



February 20, 2019

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## SENATE BILL No. 563

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DIGEST OF SB 563 (Updated February 19, 2019 2:20 pm - DI 120)

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

**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. Provides that a taxpayer (with certain exceptions) is not  
(Continued next page)

**Effective:** Upon passage; July 1, 2019; January 1, 2020.

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### Holdman, Houchin, Messmer

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January 14, 2019, read first time and referred to Committee on Tax and Fiscal Policy.  
February 19, 2019, amended, reported favorably — Do Pass.

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SB 563—LS 7034/DI 120



## Digest Continued

entitled to receive an industrial recovery tax credit for a qualified investment made after December 31, 2019. Amends the definition of "new employee" for purposes of the economic development for a growing economy tax credit to include employees that maintain their residence outside Indiana. 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: (1) retooled or refurbished machinery; (2) new energy conservation and pollution control equipment; and (3) new onsite digital manufacturing equipment. Adds state gross retail and use taxes to the types of taxes against which a taxpayer may claim a Hoosier business investment tax credit. Amends the headquarters relocation tax credit to extend the credit to an eligible business that: (1) acquired at 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 total amount of headquarters relocation tax credits that may be approved in a state fiscal year for all eligible businesses that qualify for the tax credit under the new provision may not exceed \$5,000,000. 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 assign all or part of a redevelopment tax credit, subject to certain limitations. Authorizes the IEDC to include in an agreement for the tax credit provisions that require the taxpayer to repay all or part of a credit awarded over a period of years. Provides that an agreement for the redevelopment tax credit must include a repayment provision for the amount of any credit award that exceeds \$10,000,000. 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. Requires the IEDC to collect data on the effectiveness of an assignment of both the venture capital investment tax credit and the redevelopment tax credit and report its findings to the legislative council before November 1, 2022. Urges the legislative council to assign to an appropriate interim study committee the task of studying the development of regional airports throughout Indiana.

**SB 563—LS 7034/DI 120**



February 20, 2019

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

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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

SB 563—LS 7034/DI 120



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 6-3.1-13-6 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) As used in this  
 11 chapter, "new employee" means a full-time employee first employed by  
 12 a taxpayer in the project that is the subject of a tax credit agreement  
 13 and who is employed after the taxpayer enters into the tax credit  
 14 agreement. **The term includes a full-time employee that resides**  
 15 **outside Indiana.**

16           (b) The term "new employee" does not include:

17           (1) an employee of the taxpayer who performs a job that was  
 18 previously performed by another employee, if that job existed for  
 19 at least six (6) months before hiring the new employee;

20           (2) an employee of the taxpayer who was previously employed in  
 21 Indiana by a related member of the taxpayer and whose  
 22 employment was shifted to the taxpayer after the taxpayer entered  
 23 into the tax credit agreement; or

24           (3) a child, grandchild, parent, or spouse, other than a spouse who  
 25 is legally separated from the individual, of any individual who is  
 26 an employee of the taxpayer and who has a direct or an indirect  
 27 ownership interest of at least five percent (5%) in the profits,  
 28 capital, or value of the taxpayer (an ownership interest shall be  
 29 determined in accordance with Section 1563 of the Internal  
 30 Revenue Code and regulations prescribed under that Section).

31           (c) Notwithstanding subsection (b)(1), if a new employee performs  
 32 a job that was previously performed by an employee who was:

33           (1) treated under the agreement as a new employee; and

34           (2) promoted by the taxpayer to another job;

35 the employee may be considered a new employee under the agreement.

36           (d) Notwithstanding subsection (a), the board may credit awards to  
 37 an applicant that met the conditions of this chapter at the time of the  
 38 applicant's location or expansion decision, if:

39           (1) the applicant is in receipt of a letter from the department of  
 40 commerce stating an intent to enter into a credit agreement; and

41           (2) the letter described in subdivision (1) is issued by the  
 42 department of commerce not later than March 15, 1994.



