

# HOUSE BILL No. 1335

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-26.

**Synopsis:** Hoosier business investment tax credit. Provides that an additional class of investments known as Hoosier overdrive investments is eligible for the Hoosier business investment tax credit. Provides that the credit percentage awarded by the Indiana economic development corporation for Hoosier overdrive investments may not exceed 25%. Limits the total amount of credits that the Indiana economic development corporation may award for Hoosier overdrive investments each state fiscal year to \$20,000,000.

**Effective:** January 1, 2014.

---

---

## Thompson

---

---

January 17, 2013, read first time and referred to Committee on Ways and Means.

---

---

C  
o  
p  
y



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.

C  
o  
p  
y

## HOUSE BILL No. 1335



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 6-3.1-26-5.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2014]: **Sec. 5.3. (a) As used in this**  
4 **chapter, "Hoosier overdrive investment" means an expenditure for**  
5 **one (1) or more of the following purposes:**  
6 **(1) Making an improvement to real property located in**  
7 **Indiana that is related to constructing a new, or modernizing**  
8 **an existing, transportation or logistical distribution facility.**  
9 **(2) Improving the transportation of goods on Indiana**  
10 **highways, limited to the following:**  
11 **(A) Upgrading terminal facilities that serve tractors (as**  
12 **defined in IC 9-13-2-180) and semitrailers (as defined in**  
13 **IC 9-13-2-164).**  
14 **(B) Improving paved access to terminal facilities.**  
15 **(C) Adding new maintenance areas.**  
16 **(D) Purchasing new shop equipment having a useful life of**  
17 **at least five (5) years, such as diagnostic equipment, oil**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

- delivery systems, air compressors, and truck lifts.
- (3) Improving the transportation of goods by rail, limited to the following:**
  - (A) Upgrading or building mainline, secondary, yard, and spur trackage.**
  - (B) Upgrading or replacing bridges to obtain higher load bearing capability.**
  - (C) Upgrading or replacing grade crossings to increase visibility for motorists, including improvements to roadway surfaces, signage and traffic signals, and signal system upgrades and replacements to meet federal Railroad Administration Positive Train Control regulations.**
  - (D) Upgrading fueling facilities, including upgrading fueling and sanding locomotives or tanks, pumps, piping, containment areas, track pans, lighting, and security.**
  - (E) Upgrading team track facilities, including railroad owned warehouses, loading docks, and transfer stations for loading and unloading freight.**
  - (F) Upgrading shop facilities, including upgrading structures, inspection pits, drop pits, cranes, employee fall protection, lighting, climate control, and break rooms.**
- (4) Improving the transportation of goods by water, limited to the following:**
  - (A) Upgrading or replacing a permanent waterside dock.**
  - (B) Upgrading or building a new terminal facility that serves waterborne transportation.**
  - (C) Improving paved access to a waterborne terminal facility.**
  - (D) Purchasing new equipment having a useful life of at least five (5) years, including diagnostic equipment, an oil delivery system, an air compressor, or a barge lift.**
- (5) Improving the transportation of goods by air, limited to the following:**
  - (A) Upgrading or building a new cargo building, apron, hangar, warehouse facility, freight forwarding facility, cross-dock distribution facility, or aircraft maintenance facility.**
  - (B) Improving paved access to a terminal or cargo facility.**
  - (C) Upgrading a fueling facility.**
- (6) Improving warehousing and logistical capabilities, limited to the following:**

