, AS AMENDED BY P.L.180-2006,
- 35 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JANUARY 1, 2014]: Sec. 1.5. (a) As used in this section, "qualified
- 37 area" means:
- 38 (1) a military base (as defined in IC 36-7-30-1(c));
- 39 (2) a military base reuse area established under IC 36-7-30;
- 40 (3) the part of an economic development area established under
- 41 IC 36-7-14.5-12.5 that is or formerly was a military base (as
- 42 defined in IC 36-7-30-1(c)); **or**

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1 ~~(4)~~ a military base recovery site designated under IC 6-3.1-11.5;
 2 or
 3 ~~(5)~~ (4) a qualified military base enhancement area established
 4 under IC 36-7-34.

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

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

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

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

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

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

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

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

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

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



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

3 (f) A determination under subsection (e) that a taxpayer is not
4 entitled to the tax rate provided by this section as a result of a
5 substantial reduction or cessation of operations applies to the taxable
6 year in which the substantial reduction or cessation occurs and in all
7 subsequent years. Determinations under this section shall be made by
8 the department of state revenue.

9 (g) The department of state revenue:
10 (1) shall adopt rules under IC 4-22-2 to establish a procedure for
11 determining the part of a corporation's adjusted gross income that
12 was derived from sources within a qualified area; and
13 (2) may adopt other rules that the department considers necessary
14 for the implementation of this chapter.

15 SECTION 7. IC 6-3.1-1-3, AS AMENDED BY P.L.133-2012,
16 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2014]: Sec. 3. A taxpayer (as defined in the following
18 laws), pass through entity (as defined in the following laws), or
19 shareholder, partner, or member of a pass through entity may not be
20 granted more than one (1) tax credit under the following laws for the
21 same project:

- 22 (1) IC 6-3.1-10 (enterprise zone investment cost credit).
23 (2) IC 6-3.1-11 (industrial recovery tax credit).
24 ~~(3) IC 6-3.1-11.5 (military base recovery tax credit):~~
25 ~~(4) IC 6-3.1-11.6 (military base investment cost credit):~~
26 ~~(5) IC 6-3.1-13.5 (capital investment tax credit) (before its~~
27 ~~expiration on January 1, 2020):~~
28 ~~(6) (3) IC 6-3.1-19 (community revitalization enhancement~~
29 ~~district tax credit).~~
30 ~~(7) (4) IC 6-3.1-24 (venture capital investment tax credit).~~
31 ~~(8) (5) IC 6-3.1-26 (Hoosier business investment tax credit).~~
32 ~~(9) (6) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle~~
33 ~~manufacturer tax credit).~~

34 If a taxpayer, pass through entity, or shareholder, partner, or member
35 of a pass through entity has been granted more than one (1) tax credit
36 for the same project, the taxpayer, pass through entity, or shareholder,
37 partner, or member of a pass through entity must elect to apply only
38 one (1) of the tax credits in the manner and form prescribed by the
39 department.

40 SECTION 8. IC 6-3.1-11-1, AS AMENDED BY P.L.113-2011,
41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2013]: Sec. 1. As used in this chapter, "applicable percentage"



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- 1 means the percentage determined as follows:
- 2 (1) If a plant that is located on an industrial recovery site was
- 3 placed in service at least fifteen (15) years ago but less than thirty
- 4 (30) years ago, the applicable percentage is fifteen percent (15%).
- 5 (2) If a plant that is located on an industrial recovery site was
- 6 placed in service at least thirty (30) years ago but less than forty
- 7 (40) years ago, the applicable percentage is twenty percent (20%).
- 8 (3) If a plant that is located on an industrial recovery site was
- 9 placed in service at least forty (40) years ago, the applicable
- 10 percentage is twenty-five percent (25%).

11 The time that has expired since a plant was placed in service shall be

12 determined as of the date that an application is filed with the ~~board~~

13 **corporation** for designation of the location as an industrial recovery

14 site under this chapter.