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

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

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

11 **If any or all of the tax credit is passed through to a shareholder,  
 12 partner, or member of a pass through entity, the amount of the tax  
 13 credit that is passed through to a shareholder, partner, or member  
 14 of a pass through entity may not be applied against the pass  
 15 through entity's state tax liability, nor may the pass through entity  
 16 assign any unused credit under section 12 of this chapter.**

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

28 (b) **If the corporation certifies a credit for an investment that is  
 29 made after June 30, 2019, the taxpayer may assign all or part of  
 30 the credit to which the taxpayer is entitled under this chapter,  
 31 subject to the limitations set forth in subsection (c). This subsection  
 32 expires July 1, 2024.**

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

35 (1) **A taxpayer may not assign all or part of a credit or credits  
 36 to a particular person in amounts that are less than ten  
 37 thousand dollars (\$10,000).**

38 (2) **Before a credit may be assigned, the taxpayer must notify  
 39 the corporation of the assignment of the credit in the manner  
 40 prescribed by the corporation.**

41 (3) **An assignment of a credit must be in writing, and both the  
 42 taxpayer and assignee shall report the assignment on the**



1 taxpayer's and assignee's state tax returns for the year in  
 2 which the assignment is made, in the manner prescribed by  
 3 the department.

4 **(4) Once a particular credit or credits are assigned, the**  
 5 **assignee may not assign all or part of the credit or credits to**  
 6 **another person.**

7 **(5) A taxpayer may not receive value in connection with an**  
 8 **assignment under this section that exceeds the value of that**  
 9 **part of the credit assigned.**

10 **This subsection expires July 1, 2024.**

11 **(d) The corporation shall collect and compile data on the**  
 12 **assignments of tax credits under this chapter and determine the**  
 13 **effectiveness of each assignment in getting projects completed. The**  
 14 **corporation shall report its findings under this subsection to the**  
 15 **legislative council in an electronic format under IC 5-14-6 before**  
 16 **November 1, 2022. This subsection expires January 1, 2023.**

17 SECTION 13. 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 under this  
 20 chapter or assigned under section 12(b) of this chapter (before its  
 21 expiration), may not be considered to be a security for purposes of  
 22 IC 23. The issuance or assignment of a certificate or tax credit  
 23 under this chapter is not subject to the Indiana securities law  
 24 under IC 23.

25 SECTION 14. IC 6-3.1-26-3.1 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2019]: Sec. 3.1. As used in this chapter,  
 28 "digital manufacturing equipment" means any production  
 29 equipment utilized within an integrated computer network system  
 30 that provides for the onsite manufacturing of a three-dimensional  
 31 part or product using material that is joined or solidified using  
 32 multiple layers under computer control pursuant to a computer  
 33 aided design for rapid or on-demand production.

34 SECTION 15. IC 6-3.1-26-8, AS AMENDED BY P.L.288-2013,  
 35 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2019]: Sec. 8. (a) As used in this chapter, "qualified  
 37 investment" means the amount of the taxpayer's expenditures in Indiana  
 38 for:

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



- 1 (2) the purchase of new computers and related equipment;
- 2 (3) costs associated with the modernization of existing
- 3 telecommunications, production, manufacturing, fabrication,
- 4 assembly, extraction, mining, processing, refining, finishing,
- 5 distribution, transportation, or logistical distribution facilities;
- 6 (4) onsite infrastructure improvements;
- 7 (5) the construction of new telecommunications, production,
- 8 manufacturing, fabrication, assembly, extraction, mining,
- 9 processing, refining, finishing, distribution, transportation, or
- 10 logistical distribution facilities;
- 11 **(6) the purchase of retooled or refurbished machinery, and**
- 12 costs associated with retooling existing machinery and equipment;
- 13 (7) costs associated with the construction of special purpose
- 14 buildings and foundations for use in the computer, software,
- 15 biological sciences, or telecommunications industry;
- 16 (8) costs associated with the purchase of machinery, equipment,
- 17 or special purpose buildings used to make motion pictures or
- 18 audio productions; ~~and~~
- 19 (9) a logistics investment, as described in section 8.5 of this
- 20 chapter;
- 21 **(10) the purchase of new:**
- 22 **(A) pollution control and abatement;**
- 23 **(B) energy conservation; or**
- 24 **(C) renewable energy generation;**
- 25 **equipment; and**
- 26 **(11) the purchase of new onsite digital manufacturing**
- 27 **equipment;**
- 28 that are certified by the corporation under this chapter as being eligible
- 29 for the credit under this chapter.
- 30 (b) The term does not include property that can be readily moved
- 31 outside Indiana.
- 32 **(c) Notwithstanding subsection (b), the term does include**
- 33 **programmable logic controller property.**
- 34 SECTION 16. IC 6-3.1-26-9 IS REPEALED [EFFECTIVE
- 35 JANUARY 1, 2020]. *Sec. 9: As used in this chapter, "state tax liability"*
- 36 *means a taxpayer's total tax liability that is incurred under:*
- 37 *(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);*
- 38 *(2) IC 27-1-18-2 (the insurance premiums tax); and*
- 39 *(3) IC 6-5-5 (the financial institutions tax);*
- 40 *as computed after the application of the credits that under IC 6-3.1-1-2*
- 41 *are to be applied before the credit provided by this chapter.*
- 42 SECTION 17. IC 6-3.1-26-13, AS AMENDED BY P.L.4-2005,



