

SENATE BILL No. 563

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28; IC 6-3; IC 6-3.1.

Synopsis: Economic development. Establishes the small business innovation voucher program (program) to provide vouchers to eligible small businesses to be used by the business to purchase research and development support or other forms of technical assistance and services from an Indiana institution of higher education or other authorized research provider. Provides that the Indiana economic development corporation (IEDC) shall administer the program. Provides that the program is subject to appropriation from the general assembly. Amends the definition of "sales" and adds a definition of "telecommunication services" and "broadcast services" under the state adjusted gross income tax provisions. Amends the provisions for determining when sales, other than sales of tangible personal property, are derived from sources within Indiana for purposes of determining the state adjusted gross income of corporations and nonresident persons. Authorizes the Indiana department of state revenue (department) to adopt rules that apply retroactively to January 1, 2019, to specify where sales, receipts, income, transactions, or costs are attributable. Provides that a taxpayer (with certain exceptions) is not entitled to receive an industrial recovery tax credit for a qualified investment made after December 31, 2019. Allows a taxpayer to assign all or part of a venture capital investment tax credit, subject to certain limitations. Amends the definition of "qualified investment" under the Hoosier business investment tax credit to include the purchase of retooled or refurbished machinery and certain energy conservation and pollution control equipment. Amends the headquarters relocation tax credit to extend the credit to an eligible business that: (1) acquired at
(Continued next page)

Effective: July 1, 2019; January 1, 2020.

Holdman

January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.



least \$4,000,000 in venture capital within either six months prior to or six months after applying for the credit; and (2) commits to: (A) relocating its headquarters to Indiana; or (B) relocating the number of jobs that equal 80% of the business's payroll to Indiana. Provides that the following apply to an eligible business that qualifies for a headquarters relocation tax credit under the new provision: (1) The total amount of credits that may be approved by the IEDC for all of those eligible businesses in a calendar year is subject to an annual cap established by the budget agency. (2) The credit is refundable at the discretion of the IEDC. Establishes the redevelopment tax credit (credit). Requires a taxpayer to apply to the IEDC for the credit. Provides that a taxpayer may claim a credit against state tax liability if: (1) the taxpayer makes a qualified investment for the redevelopment or rehabilitation of real property located within a qualified redevelopment site; and (2) the qualified investment is approved by the IEDC. Provides that the amount of the credit is equal to: (1) the qualified investment made by the taxpayer and approved by the IEDC in an agreement; multiplied by (2) the applicable credit percentage determined by the IEDC. Specifies the maximum applicable credit percentages that apply to qualified investments. Allows a taxpayer to carry forward any unused credit amounts for nine taxable years following the unused credit year. Allows a taxpayer to assign all or part of a redevelopment tax credit, subject to certain limitations. Provides that the IEDC shall require a taxpayer to enter into an agreement with the IEDC as a condition of receiving a credit. Authorizes the IEDC to include in an agreement provisions that: (1) require the taxpayer to repay all or part of a credit awarded over a period of years; and (2) limit the maximum amount of the taxpayer's credit that may be claimed during a taxable year. Provides that an agreement must include a repayment provision for the amount of any credit award that exceeds \$5,000,000. Allows a pass through entity to allocate a redevelopment tax credit among its shareholders, partners, beneficiaries, or members of the pass through entity as provided by written agreement. Requires the IEDC to establish measurements for evaluating the performance of the redevelopment tax credit and evaluate the tax credit program on a biennial basis.



Introduced

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 563



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 5-28-28-4, AS AMENDED BY P.L.238-2017,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2020]: Sec. 4. As used in this chapter, "tax credit" means
4 a state tax liability credit under any of the following:
5 (1) IC 6-3.1-7 (before its expiration).
6 (2) IC 6-3.1-13.
7 (3) IC 6-3.1-26.
8 (4) IC 6-3.1-30.
9 (5) IC 6-3.1-31.9.
10 **(6) IC 6-3.1-34.**

11 SECTION 2. IC 5-28-28-10, AS AMENDED BY P.L.130-2018,
12 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JANUARY 1, 2020]: Sec. 10. In addition to the other requirements of
14 this chapter, the economic incentives and compliance report must also
15 include a detailed report on the following programs, resources, or



1 activities for which the corporation is responsible:

- 2 (1) The economic development fund under IC 5-28-8.
 3 (2) The Indiana twenty-first century research and technology fund
 4 under IC 5-28-16.
 5 (3) Small business development under IC 5-28-17.
 6 (4) The small business development fund established under
 7 IC 5-28-18-7.
 8 (5) The small business incubator program under IC 5-28-21.
 9 (6) Efforts to promote business modernization of and the adoption
 10 of technology by Indiana businesses under IC 5-28-23.
 11 (7) An evaluation of the economic development for a growing
 12 economy tax credit under IC 6-3.1-13-24.
 13 (8) An evaluation of the Hoosier business investment tax credit
 14 under IC 6-3.1-26-25.
 15 **(9) Beginning in 2023, an evaluation of the redevelopment tax**
 16 **credit under IC 6-3.1-34-21.**

17 SECTION 3. IC 5-28-40 IS ADDED TO THE INDIANA CODE AS
 18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2019]:

20 **Chapter 40. Small Business Innovation Voucher Program**

21 **Sec. 1. As used in this chapter, "eligible small business" means**
 22 **a business entity that:**

- 23 (1) is authorized to transact business in Indiana;
 24 (2) maintains a majority of its business operations within
 25 Indiana; and
 26 (3) employs not more than one hundred fifty (150) persons.

27 **Sec. 2. As used in this chapter, "Indiana institution of higher**
 28 **education" means a public or private college or university that:**

- 29 (1) is located in Indiana;
 30 (2) provides research services; and
 31 (3) is approved by the corporation for purposes of this
 32 chapter.

33 **Sec. 3. As used in this chapter, "other authorized research**
 34 **provider" means a research organization, other than an Indiana**
 35 **institution of higher education, that:**

- 36 (1) is located in Indiana;
 37 (2) provides research services; and
 38 (3) is approved by the corporation for purposes of this
 39 chapter.

40 **Sec. 4. As used in this chapter, "research services" means**
 41 **research and development, technology exploration, technical**
 42 **development, product development, and commercialization**



1 intended to foster innovation in an eligible small business.

2 **Sec. 5.** As used in this chapter, "voucher" means a grant to an
3 eligible small business to purchase research services from an
4 Indiana institution of higher education or other authorized
5 research provider.

6 **Sec. 6. (a)** The small business innovation voucher program is
7 established to provide vouchers to eligible small businesses to be
8 used by an eligible small business to purchase research and
9 development support or other forms of technical assistance and
10 services from an Indiana institution of higher education or other
11 authorized research provider.

12 (b) The corporation shall administer the program.

13 (c) The program is subject to appropriation from the general
14 assembly.

15 **Sec. 7. (a)** The corporation may award vouchers to an eligible
16 small business under the small business innovation voucher
17 program established in section 6 of this chapter.

18 (b) To be awarded a voucher under this chapter, an eligible
19 small business must file an application with the corporation and
20 enter into an agreement as set forth under this chapter.

21 (c) Vouchers may be used by an eligible small business only to
22 purchase research services from an Indiana institution of higher
23 education or other authorized research provider.

24 **Sec. 8.** The corporation shall establish guidelines necessary to
25 carry out the purposes of this chapter, including:

26 (1) The application process for applying for a voucher.

27 (2) The criteria to be used by the corporation to:

28 (A) evaluate a voucher application from an eligible small
29 business; and

30 (B) determine the amount of a voucher award.

31 **Sec. 9.** The following apply if the corporation determines a
32 voucher should be awarded under this chapter:

33 (1) The corporation shall require the eligible small business to
34 enter into an agreement with the corporation as a condition
35 of receiving a voucher under this chapter.