15 SECTION 9. IC 6-3.1-11-2 IS REPEALED [EFFECTIVE JULY 1,

16 2013]. ~~Sec. 2. As used in this chapter, "board" means the board of the~~

17 ~~Indiana economic development corporation created under IC 5-28-4.~~

18 SECTION 10. IC 6-3.1-11-2.5 IS ADDED TO THE INDIANA

19 CODE AS A NEW SECTION TO READ AS FOLLOWS

20 [EFFECTIVE JULY 1, 2013]: **Sec. 2.5. As used in this chapter,**

21 **"corporation" refers to the Indiana economic development**

22 **corporation created under IC 5-28-3 unless the context clearly**

23 **denotes otherwise.**

24 SECTION 11. IC 6-3.1-11-10 IS AMENDED TO READ AS

25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. As used in this

26 chapter, "qualified investment" means the amount of the taxpayer's

27 expenditures for rehabilitation of property located within an industrial

28 recovery site. ~~under a plan contained in an application approved by the~~

29 ~~board under section 18 of this chapter. An expenditure for purposes or~~

30 ~~by persons not covered by such a plan may not be a qualified~~

31 ~~investment.~~

32 SECTION 12. IC 6-3.1-11-15, AS AMENDED BY P.L.113-2011,

33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

34 JULY 1, 2013]: Sec. 15. As used in this chapter, "vacant industrial

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

- 36 (1) has:
- 37 (A) for taxable years beginning after December 31, 2010, and
- 38 beginning before January 1, 2015, at least fifty thousand
- 39 (50,000) square feet of floor space; or
- 40 (B) for taxable years beginning after December 31, 2014, at
- 41 least one hundred thousand (100,000) square feet of floor
- 42 space; **and**



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1 (2) was placed in service at least fifteen (15) years ago. and
 2 (3) has been vacant for at least one (1) year; unless the tract and
 3 the plant are owned by a municipality or a county, in which case
 4 the one (1) year requirement does not apply.

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

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

- 20 (1) evaluate the application;
 21 (2) arrive at a decision based on the factors set forth in section 19
 22 of this chapter; and
 23 (3) either designate the property as an industrial recovery site or
 24 reject the application.

25 (c) If the board determines that:

- 26 (1) a substantial reduction or cessation of operations at a facility
 27 in Indiana after January 1, 1987, has created a vacant industrial
 28 facility; and
 29 (2) the operations formerly located at that facility have been
 30 relocated to a specific site or sites outside the United States;

31 the facility may be designated as an industrial recovery site only if it
 32 has been donated or sold to the municipality. Such a facility may be
 33 designated as an industrial recovery site whether it is owned by the
 34 municipality or by a taxpayer who acquired it from the municipality
 35 after the donation or sale.

36 SECTION 14. IC 6-3.1-11-19, AS AMENDED BY P.L.146-2008,
 37 SECTION 324, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2013]: Sec. 19. The **board corporation** shall
 39 consider the following factors in evaluating applications filed under
 40 this chapter:

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



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- 1 (2) The desirability of the intended use of the vacant industrial
- 2 facility under the plan proposed by the municipality or county and
- 3 the likelihood that the implementation of the plan will improve
- 4 the economic and employment conditions in the surrounding
- 5 community.
- 6 (3) (2) Evidence of support for the designation by residents,
- 7 businesses, and private organizations in the surrounding
- 8 community.
- 9 (4) (3) Evidence of a commitment by private or governmental
- 10 entities to provide financial assistance in implementing the plan
- 11 proposed by the municipality or county, including the application
- 12 of IC 36-7-12, IC 36-7-13, IC 36-7-14, or IC 36-7-15.† to assist
- 13 in the financing of improvements or redevelopment activities
- 14 benefiting the vacant industrial facility.
- 15 (5) Evidence of efforts by the municipality or county to
- 16 implement the proposed plan without additional financial
- 17 assistance from the state.
- 18 (6) (4) Whether the industrial recovery site is within an economic
- 19 revitalization area designated under IC 6-1.1-12.1.

