



January 24, 2020

SENATE BILL No. 170

DIGEST OF SB 170 (Updated January 23, 2020 8:59 am - DI 133)

Citations Affected: IC 6-3.1; IC 36-7.

Synopsis: Mine reclamation tax credit. Provides a tax credit for a taxpayer that enters into an agreement with the Indiana economic development corporation (corporation) for a qualified investment for development of property located on reclaimed coal mining land. Provides for the assignment of the credit by a taxpayer to certain lessees. Provides that a taxpayer is not entitled to the credit if the corporation determines that the taxpayer has substantially reduced or ceased its operations in Indiana in order to relocate them within the mine reclamation site. Provides that Spencer County is subject to a provision of the area planning law concerning urban areas.

Effective: July 1, 2020; July 1, 2021.

Messmer

January 6, 2020, read first time and referred to Committee on Rules and Legislative Procedure.

January 23, 2020, amended; reassigned to Committee on Tax and Fiscal Policy.

SB 170—LS 6056/DI 13



January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 170

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 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:

4 **Chapter 36. Mine Reclamation Tax Credit**

5 **Sec. 1. As used in this chapter, "corporation" refers to the**
6 **Indiana economic development corporation established by**
7 **IC 5-28-3 unless the context clearly denotes otherwise.**

8 **Sec. 2. As used in this chapter, "mine reclamation site" means**
9 **land that has been mined using surface mining methods or**
10 **underground mining methods, specifically and primarily for the**
11 **removal of coal, and land contiguous to such previously mined**
12 **land.**

13 **Sec. 3. As used in this chapter, "qualified investment" means**
14 **the amount of the taxpayer's expenditures for development of**
15 **property located within a mine reclamation site.**

16 **Sec. 4. As used in this chapter, "state tax liability" means the**
17 **taxpayer's total tax liability that is incurred under:**

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1 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
2 (2) IC 27-1-18-2 (the insurance premiums tax); and
3 (3) IC 6-5.5 (the financial institutions tax);
4 as computed after the application of the credits that, under
5 IC 6-3.1-1-2, are to be applied before the credit provided by this
6 chapter.

7 **Sec. 5.** As used in this chapter, "taxpayer" means any person,
8 corporation, limited liability company, partnership, or other
9 entity that has any state tax liability and that is the owner or
10 developer of a mine reclamation site. The term includes a lessee
11 that is assigned some part of a credit under section 6(c) of this
12 chapter.

13 **Sec. 6. (a)** Subject to entering into an agreement with the
14 corporation under section 8 of this chapter and subject to
15 section 11 of this chapter, a taxpayer is entitled to a credit
16 against the taxpayer's state tax liability for a taxable year if the
17 taxpayer makes a qualified investment in that year.

18 **(b)** The amount of the credit to which a taxpayer is entitled
19 is the qualified investment made by the taxpayer during the
20 taxable year multiplied by twenty-five percent (25%).

21 **(c)** A taxpayer may assign any part of the credit to which the
22 taxpayer is entitled under this chapter to a lessee of the mine
23 reclamation site. A credit that is assigned under this subsection
24 remains subject to this chapter.

25 **(d)** An assignment under subsection (c) must be in writing
26 and both the taxpayer and the lessee must report the assignment
27 on their state tax returns for the year in which the assignment is
28 made, in the manner prescribed by the department of state
29 revenue. The taxpayer may not receive value in connection with
30 the assignment under subsection (c) that exceeds the value of
31 the part of the credit assigned.

32 **Sec. 7. (a)** If the amount determined under section 6(b) of this
33 chapter for a taxable year exceeds the taxpayer's state tax liability
34 for that taxable year, the taxpayer may carry the excess over to the
35 immediately following taxable years. The amount of the credit
36 carryover from a taxable year is reduced to the extent that the
37 carryover is used by the taxpayer to obtain a credit under this
38 chapter for any subsequent taxable year.

39 **(b)** A taxpayer is not entitled to a carryback or refund of any
40 unused credit.

41 **Sec. 8. (a)** A taxpayer that proposes to make qualified
42 investments on a mine reclamation site as provided under this



1 chapter may apply to the corporation to enter into an agreement
2 for a tax credit under this chapter.

3 (b) The corporation shall prescribe the form of the application.

4 Sec. 9. The corporation shall consider the following factors in
5 evaluating applications filed under this chapter:

6 (1) The impact in the surrounding community caused by the
7 lack of development at the mine reclamation site.

8 (2) Evidence of support for the designation by residents,
9 businesses, and private organizations in the surrounding
10 community.

