

Adopted	Rejected
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COMMITTEE REPORT

YES:	22
NO:	1

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 378, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, line 3, delete "The definitions in" and insert "**The general**
- 2 **assembly declares that the opportunity for the participation of**
- 3 **underutilized small businesses, especially women and minority**
- 4 **business enterprises, in the biodiesel and ethanol production**
- 5 **industries is essential if social and economic parity is to be obtained**
- 6 **by women and minority business persons and if the economy of**
- 7 **Indiana is to be stimulated as contemplated by this section,**
- 8 **IC 6-3.1-27, and IC 6-3.1-28. A recipient of a credit under this**
- 9 **chapter is encouraged to purchase goods and services from**
- 10 **underutilized small businesses, especially women and minority**
- 11 **business enterprises."**
- 12 Page 1, delete line 4.
- 13 Page 1, line 5, before "used" begin a new paragraph and insert:
- 14 **"(b) The definitions in IC 6-3.1-27 and IC 6-3.1-28 apply**
- 15 **throughout this section. A term"**.

1 Page 1, between lines 12 and 13, begin a new paragraph and insert:
 2 **"(c) As used in this section, "minority" means a member of a**
 3 **minority group (as defined in IC 4-13-16.5-1).**

4 **(d) As used in this section, "minority business enterprise" has**
 5 **the meaning set forth in IC 4-13-16.5-1.**

6 **(e) As used in this section, "women's business enterprise" has**
 7 **the meaning set forth in IC 4-13-16.5-1.3."**

8 Page 1, line 13, delete "(b)" and insert "(f)".

9 Page 2, line 5, delete "(c)" and insert "(g)".

10 Page 2, line 17, delete "(d)" and insert "(h)".

11 Page 2, line 17, delete "(c)," and insert "(g),".

12 Page 2, line 34, delete "(e)" and insert "(i)".

13 Page 2, line 40, delete "(f)" and insert "(j)".

14 Page 3, line 17, delete "(g)" and insert "(k)".

15 Page 6, line 11, delete "IC 4-23-5.5-17." and insert "IC 5-28-6-3."

16 Page 7, delete lines 24 through 42, begin a new paragraph and insert:
 17 "SECTION 15. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JANUARY 1, 2006]:

20 **Chapter 29. Coal Gasification Technology Investment Tax**
 21 **Credit**

22 **Sec. 1. The general assembly declares that the opportunity for**
 23 **the participation of underutilized small businesses, especially**
 24 **women and minority business enterprises, in the coal gasification**
 25 **industry is essential if social and economic parity is to be obtained**
 26 **by women and minority business persons and if the economy of**
 27 **Indiana is to be stimulated as contemplated by this chapter. A**
 28 **recipient of a credit under this chapter is encouraged to purchase**
 29 **goods and services from underutilized small businesses, especially**
 30 **women and minority business enterprises.**

31 **Sec. 2. As used in this chapter, "commission" refers to the**
 32 **Indiana utility regulatory commission.**

33 **Sec. 3. As used in this chapter, "corporation" refers to the**
 34 **Indiana economic development corporation established by**
 35 **IC 5-28-3-1.**

36 **Sec. 4. As used in this chapter, "department" refers to the**
 37 **department of state revenue.**

38 **Sec. 5. As used in this chapter, "Indiana coal" has the meaning**

1 set forth in IC 4-4-30-4.

2 **Sec. 6. As used in this chapter, "integrated coal gasification**
3 **powerplant" means a facility that satisfies all the following**
4 **requirements:**

5 (1) **The facility is located in Indiana and is a newly**
6 **constructed energy generating plant.**

7 (2) **The facility converts coal into synthesis gas that can be**
8 **used as a fuel to generate energy.**

9 (3) **The facility uses the synthesis gas as a fuel to generate**
10 **electric energy.**

11 (4) **The facility is dedicated primarily to serving Indiana retail**
12 **electric utility consumers.**

13 **Sec. 7. As used in this chapter, "minority" means a member of**
14 **a minority group (as defined in IC 4-13-16.5-1.)**

15 **Sec. 8. As used in this section, "minority business enterprise"**
16 **has the meaning set forth in IC 4-13-16.5-1.**

