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# HOUSE BILL No. 1462

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-24; IC 6-3.5-7; IC 36-7-37.

**Synopsis:** Economic development. Permits a venture capital investment tax credit that has been certified by the Indiana economic development corporation to be applied against tax liability when the qualified investment capital is provided regardless of whether the total amount of tax credits applied by all taxpayers in a particular calendar year exceeds \$12,500,000. Permits the Indiana economic development corporation 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 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 \$500,000.

**Effective:** Upon passage; January 1, 2013 (retroactive).

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### Davisson, Zent

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January 22, 2013, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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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. 1462



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

16 (b) Notwithstanding the other provisions of this chapter, a taxpayer  
17 is not entitled to a credit for providing qualified investment capital to



1 a qualified Indiana business after December 31, 2016. However, this  
 2 subsection may not be construed to prevent a taxpayer from carrying  
 3 over to a taxable year beginning after December 31, 2016, an unused  
 4 tax credit attributable to an investment occurring before January 1,  
 5 2017.

6 SECTION 2. IC 6-3.1-24-12.5, AS AMENDED BY P.L.193-2005,  
 7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JANUARY 1, 2013 (RETROACTIVE)]: Sec. 12.5. (a) A taxpayer  
 9 wishing to obtain a credit under this chapter must apply to the Indiana  
 10 economic development corporation for a certification that the  
 11 taxpayer's proposed investment plan would qualify for a credit under  
 12 this chapter.

13 (b) The application required under subsection (a) must include:

- 14 (1) the name and address of the taxpayer;
- 15 (2) the name and address of each proposed recipient of the
- 16 taxpayer's proposed investment;
- 17 (3) the amount of the proposed investment;
- 18 (4) a copy of the certification issued under section 7 of this
- 19 chapter that the proposed recipient is a qualified Indiana business;
- 20 and
- 21 (5) any other information required by the Indiana economic
- 22 development corporation.

23 (c) If the Indiana economic development corporation determines  
 24 that:

- 25 (1) the proposed investment would qualify the taxpayer for a
- 26 credit under this chapter; and
- 27 (2) the amount of the proposed investment would not result in the
- 28 total amount of tax credits certified ~~for~~ **in** the calendar year
- 29 exceeding twelve million five hundred thousand dollars
- 30 (\$12,500,000);

31 the corporation shall certify the taxpayer's proposed investment plan.

32 (d) To receive a credit under this chapter, the taxpayer must provide  
 33 qualified investment capital to a qualified Indiana business according  
 34 to the taxpayer's certified investment plan within two (2) years after the  
 35 date on which the Indiana economic development corporation certifies  
 36 the investment plan.

37 (e) Upon making the investment required under subsection (d), the  
 38 taxpayer shall provide proof of the investment to the Indiana economic  
 39 development corporation.

40 (f) Upon receiving proof of a taxpayer's investment under subsection  
 41 (e), the Indiana economic development corporation shall issue the  
 42 taxpayer a certificate indicating that the taxpayer has fulfilled the

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1 requirements of the corporation and that the taxpayer is entitled to a  
2 credit under this chapter.

3 (g) A taxpayer forfeits the right to a tax credit attributable to an  
4 investment certified under subsection (c) if the taxpayer fails to make  
5 the proposed investment within the period required under subsection  
6 (d).

7 SECTION 3. IC 6-3.5-7-13.5, AS ADDED BY P.L.137-2006,  
8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: Sec. 13.5. (a) The general assembly finds that  
10 counties and municipalities in Indiana have a need to foster economic  
11 development, the development of new technology, and industrial and  
12 commercial growth. The general assembly finds that it is necessary and  
13 proper to provide an alternative method for counties and municipalities  
14 to foster the following:

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

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

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

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

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

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

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

37 (d) A regional venture capital fund shall be administered by a  
38 governing board. The expenses of administering the fund shall be paid  
39 from money in the fund. The governing board shall invest the money  
40 in the fund not currently needed to meet the obligations of the fund in  
41 the same manner as other public money may be invested. Interest that  
42 accrues from these investments shall be deposited into the fund. The

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1 fund is subject to an annual audit by the state board of accounts. The  
2 fund shall bear the full costs of the audit.

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

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

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

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

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

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

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

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

- 37 (1) To promote significant employment opportunities for the  
38 residents of the units participating in the regional venture capital  
39 fund.  
40 (2) To attract a major new business enterprise to a participating  
41 unit.  
42 (3) To develop, retain, or expand a significant business enterprise

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

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

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- 1 (A) prototype products or processes;  
 2 (B) marketing studies to determine the feasibility of new  
 3 products or processes; or  
 4 (C) business plans for the development and production of new  
 5 products or processes.

