

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1003 be amended to read as follows:

- 1 Page 43, line 5, delete "The" and insert "**Subject to approval by the**
- 2 **budget agency, the**".
- 3 Page 43, line 6, delete "or any other state officer," and insert ",".
- 4 Page 43, line 10, delete "The" and insert "**Subject to approval by**
- 5 **the budget agency, the**".
- 6 Page 43, line 11, delete "or any other state officer." and insert ".".
- 7 Page 50, line 11, after "deposited" insert "**in**".
- 8 Page 53, line 25, after "deposited" insert "**in**".
- 9 Page 72, line 16, delete "(c)" and insert "**(d)**".
- 10 Page 72, line 21, delete "(d)" and insert "**(e)**".
- 11 Page 76, line 20, delete "phase-out" and insert "**phaseout**".
- 12 Page 82, line 27, after "deposited " insert "**in**".
- 13 Page 87, line 7, after "chapter." insert "**However, the corporation**
- 14 **shall assume the debt of the small business development**
- 15 **corporation that is outstanding on the date the small business**
- 16 **development corporation is abolished.**".
- 17 Page 89, line 6, after "deposited" insert "**in**".
- 18 Page 103, line 4, delete "26." and insert "**23.**".
- 19 Page 104, line 27, after "chapter." insert "**However, the**
- 20 **corporation shall assume the debt of the business modernization**
- 21 **and technology corporation that is outstanding on the date the**
- 22 **business modernization and technology corporation is abolished.**".
- 23 Page 104, line 32, delete "23." and insert "**24.**".
- 24 Page 105, line 22, delete "office." and insert "**corporation.**".
- 25 Page 106, line 35, delete "24." and insert "**25.**".
- 26 Page 108, delete lines 17 through 42.
- 27 Delete page 109.
- 28 Page 110, delete lines 1 through 33.
- 29 Page 133, delete lines 39 through 42, begin a new paragraph and
- 30 insert:
- 31 "**SECTION 66. IC 6-3.1-13-1.5 IS ADDED TO THE INDIANA**

1 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. As used in this chapter,**  
 3 **"corporation" means the Indiana economic development**  
 4 **corporation established by IC 5-28-3-1.**

5 SECTION 67. IC 6-3.1-13-2 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this  
 7 chapter, "credit amount" means the amount agreed to between the ~~board~~  
 8 **corporation** and applicant under this chapter, but not to exceed, in the  
 9 case of a credit awarded for a project to create new jobs in Indiana, the  
 10 incremental income tax withholdings attributable to the applicant's  
 11 project.

12 SECTION 68. IC 6-3.1-13-3 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this  
 14 chapter, "director" means the ~~director president~~ of the ~~department of~~  
 15 ~~commerce:~~ **corporation.**

16 SECTION 69. IC 6-3.1-13-13 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The ~~board~~  
 18 **corporation** may make credit awards under this chapter to foster job  
 19 creation in Indiana or, as provided in section 15.5 of this chapter, job  
 20 retention in Indiana.

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

23 SECTION 70. IC 6-3.1-13-14 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A person that  
 25 proposes a project to create new jobs in Indiana may apply, as provided  
 26 in section 15 of this chapter, to the ~~board~~ **corporation** to enter into an  
 27 agreement for a tax credit under this chapter. A person that proposes to  
 28 retain existing jobs in Indiana may apply, as provided in section 15.5  
 29 of this chapter, to the ~~board~~ **corporation** to enter into an agreement for  
 30 a tax credit under this chapter. The director shall prescribe the form of  
 31 the application.

32 SECTION 71. IC 6-3.1-13-15 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. This section applies  
 34 to an application proposing a project to create new jobs in Indiana.  
 35 After receipt of an application, the ~~board~~ **corporation** may enter into  
 36 an agreement with the applicant for a credit under this chapter if the  
 37 ~~board~~ **corporation** determines that all of the following conditions exist:

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

40 (2) The applicant's project is economically sound and will benefit  
 41 the people of Indiana by increasing opportunities for employment  
 42 in Indiana and strengthening the economy of Indiana.

43 ~~(3) The political subdivisions affected by the project have~~  
 44 ~~committed significant local incentives with respect to the project:~~

45 ~~(4)~~ **(3)** Receiving the tax credit is a major factor in the applicant's  
 46 decision to go forward with the project, and not receiving the tax  
 47 credit will result in the applicant not creating new jobs in Indiana.

