

## SENATE BILL No. 450

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-13.

**Synopsis:** EDGE credits for job preservation. Allows a person who proposes a project to preserve jobs in Indiana to apply for an economic development for a growing economy (EDGE) tax credit. Allows the EDGE board to enter into an agreement for a tax credit with an applicant whose project will preserve jobs in Indiana. Requires the board to find the existence of certain conditions before entering into an agreement with the applicant for a tax credit.

**Effective:** July 1, 2001.

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## Simpson

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January 18, 2001, read first time and referred to Committee on Energy and Economic Development.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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# SENATE BILL No. 450



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 6-3.1-13-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. As used in this  
3 chapter, "incremental income tax withholdings" means the total amount  
4 withheld under IC 6-3-4-8 by the taxpayer during the taxable year from  
5 the compensation of new employees **or, in the case of an employer**  
6 **covered by section 15(b) of this chapter, from the compensation of**  
7 **employees or subcontractors whose jobs are preserved as**  
8 **determined by the board under section 15(b) of this chapter.**

9 SECTION 2. IC 6-3.1-13-13 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) The board may  
11 make credit awards under this chapter to foster job creation **and**  
12 **preservation** in Indiana.

13 (b) The credit shall be claimed for the taxable years specified in the  
14 taxpayer's tax credit agreement.

15 SECTION 3. IC 6-3.1-13-14 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. A person that  
17 proposes a project to create new jobs **or preserve jobs** in Indiana may



1 apply to the board to enter into an agreement for a tax credit under this  
2 chapter. The director shall prescribe the form of the application.

3 SECTION 4. IC 6-3.1-13-15 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. **(a)** After receipt of  
5 an application, the board may enter into an agreement with the  
6 applicant for a credit under this chapter if the board determines that all  
7 of the following conditions exist:

8 (1) The applicant's project will create new jobs that were not jobs  
9 previously performed by employees of the applicant in Indiana.

10 (2) The applicant's project is economically sound and will benefit  
11 the people of Indiana by increasing opportunities for employment  
12 and strengthening the economy of Indiana.

13 (3) There is at least one (1) other state, **nation, or unrelated**  
14 **out-of-state company** that the applicant verifies is being  
15 considered for the project.

16 (4) A significant disparity is identified, using best available data,  
17 in the projected costs for the applicant's project compared to the  
18 costs in the competing state **or nation**, including the impact of the  
19 competing state's **or nation's** incentive programs. The competing  
20 state's **or nation's** incentive programs shall include state, local,  
21 private, and federal funds available.

22 (5) The political subdivisions affected by the project have  
23 committed significant local incentives with respect to the project.

24 (6) Receiving the tax credit is a major factor in the applicant's  
25 decision to go forward with the project and not receiving the tax  
26 credit will result in the applicant not creating new jobs in Indiana.

27 (7) Awarding the tax credit will result in an overall positive fiscal  
28 impact to the state, as certified by the budget agency using the  
29 best available data.

30 (8) The credit is not prohibited by section 16 of this chapter.

31 **(b) Notwithstanding subsection (a), the board may enter into an**  
32 **agreement with the applicant for a credit under this chapter if the**  
33 **board determines that all the following conditions exist:**

34 (1) **The applicant's project will preserve jobs performed by**  
35 **employees or subcontractors of the applicant in Indiana.**

36 (2) **The applicant's project is economically sound and will**  
37 **benefit the people of Indiana by increasing or maintaining**  
38 **opportunities for employment and strengthening the economy**  
39 **of Indiana.**

40 (3) **There is at least one (1) other state, nation, or unrelated**  
41 **out-of-state company that the applicant verifies is being**  
42 **considered for the project.**

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1 (4) A significant disparity is identified, using best available  
 2 data, in the projected costs for the applicant's project  
 3 compared with the costs in the competing state or nation,  
 4 including the effect of the competing state's or nation's  
 5 incentive programs. The competing state's or nation's  
 6 incentive programs must include state, local, private, and  
 7 federal funds available.

8 (5) The political subdivisions affected by the project have  
 9 committed significant local incentives with respect to the  
 10 project.