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

18 (1) **a corporation that is exempt from the adjusted gross**
19 **income tax under IC 6-3-2-2.8(2);**

20 (2) **a partnership;**

21 (3) **a limited liability company;**

22 (4) **a limited liability partnership;**

23 (5) **a corporation organized under IC 8-1-13; or**

24 (6) **a corporation organized under IC 23-17-1 that is an**
25 **electric cooperative and that has at least one (1) member that**
26 **is a corporation organized under IC 8-1-13.**

27 **Sec. 10. As used in this chapter, "qualified investment" means**
28 **a taxpayer's expenditures for:**

29 (1) **all real and tangible personal property incorporated in and**
30 **used as part of an integrated coal gasification powerplant; and**

31 (2) **transmission equipment and other real and personal**
32 **property located at the site of an integrated coal gasification**
33 **powerplant that is employed specifically to serve the**
34 **integrated coal gasification powerplant.**

35 **Sec. 11. As used in this chapter, "state tax liability" means a**
36 **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 6-5.5 (the financial institutions tax);**

1 **(3) IC 27-1-18-2 (the insurance premiums tax); and**
 2 **(4) IC 6-2.3 (the utility receipts tax);**
 3 **as computed after the application of the credits that under**
 4 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
 5 **chapter.**

6 **Sec. 12. As used in this chapter, "taxpayer" means a person, a**
 7 **corporation, a partnership, or other entity that has any state tax**
 8 **liability.**

9 **Sec. 13. As used in this section, "women's business enterprise"**
 10 **has the meaning set forth in IC 4-13-16.5-1.3.**

11 **Sec. 14. (a) A taxpayer that:**

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

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

17 **is entitled to a credit against the taxpayer's state tax liability for a**
 18 **taxable year in which the taxpayer places into service an integrated**
 19 **coal gasification powerplant and for the taxable years provided in**
 20 **section 16 of this chapter.**

21 **(b) A tax credit awarded under this chapter must be applied**
 22 **against the taxpayer's state tax liability in the following order:**

23 **(1) Against the taxpayer's liability incurred under IC 6-3-1**
 24 **through IC 6-3-7 (the adjusted gross income tax).**

25 **(2) Against the taxpayer's liability incurred under IC 6-5.5**
 26 **(the financial institutions tax).**

27 **(3) Against the taxpayer's liability incurred under**
 28 **IC 27-1-18-2 (the insurance premiums tax).**

29 **(4) Against the taxpayer's liability incurred under IC 6-2.3**
 30 **(the utility receipts tax).**

31 **Sec. 15. Subject to section 16 of this chapter, the amount of the**
 32 **credit to which a taxpayer is entitled is equal to the sum of the**
 33 **following:**

34 **(1) Ten percent (10%) of the taxpayer's qualified investment**
 35 **for the first five hundred million dollars (\$500,000,000)**
 36 **invested.**

37 **(2) Five percent (5%) of the amount of the taxpayer's**
 38 **qualified investment that exceeds five hundred million dollars**

1 (\$500,000,000).

2 **Sec. 16. (a)** A credit awarded under section 15 of this chapter
3 must be taken in ten (10) annual installments, beginning with the
4 year in which the taxpayer places into service an integrated coal
5 gasification powerplant.

6 **(b)** The amount of an annual installment of the credit awarded
7 under section 15 of this chapter is equal to the amount determined
8 in the last of the following STEPS:

9 **STEP ONE: Determine the lesser of:**

10 **(A)** the credit amount determined under section 15 of this
11 chapter, divided by ten (10); or

12 **(B)** the greater of:

13 **(i)** the taxpayer's total state tax liability for the taxable
14 year, multiplied by twenty-five percent (25%); or

15 **(ii)** the taxpayer's liability for the utility receipts tax
16 imposed under IC 6-2.3 for the taxable year.

17 **STEP TWO: Multiply the STEP ONE amount by the**
18 **percentage of Indiana coal used in the taxpayer's integrated**
19 **coal gasification powerplant in the taxable year for which the**
20 **annual installment of the credit is allowed.**

21 **(c)** If the credit allowed by this chapter is available to a member
22 of an affiliated group of corporations filing a consolidated return
23 under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied
24 against the state tax liability of the affiliated group.

