First Regular Session of the 121st General Assembly (2019)

SENATE ENROLLED ACT No. 563

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-28-28-4, AS AMENDED BY P.L.238-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 4. As used in this chapter, "tax credit" means a state tax liability credit under any of the following:

(1) IC 6-3.1-7 (before its expiration).
(2) IC 6-3.1-13.
(3) IC 6-3.1-26.
(4) IC 6-3.1-30.
(5) IC 6-3.1-31.9.
(6) IC 6-3.1-34.

SECTION 2. IC 5-28-28-10, AS AMENDED BY P.L.130-2018, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 10. In addition to the other requirements of this chapter, the economic incentives and compliance report must also include a detailed report on the following programs, resources, or activities for which the corporation is responsible:

(1) The economic development fund under IC 5-28-8.
(2) The Indiana twenty-first century research and technology fund under IC 5-28-16.

(3) Small business development under IC 5-28-17.

(4) The small business development fund established under IC 5-28-18-7.

(5) The small business incubator program under IC 5-28-21.

(6) Efforts to promote business modernization of and the adoption of technology by Indiana businesses under IC 5-28-23.

(7) An evaluation of the economic development for a growing economy tax credit under IC 6-3.1-13-24.

(8) An evaluation of the Hoosier business investment tax credit under IC 6-3.1-26-25.

(9) Beginning in 2023, an evaluation of the redevelopment tax credit under IC 6-3.1-34-21.

SECTION 3. IC 5-28-40 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 40. Small Business Innovation Voucher Program

Sec. 1. As used in this chapter, "eligible small business" means a business entity that:

(1) is authorized to transact business in Indiana;

(2) maintains a majority of its business operations within Indiana; and

(3) employs not more than one hundred fifty (150) persons.

Sec. 2. As used in this chapter, "Indiana institution of higher education" means a public or private college or university that:

(1) is located in Indiana;

(2) provides research services; and

(3) is approved by the corporation for purposes of this chapter.

Sec. 3. As used in this chapter, "other authorized research provider" means a research organization, other than an Indiana institution of higher education, that:

(1) is located in Indiana;

(2) provides research services; and

(3) is approved by the corporation for purposes of this chapter.

Sec. 4. As used in this chapter, "research services" means research and development, technology exploration, technical development, product development, and commercialization intended to foster innovation in an eligible small business.

Sec. 5. As used in this chapter, "voucher" means a grant to an eligible small business to purchase research services from an Indiana institution of higher education or other authorized

research provider.

Sec. 6. (a) The small business innovation voucher program is established to provide vouchers to eligible small businesses to be used by an eligible small business to purchase research and development support or other forms of technical assistance and services from an Indiana institution of higher education or other authorized research provider.

(b) The corporation shall administer the program.

(c) The program is subject to appropriation from the general assembly.

Sec. 7. (a) The corporation may award vouchers to an eligible small business under the small business innovation voucher program established in section 6 of this chapter.

(b) To be awarded a voucher under this chapter, an eligible small business must file an application with the corporation and enter into an agreement as set forth under this chapter.

(c) Vouchers may be used by an eligible small business only to purchase research services from an Indiana institution of higher education or other authorized research provider.

Sec. 8. The corporation shall establish guidelines necessary to carry out the purposes of this chapter, including the following:

(1) The application process for applying for a voucher.

(2) The criteria to be used by the corporation to:

(A) evaluate a voucher application from an eligible small business; and

(B) determine the amount of a voucher award.

Sec. 9. The following apply if the corporation determines a voucher should be awarded under this chapter:

(1) The corporation shall require the eligible small business to enter into an agreement with the corporation as a condition of receiving a voucher under this chapter.

(2) The agreement with the corporation must:

(A) prescribe the method of claiming the voucher; and

(B) include provisions that authorize the corporation to work with the department of state revenue and the eligible small business, if the corporation determines that the eligible small business is noncompliant with the terms of the agreement or the provisions of this chapter, to bring the eligible small business into compliance or to protect the interests of the state.

