

# HOUSE BILL No. 1539

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-36.3.

**Synopsis:** Tax credit for aviation fuel. Beginning in 2026, provides a tax credit equal to \$3 per bushel of qualified feedstock: (1) sold to a qualified fuel production facility; or (2) used directly by a qualified feedstock producer for production of sustainable aviation fuel. Provides that the total amount of tax credits allowed may not exceed \$5,000,000 in each state fiscal year. Requires the department of state revenue to adopt rules. Provides that the tax credit expires December 31, 2040.

**Effective:** July 1, 2023.

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January 19, 2023, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

# HOUSE BILL No. 1539

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 6-3.1-36.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]:  
4 **Chapter 36.3. Sustainable Aviation Fuel Tax Credit**  
5 **Sec. 1. The credit provided by this chapter applies only to**  
6 **taxable years beginning after December 31, 2025.**  
7 **Sec. 2. As used in this chapter, "credit" means a credit provided**  
8 **under this chapter.**  
9 **Sec. 3. As used in this chapter, "grain" means corn for all uses,**  
10 **popcorn, wheat, oats, barley, rye, sorghum, soybeans, oil seeds, and**  
11 **other similar agricultural commodities. The term does not include**  
12 **canning crops for processing or sweet corn.**  
13 **Sec. 4. As used in this chapter, "pass through entity" means a:**  
14 **(1) corporation that is exempt from the adjusted gross income**  
15 **tax under IC 6-3-2-2.8(2);**  
16 **(2) partnership;**  
17 **(3) trust;**



1           (4) limited liability company; or

2           (5) limited liability partnership.

3           **Sec. 5. As used in this chapter, "qualified feedstock" means**  
4 **grain grown in Indiana for use in sustainable aviation fuel.**

5           **Sec. 6. As used in this chapter, "qualified feedstock producer"**  
6 **means a person, corporation, or pass through entity that is engaged**  
7 **in the production of qualified feedstock.**

8           **Sec. 7. As used in this chapter, "qualified fuel production**  
9 **facility" means a person, corporation, or pass through entity**  
10 **operating any sustainable aviation fuel production facility in**  
11 **Indiana that relies on qualified feedstock as an input and sources**  
12 **at least fifty percent (50%) of total nonkerosene inputs from**  
13 **Indiana producers.**

14           **Sec. 8. As used in this chapter, "state tax liability" means a**  
15 **taxpayer's total tax liability that is incurred under:**

16           (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);  
17           and

18           (2) IC 6-5.5 (the financial institutions tax);

19 **as computed after the application of the credits that under**  
20 **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
21 **chapter.**

22           **Sec. 9. As used in this chapter, "sustainable aviation fuel"**  
23 **means fuel that:**

24           (1) meets the requirements of:

25           (A) ASTM International Standard D7566; or

26           (B) the Fischer Tropsch provisions of ASTM International  
27           Standard D1655, Annex A1;

28           (2) replaces or reduces the quantity of fossil fuel present in  
29           aviation fuel; and

30           (3) is not derived from palm fatty acid distillates or  
31           petroleum.

32           **Sec. 10. As used in this chapter, "taxpayer" means a qualified**  
33 **feedstock producer that has state tax liability.**

34           **Sec. 11. A qualified feedstock producer is entitled to a credit**  
35 **against the qualified feedstock producer's state tax liability for the**  
36 **taxable year in an amount equal to three dollars (\$3) per bushel of**  
37 **qualified feedstock:**

38           (1) sold to a qualified fuel production facility; or

39           (2) used directly by a qualified feedstock producer for  
40           production of sustainable aviation fuel.

41           **Sec. 12. To receive the credit provided by this chapter, a**  
42 **taxpayer must claim the credit on the taxpayer's state tax return**



1 or returns in the manner prescribed by the department. The  
2 taxpayer shall submit to the department all information that the  
3 department determines is necessary for the allowance of the credit  
4 provided by this chapter.

5 Sec. 13. (a) If the credit provided by this chapter exceeds the  
6 taxpayer's state tax liability for the taxable year for which the  
7 credit is first claimed, the excess may be carried forward to  
8 succeeding taxable years and used as a credit against the  
9 taxpayer's state tax liability during those taxable years. Each time  
10 the credit is carried forward to a succeeding taxable year, the  
11 credit is reduced by the amount that was used as a credit during  
12 the immediately preceding taxable year. The credit provided by  
13 this chapter may be carried forward and applied to succeeding  
14 taxable years for nine (9) taxable years following the unused credit  
15 year.

16 (b) A taxpayer is not entitled to a carryback or refund of any  
17 unused credit.

18 Sec. 14. If a pass through entity is entitled to a credit under  
19 section 11 of this chapter but does not have state tax liability  
20 against which the credit may be applied, a shareholder, partner,  
21 member, or beneficiary of the pass through entity is entitled to a  
22 credit equal to:

23 (1) the credit determined for the pass through entity for the  
24 taxable year; multiplied by

25 (2) the percentage of the pass through entity's distributive  
26 income to which the shareholder, partner, member, or  
27 beneficiary is entitled.

28 Sec. 15. The total amount of tax credits allowed under this  
29 chapter may not exceed five million dollars (\$5,000,000) in each  
30 state fiscal year.

31 Sec. 16. A qualified feedstock producer may transfer all or part  
32 of the credit allowed for a taxable year. A qualified feedstock  
33 producer that transfers all or part of a credit for a taxable year  
34 under this section shall report the transaction to the department in  
35 the manner prescribed by the department.

36 Sec. 17. The department shall adopt rules under IC 4-22-2  
37 before January 1, 2026, to implement this chapter.

38 Sec. 18. This chapter expires December 31, 2040.