1 SECTION 105, IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JANUARY 1, 2020]: Sec. 13. **(a)** A taxpayer that:

- 3 (1) is awarded a tax credit under this chapter by the corporation;  
4 and  
5 (2) complies with the conditions set forth in this chapter and the  
6 agreement entered into by the corporation and the taxpayer under  
7 this chapter;

8 is entitled to a credit against the taxpayer's state tax liability in a  
9 taxable year **subject to subsection (b).**

10 **(b) A tax credit awarded under this chapter may be applied only**  
11 **against a taxpayer's state tax liability that is incurred under:**

- 12 **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**  
13 **(2) IC 27-1-18-2 (the insurance premiums tax);**  
14 **(3) IC 6-5.5 (the financial institutions tax); and**  
15 **(4) IC 6-2.5 (the state gross retail and use taxes);**

16 **as computed after the application of the credits that under**  
17 **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
18 **chapter.**

19 SECTION 18. IC 6-3.1-30-2, AS AMENDED BY P.L.288-2013,  
20 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2019]: Sec. 2. As used in this chapter, "eligible business"  
22 means **either of the following:**

23 **(1) A business that:**

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

35 **(2) A business that:**

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

- 42 **(i) received at least four million dollars (\$4,000,000) in**



1 venture capital in the six (6) months immediately  
 2 preceding the business's application for a tax credit  
 3 under section 12 of this chapter; or

4 (ii) closes on at least four million dollars (\$4,000,000) in  
 5 venture capital not later than six (6) months after  
 6 submitting the business's application for a tax credit  
 7 under section 12 of this chapter; and

8 (E) commits contractually to relocating:

9 (i) its corporate headquarters to Indiana; or

10 (ii) the number of jobs that equal eighty percent (80%)  
 11 of the business's total payroll during the immediately  
 12 preceding quarter to a location in Indiana.

13 SECTION 19. IC 6-3.1-30-7, AS ADDED BY P.L.193-2005,  
 14 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2019]: Sec. 7. As used in this chapter, "taxpayer" means an  
 16 individual or entity:

17 (1) that has any state tax liability; or

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

21 SECTION 20. IC 6-3.1-30-7.1 IS ADDED TO THE INDIANA  
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2019]: Sec. 7.1. As used in this chapter,  
 24 "venture capital" means financing provided by investors that may  
 25 include equity, convertible debt, or other forms of equity-like  
 26 investment instruments.

27 SECTION 21. IC 6-3.1-30-8, AS AMENDED BY P.L.288-2013,  
 28 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 8. (a) Subject to entering into an agreement  
 30 with the corporation under sections 14 and 15 of this chapter, if the  
 31 corporation certifies that a taxpayer:

32 (1) is an eligible business;

33 (2) completes a qualifying project;

34 (3) incurs relocation costs; and

35 (4) employs:

36 (A) at least seventy-five (75) employees in Indiana, in the case  
 37 of a taxpayer that qualifies as an eligible business under  
 38 section 2(1) of this chapter; or

39 (B) at least ten (10) employees in Indiana, in the case of a  
 40 taxpayer that qualifies as an eligible business under section  
 41 2(2) of this chapter;

42 the taxpayer is entitled to a credit against the taxpayer's state tax



1 liability for the taxable year in which the relocation costs are incurred,  
 2 **subject to subsection (c).** The credit allowed under this section is  
 3 equal to the amount determined under section 9 of this chapter.