48 ~~(5)~~ **(4)** Awarding the tax credit will result in an overall positive

- 1           fiscal impact to the state, as certified by the budget agency using  
2           the best available data.
- 3           ~~(6)~~ (5) The credit is not prohibited by section 16 of this chapter.
- 4           SECTION 72. IC 6-3.1-13-15.5 IS AMENDED TO READ AS  
5           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section  
6           applies to an application proposing to retain existing jobs in Indiana.  
7           After receipt of an application, the **board corporation** may enter into  
8           an agreement with the applicant for a credit under this chapter if the  
9           **board corporation** determines that all the following conditions exist:
- 10          (1) The applicant's project will retain existing jobs performed by  
11          the employees of the applicant in Indiana.
- 12          (2) The applicant provides evidence that there is at least one (1)  
13          other competing site outside Indiana that is being considered for  
14          the project or for the relocation of jobs.
- 15          (3) A disparity is identified, using the best available data, in the  
16          projected costs for the applicant's project in Indiana compared  
17          with the costs for the project in the competing site.
- 18          (4) The applicant is engaged in research and development,  
19          manufacturing, or business services (as defined in the Standard  
20          Industrial Classification Manual of the United States Office of  
21          Management and Budget).
- 22          (5) The average compensation (including benefits) provided to the  
23          applicant's employees during the applicant's previous fiscal year  
24          exceeds the average compensation paid during that same period  
25          to all employees in the county in which the applicant's business is  
26          located by at least five percent (5%).
- 27          (6) The applicant employs at least two hundred (200) employees  
28          in Indiana.
- 29          (7) The applicant has prepared a plan for the use of the credits  
30          under this chapter for:
- 31                (A) investment in facility improvements or equipment and  
32                machinery upgrades, repairs, or retrofits; or
- 33                (B) other direct business related investments, including but not  
34                limited to training.
- 35          (8) Receiving the tax credit is a major factor in the applicant's  
36          decision to go forward with the project, and not receiving the tax  
37          credit will increase the likelihood of the applicant reducing jobs  
38          in Indiana.
- 39          (9) Awarding the tax credit will result in an overall positive fiscal  
40          impact to the state, as certified by the budget agency using the  
41          best available data.
- 42          (10) The applicant's business and project are economically sound  
43          and will benefit the people of Indiana by increasing or maintaining  
44          opportunities for employment and strengthening the economy of  
45          Indiana.
- 46          (11) The communities affected by the potential reduction in jobs  
47          or relocation of jobs to another site outside Indiana have  
48          committed at least one dollar and fifty cents (\$1.50) of local

1 incentives with respect to the retention of jobs for every three  
 2 dollars (\$3) in credits provided under this chapter. For purposes  
 3 of this subdivision, local incentives include, but are not limited to,  
 4 cash grants, tax abatements, infrastructure improvements,  
 5 investment in facility rehabilitation, construction, and training  
 6 investments.

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

8 SECTION 73. IC 6-3.1-13-16 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person is not  
 10 entitled to claim the credit provided by this chapter for any jobs that the  
 11 person relocates from one (1) site in Indiana to another site in Indiana.  
 12 Determinations under this section shall be made by the ~~board~~  
 13 **corporation**.

14 SECTION 74. IC 6-3.1-13-17 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the  
 16 credit amount that should be awarded to an applicant under section 15  
 17 of this chapter that proposes a project to create jobs in Indiana, the  
 18 ~~board~~ **corporation** shall take into consideration the following factors:

19 (1) The economy of the county where the projected investment is  
 20 to occur.

21 (2) The potential impact on the economy of Indiana.

22 (3) The incremental payroll attributable to the project.

23 (4) The capital investment attributable to the project.

24 (5) The amount the average wage paid by the applicant exceeds  
 25 the average wage paid within the county in which the project will  
 26 be located.

27 (6) The costs to Indiana and the affected political subdivisions  
 28 with respect to the project.

29 (7) The financial assistance **and incentives** that ~~is are~~ otherwise  
 30 provided by Indiana and the affected political subdivisions.

31 As appropriate, the ~~board~~ **corporation** shall consider the factors in this  
 32 section to determine the credit amount awarded to an applicant for a  
 33 project to retain existing jobs in Indiana under section 15.5 of this  
 34 chapter. In the case of an applicant under section 15.5 of this chapter,  
 35 the ~~board~~ **corporation** shall consider the magnitude of the cost  
 36 differential between the projected costs for the applicant's project in  
 37 the competing site outside Indiana and the projected costs for the  
 38 applicant's project in Indiana.