6 SECTION 5. IC 36-7-37 IS ADDED TO THE INDIANA CODE AS  
 7 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 8 PASSAGE]:

9 **Chapter 37. Rural Entrepreneurship Area Development**  
 10 **Incentives**

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

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

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

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

22 **Sec. 4. As used in this chapter, "agreement" refers to an**  
 23 **agreement between the corporation and a county establishing the**  
 24 **terms and conditions governing an area established under this**  
 25 **chapter.**

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

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

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

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

- 35 (1) the sum of:  
 36 (A) the total amount of state adjusted gross income taxes  
 37 paid by employees of new businesses employed in any part  
 38 of the territory comprising an area with respect to wages  
 39 and salary earned for work in the area for a particular  
 40 state fiscal year; plus  
 41 (B) 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 tax credits awarded by the corporation under  
4           IC 6-3.1-13 to new businesses operating in the territory  
5           comprising an area as the result of wages earned for work in  
6           any part of the territory comprising an area for the state  
7           fiscal year;

8           as determined by the department.

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

13          Sec. 10. As used in this chapter, "new business" refers to a  
14          business entity certified by the corporation as a new business under  
15          section 18 of this chapter.

16          Sec. 11. As used in this chapter, "READI fund" refers to a rural  
17          entrepreneurship area development incentives fund established by  
18          a rural county under section 22 of this chapter.

19          Sec. 12. As used in this chapter, "rural county" refers to a  
20          county having a population of less than fifty thousand (50,000).

21          Sec. 13. As used in this chapter, "tax incentive zone" refers to  
22          the territory of any of the following:

23           (1) A community revitalization enhancement district  
24           established under IC 36-7-13.

25           (2) A professional sports and convention development area  
26           established under IC 36-7-31.3.

27           (3) A certified technology park established under IC 36-7-32.

28           (4) Any other area in which a law permits adjusted gross  
29           income taxes imposed on a taxable event in the area to be  
30           distributed to an employer located in the area or a political  
31           subdivision in the area for a local business, economic  
32           development, or a governmental purpose.

33          Sec. 14. A rural county may apply to the corporation for  
34          designation of the county as a rural entrepreneurship area  
35          development incentives area. The application must:

36           (1) be in a form specified by the corporation;

37           (2) include an ordinance of the county legislative body  
38           designating the territory of the county that is outside the  
39           boundaries of a tax incentive zone as an area; and

40           (3) include information that the corporation determines  
41           necessary for evaluating the application under section 15 of  
42           this chapter.

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1           **Sec. 15. (a) The corporation may approve an application from**  
2 **a rural county and designate the county as an area if the county:**  
3           **(1) submits a written plan for supporting entrepreneurship**  
4 **and the establishment of new businesses in the area that meets**  
5 **the requirements of the corporation; and**  
6           **(2) agrees in writing to the terms and conditions specified by**  
7 **the corporation.**  
8           **(b) The territory of an area designated under this section**  
9 **consists of all the territory in the county that is outside the**  
10 **boundaries of a tax incentive zone.**  
11           **Sec. 16. An area is established on the date on which the county**  
12 **approved under section 15 of this chapter and the corporation**  
13 **enter into a written agreement specifying the terms and conditions**  
14 **governing the area. An area continues in existence until the earliest**  
15 **of the following:**  
16           **(1) January 1, 2024.**  
17           **(2) The date specified in an ordinance adopted by the**  
18 **legislative body for the county nominating the county for**  
19 **designation as an area.**  
20           **(3) The date that the corporation terminates the area under**  
21 **section 20 of this chapter.**  
22           **Sec. 17. The corporation shall send a certified copy of the**  
23 **designation of a county as an area to the department.**  
24           **Sec. 18. The corporation shall determine whether a business in**  
25 **a rural county is a new business and may certify the business as a**  
26 **new business if the corporation determines that the new business**  
27 **meets all the following criteria:**  
28           **(1) The business is established or organized to do business in**  
29 **Indiana less than one (1) year before the business locates**  
30 **business operations in an area.**  
31           **(2) The business initially locates business operations in an**  
32 **area after the date the area is designated as an area by the**  
33 **corporation.**  
34           **(3) The business conducts business operations in the area to**  
35 **provide goods or services for profit.**  
36           **(4) The business meets any other criteria specified by the**  
37 **corporation.**  
38           **Sec. 19. (a) The county auditor of a county designated as an area**  
39 **shall send to the department:**  
40           **(1) a certified copy of the designation of the county as an area;**  
41           **(2) a certified copy of the agreement entered into with the**  
42 **corporation for the area; and**

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1 (3) a complete list of the new business employers in the area,  
2 including any other identifying information required by the  
3 department.