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

6 (1) individuals who:

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

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

11 (2) individuals who:

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

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

16 **(c) The total amount of credits that may be approved by the**  
 17 **corporation for all eligible businesses described in section 2(2) of**  
 18 **this chapter may not exceed five million dollars (\$5,000,000) in a**  
 19 **state fiscal year.**

20 SECTION 22. IC 6-3.1-30-9, AS AMENDED BY P.L.288-2013,  
 21 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2019]: Sec. 9. (a) Subject to subsection (b), the amount of the  
 23 credit to which a taxpayer is entitled under section 8 of this chapter  
 24 equals the product of:

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

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

29 (b) The credit to which a taxpayer is entitled under section 8 of this  
 30 chapter may not reduce the taxpayer's state tax liability below the  
 31 amount of the taxpayer's state tax liability in the taxable year  
 32 immediately preceding the taxable year in which the taxpayer first  
 33 incurred relocation costs. **However, this subsection does not apply to**  
 34 **a taxpayer that qualifies as an eligible business under section 2(2)**  
 35 **of this chapter.**

36 SECTION 23. IC 6-3.1-30-11, AS ADDED BY P.L.193-2005,  
 37 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2019]: Sec. 11. (a) If the credit provided by this chapter  
 39 exceeds the taxpayer's state tax liability for the taxable year for which  
 40 the credit is first claimed, the excess may be carried forward to  
 41 succeeding taxable years and used as a credit against the taxpayer's  
 42 state tax liability during those taxable years. Each time that the credit





1 is carried forward to a succeeding taxable year, the credit is to be  
 2 reduced by the amount that was used as a credit during the immediately  
 3 preceding taxable year. The credit provided by this chapter may be  
 4 carried forward and applied to succeeding taxable years for nine (9)  
 5 taxable years following the unused credit year.

6 (b) A taxpayer **that qualifies as an eligible business under section**  
 7 **2(1) of this chapter** is not entitled to any carryback or refund of any  
 8 unused credit.

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

15 SECTION 24. IC 6-3.1-30-14 IS ADDED TO THE INDIANA  
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2019]: **Sec. 14. (a) To be awarded a credit**  
 18 **under this chapter, a taxpayer must submit an application to the**  
 19 **corporation and enter into an agreement with the corporation.**

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

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

29 SECTION 25. IC 6-3.1-30-15 IS ADDED TO THE INDIANA  
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2019]: **Sec. 15. (a) The corporation shall**  
 32 **require the taxpayer to enter into an agreement with the**  
 33 **corporation as a condition of receiving a credit under this chapter.**

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

35 (1) **prescribe the method of certifying the taxpayer's qualified**  
 36 **investment;**

37 (2) **include provisions that authorize the corporation to work**  
 38 **with the department and the taxpayer, if the corporation**  
 39 **determines that the taxpayer is noncompliant with the terms**  
 40 **of the agreement or the provisions of this chapter, to bring the**  
 41 **taxpayer into compliance or to protect the interests of the**  
 42 **state; and**



- 1           **(3) require the taxpayer to:**
- 2                 **(A) maintain its corporate headquarters at a location in**
- 3                 **Indiana if the business qualifies as an eligible business**
- 4                 **under section 2(1) of this chapter; or**
- 5                 **(B) maintain either:**
- 6                         **(i) its corporate headquarters at a location in Indiana if**
- 7                         **the business qualifies as an eligible business under**
- 8                         **section 2(2) of this chapter; or**
- 9                         **(ii) the number of jobs that equal eighty percent (80%)**
- 10                         **of the business's total payroll at a location in Indiana if**
- 11                         **the business qualifies as an eligible business under**
- 12                         **section 2(2) of this chapter;**
- 13                 **for not less than five (5) consecutively succeeding calendar**
- 14                 **years following the calendar year in which the taxpayer**
- 15                 **first incurs qualifying relocation expenses.**

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

- 24                         **(1) notify the department of the noncompliance; and**
- 25                         **(2) request the department to impose an assessment on the**
- 26                         **taxpayer in an amount that may not exceed the sum of any**
- 27                         **previously allowed credits under this chapter together with**
- 28                         **interest and penalties required or permitted by law.**

29           **(b) The department shall impose an assessment on a taxpayer if**  
 30 **requested by the corporation under subsection (a), unless the**  
 31 **assessment is unsupported by law.**

32           **(c) Notwithstanding the provisions of IC 6-8.1-5-2, an**  
 33 **assessment is considered timely if the department issues a proposed**  
 34 **assessment:**

- 35                         **(1) not later than one hundred eighty (180) days from the date**
- 36                         **the department is notified of the noncompliance; or**
- 37                         **(2) the date on which the proposed assessment could otherwise**
- 38                         **be issued in a timely manner under IC 6-8.1-5-2;**

39 **whichever is later.**

40           SECTION 27. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 42 JANUARY 1, 2020]:



1           **Chapter 34. Redevelopment Tax Credit**

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

33 as computed after the application of the credits that, under  
 34 IC 6-3.1-1-2, are to be applied before the credit provided by this  
 35 chapter.