36 (2) The agreement with the corporation must:

37 (A) prescribe the method of claiming the voucher; and

38 (B) include provisions that authorize the corporation to
39 work with the department of state revenue and the eligible
40 small business, if the corporation determines that the
41 eligible small business is noncompliant with the terms of
42 the agreement or the provisions of this chapter, to bring



1 **the eligible small business into compliance or to protect the**
 2 **interests of the state.**
 3 SECTION 4. IC 6-3-1-24 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2019]: Sec. 24. The term "sales" means:
 5 **(1) in the case of the maturity, redemption, sale, exchange,**
 6 **loan, or other disposition of stocks, bonds, notes, options,**
 7 **forward contracts, future contracts, and similar instruments**
 8 **or securities, the net gain from the sale or exchange of such**
 9 **contracts, instruments, or securities;**
 10 **(2) in the case of the maturity, sale, or exchange of two (2) or**
 11 **more contracts, instruments, or securities as part of a hedging**
 12 **transaction, only the net gains from all such sales or**
 13 **exchanges; and**
 14 **(3) all other gross receipts of the taxpayer;**
 15 not allocated under IC 6-3-2-2(g) through IC 6-3-2-2(k), other than
 16 compensation (as defined in section 23 of this chapter), **or otherwise**
 17 **provided in this chapter. If a taxpayer does not receive money or**
 18 **other property upon the maturity or redemption of a security, any**
 19 **includible amounts shall not be included unless and until the**
 20 **taxpayer actually receives money or other property. Any reference**
 21 **to "receipts" in this article shall have the same meaning as "sales"**
 22 **unless the context clearly requires otherwise.**
 23 SECTION 5. IC 6-3-1-37 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2019]: Sec. 37. The term "telecommunication services" shall
 26 have the meaning as provided in IC 6-2.5-1-27.5, except that
 27 telecommunication services shall also include those items described
 28 in IC 6-2.5-1-27.5(c)(1), IC 6-2.5-1-27.5(c)(6), and
 29 IC 6-2.5-1-27.5(c)(8).
 30 SECTION 6. IC 6-3-1-38 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2019]: Sec. 38. The term "broadcast services" means the
 33 transmission, conveyance, and routing of video broadcasts,
 34 regardless of the medium, including the furnishing of transmission,
 35 conveyance, and routing of the services by a television broadcast
 36 network, a cable program network, or a television distribution
 37 company. The term also includes any advertising or promotional
 38 activity furnished in conjunction with the broadcast services.
 39 SECTION 7. IC 6-3-2-2, AS AMENDED BY P.L.214-2018(ss),
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2019]: Sec. 2. (a) With regard to corporations and nonresident
 42 persons, "adjusted gross income derived from sources within Indiana",



1 for the purposes of this article, shall mean and include:
 2 (1) income from real or tangible personal property located in this
 3 state;
 4 (2) income from doing business in this state;
 5 (3) income from a trade or profession conducted in this state;
 6 (4) compensation for labor or services rendered within this state;
 7 and
 8 (5) income from stocks, bonds, notes, bank deposits, patents,
 9 copyrights, secret processes and formulas, good will, trademarks,
 10 trade brands, franchises, and other intangible personal property to
 11 the extent that the income is apportioned to Indiana under this
 12 section or if the income is allocated to Indiana or considered to be
 13 derived from sources within Indiana under this section.

14 Income from a pass through entity shall be characterized in a manner
 15 consistent with the income's characterization for federal income tax
 16 purposes and shall be considered Indiana source income as if the
 17 person, corporation, or pass through entity that received the income had
 18 directly engaged in the income producing activity. Income that is
 19 derived from one (1) pass through entity and is considered to pass
 20 through to another pass through entity does not change these
 21 characteristics or attribution provisions. In the case of nonbusiness
 22 income described in subsection (g), only so much of such income as is
 23 allocated to this state under the provisions of subsections (h) through
 24 (k) shall be deemed to be derived from sources within Indiana. In the
 25 case of business income, only so much of such income as is
 26 apportioned to this state under the provision of subsection (b) shall be
 27 deemed to be derived from sources within the state of Indiana. In the
 28 case of compensation of a team member (as defined in section 2.7 of
 29 this chapter), only the portion of income determined to be Indiana
 30 income under section 2.7 of this chapter is considered derived from
 31 sources within Indiana. In the case of a corporation that is a life
 32 insurance company (as defined in Section 816(a) of the Internal
 33 Revenue Code) or an insurance company that is subject to tax under
 34 Section 831 of the Internal Revenue Code, only so much of the income
 35 as is apportioned to Indiana under subsection (r) is considered derived
 36 from sources within Indiana. **Income derived from Indiana shall be**
 37 **taxable to the fullest extent permitted by the Constitution of the**
 38 **United States and federal law, regardless of whether the taxpayer**
 39 **has a physical presence in Indiana.**

40 (b) Except as provided in subsection (l), if business income of a
 41 corporation or a nonresident person is derived from sources within the
 42 state of Indiana and from sources without the state of Indiana, the



1 business income derived from sources within this state shall be
2 determined by multiplying the business income derived from sources
3 both within and without the state of Indiana by the following:

4 (1) For all taxable years that begin after December 31, 2006, and
5 before January 1, 2008, a fraction. The:

6 (A) numerator of the fraction is the sum of the property factor
7 plus the payroll factor plus the product of the sales factor
8 multiplied by three (3); and

9 (B) denominator of the fraction is five (5).

10 (2) For all taxable years that begin after December 31, 2007, and
11 before January 1, 2009, a fraction. The:

12 (A) numerator of the fraction is the property factor plus the
13 payroll factor plus the product of the sales factor multiplied by
14 four and sixty-seven hundredths (4.67); and

15 (B) denominator of the fraction is six and sixty-seven
16 hundredths (6.67).

17 (3) For all taxable years beginning after December 31, 2008, and
18 before January 1, 2010, a fraction. The:

19 (A) numerator of the fraction is the property factor plus the
20 payroll factor plus the product of the sales factor multiplied by
21 eight (8); and

22 (B) denominator of the fraction is ten (10).

23 (4) For all taxable years beginning after December 31, 2009, and
24 before January 1, 2011, a fraction. The:

25 (A) numerator of the fraction is the property factor plus the
26 payroll factor plus the product of the sales factor multiplied by
27 eighteen (18); and

28 (B) denominator of the fraction is twenty (20).

29 (5) For all taxable years beginning after December 31, 2010, the
30 sales factor.

31 (c) The property factor is a fraction, the numerator of which is the
32 average value of the taxpayer's real and tangible personal property
33 owned or rented and used in this state during the taxable year and the
34 denominator of which is the average value of all the taxpayer's real and
35 tangible personal property owned or rented and used during the taxable
36 year. However, with respect to a foreign corporation, the denominator
37 does not include the average value of real or tangible personal property
38 owned or rented and used in a place that is outside the United States.
39 Property owned by the taxpayer is valued at its original cost. Property
40 rented by the taxpayer is valued at eight (8) times the net annual rental
41 rate. Net annual rental rate is the annual rental rate paid by the taxpayer
42 less any annual rental rate received by the taxpayer from subrentals.



1 The average of property shall be determined by averaging the values at
 2 the beginning and ending of the taxable year, but the department may
 3 require the averaging of monthly values during the taxable year if
 4 reasonably required to reflect properly the average value of the
 5 taxpayer's property.

6 (d) The payroll factor is a fraction, the numerator of which is the
 7 total amount paid in this state during the taxable year by the taxpayer
 8 for compensation, and the denominator of which is the total
 9 compensation paid everywhere during the taxable year. However, with
 10 respect to a foreign corporation, the denominator does not include
 11 compensation paid in a place that is outside the United States.
 12 Compensation is paid in this state if:

- 13 (1) the individual's service is performed entirely within the state;
 14 (2) the individual's service is performed both within and without
 15 this state, but the service performed without this state is incidental
 16 to the individual's service within this state; or
 17 (3) some of the service is performed in this state and:
 18 (A) the base of operations or, if there is no base of operations,
 19 the place from which the service is directed or controlled is in
 20 this state; or
 21 (B) the base of operations or the place from which the service
 22 is directed or controlled is not in any state in which some part
 23 of the service is performed, but the individual is a resident of
 24 this state.

25 (e) The sales factor is a fraction, the numerator of which is the total
 26 sales of the taxpayer in this state during the taxable year, and the
 27 denominator of which is the total sales of the taxpayer everywhere
 28 during the taxable year. Sales include receipts from intangible property
 29 and receipts from the sale or exchange of intangible property. However,
 30 with respect to a foreign corporation, the denominator does not include
 31 sales made in a place that is outside the United States. ~~Receipts from~~
 32 ~~intangible personal property are derived from sources within Indiana~~
 33 ~~if the receipts from the intangible personal property are attributable to~~
 34 ~~Indiana under section 2.2 of this chapter.~~ Regardless of the f.o.b. point
 35 or other conditions of the sale, sales of tangible personal property are
 36 in this state if:

- 37 (1) the property is delivered or shipped to a purchaser that is
 38 within Indiana, other than the United States government; or
 39 (2) the property is shipped from an office, a store, a warehouse, a
 40 factory, or other place of storage in this state and the purchaser is
 41 the United States government.

