



April 8, 2015

ENGROSSED HOUSE BILL No. 1472

DIGEST OF HB 1472 (Updated April 7, 2015 11:48 am - DI 120)

Citations Affected: IC 6-3.1.

Synopsis: Hoosier business investment tax credit. Provides that, in the case of the Hoosier business investment tax credit (tax credit), the Indiana economic development corporation (IEDC) may under a written agreement accelerate payment (at a discounted amount) of any unused excess tax credit that certain taxpayers would otherwise be eligible to carry forward to a subsequent tax year. Provides that a written agreement for an accelerated payment may include a provision for liquidated damages: (1) for failure to comply with the terms and conditions for the tax credit; (2) that are in addition to any tax assessment the department of revenue may make for noncompliance; and (3) in the case of a partnership, S corporation, or similar pass through entity, that are personally guaranteed by the partners, shareholders, or members of the pass through entity. Provides that the total amount of accelerated tax credits that the IEDC may approve may not exceed \$20 million in a state fiscal year. Removes the provision in current law that would have expired the tax credit after December 31, 2016.

Effective: January 1, 2016.

Negele

(SENATE SPONSOR — HERSHMAN)

January 14, 2015, read first time and referred to Committee on Ways and Means.
February 17, 2015, amended, reported — Do Pass.
February 19, 2015, read second time, amended, ordered engrossed.
February 20, 2015, engrossed.
February 23, 2015, read third time, passed. Yeas 82, nays 14.

SENATE ACTION

February 25, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
April 7, 2015, amended, reported favorably — Do Pass.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1472

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 6-3.1-26-15, AS AMENDED BY P.L.288-2013,
2 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2016]: Sec. 15. (a) **Subject to subsection (d)**, a taxpayer
4 may carry forward an unused credit for the number of years determined
5 by the corporation, not to exceed nine (9) consecutive taxable years,
6 beginning with the taxable year after the taxable year in which the
7 taxpayer makes the qualified investment.
8 (b) The amount that a taxpayer may carry forward to a particular
9 taxable year under this section equals the unused part of a **tax** credit
10 allowed under this chapter.
11 (c) A taxpayer may:
12 (1) claim a tax credit under this chapter for a qualified
13 investment; and
14 (2) carry forward a remainder for one (1) or more different

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1 qualified investments;
2 in the same taxable year.

3 **(d) This subsection applies only to a taxpayer that:**

4 **(1) is not a pass through entity; and**

5 **(2) proposes at least five hundred million dollars**
6 **(\$500,000,000) in qualified investment.**

7 **If a tax credit awarded under this chapter exceeds a taxpayer's**
8 **state income tax liability for the taxable year, notwithstanding**
9 **subsection (a), the corporation may accelerate to that taxable year**
10 **the excess amount of the tax credit that could otherwise be carried**
11 **forward under subsection (a). The excess amount of the tax credit**
12 **accelerated under this subsection shall be discounted as determined**
13 **under a written agreement entered into by the taxpayer and the**
14 **corporation. The discounted amount of the excess tax credit**
15 **accelerated under this subsection as determined by the corporation**
16 **may be remitted to the taxpayer as provided in the written**
17 **agreement between the corporation and the taxpayer. The**
18 **requirements for an agreement under section 21(11) of this chapter**
19 **do not apply to this subsection. This subsection expires December**
20 **31, 2025.**

21 **(e) A written agreement under subsection (d) may contain a**
22 **provision for payment of liquidated damages:**

23 **(1) to the corporation for failure to comply with the conditions**
24 **set forth in this chapter and the agreement entered into by the**
25 **corporation and taxpayer under this chapter; and**

26 **(2) that are in addition to an assessment made by the**
27 **department for noncompliance under section 23 of this**
28 **chapter.**

29 **This subsection expires December 31, 2025.**

30 **(f) The total aggregated amount of tax credits that the**
31 **corporation may discount under subsection (d) and section 16(d)**
32 **of this chapter in a state fiscal year may not exceed twenty million**
33 **dollars (\$20,000,000), as determined before the discount is applied.**
34 **This subsection expires December 31, 2025.**