SECTION 4. IC 6-3-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 24. The

term "sales" means:

(1) in the case of the maturity, redemption, sale, exchange, loan, or other disposition of stocks, bonds, notes, options, forward contracts, future contracts, and similar instruments or securities, the net gain from the sale or exchange of such contracts, instruments, or securities;

(2) in the case of the maturity, sale, or exchange of two (2) or more contracts, instruments, or securities as part of a hedging or substantially similar transaction, only the net gains from all such sales or exchanges; and

(3) all **other** gross receipts of the taxpayer;

not allocated under IC 6-3-2-2(g) through IC 6-3-2-2(k), other than compensation (as defined in section 23 of this chapter), **or otherwise provided in this chapter. If a taxpayer does not receive money or other property upon the maturity or redemption of a security, any includible amounts shall not be included unless and until the taxpayer actually receives money or other property. Any reference to "receipts" in this article shall have the same meaning as "sales" unless the context clearly requires otherwise.**

SECTION 5. IC 6-3-1-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 37. The term "telecommunication services" has the meaning set forth in IC 6-2.5-1-27.5, except that telecommunication services also includes those items described in the following:**

(1) IC 6-2.5-1-27.5(c)(1) associated with telecommunications services.

(2) IC 6-2.5-1-27.5(c)(4) associated with telecommunications services or the provision of services described in subdivision (4).

(3) IC 6-2.5-1-27.5(c)(6).

(4) IC 6-2.5-1-27.5(c)(7).

(5) IC 6-2.5-1-27.5(c)(8) associated with telecommunications services.

(6) IC 6-2.5-1-27.5(c)(9)(B) and IC 6-2.5-1-27.5(c)(9)(C), except to the extent the item consists of specified digital products under IC 6-2.5-1-26.5.

SECTION 6. IC 6-3-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 38. The term "broadcast services" means the transmission, conveyance, and routing of video broadcasts, regardless of the medium, including**

the furnishing of transmission, conveyance, and routing of the services by a television broadcast network, a cable program network, or a television distribution company. The term also includes any advertising or promotional activity furnished in conjunction with the broadcast services.

SECTION 7. IC 6-3-2-2, AS AMENDED BY P.L.214-2018(ss), SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property to the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.

Income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and shall be considered Indiana source income as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. Income that is derived from one (1) pass through entity and is considered to pass through to another pass through entity does not change these characteristics or attribution provisions. In the case of nonbusiness income described in subsection (g), only so much of such income as is allocated to this state under the provisions of subsections (h) through (k) shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under the provision of subsection (b) shall be deemed to be derived from sources within the state of Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter), only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal

Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection (r) is considered derived from sources within Indiana. **Income derived from Indiana shall be taxable to the fullest extent permitted by the Constitution of the United States and federal law, regardless of whether the taxpayer has a physical presence in Indiana.**

(b) Except as provided in subsection (l), if business income of a corporation or a nonresident person is derived from sources within the state of Indiana and from sources without the state of Indiana, the business income derived from sources within this state shall be determined by multiplying the business income derived from sources both within and without the state of Indiana by the following:

(1) For all taxable years that begin after December 31, 2006, and before January 1, 2008, a fraction. The:

(A) numerator of the fraction is the sum of the property factor plus the payroll factor plus the product of the sales factor multiplied by three (3); and

(B) denominator of the fraction is five (5).

(2) For all taxable years that begin after December 31, 2007, and before January 1, 2009, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by four and sixty-seven hundredths (4.67); and

(B) denominator of the fraction is six and sixty-seven hundredths (6.67).

(3) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(4) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor plus the payroll factor plus the product of the sales factor multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor.

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property

owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. ~~Receipts from intangible personal property are derived from sources within Indiana~~

~~if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter.~~ Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and the purchaser is the United States government.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 and from the sale of ~~computer~~ software shall be treated as sales of tangible personal property for purposes of this chapter.

(f) Sales, other than ~~receipts from intangible property covered by subsection (e) and~~ sales of tangible personal property, are in this state ~~if:~~ **as follows:**

(1) ~~the income-producing activity is performed in this state; or~~ **The receipts are attributable to Indiana:**

(A) under subsection (r), (s), or (t); or

(B) under section 2.2 of this chapter.

(2) ~~the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.~~ **The receipts are from the provision of telecommunications services and broadcast services, provided that:**

(A) all of the costs of performance related to the receipts are attributable to Indiana; or

(B) if the costs of performance are incurred both within and outside this state, the greater portion of such costs are incurred in this state than in any other state.

(3) Receipts, other than receipts described in subdivisions (1) and (2), are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

(A) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(B) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(C) in the case of sale of a service, if and to the extent the benefit of the service is received in this state;

(D) in the case of intangible property that is rented, leased,

or licensed, if and to the extent the property is used in this state, provided that intangible property used in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state; and

(E) in the case of intangible property that is sold, if and to the extent the property is used in this state, provided that:

(i) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this state" if the geographic area includes all or part of this state;

(ii) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under clause (D); and

(iii) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(4) If the state or states of attribution under subdivision (3) cannot be determined, the state or states of attribution shall be determined by the state or states in which the delivery of the service occurs.