C  
o  
p  
y



- 1           **(A) Upgrading warehousing facilities, including upgrading**
- 2           **loading dock doors and loading dock plates, fueling**
- 3           **equipment, fueling installations, or dolly drop pads for**
- 4           **trailers.**
- 5           **(B) Improving logistical distribution by purchasing new**
- 6           **equipment, limited to the following:**
  - 7           **(i) Picking modules (systems of racks, conveyors, and**
  - 8           **controllers).**
  - 9           **(ii) Racking equipment.**
  - 10           **(iii) Warehouse management systems, including scanning**
  - 11           **or coding equipment.**
  - 12           **(iv) Security equipment.**
  - 13           **(v) Temperature control and monitoring equipment.**
  - 14           **(vi) Dock levelers and pallet levelers and inverters.**
  - 15           **(vii) Conveyors and related controllers, scales, and like**
  - 16           **equipment.**
  - 17           **(viii) Packaging equipment.**
  - 18           **(ix) Moving, separating, sorting, and picking equipment.**
- 19           **(7) Implementing a homeland security measure to comply**
- 20           **with federal homeland security requirements, limited to the**
- 21           **following:**
  - 22           **(A) Gates, fencing, and checkpoints.**
  - 23           **(B) Tank and grain elevator access restrictions.**
  - 24           **(C) Tunnel emergency access restrictions.**
  - 25           **(D) Security alarms.**
  - 26           **(E) Lighting and motion sensors.**
  - 27           **(F) Heavy duty locks.**
  - 28           **(G) Valve locks for anhydrous ammonia nurse tanks.**
  - 29           **(H) Employee security training.**
- 30           **(b) The term does not include an expenditure for maintenance**
- 31           **expenses.**
- 32           SECTION 2. IC 6-3.1-26-8, AS AMENDED BY P.L.137-2006,
- 33           SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34           JANUARY 1, 2014]: Sec. 8. (a) As used in this chapter, "qualified
- 35           investment" means the amount of the taxpayer's expenditures in Indiana
- 36           for:
  - 37           (1) the purchase of new telecommunications, production,
  - 38           manufacturing, fabrication, assembly, extraction, mining,
  - 39           processing, refining, finishing, distribution, transportation, or
  - 40           logistical distribution equipment;
  - 41           (2) the purchase of new computers and related equipment;
  - 42           (3) costs associated with the modernization of existing

COPY



1 telecommunications, production, manufacturing, fabrication,  
2 assembly, extraction, mining, processing, refining, finishing,  
3 distribution, transportation, or logistical distribution facilities;

4 (4) onsite infrastructure improvements;

5 (5) the construction of new telecommunications, production,  
6 manufacturing, fabrication, assembly, extraction, mining,  
7 processing, refining, finishing, distribution, transportation, or  
8 logistical distribution facilities;

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

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

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

17 **(9) Hoosier overdrive investments;**

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

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

22 SECTION 3. IC 6-3.1-26-14, AS AMENDED BY P.L.199-2005,  
23 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JANUARY 1, 2014]: Sec. 14. **(a)** The total amount of a tax credit  
25 claimed for a taxable year under this chapter is ~~a percentage~~  
26 ~~determined by the corporation, not to exceed ten percent (10%).~~ ~~of the~~  
27 ~~amount of a qualified investment made by the taxpayer in Indiana~~  
28 ~~during that taxable year. The taxpayer may carry forward any unused~~  
29 ~~credit. equal to:~~

30 **(1) the credit amount attributable to qualified investments**  
31 **that are Hoosier overdrive investments; plus**

32 **(2) the credit amount attributable to qualified investments**  
33 **that are not Hoosier overdrive investments.**

34 **(b) This subsection applies only to taxable years beginning after**  
35 **December 31, 2013. For a taxable year, the credit amount**  
36 **attributable to qualified investments that are Hoosier overdrive**  
37 **investments is equal to:**

38 **(1) the difference of:**

39 **(A) the amount of Hoosier overdrive investments made by**  
40 **the taxpayer during the taxable year; minus**

41 **(B) the product of:**

42 **(i) the average amount of Hoosier overdrive investments**

C  
o  
p  
y



1           made by the taxpayer during each of the two (2)  
 2           immediately preceding taxable years; multiplied by  
 3           (ii) one and five-hundredths (1.05); multiplied by  
 4           (2) a percentage determined by the corporation, not to exceed  
 5           twenty-five percent (25%).