20 SECTION 15. IC 6-3.1-11-21 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. A taxpayer is not
 22 entitled to claim the credit provided by this chapter to the extent that it
 23 **if the corporation determines that the taxpayer has** substantially
 24 **reduces reduced** or **ceases ceased** its operations in Indiana in order to
 25 relocate them within the industrial recovery site. A determination that
 26 a taxpayer is not entitled to the credit provided by this chapter as a
 27 result of a substantial reduction or cessation of operations **shall apply**
 28 **applies** to credits that would otherwise arise in the taxable year in
 29 which the substantial reduction or cessation occurs and in all
 30 subsequent years. **Determinations under this section shall be made by**
 31 **the board.**

32 SECTION 16. IC 6-3.1-11-23 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. To receive the
 34 credit provided by this chapter, a taxpayer must claim the credit on the
 35 taxpayer's annual state tax return or returns in the manner prescribed
 36 by the department of state revenue. The taxpayer shall submit to the
 37 department of state revenue the certification of the **board corporation**
 38 stating the percentage of credit allowable under this chapter and all
 39 other information that the department determines is necessary for the
 40 calculation of the credit provided by this chapter and for the
 41 determination of whether an expenditure was for a qualified
 42 investment.

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1 SECTION 17. IC 6-3.1-11.5 IS REPEALED [EFFECTIVE
2 JANUARY 1, 2014]. (Military Base Recovery Tax Credit).

3 SECTION 18. IC 6-3.1-11.6 IS REPEALED [EFFECTIVE
4 JANUARY 1, 2014]. (Military Base Investment Cost Credit).

5 SECTION 19. IC 6-3.1-13.5 IS REPEALED [EFFECTIVE
6 JANUARY 1, 2014]. (Capital Investment Tax Credit).

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

22 (b) Notwithstanding the other provisions of this chapter, a taxpayer
23 is not entitled to a credit for providing qualified investment capital to
24 a qualified Indiana business after December 31, 2016. However, this
25 subsection may not be construed to prevent a taxpayer from carrying
26 over to a taxable year beginning after December 31, 2016, an unused
27 tax credit attributable to an investment occurring before January 1,
28 2017.

29 SECTION 21. IC 6-3.1-25.2 IS REPEALED [EFFECTIVE
30 JANUARY 1, 2014]. (Coal Combustion Product Tax Credit).

31 SECTION 22. IC 6-3.1-26-1 IS REPEALED [EFFECTIVE JULY
32 1, 2013]. ~~Sec. 1. As used in this chapter, "base state tax liability" means~~
33 ~~a taxpayer's state tax liability in the taxable year immediately preceding~~
34 ~~the taxable year in which a taxpayer makes a qualified investment.~~

35 SECTION 23. IC 6-3.1-26-4 IS REPEALED [EFFECTIVE JULY
36 1, 2013]. ~~Sec. 4. As used in this chapter, "full-time employee" has the~~
37 ~~meaning set forth in IC 6-3.1-13-4.~~

38 SECTION 24. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006,
39 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013]: Sec. 8. (a) As used in this chapter, "qualified
41 investment" means the amount of the taxpayer's expenditures in Indiana
42 for:

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- 1 (1) the purchase of new telecommunications, production,
- 2 manufacturing, fabrication, assembly, extraction, mining,
- 3 processing, refining, finishing, distribution, transportation, or
- 4 logistical distribution equipment;
- 5 (2) the purchase of new computers and related equipment;
- 6 (3) costs associated with the modernization of existing
- 7 telecommunications, production, manufacturing, fabrication,
- 8 assembly, extraction, mining, processing, refining, finishing,
- 9 distribution, transportation, or logistical distribution facilities;
- 10 (4) onsite infrastructure improvements;
- 11 (5) the construction of new telecommunications, production,
- 12 manufacturing, fabrication, assembly, extraction, mining,
- 13 processing, refining, finishing, distribution, transportation, or
- 14 logistical distribution facilities;
- 15 (6) costs associated with retooling existing machinery and
- 16 equipment;
- 17 (7) costs associated with the construction of special purpose
- 18 buildings and foundations for use in the computer, software,
- 19 biological sciences, or telecommunications industry; ~~and~~
- 20 (8) costs associated with the purchase of machinery, equipment,
- 21 or special purpose buildings used to make motion pictures or
- 22 audio productions; ~~and~~
- 23 **(9) costs associated with:**
- 24 **(A) the construction of buildings, roads, rail lines, or other**
- 25 **real property improvements required by the taxpayer's**
- 26 **logistics operations; or**
- 27 **(B) the purchase and installation of special purpose**
- 28 **logistics equipment;**
- 29 **to improve the taxpayer's logistical capabilities by air, rail, or**
- 30 **motor transport;**
- 31 that are certified by the corporation under this chapter as being eligible
- 32 for the credit under this chapter.
- 33 (b) The term does not include property that can be readily moved
- 34 outside Indiana.
- 35 SECTION 25. IC 6-3.1-26-12, AS AMENDED BY P.L.4-2005,
- 36 SECTION 104, IS AMENDED TO READ AS FOLLOWS
- 37 [EFFECTIVE JULY 1, 2013]: Sec. 12. The corporation may make
- 38 credit awards under this chapter to foster ~~job creation~~ and higher wages
- 39 in Indiana.
- 40 SECTION 26. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005,
- 41 SECTION 106, IS AMENDED TO READ AS FOLLOWS
- 42 [EFFECTIVE JULY 1, 2013]: Sec. 17. A person that proposes a project

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1 to ~~create new jobs or~~ increase wage levels in Indiana may apply to the
2 corporation before the taxpayer makes the qualified investment to enter
3 into an agreement for a tax credit under this chapter. The director shall
4 prescribe the form of the application.

5 SECTION 27. IC 6-3.1-26-21, AS AMENDED BY P.L.4-2005,
6 SECTION 110, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2013]: Sec. 21. The corporation shall enter into
8 an agreement with an applicant that is awarded a credit under this
9 chapter. The agreement must include all the following:

10 (1) A detailed description of the project that is the subject of the
11 agreement.

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

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

16 ~~(4)~~ (3) The maximum tax credit amount that will be allowed for
17 each taxable year.

18 ~~(5)~~ (4) A requirement that the taxpayer shall maintain operations
19 at the project location for at least ten (10) years during the term
20 that the tax credit is available.

21 ~~(6) A specific method for determining the number of new~~
22 ~~employees employed during a taxable year who are performing~~
23 ~~jobs not previously performed by an employee.~~

24 ~~(7)~~ (5) A requirement that the taxpayer shall annually report to the
25 corporation the number of new employees who are performing
26 jobs not previously performed by an employee; the average wage
27 of the new employees; the average wage of all employees at the
28 location where the qualified investment is made, and any other
29 information the director needs to perform the director's duties
30 under this chapter.

31 ~~(8)~~ (6) A requirement that the director is authorized to verify with
32 the appropriate state agencies the amounts reported under
33 subdivision ~~(7)~~; (5), and that after doing so shall issue a certificate
34 to the taxpayer stating that the amounts have been verified.

35 ~~(9)~~ (7) A requirement that the taxpayer shall pay an average wage
36 to all its employees other than highly compensated employees in
37 each taxable year that a tax credit is available that equals at least
38 one hundred fifty percent (150%) of the hourly minimum wage
39 under IC 22-2-2-4 or its equivalent.

40 ~~(10)~~ (8) A requirement that the taxpayer will keep the qualified
41 investment property that is the basis for the tax credit in Indiana
42 for at least the lesser of its useful life for federal income tax

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purposes or ten (10) years.
~~(H)~~ **(9)** 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.
~~(H2)~~ **(10)** 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.
~~(H3)~~ **(11)** Any other performance conditions that the corporation determines are appropriate.

SECTION 28. IC 6-3.1-26-25, AS AMENDED BY P.L.4-2005, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. 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.