35 SECTION 2. IC 6-3.1-26-16, AS AMENDED BY P.L.199-2005,
36 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JANUARY 1, 2016]: Sec. 16. **(a)** If a pass through entity does not have
38 state tax liability against which the tax credit may be applied, a
39 shareholder, **member**, or partner of the pass through entity is entitled
40 to a tax credit equal to:

41 **(1) the tax credit determined for the pass through entity for the**
42 **taxable year; multiplied by**



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

3 (b) Subject to subsection (d), a shareholder, member, or partner
4 of a pass through entity that is entitled to a tax credit under this
5 section may carry forward an unused credit for the number of
6 years determined by the corporation, not to exceed nine (9)
7 consecutive taxable years, beginning with the taxable year after the
8 taxable year in which the pass through entity makes the qualified
9 investment.

10 (c) The amount that a shareholder, member, or partner may
11 carry forward to a particular taxable year under this section
12 equals the unused part of a tax credit allowed under this chapter
13 to which the shareholder, member, or partner is entitled.

14 (d) Notwithstanding subsection (b), the corporation may
15 accelerate to the current taxable year the excess tax credit amount
16 that could otherwise be carried forward by all shareholders,
17 members, or partners of a pass through entity under subsection
18 (b). The excess amount of the tax credit accelerated under this
19 subsection shall be discounted as determined under a written
20 agreement entered into by the pass through entity and the
21 corporation. The discounted amount of the excess tax credit
22 accelerated under this subsection as determined by the corporation
23 may be remitted to the pass through entity as provided in the
24 written agreement between the corporation and the pass through
25 entity. The requirements for an agreement under section 21(11) of
26 this chapter do not apply to this subsection. This subsection expires
27 December 31, 2025.

28 (e) A written agreement under subsection (d) may contain a
29 provision for payment of liquidated damages:

30 (1) to the corporation for failure to comply with the conditions
31 set forth in this chapter and the agreement entered into by the
32 corporation and pass through entity under this chapter;

33 (2) that are personally guaranteed by the shareholders,
34 members, or partners of the pass through entity; and

35 (3) that are in addition to an assessment made by the
36 department for noncompliance under section 23 of this
37 chapter.

38 This subsection expires December 31, 2025.

39 (f) The total aggregated amount of tax credits that the
40 corporation may discount under subsection (d) and section 15(d)
41 of this chapter in a state fiscal year may not exceed twenty million
42 dollars (\$20,000,000), as determined before the discount is applied.



1 **This subsection expires December 31, 2025.**

2 SECTION 3. IC 6-3.1-26-20, AS AMENDED BY P.L.288-2013,
3 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2016]: Sec. 20. (a) The corporation shall certify the
5 amount of the qualified investment that is eligible for a credit under
6 this chapter. In determining the credit amount that should be awarded,
7 the corporation shall grant a credit only for the amount of the qualified
8 investment that is directly related to:

- 9 (1) expanding the workforce in Indiana; or
10 (2) substantially enhancing the logistics industry and improving
11 the overall Indiana economy.

12 (b) The total amount of credits that the corporation may approve
13 under this chapter for a state fiscal year for all taxpayers for all
14 qualified investments is:

- 15 (1) fifty million dollars (\$50,000,000) for credits based on a
16 qualified investment that is not being claimed as a logistics
17 investment; and
18 (2) ten million dollars (\$10,000,000) for credits based on a
19 qualified investment that is being claimed as a logistics
20 investment.