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

7 Sec. 20. The corporation may not terminate an area for a  
8 violation of the agreement described in section 16 of this chapter  
9 until the corporation has conducted a public hearing for the  
10 purpose of giving all interested parties an opportunity to comment  
11 on the proposal to terminate the area. Notice of the hearing must  
12 be given at least fourteen (14) days before the hearing in  
13 accordance with IC 5-14-1.5-5(b).

14 Sec. 21. (a) Before the first business day in October of each year,  
15 the department shall:

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

19 (2) direct the treasurer of state to distribute the amount  
20 determined under subdivision (1) for each area to the county  
21 treasurer of the county designating the area.

22 However, the amount distributed in a particular state fiscal year  
23 to a particular county under this section may not exceed five  
24 hundred thousand dollars (\$500,000).

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

27 Sec. 22. (a) Each county that establishes an area under this  
28 chapter shall establish a rural entrepreneurship area development  
29 incentives (READI) fund for the county to receive money  
30 distributed under section 21 of this chapter.

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

33 (1) Transferring money to a revolving fund established under  
34 section 23 of this chapter for purposes of the revolving fund.

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

39 (3) Incubator development and operation.

40 (4) Accelerator development and operation.

41 (5) Small business support services.

42 (6) Assisting in the deployment of high speed Internet service

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1 (as defined by IC 5-28-33-2) within the county.  
 2 (c) The fund may not be used for the administrative expenses of  
 3 the fund.  
 4 **Sec. 23. (a) A county designated as an area may establish a**  
 5 **revolving fund to provide loans to new businesses in the county's**  
 6 **area.**  
 7 **(b) The county may loan money in the revolving fund**  
 8 **established under this section to a new business if the county fiscal**  
 9 **body finds that the loan will be used by the new business for one (1)**  
 10 **or more of the following economic development purposes:**  
 11 **(1) Promoting significant opportunities for the gainful**  
 12 **employment of Indiana residents in the county's area.**  
 13 **(2) Attracting a new business to the county's area.**  
 14 **(3) Retaining or expanding the operations of a new business**  
 15 **in the county's area.**  
 16 **(c) The county may make the loan from a revolving fund**  
 17 **established under this section on the terms approved by the county**  
 18 **fiscal body.**  
 19 **(d) Amounts paid on a loan made from a revolving fund**  
 20 **established under this section shall be deposited in the revolving**  
 21 **fund.**  
 22 **Sec. 24. A county may not issue bonds that:**  
 23 **(1) pledge money deposited in the county's READI fund to**  
 24 **repayment of interest or principal on the bonds; or**  
 25 **(2) guarantee repayment of any public or private obligation**  
 26 **from money in the READI fund.**  
 27 **Sec. 25. Two (2) or more counties may enter into a written**  
 28 **agreement under this section to jointly carry out the purposes of**  
 29 **this chapter in the counties that are parties to the agreement.**  
 30 **Sec. 26. (a) The state board of accounts shall audit each READI**  
 31 **fund every two (2) years to determine whether:**  
 32 **(1) the appropriate amount of revenue is being transferred**  
 33 **from the state to the county; and**  
 34 **(2) money in the county's READI fund is being used for**  
 35 **purposes permitted by this chapter.**  
 36 **(b) The state board of accounts shall audit each revolving fund**  
 37 **established under this chapter every two (2) years to determine**  
 38 **whether loans are being made and repaid in compliance with any**  
 39 **applicable statutes and the terms imposed by the county fiscal body**  
 40 **under section 23 of this chapter.**  
 41 **Sec. 27. Upon termination of an area, the balance of any READI**  
 42 **fund or revolving loan fund established under section 23 of this**

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1 **chapter and any amounts due to either fund shall be transferred to**  
2 **the state general fund.**

3 **Sec. 28. Notwithstanding any other law, a tax incentive zone**  
4 **may not be established or expanded in a county:**

5 **(1) after the date an area is established in the county; and**

6 **(2) before the date the area terminates;**

7 **without the approval of the county legislative body.**

8 **Sec. 29. This chapter expires January 1, 2024.**

9 **SECTION 6. An emergency is declared for this act.**

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