36 Sec. 10. As used in this chapter, "taxpayer" means any person,  
 37 corporation, limited liability company, partnership, or other entity  
 38 that has any state tax liability. The term includes the owner or the  
 39 developer of the qualified development site property, a pass  
 40 through entity, and a person that is assigned part or all of a credit  
 41 under section 14 of this chapter (before its expiration).

42 Sec. 11. (a) A taxpayer may claim a credit against the taxpayer's



1 state tax liability for a taxable year only if the corporation awards  
 2 a credit to the taxpayer and enters into an agreement with the  
 3 taxpayer as set forth under this chapter. The corporation may deny  
 4 an application for a credit under this chapter in its sole discretion.  
 5 A taxpayer may not seek judicial review of a decision by the  
 6 corporation to deny a taxpayer's application for a credit.

7 (b) The amount of the credit that a taxpayer may claim is equal  
 8 to:

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

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

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

19 (1) the credit determined for the pass through entity for the  
 20 taxable year; multiplied by

21 (2) the percentage of the pass through entity's distributive  
 22 income that the shareholder, partner, beneficiary, or member  
 23 may claim.

24 The credit provided under this subsection is in addition to a credit  
 25 that a shareholder, partner, beneficiary, or member of a pass  
 26 through entity may claim. However, a pass through entity and a  
 27 shareholder, partner, beneficiary, or member of a pass through  
 28 entity may not claim more than one (1) credit for the qualified  
 29 investment.

30 (d) Notwithstanding subsections (a), (b), and (c), a pass through  
 31 entity (other than an entity described in IC 6-3-1-35(1)) and its  
 32 partners, beneficiaries, or members may allocate the credit among  
 33 its partners, beneficiaries, or members of the pass through entity  
 34 as provided by written agreement without regard to their sharing  
 35 of other tax or economic attributes. Such agreements shall be filed  
 36 with the corporation not later than fifteen (15) days after  
 37 execution. The pass through entity shall also provide a copy of such  
 38 agreements, a list of partners, beneficiaries, or members of the pass  
 39 through entity, and their respective shares of the credit resulting  
 40 from such agreements in the manner prescribed by the department  
 41 of state revenue.

42 Sec. 12. (a) A tax credit that a taxpayer may claim under this



1 chapter shall be applied against taxes owed by the taxpayer in the  
2 following order:

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

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

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

9 (b) If the tax paid by the taxpayer under a tax provision listed  
10 in subsection (a) is a credit against the liability or a deduction in  
11 determining the tax base under another Indiana tax provision, the  
12 credit or deduction shall be computed without regard to the credit  
13 to which a taxpayer may claim under this chapter.

14 Sec. 13. (a) If the amount of the credit determined under section  
15 11 of this chapter for a taxpayer in a taxable year exceeds the  
16 taxpayer's state tax liability for that taxable year, the taxpayer  
17 may carry the excess credit over for a period not to exceed the  
18 taxpayer's following nine (9) taxable years, beginning with the  
19 taxable year after the year in which the corporation certifies the  
20 taxpayer's expenditures as a qualified investment. The amount of  
21 the credit carryover from a taxable year shall be reduced to the  
22 extent that the carryover is used by the taxpayer to obtain a credit  
23 under this chapter for any subsequent taxable year.

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

26 Sec. 14. (a) A taxpayer may assign any part of the credit that the  
27 taxpayer may claim under this chapter. A credit that is assigned  
28 under this subsection remains subject to this chapter.