39 SECTION 75. IC 6-3.1-13-18 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The ~~board~~  
 41 **corporation** shall determine the amount and duration of a tax credit  
 42 awarded under this chapter. The duration of the credit may not exceed  
 43 ten (10) taxable years. The credit may be stated as a percentage of the  
 44 incremental income tax withholdings attributable to the applicant's  
 45 project and may include a fixed dollar limitation. In the case of a credit  
 46 awarded for a project to create new jobs in Indiana, the credit amount  
 47 may not exceed the incremental income tax withholdings. However, the  
 48 credit amount claimed for a taxable year may exceed the taxpayer's

1 state tax liability for the taxable year, in which case the excess ~~shall~~  
 2 **may, at the discretion of the corporation,** be refunded to the  
 3 taxpayer.

4 (b) For state fiscal years 2004 and 2005, the aggregate amount of  
 5 credits awarded under this chapter for projects to retain existing jobs in  
 6 Indiana may not exceed five million dollars (\$5,000,000) per year.

7 SECTION 76. IC 6-3.1-13-19 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. In the case of a  
 9 credit awarded for a project to create new jobs in Indiana, the ~~board~~  
 10 **corporation** shall enter into an agreement with an applicant that is  
 11 awarded a credit under this chapter. The agreement must include all of  
 12 the following:

13 (1) A detailed description of the project that is the subject of the  
 14 agreement.

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

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

18 (4) A requirement that the taxpayer shall maintain operations at  
 19 the project location for at least two (2) times the number of years  
 20 as the term of the tax credit. A taxpayer is subject to an  
 21 assessment under section 22 of this chapter for noncompliance  
 22 with the requirement described in this subdivision.

23 (5) A specific method for determining the number of new  
 24 employees employed during a taxable year who are performing  
 25 jobs not previously performed by an employee.

26 (6) A requirement that the taxpayer shall annually report to the  
 27 ~~board~~ **corporation** the number of new employees who are  
 28 performing jobs not previously performed by an employee, the  
 29 new income tax revenue withheld in connection with the new  
 30 employees, and any other information the director needs to  
 31 perform the director's duties under this chapter.

32 (7) A requirement that the director is authorized to verify with the  
 33 appropriate state agencies the amounts reported under subdivision  
 34 (6), and after doing so shall issue a certificate to the taxpayer  
 35 stating that the amounts have been verified.

36 (8) A requirement that the taxpayer shall provide written  
 37 notification to the director and the ~~board~~ **corporation** not more  
 38 than thirty (30) days after the taxpayer makes or receives a  
 39 proposal that would transfer the taxpayer's state tax liability  
 40 obligations to a successor taxpayer.

41 (9) Any other performance conditions that the ~~board~~ **corporation**  
 42 determines are appropriate.

43 SECTION 77. IC 6-3.1-13-19.5 IS AMENDED TO READ AS  
 44 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of  
 45 a credit awarded for a project to retain existing jobs in Indiana, the  
 46 ~~board~~ **corporation** shall enter into an agreement with an applicant that  
 47 is awarded a credit under this chapter. The agreement must include all  
 48 of the following:

- 1 (1) A detailed description of the business that is the subject of the  
 2 agreement.
- 3 (2) The duration of the tax credit and the first taxable year for  
 4 which the credit may be claimed.
- 5 (3) The credit amount that will be allowed for each taxable year.
- 6 (4) A requirement that the applicant shall maintain operations at  
 7 the project location for at least two (2) times the number of years  
 8 as the term of the tax credit. An applicant is subject to an  
 9 assessment under section 22 of this chapter for noncompliance  
 10 with the requirement described in this subdivision.
- 11 (5) A requirement that the applicant shall annually report the  
 12 following to the ~~board~~ **corporation**:
- 13 (A) The number of employees who are employed in Indiana by  
 14 the applicant.
- 15 (B) The compensation (including benefits) paid to the  
 16 applicant's employees in Indiana.
- 17 (C) The amount of the:
- 18 (i) facility improvements;
- 19 (ii) equipment and machinery upgrades, repairs, or retrofits;
- 20 or
- 21 (iii) other direct business related investments, including  
 22 training.
- 23 (6) A requirement that the applicant shall provide written  
 24 notification to the director and the ~~board~~ **corporation** not more  
 25 than thirty (30) days after the applicant makes or receives a  
 26 proposal that would transfer the applicant's state tax liability  
 27 obligations to a successor taxpayer.
- 28 (7) A requirement that the chief executive officer of the company  
 29 applying for a credit under this chapter must verify under penalty  
 30 of perjury that the disparity between projected costs of the  
 31 applicant's project in Indiana compared with the costs for the  
 32 project in a competing site is real and actual.
- 33 (8) Any other performance conditions that the ~~board~~ **corporation**  
 34 determines are appropriate.
- 35 (b) An agreement between an applicant and the ~~board~~ **corporation**  
 36 must be submitted to the budget committee for review and must be  
 37 approved by the budget agency before an applicant is awarded a credit  
 38 under this chapter for a project to retain existing jobs in Indiana.
- 39 SECTION 78. IC 6-3.1-13-20 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A taxpayer  
 41 claiming a credit under this chapter **must claim the credit on the**  
 42 **taxpayer's annual state tax return or returns in the manner**  
 43 **prescribed by the department of state revenue. The taxpayer shall**  
 44 **submit to the department of state revenue a copy of the director's**  
 45 **certificate of verification under this chapter for the taxable year.**  
 46 **However, failure to submit a copy of the certificate does not invalidate**  
 47 **a claim for a credit. all information that the department determines**  
 48 **necessary for the calculation of the credit provided by this chapter**

1 **and the determination of whether the credit was properly claimed.**

2 SECTION 79. IC 6-3.1-13-21 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) If a pass  
4 through entity does not have state income tax liability against which the  
5 tax credit may be applied, a shareholder or partner of the pass through  
6 entity is entitled 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 or partner is entitled.

11 (b) The credit provided under subsection (a) is in addition to a tax  
12 credit to which a shareholder or partner of a pass through entity is  
13 otherwise entitled under a separate agreement under this chapter. A  
14 pass through entity and a shareholder or partner of the pass through  
15 entity may not claim more than one (1) credit under the same  
16 agreement.

17 (c) This subsection applies only to a pass through entity that is a  
18 limited liability company or a limited liability partnership owned  
19 wholly or in part by an electric cooperative incorporated under  
20 IC 8-1-13. At the request of a pass through entity, if the ~~board~~  
21 **corporation** finds that the amount of the average wage to be paid by  
22 the pass through entity will be at least double the average wage paid  
23 within the county in which the project will be located, the ~~board~~  
24 **corporation** may determine that:

25 (1) the credit shall be claimed by the pass through entity; and

26 (2) if the credit exceeds the pass through entity's state income tax  
27 liability for the taxable year, the excess shall be refunded to the  
28 pass through entity.

29 If the ~~board~~ **corporation** grants a refund directly to a pass through  
30 entity under this subsection, the pass through entity shall claim the  
31 refund on forms prescribed by the department of state revenue.

32 SECTION 80. IC 6-3.1-13-22 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If the ~~director~~  
34 **department of state revenue or the corporation** determines that a  
35 taxpayer who has ~~received~~ **claimed** a credit under this chapter is not  
36 ~~complying~~ **entitled to the credit because of the taxpayer's**  
37 **noncompliance** with the requirements of the tax credit agreement or all  
38 of the provisions of this chapter, the ~~director~~ **department or the**  
39 **corporation** shall, after giving the taxpayer an opportunity to explain  
40 the noncompliance, ~~notify the department of commerce of the~~  
41 ~~noncompliance and request~~ **impose** an assessment ~~The director shall~~  
42 ~~state the~~ **on the taxpayer in an amount of the assessment; which that**  
43 ~~may not exceed the sum of any previously allowed credits under this~~  
44 ~~chapter~~ ~~After receiving such a notice, the department of commerce shall~~  
45 ~~make an assessment against the taxpayer under IC 6-8-1 for the amount~~  
46 ~~stated in the director's notice.~~ **together with interest and penalties**  
47 **required or permitted by law.**

48 SECTION 81. IC 6-3.1-13-23 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. On or before March  
 2 31 each year, the director shall submit a report to the ~~board~~  
 3 **corporation** on the tax credit program under this chapter. The report  
 4 shall include information on the number of agreements that were  
 5 entered into under this chapter during the preceding calendar year, a  
 6 description of the project that is the subject of each agreement, an  
 7 update on the status of projects under agreements entered into before  
 8 the preceding calendar year, and the sum of the credits awarded under  
 9 this chapter. A copy of the report shall be transmitted in an electronic  
 10 format under IC 5-14-6 to the executive director of the legislative  
 11 services agency for distribution to the members of the general  
 12 assembly.

