HOUSE BILL No. 1055

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-26.

Synopsis: Hoosier business investment tax credit. Permits the Indiana economic development corporation to grant a Hoosier business investment income tax credit that is entirely or partly refundable to the taxpayer or to a pass through entity. Specifies that the corporation's discretion to grant a refundable credit applies to credit awards approved and investments made on or after July 1, 2015.

Effective: July 1, 2015.

Messmer

January 7, 2014, read first time and referred to Committee on Ways and Means.

Introduced

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1055

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 6-3.1-26-14, AS AMENDED BY P.L.288-2013, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. **(a)** 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 logistics 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 logistics 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 total of 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.

(b) For a credit award that was approved by the corporation before July 1, 2015, and that pertained to an investment that was made before July 1, 2015, the taxpayer may carry forward any unused credit as provided in section 15 of this chapter, **and the taxpayer is not entitled to a carryback or refund of any unused credit.**

(c) For a credit award that was approved by the corporation on or after July 1, 2015, and that pertains to an investment made on or after July 1, 2015, the corporation may approve a credit amount for a taxable year that exceeds the taxpayer's state tax liability for the taxable year. In such a case, all or a part of the excess, at the discretion of the corporation, may be refunded to the taxpayer. If the corporation does not approve a refund for the entire amount of the credit, the taxpayer may carry forward any unused credit as provided in section 15 of this chapter. The taxpayer is not entitled to a carryback of any unused credit.

SECTION 2. IC 6-3.1-26-16, AS AMENDED BY P.L.199-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. **(a) If the corporation approves a refund of all or part of the credit under this chapter for a pass through entity and the credit exceeds the pass through entity's state income tax liability for the taxable year, the pass through entity is entitled to a refund of the excess.** If ~~a pass through entity does not have state tax liability against which the tax credit may be applied,~~ **the corporation does not approve a refund for the entire amount of the credit,** a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year **that is not refunded;** multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) If the corporation grants a refund directly to a pass through entity under this section, the pass through entity shall claim the

refund on forms prescribed by the department of state revenue.

SECTION 3. IC 6-3.1-26-21, AS AMENDED BY P.L.288-2013, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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 **and if the applicant's credit award exceeds the applicant's state tax liability for a taxable year, to what extent the excess, if any, may be refunded to the applicant.**

(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) 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) 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, if the qualified investment is not being claimed as a logistics investment by the applicant, and any other information the director needs to perform the director's duties under this chapter.

(8) 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 being claimed as a logistics investment by the applicant. 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 (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified

investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) This subdivision applies only to a qualified investment that is not being claimed as a logistics investment by the applicant. A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the corporation 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.

(13) Any other performance conditions that the corporation determines are appropriate.