SECTION 29. 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 30. 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.**

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

- 5 (1) is engaged in either interstate or intrastate commerce;
- 6 (2) maintains a corporate headquarters at a location outside
 7 Indiana;
- 8 (3) has not previously maintained a corporate headquarters at a
 9 location in Indiana;
- 10 (4) had annual worldwide revenues of at least ~~one hundred fifty~~
 11 million dollars ~~(\$100,000,000)~~ **(\$50,000,000)** for the taxable year
 12 immediately preceding the business's application for a tax credit
 13 under section 12 of this chapter; and
- 14 (5) commits contractually to relocating its corporate headquarters
 15 to Indiana.

16 SECTION 32. IC 6-3.1-30-7.5 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2013]: **Sec. 7.5. The corporation shall do the**
 19 **following:**

- 20 **(1) Evaluate a taxpayer's relocation project for the taxpayer's**
 21 **eligibility for a tax credit under this chapter.**
- 22 **(2) Certify the eligibility of taxpayers that meet the**
 23 **requirements for a tax credit under this chapter.**
- 24 **(3) Determine the percentage used to calculate the amount of**
 25 **a tax credit under section 9 of this chapter.**
- 26 **(4) Certify the information required under section 12 of this**
 27 **chapter.**

28 SECTION 33. IC 6-3.1-30-8, AS AMENDED BY P.L.1-2007,
 29 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2013]: Sec. 8. (a) **If the corporation certifies that** a taxpayer:
 31 ~~that:~~

- 32 (1) is an eligible business;
- 33 (2) completes a qualifying project;
- 34 (3) incurs relocation costs; and
- 35 (4) employs at least seventy-five (75) employees in Indiana;

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

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

- 42 (1) individuals who:

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- 1 (A) were employed in Indiana by the taxpayer before the
- 2 taxpayer commenced a qualifying project; and
- 3 (B) remain employed in Indiana after the completion of the
- 4 taxpayer's qualifying project; and
- 5 (2) individuals who:
- 6 (A) were not employed in Indiana by the taxpayer before the
- 7 taxpayer commenced a qualifying project; and
- 8 (B) are employed in Indiana by the taxpayer as a result of the
- 9 completion of the taxpayer's qualifying project.

10 SECTION 34. IC 6-3.1-30-9, AS ADDED BY P.L.193-2005,
 11 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2013]: Sec. 9. (a) Subject to subsection (b), the amount of the
 13 credit to which a taxpayer is entitled under section 8 of this chapter
 14 equals the product of:

- 15 (1) **a percentage determined by the corporation that may not**
- 16 **exceed** fifty percent (50%); multiplied by
- 17 (2) the amount of the taxpayer's relocation costs in the taxable
- 18 year.

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

24 SECTION 35. IC 6-3.1-30-12, AS AMENDED BY P.L.137-2006,
 25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2013]: Sec. 12. To receive the credit provided by this chapter,
 27 a taxpayer must claim the credit on the taxpayer's state tax return or
 28 returns in the manner prescribed by the department. The taxpayer shall
 29 submit to the department **the corporation's certification of the**
 30 **following information:**

- 31 (1) Proof of the taxpayer's relocation costs.
- 32 (2) Proof that the taxpayer is employing in Indiana the number of
- 33 employees required by section 8 of this chapter. ~~and~~
- 34 (3) All other information that the department determines is
- 35 necessary for the calculation of the credit provided by this
- 36 chapter.

37 SECTION 36. IC 8-22-3.5-14 IS REPEALED [EFFECTIVE
 38 JANUARY 1, 2014]. ~~Sec. 14. (a) This section applies only to an airport~~
 39 ~~development zone that is in a:~~

- 40 ~~(1) city described in section 1(2) or 1(7) of this chapter; or~~
- 41 ~~(2) county described in section 1(3), 1(4), or 1(6) of this chapter.~~
- 42 (b) Notwithstanding any other law, a business or an employee of a

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1 business that is located in an airport development zone is entitled to the
2 benefits provided by the following statutes, as if the business were
3 located in an enterprise zone:

- 4 (1) IC 6-3-2-8.
- 5 (2) IC 6-3-3-10.
- 6 (3) IC 6-3.1-7.
- 7 (4) IC 6-3.1-9.
- 8 (5) IC 6-3.1-10-6.

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

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

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

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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.

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