29 (b) If a taxpayer assigns a part of a credit during a taxable year,  
30 the assignee may not subsequently assign all or part of the credit  
31 to another person. A taxpayer may make only one (1) assignment  
32 of a credit. Before a credit may be assigned, the taxpayer must  
33 notify the corporation of the assignment of the credit in the manner  
34 prescribed by the corporation. An assignment of a credit must be  
35 in writing, and both the taxpayer and assignee shall report the  
36 assignment on the taxpayer's and assignee's state tax returns for  
37 the year in which the assignment is made, in the manner prescribed  
38 by the department. A taxpayer may not receive value in connection  
39 with an assignment under this section that exceeds the value of that  
40 part of the credit assigned.

41 (c) The corporation shall collect and compile data on the  
42 assignments of tax credits under this chapter and determine the



1 effectiveness of each assignment in getting projects completed. The  
2 corporation shall report its findings under this subsection to the  
3 legislative council in an electronic format under IC 5-14-6 before  
4 November 1, 2022.

5 (d) This section expires July 1, 2024.

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

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

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

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

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

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

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

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

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

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

42 Sec. 17. (a) The following apply if the corporation determines



- 1 that a credit should be awarded under this chapter:
- 2 (1) The corporation shall require the taxpayer to enter into an
- 3 agreement with the corporation as a condition of receiving a
- 4 credit under this chapter.
- 5 (2) The agreement with the corporation must:
- 6 (A) prescribe the method of certifying the taxpayer's
- 7 qualified investment; and
- 8 (B) include provisions that authorize the corporation to
- 9 work with the department and the taxpayer, if the
- 10 corporation determines that the taxpayer is noncompliant
- 11 with the terms of the agreement or the provisions of this
- 12 chapter, to bring the taxpayer into compliance or to
- 13 protect the interests of the state.
- 14 (3) The corporation shall specify the taxpayer's expenditures
- 15 that will be considered a qualified investment.
- 16 (4) The corporation shall determine the applicable credit
- 17 percentage under subsection (b).
- 18 (b) If the corporation determines that a credit should be
- 19 awarded under this chapter, the corporation shall determine the
- 20 applicable credit percentage for a qualified investment certified by
- 21 the corporation. However, the applicable credit percentage may
- 22 not exceed the following:
- 23 (1) If the qualified redevelopment site was placed in service at
- 24 least fifteen (15) years ago but less than thirty (30) years ago:
- 25 (A) fifteen percent (15%), if the qualified redevelopment
- 26 site is part of a development plan of a regional
- 27 development authority established under IC 36-7.5-2-1 or
- 28 IC 36-7.6-2-3; or
- 29 (B) ten percent (10%), if the qualified redevelopment site
- 30 is not part of a development plan of a regional
- 31 development authority described under clause (A).
- 32 (2) If the qualified redevelopment site was placed in service at
- 33 least thirty (30) years ago but less than forty (40) years ago:
- 34 (A) twenty percent (20%), if the qualified redevelopment
- 35 site is part of a development plan of a regional
- 36 development authority established under IC 36-7.5-2-1 or
- 37 IC 36-7.6-2-3; or
- 38 (B) ten percent (10%), if the qualified redevelopment site
- 39 is not part of a development plan of a regional
- 40 development authority described under clause (A).
- 41 (3) If the qualified redevelopment site was placed in service at
- 42 least forty (40) years ago:





1 (A) twenty-five percent (25%), if the qualified  
 2 redevelopment site is part of a development plan of a  
 3 regional development authority established under  
 4 IC 36-7.5-2-1 or IC 36-7.6-2-3; or

5 (B) fifteen percent (15%), if the qualified redevelopment  
 6 site is not part of a development plan of a regional  
 7 development authority described under clause (A).

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

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

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

17 (2) limit the maximum amount of a credit awarded to a  
 18 taxpayer under this chapter that may be claimed during a  
 19 taxable year.

20 (b) The corporation may elect to enter into an agreement with  
 21 a local unit that has jurisdiction over the real property that is  
 22 subject to the proposed qualified investment, through which such  
 23 agreement the local unit commits local revenue generated by the  
 24 project to the corporation rather than the corporation including a  
 25 repayment provision in an agreement with a taxpayer under  
 26 subsection (a)(1). The total amount of revenue committed under an  
 27 agreement entered into under this subsection may not exceed the  
 28 credit repayment amount determined under subsection (a)(1). Any  
 29 amounts received under an agreement entered into under this  
 30 subsection shall be deposited in the state general fund.