6           For purposes of determining the amount in subdivision (1)(B)(i), if  
 7           the amount of Hoosier overdrive investments for the earlier year  
 8           of the two (2) year average is zero (0) and the taxpayer has not  
 9           claimed the credit for a year that precedes that year, the amount  
 10          determined under subdivision (1)(B)(i) equals the amount of  
 11          Hoosier overdrive investments made during the immediately  
 12          preceding taxable year.

13          (c) For a taxable year, the credit amount attributable to  
 14          qualified investments that are not Hoosier overdrive investments  
 15          is equal to:

16           (1) the amount of qualified investments made by the taxpayer  
 17           in Indiana during the taxable year that are not Hoosier  
 18           overdrive investments; multiplied by  
 19           (2) a percentage determined by the corporation, not to exceed  
 20           ten percent (10%).

21          SECTION 4. IC 6-3.1-26-15, AS AMENDED BY P.L.199-2005,  
 22          SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23          JANUARY 1, 2014]: Sec. 15. (a) A taxpayer may carry forward an  
 24          unused credit for the number of years determined by the corporation,  
 25          not to exceed nine (9) consecutive taxable years, beginning with the  
 26          taxable year after the taxable year in which the taxpayer makes the  
 27          qualified investment.

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

31          (c) A taxpayer may:

32           (1) claim a tax credit under this chapter for a qualified  
 33           investment; and  
 34           (2) carry forward a remainder for one (1) or more different  
 35           qualified investments;

36          in the same taxable year.

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

40          SECTION 5. IC 6-3.1-26-17, AS AMENDED BY P.L.4-2005,  
 41          SECTION 106, IS AMENDED TO READ AS FOLLOWS  
 42          [EFFECTIVE JANUARY 1, 2014]: Sec. 17. (a) A person that proposes

C  
O  
P  
Y



1 a project to create new jobs or increase wage levels to make a  
 2 **qualified investment** in Indiana may apply to the corporation before  
 3 the taxpayer makes the qualified investment to enter into an agreement  
 4 for a tax credit under this chapter. **A person must submit the person's**  
 5 **application under this subsection to the corporation before making**  
 6 **the qualified investment proposed in the application.**

7 (b) The director shall prescribe the form of the application.

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

14 (1) the part of the proposed qualified investment that is a  
 15 Hoosier overdrive investment, if any, meets the conditions  
 16 listed in subsection (b); and

17 (2) the part of the proposed qualified investment that is not a  
 18 Hoosier overdrive investment, if any, meets the conditions of  
 19 subsection (c).

20 (b) A proposed qualified investment that is a Hoosier overdrive  
 21 investment must meet the following conditions:

22 (1) Receiving the tax credit is a major factor in the applicant's  
 23 decision to go forward with the project.

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

27 (3) This subdivision applies only to a Hoosier overdrive  
 28 investment that is a homeland security measure described in  
 29 section 5.3(a)(7) of this chapter. A taxpayer must obtain the  
 30 certification of the department of homeland security that an  
 31 expenditure described in section 5.3(a)(7) of this chapter is  
 32 both necessary and adequate to comply with federal homeland  
 33 security requirements.

34 (c) A proposed qualified investment that is not a Hoosier  
 35 overdrive investment must meet the following conditions:

36 (1) The applicant's project will raise the total earnings of  
 37 employees of the applicant in Indiana.

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

41 (3) Receiving the tax credit is a major factor in the applicant's  
 42 decision to go forward with the project and not receiving the tax

C  
O  
P  
Y



1 credit will result in the applicant not raising the total earnings of  
2 employees in Indiana.