13 SECTION 82. IC 6-3.1-13-24 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On a biennial basis,  
 15 the ~~board corporation~~ shall provide for an evaluation of the tax credit  
 16 program. ~~giving first priority to using the Indiana economic~~  
 17 ~~development council, established under IC 4-3-14-4.~~ The evaluation  
 18 shall include an assessment of the effectiveness of the program in  
 19 creating new jobs and retaining existing jobs in Indiana and of the  
 20 revenue impact of the program, and may include a review of the  
 21 practices and experiences of other states with similar programs. The  
 22 director shall submit a report on the evaluation to the governor, the  
 23 president pro tempore of the senate, and the speaker of the house of  
 24 representatives after June 30 and before November 1 in each  
 25 odd-numbered year.

26 SECTION 83. IC 6-3.1-13-25 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. The ~~department of~~  
 28 ~~commerce corporation~~ may adopt rules under IC 4-22-2 necessary to  
 29 implement this chapter. The rules may provide for recipients of tax  
 30 credits under this chapter to be charged fees to cover administrative  
 31 costs of the tax credit program. Fees collected shall be deposited in the  
 32 economic development for a growing economy fund.

33 SECTION 84. IC 6-3.1-13-26 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The economic  
 35 development for a growing economy fund is established to be used  
 36 exclusively for the purposes of this chapter and IC 6-3.1-26, including  
 37 paying for the costs of administering this chapter and IC 6-3.1-26. The  
 38 fund shall be administered by the ~~department of commerce~~  
 39 **corporation.**

40 (b) The fund consists of collected fees, appropriations from the  
 41 general assembly, and gifts and grants to the fund.

42 (c) The treasurer of state shall invest the money in the fund not  
 43 currently needed to meet the obligations of the fund in the same manner  
 44 as other public funds may be invested. Interest that accrues from these  
 45 investments shall be deposited in the fund.

46 (d) The money in the fund at the end of a state fiscal year does not  
 47 revert to the state general fund but remains in the fund to be used  
 48 exclusively for the purposes of this chapter. Expenditures from the fund



1 are subject to appropriation by the general assembly and approval by  
2 the budget agency.

3 SECTION 85. IC 6-3.1-13-27 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Subject to all  
5 other requirements of this chapter, the **board corporation** may award  
6 a tax credit under this chapter to a nonprofit organization that is a high  
7 growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5)  
8 if:

9 (1) the nonprofit organization:

10 (A) is a taxpayer (as defined in section 10 of this chapter); and

11 (B) meets all requirements of this chapter; and

12 (2) all of the following conditions are satisfied:

13 (A) The wages of at least seventy-five percent (75%) of the  
14 organization's total workforce in Indiana must be equal to at  
15 least two hundred percent (200%) of the average county wage,  
16 as determined by the ~~department of commerce~~, **corporation**,  
17 in the county where the project for which the credit is granted  
18 will be located.

19 (B) The organization must make an investment of at least fifty  
20 million dollars (\$50,000,000) in capital assets.

21 (C) The affected political subdivision must provide substantial  
22 financial assistance to the project.

23 (D) The incremental payroll attributable to the project must be  
24 at least ten million dollars (\$10,000,000) annually.

25 (E) The organization agrees to pay the ad valorem property  
26 taxes on the organization's real and personal property that  
27 would otherwise be exempt under IC 6-1.1-10.

28 (F) The organization does not receive any deductions from the  
29 assessed value of the organization's real and personal property  
30 under IC 6-1.1-12 or IC 6-1.1-12.1.

31 (G) The organization pays all of the organization's ad valorem  
32 property taxes to the taxing units in the taxing district in which  
33 the project is located.

34 (H) The project for which the credit is granted must be located  
35 in a county having a population of more than one hundred  
36 eighty thousand (180,000) but less than one hundred  
37 eighty-two thousand seven hundred ninety (182,790).

38 (b) Notwithstanding section 6(a) of this chapter, the **board**  
39 **corporation** may award credits to an organization under subsection (a)  
40 if:

41 (1) the organization met all other conditions of this chapter at the  
42 time of the applicant's location or expansion decision;

43 (2) the applicant is in receipt of a letter from the department of  
44 commerce stating an intent to pursue a credit agreement; and

45 (3) the letter described in subdivision (2) is issued by the  
46 department of commerce not later than January 1, 2000."