42 Gross receipts derived from commercial printing as described in



1 IC 6-2.5-1-10 and from the sale of computer software shall be treated
2 as sales of tangible personal property for purposes of this chapter.

3 (f) Sales, other than receipts from intangible property covered by
4 subsection (e) and sales of tangible personal property, are in this state
5 if: as follows:

6 (1) the income-producing activity is performed in this state; or
7 **The receipts are attributable to Indiana:**

8 (A) under subsections (r), (s), or (t); or

9 (B) under section 2.2 of this chapter.

10 (2) the income-producing activity is performed both within and
11 without this state and a greater proportion of the
12 income-producing activity is performed in this state than in any
13 other state, based on costs of performance. **The receipts are from**
14 **the provision of telecommunications services and broadcast**
15 **services, provided that:**

16 (A) all of the costs of performance related to the receipts
17 are attributable to Indiana; or

18 (B) if the costs of performance are incurred both within
19 and outside this state, the greater portion of such costs are
20 incurred in this state.

21 (3) Receipts, other than receipts described in subdivisions (1)
22 and (2), are in this state if the taxpayer's market for the sales
23 is in this state. The taxpayer's market for sales is in this state:

24 (A) in the case of sale, rental, lease, or license of real
25 property, if and to the extent the property is located in this
26 state;

27 (B) in the case of rental, lease, or license of tangible
28 personal property, if and to the extent the property is
29 located in this state;

30 (C) in the case of sale of a service, if and to the extent the
31 benefit of the service is received in this state;

32 (D) in the case of intangible property that is rented, leased,
33 or licensed, if and to the extent the property is used in this
34 state, provided that intangible property used in marketing
35 a good or service to a consumer is "used in this state" if
36 that good or service is purchased by a consumer who is in
37 this state; and

38 (E) in the case of intangible property that is sold, if and to
39 the extent the property is used in this state, provided that:

40 (i) a contract right, government license, or similar
41 intangible property that authorizes the holder to conduct
42 a business activity in a specific geographic area is "used



1 **in this state" if the geographic area includes all or part**
 2 **of this state;**

3 **(ii) receipts from intangible property sales that are**
 4 **contingent on the productivity, use, or disposition of the**
 5 **intangible property shall be treated as receipts from the**
 6 **rental, lease, or licensing of such intangible property**
 7 **under clause (D); and**

8 **(iii) all other receipts from a sale of intangible property**
 9 **shall be excluded from the numerator and denominator**
 10 **of the receipts factor.**

11 **(4) If the state or states of attribution under subdivision (3)**
 12 **cannot be determined, the state or states of attribution shall**
 13 **be determined by the state or states in which the delivery of**
 14 **the service occurs.**

15 **(5) If the state of attribution cannot be determined under**
 16 **subdivision (3) or (4), such receipt shall be excluded from the**
 17 **denominator of the receipts factor.**

18 (g) Rents and royalties from real or tangible personal property,
 19 capital gains, interest, dividends, or patent or copyright royalties, to the
 20 extent that they constitute nonbusiness income, shall be allocated as
 21 provided in subsections (h) through (k).

22 (h)(1) Net rents and royalties from real property located in this state
 23 are allocable to this state.

24 (2) Net rents and royalties from tangible personal property are
 25 allocated to this state:

26 (i) if and to the extent that the property is utilized in this state; or

27 (ii) in their entirety if the taxpayer's commercial domicile is in this
 28 state and the taxpayer is not organized under the laws of or
 29 taxable in the state in which the property is utilized.

30 (3) The extent of utilization of tangible personal property in a state
 31 is determined by multiplying the rents and royalties by a fraction, the
 32 numerator of which is the number of days of physical location of the
 33 property in the state during the rental or royalty period in the taxable
 34 year, and the denominator of which is the number of days of physical
 35 location of the property everywhere during all rental or royalty periods
 36 in the taxable year. If the physical location of the property during the
 37 rental or royalty period is unknown or unascertainable by the taxpayer,
 38 tangible personal property is utilized in the state in which the property
 39 was located at the time the rental or royalty payer obtained possession.

40 (i)(1) Capital gains and losses from sales of real property located in
 41 this state are allocable to this state.

42 (2) Capital gains and losses from sales of tangible personal property



- 1 are allocable to this state if:
- 2 (i) the property had a situs in this state at the time of the sale; or
- 3 (ii) the taxpayer's commercial domicile is in this state and the
- 4 taxpayer is not taxable in the state in which the property had a
- 5 situs.
- 6 (3) Capital gains and losses from sales of intangible personal
- 7 property are allocable to this state if the taxpayer's commercial
- 8 domicile is in this state.
- 9 (j) Interest and dividends are allocable to this state if the taxpayer's
- 10 commercial domicile is in this state.
- 11 (k)(1) Patent and copyright royalties are allocable to this state:
- 12 (i) if and to the extent that the patent or copyright is utilized by
- 13 the taxpayer in this state; or
- 14 (ii) if and to the extent that the patent or copyright is utilized by
- 15 the taxpayer in a state in which the taxpayer is not taxable and the
- 16 taxpayer's commercial domicile is in this state.
- 17 (2) A patent is utilized in a state to the extent that it is employed
- 18 in production, fabrication, manufacturing, or other processing in
- 19 the state or to the extent that a patented product is produced in the
- 20 state. If the basis of receipts from patent royalties does not permit
- 21 allocation to states or if the accounting procedures do not reflect
- 22 states of utilization, the patent is utilized in the state in which the
- 23 taxpayer's commercial domicile is located.
- 24 (3) A copyright is utilized in a state to the extent that printing or
- 25 other publication originates in the state. If the basis of receipts
- 26 from copyright royalties does not permit allocation to states or if
- 27 the accounting procedures do not reflect states of utilization, the
- 28 copyright is utilized in the state in which the taxpayer's
- 29 commercial domicile is located.
- 30 (l) If the allocation and apportionment provisions of this article do
- 31 not fairly represent the taxpayer's income derived from sources within
- 32 the state of Indiana, the taxpayer may petition for or the department
- 33 may require, in respect to all or any part of the taxpayer's business
- 34 activity, if reasonable:
- 35 (1) separate accounting;
- 36 (2) for a taxable year beginning before January 1, 2011, the
- 37 exclusion of any one (1) or more of the factors, except the sales
- 38 factor;
- 39 (3) the inclusion of one (1) or more additional factors which will
- 40 fairly represent the taxpayer's income derived from sources within
- 41 the state of Indiana; or
- 42 (4) the employment of any other method to effectuate an equitable



1 allocation and apportionment of the taxpayer's income.
 2 Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the
 3 department requiring, the use of an alternative method to effectuate an
 4 equitable allocation and apportionment of the taxpayer's income under
 5 this subsection bears the burden of proof that the allocation and
 6 apportionment provisions of this article do not fairly represent the
 7 taxpayer's income derived from sources within this state and that the
 8 alternative method to the allocation and apportionment provisions of
 9 this article is reasonable.

10 (m) In the case of two (2) or more organizations, trades, or
 11 businesses owned or controlled directly or indirectly by the same
 12 interests, the department shall distribute, apportion, or allocate the
 13 income derived from sources within the state of Indiana between and
 14 among those organizations, trades, or businesses in order to fairly
 15 reflect and report the income derived from sources within the state of
 16 Indiana by various taxpayers.

17 (n) For purposes of allocation and apportionment of income under
 18 this article, a taxpayer is taxable in another state if:

- 19 (1) in that state the taxpayer is subject to a net income tax, a
 20 franchise tax measured by net income, a franchise tax for the
 21 privilege of doing business, or a corporate stock tax; or
 22 (2) that state has jurisdiction to subject the taxpayer to a net
 23 income tax regardless of whether, in fact, the state does or does
 24 not.