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

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

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

12 **(d) The department of homeland security, in consultation with**  
13 **the department, shall adopt rules under IC 4-22-2, including**  
14 **emergency rules adopted in the manner provided under**  
15 **IC 4-22-2-37.1, to implement a certification process for purposes**  
16 **of subsection (b)(3). In determining whether a homeland security**  
17 **measure complies with federal homeland security requirements for**  
18 **purposes of the credit provided by this chapter, the department**  
19 **shall apply the standards set forth in the United States Department**  
20 **of Homeland Security Chemical Facility Anti-terrorism Standards**  
21 **regulations (6 CFR Part 27) adopted under federal Public Law**  
22 **109-295.**

23 SECTION 7. IC 6-3.1-26-19, AS AMENDED BY P.L.4-2005,  
24 SECTION 108, IS AMENDED TO READ AS FOLLOWS  
25 [EFFECTIVE JANUARY 1, 2014]: Sec. 19. A person is not entitled to  
26 claim the credit provided by this chapter **to the extent the credit is**  
27 **based on a qualified investment:**

28 **(1) that is not a Hoosier overdrive investment; and**

29 **(2) for any jobs that which the person relocates jobs from one (1)**  
30 **site in Indiana to another site in Indiana.**

31 Determinations under this section shall be made by the corporation.

32 SECTION 8. IC 6-3.1-26-20, AS AMENDED BY P.L.4-2005,  
33 SECTION 109, IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE JANUARY 1, 2014]: Sec. 20. **(a) Subject to subsection**  
35 **(b), the corporation shall certify the amount of the qualified investment**  
36 **that is eligible for a credit under this chapter. In determining the credit**  
37 **amount that should be awarded for a qualified investment that is not**  
38 **a Hoosier overdrive investment, the corporation shall grant a credit**  
39 **only for the amount of the qualified investment that is directly related**  
40 **to expanding the workforce in Indiana.**

41 **(b) The corporation may not award more than twenty million**  
42 **dollars (\$20,000,000) of credits under this chapter in each state**

C  
O  
P  
Y





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**fiscal year for Hoosier overdrive investments.**

SECTION 9. IC 6-3.1-26-21, AS AMENDED BY P.L.4-2005, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 21. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) **This subdivision applies only to a qualified investment that is not a Hoosier overdrive investment.** A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) **This subdivision applies only to a qualified investment that is not a Hoosier overdrive investment.** A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.
- (8) **This subdivision applies only to a qualified investment that is not a Hoosier overdrive investment.** A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) **This subdivision applies only to a qualified investment that is not a Hoosier overdrive investment.** A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent

C  
o  
p  
y



1 (150%) of the hourly minimum wage under IC 22-2-2-4 or its  
 2 equivalent.  
 3 (10) A requirement that the taxpayer will keep the qualified  
 4 investment property that is the basis for the tax credit in Indiana  
 5 for at least the lesser of its useful life for federal income tax  
 6 purposes or ten (10) years.  
 7 **(11) This subdivision applies only to a qualified investment**  
 8 **that is not a Hoosier overdrive investment.** A requirement that  
 9 the taxpayer will maintain at the location where the qualified  
 10 investment is made during the term of the tax credit a total payroll  
 11 that is at least equal to the payroll level that existed before the  
 12 qualified investment was made.  
 13 (12) A requirement that the taxpayer shall provide written  
 14 notification to the director and the corporation not more than  
 15 thirty (30) days after the taxpayer makes or receives a proposal  
 16 that would transfer the taxpayer's state tax liability obligations to  
 17 a successor taxpayer.  
 18 (13) Any other performance conditions that the corporation  
 19 determines are appropriate.  
 20 SECTION 10. IC 6-3.1-26-22 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 22. **(a) This**  
 22 **section applies to a taxpayer only to the extent a credit claimed**  
 23 **under this chapter is based on a qualified investment that is not a**  
 24 **Hoosier overdrive investment.**  
 25 **(b)** A taxpayer claiming a credit under this chapter shall submit to  
 26 the department of state revenue a copy of the director's certificate of  
 27 verification under this chapter for the taxable year. However, failure to  
 28 submit a copy of the certificate does not invalidate a claim for a credit.

C  
o  
p  
y