11 (3) Evidence of a commitment by private or governmental
12 entities to assist in the financing of improvements or
13 redevelopment activities benefitting the mine reclamation site.

14 (4) Whether the mine reclamation site is within an economic
15 revitalization area designated under IC 6-1.1-12.1.

16 Sec. 10. If the corporation approves an application under this
17 chapter, the corporation shall require the applicant to enter
18 into an agreement with the corporation as a condition of
19 receiving a tax credit under this chapter.

20 Sec. 11. A taxpayer is not entitled to claim the credit provided
21 by this chapter if the corporation determines that the taxpayer
22 has substantially reduced or ceased its operations in Indiana in
23 order to relocate them within the mine reclamation site. A
24 determination that a taxpayer is not entitled to the credit
25 provided by this chapter as a result of a substantial reduction
26 or cessation of operations applies to credits that would
27 otherwise arise in the taxable year in which the substantial
28 reduction or cessation occurs and in all subsequent years.

29 Sec. 12. (a) A credit to which a taxpayer is entitled under this
30 chapter shall be applied against taxes owed by the taxpayer in the
31 following order:

32 (1) Against the taxpayer's adjusted gross income tax liability
33 (IC 6-3-1 through IC 6-3-7) for the taxable year.

34 (2) Against the taxpayer's insurance premiums tax liability
35 (IC 27-1-18-2) for the taxable year.

36 (3) Against the taxpayer's financial institutions tax (IC 6-5.5)
37 for the taxable year.

38 (b) Whenever the tax paid by the taxpayer under any of the tax
39 provisions listed in subsection (a) is a credit against the liability or
40 a deduction in determining the tax base under another Indiana tax
41 provision, the credit or deduction shall be computed without
42 regard to the credit to which a taxpayer is entitled under this



1 chapter.

2 Sec. 13. To receive the credit provided by this chapter, a
3 taxpayer must claim the credit on the taxpayer's annual state tax
4 return or returns in the manner prescribed by the department of
5 state revenue. The taxpayer shall submit to the department of state
6 revenue the certification of the corporation stating the percentage
7 of credit allowable under this chapter and all other information
8 that the department determines is necessary for the calculation of
9 the credit provided by this chapter and for the determination of
10 whether an expenditure is for a qualified investment.

11 Sec. 14. (a) If a pass through entity does not have state income
12 tax liability against which the tax credit provided by this chapter
13 may be applied, a shareholder, partner, or member of the pass
14 through entity is entitled to a tax credit equal to:

- 15 (1) the tax credit determined for the pass through entity for
16 the taxable year; multiplied by
17 (2) the percentage of the pass through entity's distributive
18 income to which the shareholder, partner, or member is
19 entitled.

20 (b) The credit provided under subsection (a) is in addition to a
21 tax credit to which a shareholder, partner, or member of a pass
22 through entity is otherwise entitled under this chapter.

23 (c) Notwithstanding subsections (a) and (b), a pass through
24 entity (other than an entity described in IC 6-3-1-35(1)) and its
25 partners, beneficiaries, or members may allocate the credit among
26 its partners, beneficiaries, or members of the pass through entity
27 as provided by written agreement without regard to their sharing
28 of other tax or economic attributes. Such agreements shall be filed
29 with the corporation not later than fifteen (15) days after
30 execution. The pass through entity shall also provide a copy of such
31 agreements, a list of partners, beneficiaries, or members of the pass
32 through entity, and their respective shares of the credit resulting
33 from such agreements in the manner prescribed by the department
34 of state revenue.

35 SECTION 2. IC 36-7-4-1103, AS AMENDED BY P.L.119-2012,
36 SECTION 195, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2020]: Sec. 1103. (a) This section does not
38 apply to a plan commission exercising jurisdiction in a county having
39 a population of more than twenty thousand nine hundred (20,900) but
40 less than twenty-one thousand (21,000):

41 (b) (a) ADVISORY—AREA. For purposes of this section, urban
42 areas include all lands and lots within the corporate boundaries of a



1 municipality, any other lands or lots used for residential purposes
2 where there are at least eight (8) residences within any quarter mile
3 square area, and other lands or lots that have been or are planned for
4 residential areas contiguous to the municipality.

5 (c) (b) ADVISORY—AREA. This chapter does not authorize an
6 ordinance or action of a plan commission that would prevent, outside
7 of urban areas, the complete use and alienation of any mineral
8 resources or forests by the owner or alienee of them.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 170, 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 be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 170 as introduced.)

BRAY, Chairperson

