SENATE BILL No. 244

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-26.

Synopsis: Hoosier business investment income tax credit. Revises the Hoosier business investment tax credit. Provides that for a qualified investment in a project that substantially enhances the logistics industry and improves the overall Indiana economy, the project will not have to create new jobs or increase wage levels in Indiana. Increases the tax credit ceiling from 10% to 25% of a qualified investment if the qualified investment is a capital investment. Adds specificity to certain qualified investments for non-infrastructure and infrastructure investments related to distribution, transportation, or logistical distribution by air, rail, water, or highway. Specifies that the credit may be used to provide an incentive to invest in privately-held airports, rail, waterways, and roads if the investment will expand the overall capacity to transport freight. Provides that for capital investments, the qualified investments used to determine the credit are based on growth in qualified investments by the taxpayer using 105% of the investments made by the taxpayer during the immediately preceding two years. Limits the credit for a qualified investment that consists of new infrastructure construction or an infrastructure addition or improvement to an overall credit ceiling of $20,000,000 for each state fiscal year. Changes the sunset date for granting credit awards from December, 31, 2016, to December 31, 2020.

Effective: January 1, 2014.

Wyss

January 7, 2013, read first time and referred to Committee on Tax and Fiscal Policy.

Introduced

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

SENATE BILL No. 244

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures in Indiana for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, **or** finishing **equipment, or** distribution, transportation, or logistical distribution equipment, **such as new equipment, having a useful life of at least five (5) years, that will improve:**

(A) the transportation of goods by air, rail, water, or Indiana highways; or

(B) logistical distribution;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication,

assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

(4) onsite infrastructure improvements, **including investments in privately held airports, rail, waterways, or roads if the investment will increase the overall capacity to transport freight;**

(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities, **including:**

(A) investments in privately held airports, rail, waterways, or roads if the investment will increase the overall capacity to transport freight; and

(B) new maintenance areas related to such a facility;

(6) costs associated with retooling existing machinery and equipment;

(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry; and

(8) costs associated with the purchase of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions;

that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

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

SECTION 2. IC 6-3.1-26-14, AS AMENDED BY P.L.199-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 14. The total amount of a tax credit claimed for a taxable year under this chapter is a percentage determined by the corporation, not to exceed:

(1) ten percent (10%), of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year, **if the qualified investment is not a capital investment; and**

(2) twenty-five percent (25%) of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year, if the qualified investment is a capital investment. For purposes of this subdivision, the amount of a qualified investment that is used to determine the credit is limited to the difference of:

(A) the qualified investments made by the taxpayer during the taxable year; minus

(B) one hundred five percent (105%) of the average annual qualified investments made by the taxpayer during the two (2) taxable years immediately preceding the taxable year for which the credit is being claimed. However, if the qualified investments for the earlier year of the two (2) year average is zero (0) and the taxpayer has not claimed the credit for a year that precedes that year, the taxpayer shall subtract only one hundred five percent (105%) of the amount of the qualified investments made during the taxable year immediately preceding the taxable year for which the credit is being claimed.

The taxpayer may carry forward any unused credit **as provided in section 15 of this chapter.**

SECTION 3. IC 6-3.1-26-15, AS AMENDED BY P.L.199-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 15. (a) A taxpayer may carry forward an unused credit for the number of years determined by the corporation, not to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the unused part of a credit allowed under this chapter.

(c) A taxpayer may:

(1) claim a tax credit under this chapter for a qualified investment; and

(2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

~~(d) The total amount of each tax credit claimed under this chapter may not exceed ten percent (10%) of the qualified investment for which the tax credit is claimed.~~

SECTION 4. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 17. A person that proposes a project to:

(1) create new jobs or increase wage levels in Indiana; **or**

(2) substantially enhance the logistics industry and improve the overall Indiana economy;

may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

SECTION 5. IC 6-3.1-26-18, AS AMENDED BY P.L.1-2006, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 18. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will:

(A) raise the total earnings of employees of the applicant in Indiana; **or**

(B) substantially enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, or increasing wages in Indiana.

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

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

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

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

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

SECTION 6. IC 6-3.1-26-20, AS AMENDED BY P.L.4-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 20. **(a)** The corporation shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the corporation shall grant a credit only for the amount of the qualified investment that is directly related to:

(1) expanding the workforce in Indiana; **or**

(2) substantially enhancing the logistics industry and improving the overall Indiana economy.

(b) The total amount of credits allowed under this chapter for a qualified investment consisting of new infrastructure or an infrastructure addition or improvement may not exceed in the aggregate twenty million dollars ($20,000,000) in credits for all

taxpayers per state fiscal year. A person that desires to claim a tax credit for such a qualified investment shall file with the department, in the form that the department may prescribe, an application:

(1) stating the amount of the credit awards for such a qualified investment that have been granted to the taxpayer by the corporation;

(2) stating the amount sought to be claimed as a credit; and

(3) identifying whether the credit will be claimed during the state fiscal year in which the application is filed or the immediately succeeding state fiscal year.

(c) The department shall record the time of filing of each application for a credit award for a qualified investment covered by subsection (b) and shall, except as provided in subsection (d), approve the credit to the taxpayer in the chronological order in which the application is filed in the state fiscal year. The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year proposed by the taxpayer.

(d) If the total credit awards for qualified investments that are covered by subsection (b), including carryover credit awards for a previous state fiscal year, equal the maximum amount allowable in the state fiscal year, an application for such a credit award that is filed later for that same state fiscal year may not be granted by the department. However, if an applicant for which a credit has been awarded and applied for with the department fails to claim the credit, an amount equal to the credit previously applied for but not claimed may be allowed to the next eligible applicant or applicants until the total amount has been allowed.

SECTION 7. IC 6-3.1-26-26, AS AMENDED BY P.L.137-2012, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, ~~2016.~~ **2020.** However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2017,~~ **2021,** forward to a taxable year beginning after December 31, ~~2016,~~ **2020,** in the manner provided by section 15 of this chapter.

SECTION 8. [EFFECTIVE JANUARY 1, 2014] **(a) IC 6-3.1-26-8, IC 6-3.1-26-14, IC 6-3.1-26-17, IC 6-3.1-26-18, IC 6-3.1-26-20, and**

IC 6-3.1-26-26, all as amended by this act, apply to taxable years beginning after December 31, 2013.

(b) This SECTION expires January 1, 2017.