31 (c) Notwithstanding subsections (a) and (b), if the corporation  
 32 awards a tax credit to a taxpayer under this chapter that exceeds  
 33 ten million dollars (\$10,000,000), the corporation shall include in  
 34 an agreement entered into under section 17 of this chapter a  
 35 provision that requires the taxpayer to repay the portion of the  
 36 credit that exceeds ten million dollars (\$10,000,000).

37 (d) If the corporation enters into an agreement with a taxpayer  
 38 under section 17 of this chapter that includes a repayment  
 39 provision under subsection (a)(1) or (c), the corporation shall  
 40 include in the repayment provision a provision establishing the  
 41 interest rate that will be applied. The interest rate shall be  
 42 determined by the board and approved by the budget agency.



1           **Sec. 19. To receive a credit provided by this chapter, a taxpayer**  
 2 **must claim the credit on the taxpayer's state tax return or returns**  
 3 **in the manner prescribed by the department. The taxpayer shall**  
 4 **submit the following to the department:**

5           **(1) The certification of the corporation stating the applicable**  
 6 **credit percentage approved by the corporation under section**  
 7 **17(b) of this chapter.**

8           **(2) All other information that the department determines is**  
 9 **necessary for:**

10           **(A) the calculation for the credit provided by this chapter;**  
 11 **and**

12           **(B) the determination of whether an expenditure was a**  
 13 **qualified investment.**

14           **Sec. 20. (a) If the corporation determines that a taxpayer that**  
 15 **has claimed a credit under this chapter is not entitled to the credit**  
 16 **because of the taxpayer's noncompliance with the requirements of**  
 17 **the tax credit agreement or any of the provisions of this chapter,**  
 18 **the corporation shall, after giving the taxpayer an opportunity to**  
 19 **explain the noncompliance:**

20           **(1) notify the department of the noncompliance; and**

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

25           **(b) If a credit was assigned under section 14 of this chapter**  
 26 **(before its expiration), the assessment under this section shall be**  
 27 **issued against the taxpayer that could have claimed the credit had**  
 28 **no assignment occurred. If an assessment is issued to a taxpayer,**  
 29 **other than an assignee of a credit that was assigned, the assessment**  
 30 **shall not be offset by any nonrefundable credit. An assessment may**  
 31 **not be made against an assignee of a credit except in the case of**  
 32 **fraud by the assignee in the assignment of the credit.**  
 33 **Notwithstanding the provisions of IC 6-8.1-5-2, an assessment is**  
 34 **considered timely if the department issues a proposed assessment:**

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

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

39 **whichever is later.**

40           **Sec. 21. (a) The board shall establish measurements for**  
 41 **evaluating the performance of the tax credit program under this**  
 42 **chapter.**



1           **(b) Beginning in 2023, and each odd-numbered year thereafter,**  
2 **the corporation shall provide for an evaluation of the tax credit**  
3 **program. The evaluation shall include an assessment of the**  
4 **effectiveness of the program, and the evaluation shall specifically**  
5 **report on the extent to which the tax credit program met the**  
6 **measurements established by the board under subsection (a). The**  
7 **corporation shall include information received or compiled under**  
8 **this section in the economic incentives and compliance report**  
9 **submitted under IC 5-28-28 for the calendar year in which the**  
10 **evaluation is completed.**

11           **SECTION 28. [EFFECTIVE UPON PASSAGE] (a) The legislative**  
12 **council is urged to assign to an appropriate interim study**  
13 **committee the task of studying the development of regional**  
14 **airports throughout Indiana.**

15           **(b) This SECTION expires December 31, 2019.**  
16           **SECTION 29. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 563, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 16, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 10. IC 6-3.1-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) As used in this chapter, "new employee" means a full-time employee first employed by a taxpayer in the project that is the subject of a tax credit agreement and who is employed after the taxpayer enters into the tax credit agreement. **The term includes a full-time employee that resides outside Indiana.**

(b) The term "new employee" does not include:

- (1) an employee of the taxpayer who performs a job that was previously performed by another employee, if that job existed for at least six (6) months before hiring the new employee;
- (2) an employee of the taxpayer who was previously employed in Indiana by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement; or
- (3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or an indirect ownership interest of at least five percent (5%) in the profits, capital, or value of the taxpayer (an ownership interest shall be determined in accordance with Section 1563 of the Internal Revenue Code and regulations prescribed under that Section).