47 Delete pages 134 through 138.

48 Page 139, delete lines 1 through 22.

1 Page 148, between lines 3 and 4, begin a new paragraph and insert:  
 2 "SECTION 113. IC 6-3.1-26-2.5 IS ADDED TO THE INDIANA  
 3 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 4 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. As used in this chapter,**  
 5 **"corporation" means the Indiana economic development**  
 6 **corporation established by IC 5-28-3-1.**

7 SECTION 114. IC 6-3.1-26-8 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this  
 9 chapter, "qualified investment" means the amount of the taxpayer's  
 10 expenditures for:

- 11 (1) the purchase of new telecommunications, production,
- 12 manufacturing, fabrication, assembly, extraction, mining,
- 13 processing, refining, or finishing equipment;
- 14 (2) the purchase of new computers and related equipment;
- 15 (3) costs associated with the modernization of existing
- 16 telecommunications, production, manufacturing, fabrication,
- 17 assembly, extraction, mining, processing, refining, or finishing
- 18 facilities;
- 19 (4) onsite infrastructure improvements;
- 20 (5) the construction of new telecommunications, production,
- 21 manufacturing, fabrication, assembly, extraction, mining,
- 22 processing, refining, or finishing facilities;
- 23 (6) costs associated with retooling existing machinery and
- 24 equipment; and
- 25 (7) costs associated with the construction of special purpose
- 26 buildings and foundations for use in the computer, software,
- 27 biological sciences, or telecommunications industry;

28 that are certified by the ~~board~~ **corporation** under this chapter as being  
 29 eligible for the credit under this chapter.

30 (b) The term does not include property that can be readily moved  
 31 outside Indiana.

32 SECTION 115. IC 6-3.1-26-12 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The ~~board~~  
 34 **corporation** may make credit awards under this chapter to foster job  
 35 creation and higher wages in Indiana.

36 SECTION 116. IC 6-3.1-26-13 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A taxpayer that:

- 38 (1) is awarded a tax credit under this chapter by the ~~board~~;  
 39 **corporation**; and
- 40 (2) complies with the conditions set forth in this chapter and the  
 41 agreement entered into by the ~~board~~ **corporation** and the taxpayer  
 42 under this chapter;

43 is entitled to a credit against the taxpayer's state tax liability in a taxable  
 44 year.

45 SECTION 117. IC 6-3.1-26-17 IS AMENDED TO READ AS  
 46 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. A person that  
 47 proposes a project to create new jobs or increase wage levels in Indiana  
 48 may apply to the ~~board~~ **corporation** before the taxpayer makes the

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

3 SECTION 118. IC 6-3.1-26-18 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. After receipt of an  
5 application, the **board corporation** may enter into an agreement with  
6 the applicant for a credit under this chapter if the **board corporation**  
7 determines that all the following conditions exist:

8 (1) The applicant has conducted business in Indiana for at least  
9 one (1) year immediately preceding the date the application is  
10 received.

11 (2) The applicant's project will raise the total earnings of  
12 employees of the applicant in Indiana.

13 (3) The applicant's project is economically sound and will benefit  
14 the people of Indiana by increasing opportunities for employment  
15 and strengthening the economy of Indiana.

16 (4) Receiving the tax credit is a major factor in the applicant's  
17 decision to go forward with the project and not receiving the tax  
18 credit will result in the applicant not raising the total earnings of  
19 employees in Indiana.

20 (5) Awarding the tax credit will result in an overall positive fiscal  
21 impact to the state, as certified by the budget agency using the  
22 best available data.

23 (6) The credit is not prohibited by section 19 of this chapter.

24 (7) The average wage that will be paid by the taxpayer to its  
25 employees (excluding highly compensated employees) at the  
26 location after the credit is given will be at least equal to one  
27 hundred fifty percent (150%) of the hourly minimum wage under  
28 IC 22-2-2-4 or its equivalent.

29 SECTION 119. IC 6-3.1-26-19 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person is not  
31 entitled to claim the credit provided by this chapter for any jobs that the  
32 person relocates from one (1) site in Indiana to another site in Indiana.  
33 Determinations under this section shall be made by the ~~board~~  
34 **corporation**.