25 (o) Notwithstanding subsections (l) and (m), the department may
 26 not, under any circumstances, require that income, deductions, and
 27 credits attributable to a taxpayer and another entity be reported in a
 28 combined income tax return for any taxable year, if the other entity is:

- 29 (1) a foreign corporation; or
 30 (2) a corporation that is classified as a foreign operating
 31 corporation for the taxable year by section 2.4 of this chapter.

32 (p) Notwithstanding subsections (l) and (m), the department may not
 33 require that income, deductions, and credits attributable to a taxpayer
 34 and another entity not described in subsection (o)(1) or (o)(2) be
 35 reported in a combined income tax return for any taxable year, unless
 36 the department is unable to fairly reflect the taxpayer's adjusted gross
 37 income for the taxable year through use of other powers granted to the
 38 department by subsections (l) and (m).

39 (q) Notwithstanding subsections (o) and (p), one (1) or more
 40 taxpayers may petition the department under subsection (l) for
 41 permission to file a combined income tax return for a taxable year. The
 42 petition to file a combined income tax return must be completed and



1 filed with the department not more than thirty (30) days after the end
 2 of the taxpayer's taxable year. A taxpayer filing a combined income tax
 3 return must petition the department within thirty (30) days after the end
 4 of the taxpayer's taxable year to discontinue filing a combined income
 5 tax return.

6 (r) This subsection applies to a corporation that is a life insurance
 7 company (as defined in Section 816(a) of the Internal Revenue Code)
 8 or an insurance company that is subject to tax under Section 831 of the
 9 Internal Revenue Code. The corporation's adjusted gross income that
 10 is derived from sources within Indiana is determined by multiplying the
 11 corporation's adjusted gross income by a fraction:

12 (1) the numerator of which is the direct premiums and annuity
 13 considerations received during the taxable year for insurance
 14 upon property or risks in the state; and

15 (2) the denominator of which is the direct premiums and annuity
 16 considerations received during the taxable year for insurance
 17 upon property or risks everywhere.

18 The term "direct premiums and annuity considerations" means the
 19 gross premiums received from direct business as reported in the
 20 corporation's annual statement filed with the department of insurance.

21 (s) This subsection applies to receipts derived from motorsports
 22 racing.

23 (1) Any purse, prize money, or other amounts earned for
 24 placement or participation in a race or portion thereof, including
 25 qualification, shall be attributed to Indiana if the race is conducted
 26 in Indiana.

27 (2) Any amounts received from an individual or entity as a result
 28 of sponsorship or similar promotional consideration for one (1) or
 29 more races shall be in this state in the amount received, multiplied
 30 by the following fraction:

31 (A) The numerator of the fraction is the number of racing
 32 events for which sponsorship or similar promotional
 33 consideration has been paid in a taxable year and that occur in
 34 Indiana.

35 (B) The denominator of the fraction is the total number of
 36 racing events for which sponsorship or similar promotional
 37 consideration has been paid in a taxable year.

38 (3) Any amounts earned as an incentive for placement or
 39 participation in one (1) or more races and that are not covered
 40 under subdivision (1) or (2) or under IC 6-3-2-3.2 shall be
 41 attributed to Indiana in the proportion of the races that occurred
 42 in Indiana.



1 This subsection, as enacted in 2013, is intended to be a clarification of
2 the law and not a substantive change in the law.

3 (t) For purposes of this section and section 2.2 of this chapter, the
4 following apply:

5 (1) For taxable years beginning after December 25, 2016, if a
6 taxpayer is required to include amounts in the taxpayer's federal
7 adjusted gross income, federal taxable income, or IRC 965
8 Transition Tax Statement, line 1 as a result of Section 965 of the
9 Internal Revenue Code, the following apply:

10 (A) For an entity that is not eligible to claim a deduction under
11 IC 6-3-2-12, these amounts shall not be receipts in any taxable
12 year for the entity.

13 (B) For an entity that is eligible to claim a deduction under
14 IC 6-3-2-12, these amounts shall be receipts in the year in
15 which the amounts are reported by the entity as adjusted gross
16 income under this article, but only to the extent of:

17 (i) any amounts includible after application of
18 IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and
19 IC 6-3-1-3.5(e)(12); minus

20 (ii) the deduction taken under IC 6-3-2-12 with regard to
21 that income.

22 This subdivision applies regardless of the taxable year in which
23 the money or property was actually received.

24 (2) If a taxpayer is required to include amounts in the taxpayer's
25 federal adjusted gross income or federal taxable income as a
26 result of Section 951A of the Internal Revenue Code the
27 following apply:

28 (A) For an entity that is not eligible to claim a deduction under
29 IC 6-3-2-12, the receipts that generated the income shall not be
30 included as a receipt in any taxable year.

31 (B) For an entity that is eligible to claim a deduction under
32 IC 6-3-2-12, the amounts included in federal gross income as
33 a result of Section 951A of the Internal Revenue Code,
34 reduced by the deduction allowable under IC 6-3-2-12 with
35 regard to that income, shall be considered a receipt in the year
36 in which the amounts are includible in federal taxable income.

37 (3) Receipts do not include receipts derived from sources outside
38 the United States to the extent the taxpayer is allowed a deduction
39 or exclusion in determining both the taxpayer's federal taxable
40 income as a result of the federal Tax Cuts and Jobs Act of 2017
41 and the taxpayer's adjusted gross income under this chapter. If any
42 portion of the federal taxable income derived from these receipts



1 is deductible under IC 6-3-2-12, receipts shall be reduced by the
 2 proportion of the deduction allowable under IC 6-3-2-12 with
 3 regard to that federal taxable income.

4 Receipts includible in a taxable year under subdivisions (1) and (2)
 5 shall be considered dividends from investments for apportionment
 6 purposes.

7 **(u) The following apply:**

8 **(1) The department may adopt rules under IC 4-22, including**
 9 **emergency rules that shall be applied retroactively to January**
 10 **1, 2019, to specify where sales, receipts, income, transactions,**
 11 **or costs are attributable under this section and section 2.2 of**
 12 **this chapter.**

13 **(2) Rules construing this section and section 2.2 of this chapter**
 14 **have the same force of law as this section and section 2.2 of**
 15 **this chapter, unless, and only to the extent, a rule is**
 16 **determined to be arbitrary and capricious or is superseded by**
 17 **statute. Such rules adopted under subdivision (1) shall be**
 18 **consistent with the Multistate Tax Commission model**
 19 **regulations for income tax apportionment as in effect on**
 20 **January 1, 2019, including any specialized industry**
 21 **provisions, except to the extent expressly inconsistent with this**
 22 **chapter.**

23 **(3) In the absence of rules, or to the extent a rule is**
 24 **determined to be invalid, sales shall be sourced in the manner**
 25 **consistent with the Multistate Tax Commission model**
 26 **regulations for income tax apportionment as in effect on**
 27 **January 1, 2019, including any specialized industry**
 28 **provisions, except to the extent expressly inconsistent with this**
 29 **chapter.**

30 SECTION 8. IC 6-3-2-2.2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.2. (a) Interest income
 32 and other receipts from assets in the nature of loans or installment sales
 33 contracts that are primarily secured by or deal with real or tangible
 34 personal property are attributable to this state if the security or sale
 35 property is located in Indiana.

36 (b) Interest income and other receipts from consumer loans not
 37 secured by real or tangible personal property are attributable to this
 38 state if the loan is made to a resident of Indiana, whether at a place of
 39 business, by a traveling loan officer, by mail, by telephone, or by other
 40 electronic means.

41 (c) Interest income and other receipts from commercial loans and
 42 installment obligations not secured by real or tangible personal



1 property are attributable to this state if the proceeds of the loan are to
 2 be applied in Indiana. If it cannot be determined where the funds are to
 3 be applied, the income and receipts are attributable to the state in
 4 which the business applied for the loan. As used in this section,
 5 "applied for" means initial inquiry (including customer assistance in
 6 preparing the loan application) or submission of a completed loan
 7 application, whichever occurs first.

8 (d) Interest income, merchant discount, and other receipts including
 9 service charges from financial institution credit card and travel and
 10 entertainment credit card receivables and credit card holders' fees are
 11 attributable to the state to which the card charges and fees are regularly
 12 billed.

13 (e) Receipts from the performance of fiduciary and other services
 14 are attributable to the state in which the benefits of the services are
 15 consumed. If the benefits are consumed in more than one (1) state, the
 16 receipts from those benefits are attributable to this state on a pro rata
 17 basis according to the portion of the benefits consumed in Indiana.