25 **Sec. 17.** A person that proposes to place a new integrated coal
26 gasification powerplant into service may apply to the corporation
27 before the taxpayer makes the qualified investment to enter into an
28 agreement for a tax credit under this chapter. The corporation
29 shall prescribe the form of the application.

30 **Sec. 18.** After receipt of an application, the corporation may
31 enter into an agreement with the applicant for a credit under this
32 chapter if the corporation determines that the taxpayer's proposed
33 investment satisfies the requirements of this chapter.

34 **Sec. 19. (a)** The corporation shall enter into an agreement with
35 an applicant that is awarded a credit under this chapter. The
36 agreement must include all the following:

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

- 1 **(2) The first taxable year for which the credit may be claimed.**
2 **(3) The maximum tax credit amount that will be allowed for**
3 **each taxable year.**
4 **(4) A requirement that the taxpayer shall maintain operations**
5 **at the project location for at least ten (10) years during the**
6 **term that the tax credit is available.**
7 **(5) A requirement that the taxpayer shall pay an average wage**
8 **to its employees at the integrated coal gasification powerplant,**
9 **other than highly compensated employees, in each taxable**
10 **year that a tax credit is available that equals at least one**
11 **hundred twenty-five percent (125%) of the average county**
12 **wage in the county in which the integrated coal gasification**
13 **powerplant is located.**
14 **(6) A requirement that the taxpayer will maintain during the**
15 **term of the tax credit a total payroll paid to Indiana residents**
16 **that is at least equal to the payroll level that existed before the**
17 **qualified investment was made.**
18 **(7) A requirement that the taxpayer shall use Indiana coal at**
19 **the taxpayer's integrated coal gasification powerplant.**
20 **(8) A requirement that the taxpayer obtain from the**
21 **commission a determination under IC 8-1-8.5-2 that public**
22 **convenience and necessity require, or will require, the**
23 **construction of the taxpayer's integrated coal gasification**
24 **powerplant.**
25 **(b) A taxpayer must comply with the terms of the agreement**
26 **described in subsection (a) to receive an annual installment of the**
27 **tax credit awarded under this chapter. The corporation shall**
28 **annually determine whether the taxpayer is in compliance with the**
29 **agreement. If the corporation determines that the taxpayer is in**
30 **compliance, the corporation shall issue a certificate of compliance**
31 **to the taxpayer.**
32 **Sec. 20. If a pass through entity does not have state tax liability**
33 **against which the tax credit may be applied, a shareholder,**
34 **partner, or member of the pass through entity is entitled to a tax**
35 **credit equal to:**
36 **(1) the tax credit determined for the pass through entity for**
37 **the taxable year; multiplied by**
38 **(2) in the case of a pass through entity described in:**

- 1 **(i) section 9(1), 9(2), 9(3), or 9(4) of this chapter, the**
 2 **percentage of the pass through entity's distributive income**
 3 **to which the shareholder, partner, or member is entitled;**
 4 **and**
 5 **(ii) section 9(5) or 9(6) of this chapter, the relative**
 6 **percentage of the corporation's patronage dividends**
 7 **allocable to the member for the taxable year.**

8 **Sec. 21. To receive the credit awarded by this chapter, a**
 9 **taxpayer must claim the credit on the taxpayer's annual state tax**
 10 **return or returns in the manner prescribed by the department. The**
 11 **taxpayer shall submit to the department a copy of the commission's**
 12 **determination required under section 19 of this chapter, a copy of**
 13 **the taxpayer's certificate of compliance issued under section 19 of**
 14 **this chapter, and all information that the department determines**
 15 **is necessary for the calculation of the credit provided by this**
 16 **chapter."**

17 Delete pages 8 through 10.

18 Page 11, delete lines 1 through 4.

19 Page 11, line 12, delete "IC 5-29-6-3," and insert "**IC 5-28-6-3**,".

20 Re-number all SECTIONS consecutively.

(Reference is to SB 378 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Representative Espich