(5) If the state of attribution cannot be determined under subdivision (3) or (4), such receipt shall be excluded from the denominator of the receipts factor.

(g) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (h) through (k).

(h)(1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the

property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(i)(1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(j) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(k)(1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department

may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of any one (1) or more of the factors, except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Notwithstanding IC 6-8.1-5-1(c), a taxpayer petitioning for, or the department requiring, the use of an alternative method to effectuate an equitable allocation and apportionment of the taxpayer's income under this subsection bears the burden of proof that the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within this state and that the alternative method to the allocation and apportionment provisions of this article is reasonable.

(m) In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

(n) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(o) Notwithstanding subsections (l) and (m), the department may not, under any circumstances, require that income, deductions, and credits attributable to a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter.

(p) Notwithstanding subsections (l) and (m), the department may not

require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).

(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

(r) This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

(1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

(s) This subsection applies to receipts derived from motorsports racing.

(1) Any purse, prize money, or other amounts earned for placement or participation in a race or portion thereof, including qualification, shall be attributed to Indiana if the race is conducted in Indiana.

(2) Any amounts received from an individual or entity as a result of sponsorship or similar promotional consideration for one (1) or more races shall be in this state in the amount received, multiplied by the following fraction:

(A) The numerator of the fraction is the number of racing events for which sponsorship or similar promotional

consideration has been paid in a taxable year and that occur in Indiana.

(B) The denominator of the fraction is the total number of racing events for which sponsorship or similar promotional consideration has been paid in a taxable year.

(3) Any amounts earned as an incentive for placement or participation in one (1) or more races and that are not covered under subdivision (1) or (2) or under IC 6-3-2-3.2 shall be attributed to Indiana in the proportion of the races that occurred in Indiana.

This subsection, as enacted in 2013, is intended to be a clarification of the law and not a substantive change in the law.

(t) For purposes of this section and section 2.2 of this chapter, the following apply:

(1) For taxable years beginning after December 25, 2016, if a taxpayer is required to include amounts in the taxpayer's federal adjusted gross income, federal taxable income, or IRC 965 Transition Tax Statement, line 1 as a result of Section 965 of the Internal Revenue Code, the following apply:

(A) For an entity that is not eligible to claim a deduction under IC 6-3-2-12, these amounts shall not be receipts in any taxable year for the entity.

(B) For an entity that is eligible to claim a deduction under IC 6-3-2-12, these amounts shall be receipts in the year in which the amounts are reported by the entity as adjusted gross income under this article, but only to the extent of:

(i) any amounts includible after application of IC 6-3-1-3.5(b)(13), IC 6-3-1-3.5(d)(12), and IC 6-3-1-3.5(e)(12); minus

(ii) the deduction taken under IC 6-3-2-12 with regard to that income.

This subdivision applies regardless of the taxable year in which the money or property was actually received.

(2) If a taxpayer is required to include amounts in the taxpayer's federal adjusted gross income or federal taxable income as a result of Section 951A of the Internal Revenue Code the following apply:

(A) For an entity that is not eligible to claim a deduction under IC 6-3-2-12, the receipts that generated the income shall not be included as a receipt in any taxable year.

(B) For an entity that is eligible to claim a deduction under IC 6-3-2-12, the amounts included in federal gross income as

a result of Section 951A of the Internal Revenue Code, reduced by the deduction allowable under IC 6-3-2-12 with regard to that income, shall be considered a receipt in the year in which the amounts are includible in federal taxable income.

(3) Receipts do not include receipts derived from sources outside the United States to the extent the taxpayer is allowed a deduction or exclusion in determining both the taxpayer's federal taxable income as a result of the federal Tax Cuts and Jobs Act of 2017 and the taxpayer's adjusted gross income under this chapter. If any portion of the federal taxable income derived from these receipts is deductible under IC 6-3-2-12, receipts shall be reduced by the proportion of the deduction allowable under IC 6-3-2-12 with regard to that federal taxable income.

Receipts includible in a taxable year under subdivisions (1) and (2) shall be considered dividends from investments for apportionment purposes.

(u) The following apply:

(1) The department may adopt rules under IC 4-22, including emergency rules that shall be applied retroactively to January 1, 2019, to specify where sales, receipts, income, transactions, or costs are attributable under this section and section 2.2 of this chapter.