18 (f) Receipts from the issuance of traveler's checks, money orders, or
 19 United States savings bonds are attributable to the state in which the
 20 traveler's checks, money orders, or bonds are purchased.

21 (g) Receipts in the form of dividends from investments are
 22 attributable to this state if the taxpayer's commercial domicile is in
 23 Indiana.

24 **(h) Receipts from the maturity, redemption, sale, exchange,
 25 loan, or other disposition of stocks, bonds, notes, options, forward
 26 contracts, futures contracts, and similar instruments are
 27 attributable to this state if the taxpayer's commercial domicile is
 28 in Indiana. For purposes of this subsection, only the portion of the
 29 receipts required to be included in the taxpayer's sales
 30 denominator are attributable to Indiana.**

31 SECTION 9. IC 6-3.1-11-25 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2019]: **Sec. 25. (a) Notwithstanding any other law and except as
 34 provided in subsection (b), a taxpayer is entitled to receive a credit
 35 under this chapter only for a qualified investment made before
 36 January 1, 2020.**

37 **(b) A taxpayer is entitled to receive a credit for a qualified
 38 investment made after December 31, 2019, and before January 1,
 39 2030, if the taxpayer is awarded a credit under:**

40 **(1) an application approved by the corporation before
 41 January 1, 2020; or**

42 **(2) an agreement entered into by the taxpayer and the**



1 **corporation before January 1, 2021.**

2 **(c) This section may not be construed to prevent a taxpayer**
 3 **from carrying an unused tax credit attributable to a qualified**
 4 **investment made before January 1, 2020, or made as provided in**
 5 **subsection (b) forward to a taxable year beginning after December**
 6 **31, 2019, and before January 1, 2030, in the manner provided for**
 7 **by section 17 of this chapter.**

8 **(d) This chapter expires January 1, 2030.**

9 SECTION 10. IC 6-3.1-24-11 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. If a pass through
 11 entity is entitled to a credit under section 6 of this chapter but does not
 12 have state tax liability against which the tax credit may be applied, a
 13 shareholder, partner, or member of the pass through entity is entitled
 14 to a tax credit equal to:

15 (1) the tax credit determined for the pass through entity for the
 16 taxable year; multiplied by

17 (2) the percentage of the pass through entity's distributive income
 18 to which the shareholder, partner, or member is entitled.

19 **If any or all of the tax credit is passed through to a shareholder,**
 20 **partner, or member of a pass through entity, the amount of the tax**
 21 **credit that is passed through to a shareholder, partner, or member**
 22 **of a pass through entity may not be applied against the pass**
 23 **through entity's state tax liability, nor may the pass through entity**
 24 **assign any unused credit under section 12 of this chapter.**

25 SECTION 11. IC 6-3.1-24-12, AS AMENDED BY P.L.193-2005,
 26 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2019]: Sec. 12. **(a)** If the amount of the credit determined
 28 under section 10 of this chapter for a taxpayer in a taxable year exceeds
 29 the taxpayer's state tax liability for that taxable year, the taxpayer may
 30 carry the excess credit over for a period not to exceed the taxpayer's
 31 following five (5) taxable years. The amount of the credit carryover
 32 from a taxable year shall be reduced to the extent that the carryover is
 33 used by the taxpayer to obtain a credit under this chapter for any
 34 subsequent taxable year. A taxpayer is not entitled to a carryback or a
 35 refund of any unused credit amount.

36 **(b) If the corporation certifies a credit for an investment that is**
 37 **made after June 30, 2019, the taxpayer may assign all or part of**
 38 **the credit to which the taxpayer is entitled under this chapter,**
 39 **subject to the limitations set forth in subsection (c).**

40 **(c) The following apply to the assignment of a credit under this**
 41 **chapter:**

42 **(1) A taxpayer may not assign all or part of a credit or credits**



- 1 to a particular person in amounts that are less than ten
 2 thousand dollars (\$10,000).
 3 **(2) Before a credit may be assigned, the taxpayer must notify**
 4 **the corporation of the assignment of the credit in the manner**
 5 **prescribed by the corporation.**
 6 **(3) An assignment of a credit must be in writing, and both the**
 7 **taxpayer and assignee shall report the assignment on the**
 8 **taxpayer's and assignee's state tax returns for the year in**
 9 **which the assignment is made, in the manner prescribed by**
 10 **the department.**
 11 **(4) Once a particular credit or credits are assigned, the**
 12 **assignee may not assign all or part of the credit or credits to**
 13 **another person.**
 14 **(5) A taxpayer may not receive value in connection with an**
 15 **assignment under this section that exceeds the value of that**
 16 **part of the credit assigned.**

17 SECTION 12. IC 6-3.1-24-14, AS ADDED BY P.L.106-2014,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2019]: Sec. 14. A certificate or tax credit issued **or assigned**
 20 under this chapter may not be considered to be a security for purposes
 21 of IC 23. **The issuance or assignment of a certificate or tax credit**
 22 **under this chapter is not subject to the Indiana securities law**
 23 **under IC 23.**

24 SECTION 13. IC 6-3.1-26-8, AS AMENDED BY P.L.288-2013,
 25 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]: Sec. 8. (a) As used in this chapter, "qualified
 27 investment" means the amount of the taxpayer's expenditures in Indiana
 28 for:

- 29 (1) the purchase of new telecommunications, production,
 30 manufacturing, fabrication, assembly, extraction, mining,
 31 processing, refining, finishing, distribution, transportation, or
 32 logistical distribution equipment;
 33 (2) the purchase of new computers and related equipment;
 34 (3) costs associated with the modernization of existing
 35 telecommunications, production, manufacturing, fabrication,
 36 assembly, extraction, mining, processing, refining, finishing,
 37 distribution, transportation, or logistical distribution facilities;
 38 (4) onsite infrastructure improvements;
 39 (5) the construction of new telecommunications, production,
 40 manufacturing, fabrication, assembly, extraction, mining,
 41 processing, refining, finishing, distribution, transportation, or
 42 logistical distribution facilities;



- 1 (6) **the purchase of retooled or refurbished machinery, and**
- 2 costs associated with retooling existing machinery and equipment;
- 3 (7) costs associated with the construction of special purpose
- 4 buildings and foundations for use in the computer, software,
- 5 biological sciences, or telecommunications industry;
- 6 (8) costs associated with the purchase of machinery, equipment,
- 7 or special purpose buildings used to make motion pictures or
- 8 audio productions; ~~and~~
- 9 (9) a logistics investment, as described in section 8.5 of this
- 10 chapter; **and**

- 11 **(10) the purchase of new:**
- 12 **(A) pollution control and abatement;**
- 13 **(B) energy conservation; or**
- 14 **(C) renewable energy generation;**
- 15 **equipment;**
- 16 that are certified by the corporation under this chapter as being eligible
- 17 for the credit under this chapter.

18 (b) The term does not include property that can be readily moved

19 outside Indiana.

20 **(c) Notwithstanding subsection (b), the term does include**

21 **programmable logic controller property.**

22 SECTION 14. IC 6-3.1-30-2, AS AMENDED BY P.L.288-2013,

23 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

24 JULY 1, 2019]: Sec. 2. As used in this chapter, "eligible business"

25 means **either of the following:**

- 26 **(1) A business that:**
- 27 ~~(1)~~ **(A)** is engaged in either interstate or intrastate commerce;
- 28 ~~(2)~~ **(B)** maintains a corporate headquarters at a location
- 29 outside Indiana;
- 30 ~~(3)~~ **(C)** has not previously maintained a corporate headquarters
- 31 at a location in Indiana;
- 32 ~~(4)~~ **(D)** had annual worldwide revenues of at least fifty million
- 33 dollars (\$50,000,000) for the taxable year immediately
- 34 preceding the business's application for a tax credit under
- 35 section 12 of this chapter; and
- 36 ~~(5)~~ **(E)** commits contractually to relocating its corporate
- 37 headquarters to Indiana.