35 SECTION 120. IC 6-3.1-26-20 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. The **board**  
37 **corporation** shall certify the amount of the qualified investment that is  
38 eligible for a credit under this chapter. In determining the credit amount  
39 that should be awarded, the **board corporation** shall grant a credit only  
40 for the amount of the qualified investment that is directly related to  
41 expanding the workforce in Indiana.

42 SECTION 121. IC 6-3.1-26-21 IS AMENDED TO READ AS  
43 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The **board**  
44 **corporation** shall enter into an agreement with an applicant that is  
45 awarded a credit under this chapter. The agreement must include all the  
46 following:

47 (1) A detailed description of the project that is the subject of the  
48 agreement.

- 1 (2) The first taxable year for which the credit may be claimed.
- 2 (3) The amount of the taxpayer's state tax liability for each tax in
- 3 the taxable year of the taxpayer that immediately preceded the
- 4 first taxable year in which the credit may be claimed.
- 5 (4) The maximum tax credit amount that will be allowed for each
- 6 taxable year.
- 7 (5) A requirement that the taxpayer shall maintain operations at
- 8 the project location for at least ten (10) years during the term that
- 9 the tax credit is available.
- 10 (6) A specific method for determining the number of new
- 11 employees employed during a taxable year who are performing
- 12 jobs not previously performed by an employee.
- 13 (7) A requirement that the taxpayer shall annually report to the
- 14 **board corporation** the number of new employees who are
- 15 performing jobs not previously performed by an employee, the
- 16 average wage of the new employees, the average wage of all
- 17 employees at the location where the qualified investment is made,
- 18 and any other information the director needs to perform the
- 19 director's duties under this chapter.
- 20 (8) A requirement that the director is authorized to verify with the
- 21 appropriate state agencies the amounts reported under subdivision
- 22 (7), and that after doing so shall issue a certificate to the taxpayer
- 23 stating that the amounts have been verified.
- 24 (9) A requirement that the taxpayer shall pay an average wage to
- 25 all its employees other than highly compensated employees in
- 26 each taxable year that a tax credit is available that equals at least
- 27 one hundred fifty percent (150%) of the hourly minimum wage
- 28 under IC 22-2-2-4 or its equivalent.
- 29 (10) A requirement that the taxpayer will keep the qualified
- 30 investment property that is the basis for the tax credit in Indiana
- 31 for at least the lesser of its useful life for federal income tax
- 32 purposes or ten (10) years.
- 33 (11) A requirement that the taxpayer will maintain at the location
- 34 where the qualified investment is made during the term of the tax
- 35 credit a total payroll that is at least equal to the payroll level that
- 36 existed before the qualified investment was made.
- 37 (12) A requirement that the taxpayer shall provide written
- 38 notification to the director and the **board corporation** not more
- 39 than thirty (30) days after the taxpayer makes or receives a
- 40 proposal that would transfer the taxpayer's state tax liability
- 41 obligations to a successor taxpayer.
- 42 (13) Any other performance conditions that the **board**
- 43 **corporation** determines are appropriate.

44 SECTION 122. IC 6-3.1-26-24 IS AMENDED TO READ AS  
 45 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On or before March  
 46 31 each year, the director shall submit a report to the **board**  
 47 **corporation** on the tax credit program under this chapter. The report  
 48 must include information on the number of agreements that were

1 entered into under this chapter during the preceding calendar year, a  
 2 description of the project that is the subject of each agreement, an  
 3 update on the status of projects under agreements entered into before  
 4 the preceding calendar year, and the sum of the credits awarded under  
 5 this chapter. A copy of the report shall be transmitted in an electronic  
 6 format under IC 5-14-6 to the executive director of the legislative  
 7 services agency for distribution to the members of the general  
 8 assembly."

9 Page 148, line 19, strike "board" and insert "**corporation**".

10 Page 148, line 20, delete "," and insert ".".

11 Page 148, line 20, strike "giving first priority to using the Indiana  
 12 economic".

13 Page 148, line 21, strike "development".

14 Page 148, line 21, delete "corporation".

15 Page 148, line 21, strike "established under".

16 Page 148, line 22, delete "IC 5-28-3".

17 Page 194, line 16, delete "IC 6-3.1-13-3." and insert "IC 6-3.1-13-1;  
 18 IC 6-3.1-13-12; IC 6-3.1-26-2".

19 Renumber all SECTIONS consecutively.

(Reference is to EHB 1003 as printed January 28, 2005.)

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Senator FORD