(2) Rules adopted under subdivision (1) must be consistent with the Multistate Tax Commission model regulations for income tax apportionment as in effect on January 1, 2019, including any specialized industry provisions, except to the extent expressly inconsistent with this chapter. A rule is valid unless the rule is not consistent with the Multistate Tax Commission model regulations. If a rule is partially valid and partially invalid, the rule remains in effect to the extent the rule is valid.

(3) In the absence of rules, or to the extent a rule adopted under subdivision (1) is determined to be invalid, sales shall be sourced in the manner consistent with the Multistate Tax Commission model regulations for income tax apportionment as in effect on January 1, 2019, including any specialized industry provisions, except to the extent expressly inconsistent with this chapter.

SECTION 8. IC 6-3-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 2.2. (a) Interest income and other receipts from assets in the nature of loans or installment sales contracts that are primarily secured by or

deal with real or tangible personal property are attributable to this state if the security or sale property is located in Indiana.

(b) Interest income and other receipts from consumer loans not secured by real or tangible personal property are attributable to this state if the loan is made to a resident of Indiana, whether at a place of business, by a traveling loan officer, by mail, by telephone, or by other electronic means.

(c) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property are attributable to this state if the proceeds of the loan are to be applied in Indiana. If it cannot be determined where the funds are to be applied, the income and receipts are attributable to the state in which the business applied for the loan. As used in this section, "applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(d) Interest income, merchant discount, and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees are attributable to the state to which the card charges and fees are regularly billed.

(e) Receipts from the performance of fiduciary and other services are attributable to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one (1) state, the receipts from those benefits are attributable to this state on a pro rata basis according to the portion of the benefits consumed in Indiana.

(f) Receipts from the issuance of traveler's checks, money orders, or United States savings bonds are attributable to the state in which the traveler's checks, money orders, or bonds are purchased.

(g) Receipts in the form of dividends from investments are attributable to this state if the taxpayer's commercial domicile is in Indiana.

(h) Receipts from the maturity, redemption, sale, exchange, loan, or other disposition of stocks, bonds, notes, options, forward contracts, futures contracts, and similar instruments are attributable to this state if the taxpayer's commercial domicile is in Indiana. For purposes of this subsection, only the portion of the receipts required to be included in the taxpayer's sales denominator are attributable to Indiana.

SECTION 9. IC 6-3-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 4. (a) If the Indiana economic development corporation**

established under IC 5-28 and a similar agency or body of a state bordering Indiana enter into an agreement for mutual economic development, the department of state revenue may enter into a payment agreement with that bordering state or an authorized agency of that bordering state. The payment agreement must provide for an obligation by the bordering state substantially similar to this section. The payment agreement must be reviewed by the budget agency.

(b) A payment agreement must provide that the payment by the department of state revenue cannot exceed the incremental income tax withholdings collected by the department as a result of the compensation of new employees who are Indiana residents and whose jobs are being incentivized by that border state under an agreement for mutual economic development.

(c) The amount needed to make the payment is appropriated from the state general fund.

SECTION 10. IC 6-3.1-11-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 25. (a) Notwithstanding any other law and except as provided in subsection (b), a taxpayer is entitled to receive a credit under this chapter only for a qualified investment made before January 1, 2020.**

(b) A taxpayer is entitled to receive a credit for a qualified investment made after December 31, 2019, and before January 1, 2030, if the taxpayer is awarded a credit under:

(1) an application approved by the corporation before January 1, 2020; or

(2) an agreement entered into by the taxpayer and the corporation before January 1, 2021.

(c) This section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2020, or made as provided in subsection (b) forward to a taxable year beginning after December 31, 2019, and before January 1, 2030, in the manner provided for by section 17 of this chapter.

(d) This chapter expires January 1, 2030.

SECTION 11. IC 6-3.1-13-5, AS AMENDED BY P.L.171-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) As used in this chapter, "incremental income tax withholdings" means **either:**

(1) the total amount withheld under IC 6-3-4-8 by the taxpayer during the taxable year from the compensation of new employees;

or

(2) the sum of:

(A) the total amount withheld under IC 6-3-4-8 by the taxpayer during the taxable year from the compensation of new employees; plus

(B) the additional amount that would have been withheld under IC 6-3-4-8 by the taxpayer during the taxable year from the compensation of new employees as if the new Indiana nonresident employees had been Indiana residents;

as determined by the corporation.

(b) The term does not include ~~for withholding periods beginning after June 30, 2011,~~ any amount withheld from an individual **or an additional amount described in subsection (a)(2) for an individual** for services provided in Indiana as an employee, if the:

(1) individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a; and

(2) taxpayer was not enrolled and participating in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year.