- 38 **(2) A business that:**
- 39 **(A) is engaged in either interstate or intrastate commerce;**
- 40 **(B) maintains a corporate headquarters at a location**
- 41 **outside Indiana;**
- 42 **(C) has not previously maintained a corporate**



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- headquarters at a location in Indiana;
- (D) either:**
 - (i) received at least four million dollars (\$4,000,000) in venture capital in the six (6) months immediately preceding the business's application for a tax credit under section 12 of this chapter; or**
 - (ii) closes on at least four million dollars (\$4,000,000) in venture capital not later than six (6) months after submitting the business's application for a tax credit under section 12 of this chapter; and**
- (E) commits contractually to relocating:**
 - (i) its corporate headquarters to Indiana; or**
 - (ii) the number of jobs that equal eighty percent (80%) of the business's total payroll during the immediately preceding quarter to a location in Indiana.**

SECTION 15. IC 6-3.1-30-7, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. As used in this chapter, "taxpayer" means an individual or entity:

- (1) that has any state tax liability; or**
- (2) in the case of an eligible business under section 2(2) of this chapter, that has any state tax liability or that submits incremental income tax withholdings under IC 6-3-4-8.**

SECTION 16. IC 6-3.1-30-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.1. As used in this chapter, "venture capital" means financing provided by investors that may include equity, convertible debt, or other forms of equity-like investment instruments.

SECTION 17. IC 6-3.1-30-8, AS AMENDED BY P.L.288-2013, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) **Subject to entering into an agreement with the corporation under sections 14 and 15 of this chapter,** if the corporation certifies that a taxpayer:

- (1) is an eligible business;
- (2) completes a qualifying project;
- (3) incurs relocation costs; and
- (4) employs:
 - (A) at least seventy-five (75) employees in Indiana, in the case of a taxpayer that qualifies as an eligible business under section 2(1) of this chapter; or**
 - (B) at least ten (10) employees in Indiana, in the case of a**



- 1 **taxpayer that qualifies as an eligible business under section**
 2 **2(2) of this chapter;**
 3 the taxpayer is entitled to a credit against the taxpayer's state tax
 4 liability for the taxable year in which the relocation costs are incurred,
 5 **subject to subsection (c).** The credit allowed under this section is
 6 equal to the amount determined under section 9 of this chapter.
 7 (b) For purposes of establishing the employment level required by
 8 subsection (a)(4), a taxpayer may include:
 9 (1) individuals who:
 10 (A) were employed in Indiana by the taxpayer before the
 11 taxpayer commenced a qualifying project; and
 12 (B) remain employed in Indiana after the completion of the
 13 taxpayer's qualifying project; and
 14 (2) individuals who:
 15 (A) were not employed in Indiana by the taxpayer before the
 16 taxpayer commenced a qualifying project; and
 17 (B) are employed in Indiana by the taxpayer as a result of the
 18 completion of the taxpayer's qualifying project.
 19 **(c) The total amount of credits that may be approved by the**
 20 **corporation for all eligible businesses described in section 2(2) of**
 21 **this chapter in a calendar year shall be subject to a cap established**
 22 **by the budget agency.**
 23 SECTION 18. IC 6-3.1-30-9, AS AMENDED BY P.L.288-2013,
 24 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 9. (a) Subject to subsection (b), the amount of the
 26 credit to which a taxpayer is entitled under section 8 of this chapter
 27 equals the product of:
 28 (1) a percentage determined by the corporation that may not
 29 exceed fifty percent (50%); multiplied by
 30 (2) the amount of the taxpayer's relocation costs in the taxable
 31 year.
 32 (b) The credit to which a taxpayer is entitled under section 8 of this
 33 chapter may not reduce the taxpayer's state tax liability below the
 34 amount of the taxpayer's state tax liability in the taxable year
 35 immediately preceding the taxable year in which the taxpayer first
 36 incurred relocation costs. **However, this subsection does not apply to**
 37 **a taxpayer that qualifies as an eligible business under section 2(2)**
 38 **of this chapter.**
 39 SECTION 19. IC 6-3.1-30-11, AS ADDED BY P.L.193-2005,
 40 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2019]: Sec. 11. (a) If the credit provided by this chapter
 42 exceeds the taxpayer's state tax liability for the taxable year for which



1 the credit is first claimed, the excess may be carried forward to
 2 succeeding taxable years and used as a credit against the taxpayer's
 3 state tax liability during those taxable years. Each time that the credit
 4 is carried forward to a succeeding taxable year, the credit is to be
 5 reduced by the amount that was used as a credit during the immediately
 6 preceding taxable year. The credit provided by this chapter may be
 7 carried forward and applied to succeeding taxable years for nine (9)
 8 taxable years following the unused credit year.

9 (b) A taxpayer **that qualifies as an eligible business under section**
 10 **2(1) of this chapter** is not entitled to any carryback or refund of any
 11 unused credit.

12 (c) **In the case of a taxpayer that qualifies as an eligible business**
 13 **under section 2(2) of this chapter, if the credit provided by this**
 14 **chapter exceeds the taxpayer's state tax liability, the excess may, at**
 15 **the discretion of the corporation, be refunded to the taxpayer. An**
 16 **eligible business under section 2(2) of this chapter is not entitled to**
 17 **carryback any unused credit.**

18 SECTION 20. IC 6-3.1-30-14 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2019]: **Sec. 14. (a) To be awarded a credit**
 21 **under this chapter, a taxpayer must submit an application to the**
 22 **corporation and enter into an agreement with the corporation.**

23 (b) **The corporation shall prescribe the form of the application.**

24 (c) **A taxpayer may claim a credit awarded after June 30, 2019,**
 25 **against the taxpayer's state tax liability for a taxable year only if**
 26 **the corporation awards a credit to the taxpayer and enters into an**
 27 **agreement with the taxpayer under section 15 of this chapter. The**
 28 **corporation may deny an application for a credit under this**
 29 **chapter in its sole discretion. A taxpayer may not seek judicial**
 30 **review of a decision by the corporation to deny a taxpayer's**
 31 **application for a credit.**

32 SECTION 21. IC 6-3.1-30-15 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2019]: **Sec. 15. (a) The corporation shall**
 35 **require the taxpayer to enter into an agreement with the**
 36 **corporation as a condition of receiving a credit under this chapter.**

37 (b) **The agreement with the corporation must:**

38 (1) **prescribe the method of certifying the taxpayer's qualified**
 39 **investment;**

40 (2) **include provisions that authorize the corporation to work**
 41 **with the department and the taxpayer, if the corporation**
 42 **determines that the taxpayer is noncompliant with the terms**



1 of the agreement or the provisions of this chapter, to bring the
 2 taxpayer into compliance or to protect the interests of the
 3 state; and

4 (3) require the taxpayer to:

5 (A) maintain its corporate headquarters at a location in
 6 Indiana if the business qualifies as an eligible business
 7 under section 2(1) of this chapter; or

8 (B) maintain either:

9 (i) its corporate headquarters at a location in Indiana if
 10 the business qualifies as an eligible business under
 11 section 2(2) of this chapter; or

12 (ii) the number of jobs that equal eighty percent (80%)
 13 of the business's total payroll at a location in Indiana if
 14 the business qualifies as an eligible business under
 15 section 2(2) of this chapter;

16 for not less than five (5) consecutively succeeding calendar
 17 years following the calendar year in which the taxpayer
 18 first incurs qualifying relocation expenses.

19 SECTION 22. IC 6-3.1-30-16 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2019]: Sec. 16. (a) If the corporation
 22 determines that a taxpayer who has claimed a credit under this
 23 chapter is not entitled to the credit because of the taxpayer's
 24 noncompliance with the requirements of the tax credit agreement
 25 or any of the provisions of this chapter, the corporation shall, after
 26 giving the taxpayer an opportunity to explain the noncompliance:

27 (1) notify the department of the noncompliance; and

28 (2) request the department to impose an assessment on the
 29 taxpayer in an amount that may not exceed the sum of any
 30 previously allowed credits under this chapter together with
 31 interest and penalties required or permitted by law.

32 (b) The department shall impose an assessment on a taxpayer if
 33 requested by the corporation under subsection (a), unless the
 34 assessment is unsupported by law.

35 (c) Notwithstanding the provisions of IC 6-8.1-5-2, an
 36 assessment is considered timely if the department issues a proposed
 37 assessment:

38 (1) not later than one hundred eighty (180) days from the date
 39 the department is notified of the noncompliance; or

40 (2) the date on which the proposed assessment could otherwise
 41 be issued in a timely manner under IC 6-8.1-5-2;

42 whichever is later.