(c) Notwithstanding subsection (b)(1), if a new employee performs a job that was previously performed by an employee who was:

- (1) treated under the agreement as a new employee; and
- (2) promoted by the taxpayer to another job;

the employee may be considered a new employee under the agreement.

(d) Notwithstanding subsection (a), the board may credit awards to an applicant that met the conditions of this chapter at the time of the applicant's location or expansion decision, if:

- (1) the applicant is in receipt of a letter from the department of commerce stating an intent to enter into a credit agreement; and
- (2) the letter described in subdivision (1) is issued by the department of commerce not later than March 15, 1994."

Page 16, line 39, after "subsection (c)." insert "**This subsection**



**expires July 1, 2024."**

Page 17, between lines 16 and 17, begin a new line blocked left and insert:

**"This subsection expires July 1, 2024.**

**(d) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022. This subsection expires January 1, 2023."**

Page 17, line 19, delete "or assigned".

Page 17, line 20, after "under this chapter" and insert **"or assigned under section 12(b) of this chapter (before its expiration),"**

Page 17, between lines 23 and 24, begin a new paragraph and insert:

**"SECTION 14. IC 6-3.1-26-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3.1. As used in this chapter, "digital manufacturing equipment" means any production equipment utilized within an integrated computer network system that provides for the onsite manufacturing of a three-dimensional part or product using material that is joined or solidified using multiple layers under computer control pursuant to a computer aided design for rapid or on-demand production."**

Page 18, line 10, delete "and".

Page 18, line 15, after "equipment;" insert **"and"**.

Page 18, between lines 15 and 16, begin a new line block indented and insert:

**"(11) the purchase of new onsite digital manufacturing equipment;"**

Page 18, between lines 21 and 22, begin a new paragraph and insert:

**"SECTION 17. IC 6-3.1-26-9 IS REPEALED [EFFECTIVE JANUARY 1, 2020]. Sec. 9: As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:**

**(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

**(2) IC 27-1-18-2 (the insurance premiums tax); and**

**(3) IC 6-5.5 (the financial institutions tax);**

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

**SECTION 18. IC 6-3.1-26-13, AS AMENDED BY P.L.4-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 13. (a) A taxpayer that:**

**(1) is awarded a tax credit under this chapter by the corporation;**



and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year **subject to subsection (b).**

**(b) A tax credit awarded under this chapter may be applied only against a taxpayer's state tax liability that is incurred under:**

**(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

**(2) IC 27-1-18-2 (the insurance premiums tax);**

**(3) IC 6-5.5 (the financial institutions tax); and**

**(4) IC 6-2.5 (the state gross retail and use taxes);**

**as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter."**

Page 20, line 21, delete "in a calendar year shall be subject to a cap established" and insert **"may not exceed five million dollars (\$5,000,000) in a state fiscal year."**

Page 20, delete line 22.

Page 24, delete lines 29 through 33.

Page 25, line 7, delete "this chapter." and insert **"section 14 of this chapter (before its expiration)."**

Page 27, between lines 6 and 7, begin a new paragraph and insert:

**"(c) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022.**

**(d) This section expires July 1, 2024."**

Page 28, delete lines 25 through 32, begin a new line block indented and insert:

**"(1) If the qualified redevelopment site was placed in service at least fifteen (15) years ago but less than thirty (30) years ago:**

**(A) fifteen percent (15%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or**

**(B) ten percent (10%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A).**



**(2) If the qualified redevelopment site was placed in service at least thirty (30) years ago but less than forty (40) years ago:**

**(A) twenty percent (20%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or**

**(B) ten percent (10%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A).**

**(3) If the qualified redevelopment site was placed in service at least forty (40) years ago:**

**(A) twenty-five percent (25%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or**

**(B) fifteen percent (15%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A)."**

Page 29, line 16, delete "five million dollars (\$5,000,000)," and insert "**ten million dollars (\$10,000,000),**".

Page 29, line 19, delete "five million dollars (\$5,000,000)." and insert "**ten million dollars (\$10,000,000),**".

Page 30, line 8, delete "chapter," and insert "**chapter (before its expiration),**".

Page 30, after line 35, begin a new paragraph and insert:

**"SECTION 34. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the development of regional airports throughout Indiana.**

**(b) This SECTION expires December 31, 2019.**

**SECTION 35. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 563 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 14, Nays 0.