11 (6) Receiving the tax credit is a major factor in the applicant's  
 12 decision to go forward with the project, and not receiving the  
 13 tax credit will result in the applicant reducing jobs in Indiana.

14 (7) The costs associated with losing the Indiana jobs would  
 15 equal or exceed the amount of the tax credit.

16 (8) The credit is not prohibited by section 16 of this chapter.

17 (9) A history of significant downsizing at the affected site, as  
 18 demonstrated by a reduction in the size of the workforce of at  
 19 least ten percent (10%) from the average employment level  
 20 during the preceding five (5) years.

21 (10) The applicant has issued a notice under the federal  
 22 Worker Adjustment and Retraining Notification Act (29  
 23 U.S.C. 2101 et seq.) to employees covered by that act or a  
 24 similar notification of a pending plant closing or mass layoffs  
 25 of employees not covered by that act.

26 The board shall determine the number of employees or  
 27 subcontractors whose jobs are preserved for purposes of  
 28 calculating the incremental income tax withholdings that will be  
 29 used in determining the maximum permissible amount of the credit  
 30 under section 18 of this chapter.

31 SECTION 5. IC 6-3.1-13-19 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) The board shall  
 33 enter into an agreement with an applicant that is awarded a credit under  
 34 this chapter.

35 (b) This subsection applies to a credit awarded for a project to  
 36 create new jobs in Indiana. The agreement must include all of the  
 37 following:

38 (1) A detailed description of the project that is the subject of the  
 39 agreement.

40 (2) The duration of the tax credit and the first taxable year for  
 41 which the credit may be claimed.

42 (3) The credit amount that will be allowed for each taxable year.

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- 1 (4) A requirement that the taxpayer shall maintain operations at  
 2 the project location for at least two (2) times the number of years  
 3 as the term of the tax credit.
- 4 (5) A specific method for determining the number of new  
 5 employees employed during a taxable year who are performing  
 6 jobs not previously performed by an employee.
- 7 (6) A requirement that the taxpayer shall annually report to the  
 8 board the number of new employees who are performing jobs not  
 9 previously performed by an employee, the new income tax  
 10 revenue withheld in connection with the new employees, and any  
 11 other information the director needs to perform the director's  
 12 duties under this chapter.
- 13 (7) A requirement that the director is authorized to verify with the  
 14 appropriate state agencies the amounts reported under subdivision  
 15 (6), and after doing so shall issue a certificate to the taxpayer  
 16 stating that the amounts have been verified.
- 17 (8) A requirement that the taxpayer shall provide written  
 18 notification to the director and the board not more than thirty (30)  
 19 days after the taxpayer makes or receives a proposal that would  
 20 transfer the taxpayer's state tax liability obligations to a successor  
 21 taxpayer.
- 22 (9) Any other performance conditions that the board determines  
 23 are appropriate.
- 24 **(c) This subsection applies to a credit awarded for a project to**  
 25 **preserve jobs in Indiana. The board shall enter into an agreement**  
 26 **with an applicant that is awarded a credit under this chapter. The**  
 27 **agreement must include all the following:**
- 28 **(1) A detailed description of the project that is the subject of**  
 29 **the agreement.**
- 30 **(2) The duration of the tax credit and the first taxable year for**  
 31 **which the credit may be claimed.**
- 32 **(3) The credit amount that will be allowed for each taxable**  
 33 **year.**
- 34 **(4) A requirement that the taxpayer shall maintain operations**  
 35 **at the project location for at least two (2) times the number of**  
 36 **years as the term of the tax credit.**
- 37 **(5) A requirement that the taxpayer shall provide any**  
 38 **information required by the board for purposes of**  
 39 **determining the amount of income tax withheld with respect**  
 40 **to individuals whose jobs are preserved as a result of the**  
 41 **project.**
- 42 **(6) A requirement that the taxpayer shall provide written**

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**notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.**

**(7) Any other performance conditions that the board determines are appropriate.**

SECTION 6. IC 6-3.1-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year **if a verification is required under section 19 of this chapter.** However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

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