1 SECTION 23. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JANUARY 1, 2020]:

4 **Chapter 34. Redevelopment Tax Credit**

5 **Sec. 1. As used in this chapter, "board" means the board of the**
 6 **Indiana economic development corporation.**

7 **Sec. 2. As used in this chapter, "corporation" refers to the**
 8 **Indiana economic development corporation established under**
 9 **IC 5-28-3, unless the context clearly denotes otherwise.**

10 **Sec. 3. As used in this chapter, "floor space" means the usable**
 11 **interior floor space of a building.**

12 **Sec. 4. As used in this chapter, "pass through entity" means a:**

- 13 (1) corporation that is exempt from the adjusted gross income
- 14 tax under IC 6-3-2-2.8(2);
- 15 (2) partnership;
- 16 (3) trust;
- 17 (4) limited liability company; or
- 18 (5) limited liability partnership.

19 **Sec. 5. As used in this chapter, "placed in service" means that**
 20 **property is placed in a condition or state of readiness and available**
 21 **to be occupied. In the case of a qualified redevelopment site**
 22 **comprised of a complex of buildings, the entire qualified**
 23 **redevelopment site shall be considered to have been placed in**
 24 **service on the date that a building was placed in service if the**
 25 **building has floor space that, when aggregated with the floor space**
 26 **of all buildings in the complex placed in service on earlier dates,**
 27 **exceeds fifty percent (50%) of the total floor space of all buildings**
 28 **in the complex.**

29 **Sec. 6. As used in this chapter, "qualified redevelopment site"**
 30 **means land:**

- 31 (1) on which a vacant building or complex of buildings:
 - 32 (A) having at least one hundred thousand (100,000) square
 - 33 feet of total floor space that exists as of the date an
 - 34 application is filed with the corporation under this
 - 35 chapter; and
 - 36 (B) that was placed in service at least fifteen (15) years
 - 37 before the date on which the application is filed with the
 - 38 corporation under this chapter;
- 39 (2) on which a vacant building or complex of buildings:
 - 40 (A) having at least one hundred thousand (100,000) square
 - 41 feet of total floor space that existed within five (5) years
 - 42 before the date an application is filed with the corporation



- 1 under this chapter;
- 2 (B) was placed in service at least fifteen (15) years before
- 3 the date on which the demolition of the vacant building or
- 4 complex of buildings was completed; and
- 5 (C) that was demolished in an effort to protect the health,
- 6 safety, and welfare of the community; or
- 7 (3) on which a vacant building or complex of buildings:
- 8 (A) having at least one hundred thousand (100,000) square
- 9 feet of total floor space that existed within ten (10) years
- 10 before the date an application is filed with the corporation
- 11 under this chapter;
- 12 (B) was placed in service at least fifteen (15) years before
- 13 the date on which the demolition of the vacant building or
- 14 complex of buildings was completed;
- 15 (C) was placed in service as a public building;
- 16 (D) was owned by a unit of local government; and
- 17 (E) has not been redeveloped since the building was taken
- 18 out of service as a public building.

19 For a complex of buildings to be considered a qualified
 20 redevelopment site, the buildings must have been located on a
 21 single parcel or contiguous parcels of land that were under
 22 common ownership at the time the site was placed in service.

23 Sec. 7. As used in this chapter, "qualified investment" means the
 24 amount of the taxpayer's expenditures that are:

- 25 (1) for the redevelopment or rehabilitation of real property
- 26 located within a qualified redevelopment site; and
- 27 (2) approved by the corporation before the expenditure is
- 28 made.

29 However, the term does not include any amount of the taxpayer's
 30 expenditures that are for the purchase of real property, that are
 31 for the construction of a commercial retail facility, or that are
 32 made on property that is classified as residential for property tax
 33 purposes.

34 Sec. 8. As used in this chapter, "rehabilitation" means the
 35 betterment of real property, including remodeling or repair.

36 Sec. 9. As used in this chapter, "state tax liability" means the
 37 taxpayer's total tax liability that is incurred under:

- 38 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 39 (2) IC 27-1-18-2 (the insurance premiums tax); and
- 40 (3) IC 6-5.5 (the financial institutions tax);

41 as computed after the application of the credits that, under
 42 IC 6-3.1-1-2, are to be applied before the credit provided by this



1 chapter.

2 **Sec. 10.** As used in this chapter, "taxpayer" means any person,
3 corporation, limited liability company, partnership, or other entity
4 that has any state tax liability. The term includes the owner or the
5 developer of the qualified development site property, a pass
6 through entity, and a person that is assigned part or all of a credit
7 under this chapter.

8 **Sec. 11. (a)** A taxpayer may claim a credit against the taxpayer's
9 state tax liability for a taxable year only if the corporation awards
10 a credit to the taxpayer and enters into an agreement with the
11 taxpayer as set forth under this chapter. The corporation may deny
12 an application for a credit under this chapter in its sole discretion.
13 A taxpayer may not seek judicial review of a decision by the
14 corporation to deny a taxpayer's application for a credit.

15 **(b)** The amount of the credit that a taxpayer may claim is equal
16 to:

17 (1) the qualified investment made by the taxpayer during the
18 taxable year and approved by the corporation in an
19 agreement entered into under section 17 of this chapter;
20 multiplied by

21 (2) the applicable credit percentage determined by the
22 corporation under section 17(b) of this chapter.

23 **(c)** If a pass through entity may claim a credit under this section
24 but does not have state tax liability against which the tax credit
25 may be applied, a shareholder, partner, beneficiary, or member of
26 the pass through entity may claim a credit equal to:

27 (1) the credit determined for the pass through entity for the
28 taxable year; multiplied by

29 (2) the percentage of the pass through entity's distributive
30 income that the shareholder, partner, beneficiary, or member
31 may claim.

32 The credit provided under this subsection is in addition to a credit
33 that a shareholder, partner, beneficiary, or member of a pass
34 through entity may claim. However, a pass through entity and a
35 shareholder, partner, beneficiary, or member of a pass through
36 entity may not claim more than one (1) credit for the qualified
37 investment.

38 **(d)** Notwithstanding subsections (a), (b), and (c), a pass through
39 entity (other than an entity described in IC 6-3-1-35(1)) and its
40 partners, beneficiaries, or members may allocate the credit among
41 its partners, beneficiaries, or members of the pass through entity
42 as provided by written agreement without regard to their sharing



1 of other tax or economic attributes. Such agreements shall be filed
 2 with the corporation not later than fifteen (15) days after
 3 execution. The pass through entity shall also provide a copy of such
 4 agreements, a list of partners, beneficiaries, or members of the pass
 5 through entity, and their respective shares of the credit resulting
 6 from such agreements in the manner prescribed by the department
 7 of state revenue.

8 **Sec. 12. (a)** A tax credit that a taxpayer may claim under this
 9 chapter shall be applied against taxes owed by the taxpayer in the
 10 following order:

11 (1) First, against the taxpayer's adjusted gross income tax
 12 liability (IC 6-3-1 through IC 6-3-7) for the taxable year.

13 (2) Second, against the taxpayer's insurance premiums tax
 14 liability (IC 27-1-18-2) for the taxable year.

15 (3) Third, against the taxpayer's financial institutions tax
 16 liability (IC 6-5.5) for the taxable year.

17 (b) If the tax paid by the taxpayer under a tax provision listed
 18 in subsection (a) is a credit against the liability or a deduction in
 19 determining the tax base under another Indiana tax provision, the
 20 credit or deduction shall be computed without regard to the credit
 21 to which a taxpayer may claim under this chapter.

22 **Sec. 13. (a)** If the amount of the credit determined under section
 23 11 of this chapter for a taxpayer in a taxable year exceeds the
 24 taxpayer's state tax liability for that taxable year, the taxpayer
 25 may carry the excess credit over for a period not to exceed the
 26 taxpayer's following nine (9) taxable years, beginning with the
 27 taxable year after the year in which the corporation certifies the
 28 taxpayer's expenditures as a qualified investment. The amount of
 29 the credit carryover from a taxable year shall be reduced to the
 30 extent that the carryover is used by the taxpayer to obtain a credit
 31 under this chapter for any subsequent taxable year.

32 (b) A taxpayer is not entitled to a carryback or a refund of any
 33 unused credit amount.

34 **Sec. 14. (a)** A taxpayer may assign any part of the credit that the
 35 taxpayer may claim under this chapter. A credit that is assigned
 36 under this subsection remains subject to this chapter.