21 **For purposes of applying the limit under this subsection, a tax**
22 **credit that is accelerated under section 15(d) or 16(d) of this**
23 **chapter shall be valued at the amount of the tax credit before the**
24 **tax credit is discounted.**

25 (c) A person that desires to claim a tax credit for a qualified
26 investment shall file with the department, in the form that the
27 department may prescribe, an application:

- 28 (1) stating separately the amount of the credit awards for qualified
29 investments that have been granted to the taxpayer by the
30 corporation that will be claimed as a credit that is covered by:

- 31 (A) subsection (b)(1); and
32 (B) subsection (b)(2);

33 (2) stating separately the amount sought to be claimed as a credit
34 that is covered by:

- 35 (A) subsection (b)(1); and
36 (B) subsection (b)(2); and

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

40 (d) The department shall separately record the time of filing of each
41 application for a credit award for a qualified investment covered by
42 subsection (b)(1) and for a qualified investment covered by subsection



1 (b)(2) and shall, except as provided in subsection (e), approve the
 2 credit to the taxpayer in the chronological order in which the
 3 application is filed in the state fiscal year. The department shall
 4 promptly notify an applicant whether, or the extent to which, the tax
 5 credit is allowable in the state fiscal year proposed by the taxpayer.

6 (e) If the total credit awards for qualified investments that are
 7 covered by:

8 (1) subsection (b)(1); and

9 (2) subsection (b)(2);

10 including carryover credit awards covered by each subsection for a
 11 previous state fiscal year, equal the maximum amount allowable in the
 12 state fiscal year, an application for such a credit award that is filed later
 13 for that same state fiscal year may not be granted by the department.
 14 However, if an applicant for which a credit has been awarded and
 15 applied for with the department fails to claim the credit, an amount
 16 equal to the credit previously applied for but not claimed may be
 17 allowed to the next eligible applicant or applicants until the total
 18 amount has been allowed.

19 SECTION 4. IC 6-3.1-26-26, AS AMENDED BY P.L.137-2012,
 20 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2016]: Sec. 26. (a) This chapter applies to taxable years
 22 beginning after December 31, 2003.

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



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1472, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1472 as introduced.)

BROWN T

Committee Vote: yeas 15, nays 5.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1472 be amended to read as follows:

Page 4, line 32, delete "aid" and insert "~~aid~~ aid".

Page 21, delete lines 33 through 42, begin a new line block indented and insert:

"(1) finance the:

(A) construction, acquisition, equipping, operation, or maintenance of the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

(B) improvement, renovation, remodeling, and repair of the courthouse to address security concerns and mitigate excess moisture; and

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1)."

Page 22, delete line 1.

Page 22, line 26, after "pay" delete "the costs of financing, constructing," and insert "**for the purposes described in subsection (b).**"

Page 22, delete lines 27 through 31.

Page 22, line 32, delete "jail" and insert "**facilities**".

Page 22, line 35, delete "jail" and insert "**facilities**".

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Page 24, line 34, delete "a county jail and related".

Page 25, line 38, delete "a county jail and related".

(Reference is to HB 1472 as printed February 17, 2015.)

COOK

HOUSE MOTION

Mr. Speaker: I move that House Bill 1472 be amended to read as follows:

Page 4, line 32, delete "aid" and insert "~~aids~~ aid".

Page 35, delete lines 14 through 42.

Page 36, delete lines 1 through 20.

Renumber all SECTIONS consecutively.

(Reference is to HB 1472 as printed February 17, 2015.)

NEGELE

HOUSE MOTION

Mr. Speaker: I move that House Bill 1472 be amended to read as follows:

Page 38, line 4, after "commissioner" insert ", **after a program is established under subsection (p)**".

Page 39, between lines 20 and 21, begin a new paragraph and insert:

"(p) Before a program of releasing a judgment and expunging a tax warrant may be implemented, a rule must be adopted under IC 4-22-2 establishing a program. A proposed rule and the final rule must at least specify the terms and conditions that will be considered in whether a release and expungement will be granted. If a final rule is adopted establishing a program, the department shall annually post on the department's Internet web site and on the Indiana transparency Internet web site established under IC 5-14-3.7, the aggregate number and the dollar amount, without



any taxpayer identifying information, for all of the releases and expungements granted during the most recent state fiscal year."

(Reference is to HB 1472 as printed February 17, 2015.)

PORTER

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1472, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1472 as reprinted February 20, 2015.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