37 (b) If a taxpayer assigns a part of a credit during a taxable year,
 38 the assignee may not subsequently assign all or part of the credit
 39 to another person. A taxpayer may make only one (1) assignment
 40 of a credit. Before a credit may be assigned, the taxpayer must
 41 notify the corporation of the assignment of the credit in the manner
 42 prescribed by the corporation. An assignment of a credit must be



1 in writing, and both the taxpayer and assignee shall report the
2 assignment on the taxpayer's and assignee's state tax returns for
3 the year in which the assignment is made, in the manner prescribed
4 by the department. A taxpayer may not receive value in connection
5 with an assignment under this section that exceeds the value of that
6 part of the credit assigned.

7 **Sec. 15.** To be awarded a credit under this chapter, a taxpayer
8 must file an application with the corporation and enter into an
9 agreement with the corporation as set forth under this chapter.

10 **Sec. 16. (a)** The corporation shall consider the following factors
11 in deciding whether to award a credit under this chapter for a
12 proposed qualified investment:

13 (1) Evidence that the project aligns with the community's
14 development plans.

15 (2) The economic development potential for the project for
16 which the taxpayer proposes to make the qualified
17 investment.

18 (3) Evidence of barriers preventing the development or
19 redevelopment of the qualified redevelopment site in which
20 the qualified investment is made, such as significant
21 environmental contamination requiring remediation.

22 (4) The level of commitment by the public sector and local
23 government to assist in the financing of improvements or
24 redevelopment activities benefitting the qualified
25 redevelopment site in which the qualified investment is made.

26 (5) Evidence of support by residents, businesses, and private
27 organizations in the surrounding community for the project
28 for which the taxpayer proposes to make the qualified
29 investment.

30 (6) The level of economic distress in the surrounding
31 community and the extent to which the project for which the
32 taxpayer proposes to make the qualified investment mitigates
33 the economic distress.

34 (7) Any other factors as determined by the corporation.

35 (b) The corporation shall not approve an application to receive
36 a tax credit under this chapter for a qualified investment made in
37 a qualified redevelopment site described in section 6(2) of this
38 chapter unless the applicant can provide evidence that the local
39 unit having jurisdiction over the property made a determination
40 that the qualified redevelopment site was unsafe (as defined in
41 IC 36-7-9-4), and the local unit took appropriate steps to remedy
42 the unsafe conditions at the qualified redevelopment site, which led



1 to its demolition.

2 **Sec. 17. (a) The following apply if the corporation determines**
 3 **that a credit should be awarded under this chapter:**

4 (1) The corporation shall require the taxpayer to enter into an
 5 agreement with the corporation as a condition of receiving a
 6 credit under this chapter.

7 (2) The agreement with the corporation must:

8 (A) prescribe the method of certifying the taxpayer's
 9 qualified investment; and

10 (B) include provisions that authorize the corporation to
 11 work with the department and the taxpayer, if the
 12 corporation determines that the taxpayer is noncompliant
 13 with the terms of the agreement or the provisions of this
 14 chapter, to bring the taxpayer into compliance or to
 15 protect the interests of the state.

16 (3) The corporation shall specify the taxpayer's expenditures
 17 that will be considered a qualified investment.

18 (4) The corporation shall determine the applicable credit
 19 percentage under subsection (b).

20 (b) If the corporation determines that a credit should be
 21 awarded under this chapter, the corporation shall determine the
 22 applicable credit percentage for a qualified investment certified by
 23 the corporation. However, the applicable credit percentage may
 24 not exceed the following:

25 (1) Fifteen percent (15%), if the qualified redevelopment site
 26 was placed in service at least fifteen (15) years ago but less
 27 than thirty (30) years ago.

28 (2) Twenty percent (20%), if the qualified redevelopment site
 29 was placed in service at least thirty (30) years ago but less
 30 than forty (40) years ago.

31 (3) Twenty-five percent (25%), if the qualified redevelopment
 32 site was placed in service at least forty (40) years ago.

33 (c) To be eligible for the credit for a qualified investment, a
 34 taxpayer's expenditures that are considered a qualified investment
 35 must be certified by the corporation not later than two (2) taxable
 36 years after the end of the calendar year in which the taxpayer's
 37 expenditures are made.

38 **Sec. 18. (a) The corporation may, as part of an agreement**
 39 **entered into under section 17 of this chapter:**

40 (1) require a taxpayer to repay all or part of a credit awarded
 41 under this chapter over a period of years; and

42 (2) limit the maximum amount of a credit awarded to a



- 1 taxpayer under this chapter that may be claimed during a
2 taxable year.
- 3 (b) The corporation may elect to enter into an agreement with
4 a local unit that has jurisdiction over the real property that is
5 subject to the proposed qualified investment, through which such
6 agreement the local unit commits local revenue generated by the
7 project to the corporation rather than the corporation including a
8 repayment provision in an agreement with a taxpayer under
9 subsection (a)(1). The total amount of revenue committed under an
10 agreement entered into under this subsection may not exceed the
11 credit repayment amount determined under subsection (a)(1). Any
12 amounts received under an agreement entered into under this
13 subsection shall be deposited in the state general fund.
- 14 (c) Notwithstanding subsections (a) and (b), if the corporation
15 awards a tax credit to a taxpayer under this chapter that exceeds
16 five million dollars (\$5,000,000), the corporation shall include in an
17 agreement entered into under section 17 of this chapter a provision
18 that requires the taxpayer to repay the portion of the credit that
19 exceeds five million dollars (\$5,000,000).
- 20 (d) If the corporation enters into an agreement with a taxpayer
21 under section 17 of this chapter that includes a repayment
22 provision under subsection (a)(1) or (c), the corporation shall
23 include in the repayment provision a provision establishing the
24 interest rate that will be applied. The interest rate shall be
25 determined by the board and approved by the budget agency.
- 26 **Sec. 19.** To receive a credit provided by this chapter, a taxpayer
27 must claim the credit on the taxpayer's state tax return or returns
28 in the manner prescribed by the department. The taxpayer shall
29 submit the following to the department:
- 30 (1) The certification of the corporation stating the applicable
31 credit percentage approved by the corporation under section
32 17(b) of this chapter.
- 33 (2) All other information that the department determines is
34 necessary for:
- 35 (A) the calculation for the credit provided by this chapter;
36 and
37 (B) the determination of whether an expenditure was a
38 qualified investment.
- 39 **Sec. 20.** (a) If the corporation determines that a taxpayer that
40 has claimed a credit under this chapter is not entitled to the credit
41 because of the taxpayer's noncompliance with the requirements of
42 the tax credit agreement or any of the provisions of this chapter,



1 the corporation shall, after giving the taxpayer an opportunity to
2 explain the noncompliance:

- 3 (1) notify the department of the noncompliance; and
4 (2) request the department to impose an assessment on the
5 taxpayer in an amount that may not exceed the sum of any
6 previously allowed credits under this chapter together with
7 interest and penalties required or permitted by law.

8 (b) If a credit was assigned under section 14 of this chapter, the
9 assessment under this section shall be issued against the taxpayer
10 that could have claimed the credit had no assignment occurred. If
11 an assessment is issued to a taxpayer, other than an assignee of a
12 credit that was assigned, the assessment shall not be offset by any
13 nonrefundable credit. An assessment may not be made against an
14 assignee of a credit except in the case of fraud by the assignee in
15 the assignment of the credit. Notwithstanding the provisions of
16 IC 6-8.1-5-2, an assessment is considered timely if the department
17 issues a proposed assessment:

- 18 (1) not later than one hundred eighty (180) days from the date
19 the department is notified of the noncompliance; or
20 (2) the date on which the a proposed assessment could
21 otherwise be issued in a timely manner under IC 6-8.1-5-2;
22 whichever is later.

23 Sec. 21. (a) The board shall establish measurements for
24 evaluating the performance of the tax credit program under this
25 chapter.

26 (b) Beginning in 2023, and each odd-numbered year thereafter,
27 the corporation shall provide for an evaluation of the tax credit
28 program. The evaluation shall include an assessment of the
29 effectiveness of the program, and the evaluation shall specifically
30 report on the extent to which the tax credit program met the
31 measurements established by the board under subsection (a). The
32 corporation shall include information received or compiled under
33 this section in the economic incentives and compliance report
34 submitted under IC 5-28-28 for the calendar year in which the
35 evaluation is completed.