SECTION 12. IC 6-3.1-19-2, AS AMENDED BY P.L.250-2015, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 2. **(a)** As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures that is:

(1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;

(2) made under a plan adopted by an advisory commission on industrial development under IC 36-7-13; and

(3) approved by the Indiana economic development corporation before the expenditure is made.

Beginning after December 31, 2015, the term does not include a taxpayer's expenditures made on property that is classified as residential for property tax purposes, except for expenditures that were approved by the Indiana economic development corporation before January 1, 2016.

(b) Notwithstanding subsection (a)(1), expenditures for the redevelopment or rehabilitation of property that are made after the expiration of the community revitalization district designated under IC 36-7-13 may still be considered a qualified investment if:

(1) subsection (a)(2) and (a)(3) are satisfied;

(2) the Indiana economic development corporation approves

the taxpayer's application for a credit before the expiration of the community revitalization enhancement district; and

(3) the taxpayer enters into an agreement with the Indiana economic development corporation not later than one (1) year after the expiration of the community revitalization enhancement district.

SECTION 13. IC 6-3.1-24-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. If a pass through entity is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member 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; multiplied by

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

If any or all of the tax credit is passed through to a shareholder, partner, or member of a pass through entity, the amount of the tax credit that is passed through to a shareholder, partner, or member of a pass through entity may not be applied against the pass through entity's state tax liability, nor may the pass through entity assign any unused credit under section 12(b) of this chapter as effective July 1, 2020.

SECTION 14. IC 6-3.1-24-12, AS AMENDED BY P.L.193-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. **(a)** If the amount of the credit determined under section 10 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess credit over for a period not to exceed the taxpayer's following five (5) taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or a refund of any unused credit amount.

(b) If the corporation certifies a credit for an investment that is made after June 30, 2020, and before July 1, 2029, the taxpayer may assign all or part of the credit to which the taxpayer is entitled under this chapter, subject to the limitations set forth in subsection (c).

(c) The following apply to the assignment of a credit under this chapter:

(1) A taxpayer may not assign all or part of a credit or credits

to a particular person in amounts that are less than ten thousand dollars ($10,000).

(2) Before a credit may be assigned, the taxpayer must notify the corporation of the assignment of the credit in the manner prescribed by the corporation.

(3) An assignment of a credit must be in writing, and both the taxpayer and assignee shall report the assignment on the taxpayer's and assignee's state tax returns for the year in which the assignment is made, in the manner prescribed by the department.

(4) Once a particular credit or credits are assigned, the assignee may not assign all or part of the credit or credits to another person.

(5) A taxpayer may not receive value in connection with an assignment under this section that exceeds the value of that part of the credit assigned.

(d) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022. This subsection expires January 1, 2023.

SECTION 15. IC 6-3.1-24-14, AS ADDED BY P.L.106-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. A certificate or tax credit issued under this chapter **or assigned under section 12(b) of this chapter** may not be considered to be a security for purposes of IC 23. **The issuance or assignment of a certificate or tax credit under this chapter is not subject to the Indiana securities law under IC 23.**

SECTION 16. IC 6-3.1-26-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 3.1. As used in this chapter, "digital manufacturing equipment" means any production equipment utilized within an integrated computer network system that provides for the onsite manufacturing of a three-dimensional part or product using material that is joined or solidified using multiple layers under computer control pursuant to a computer aided design for rapid or on demand production.**

SECTION 17. IC 6-3.1-26-8, AS AMENDED BY P.L.288-2013, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures in Indiana

for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

(4) onsite infrastructure improvements;

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

(6) **the purchase of retooled or refurbished machinery, and** costs associated with retooling existing machinery and equipment;

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

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

(9) a logistics investment, as described in section 8.5 of this chapter;

(10) the purchase of new:

(A) pollution control and abatement;

(B) energy conservation; or

(C) renewable energy generation;

equipment; and

(11) the purchase of new onsite digital manufacturing equipment;

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

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

(c) Notwithstanding subsection (b), the term does include programmable logic controller property.

SECTION 18. IC 6-3.1-26-14, AS AMENDED BY P.L.288-2013, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 14. 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; **and**

(3) for taxable years beginning after December 31, 2018, and before January 1, 2030, fifteen percent (15%) of the amount of a qualified investment made by a taxpayer in Indiana during that taxable year, if the qualified investment made is described under section 8(a)(11) of this chapter.

The taxpayer may carry forward any unused credit as provided in section 15 of this chapter.

SECTION 19. IC 6-3.1-26-20, AS AMENDED BY P.L.250-2015, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 20. (a) The corporation shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the corporation shall grant a credit only for the amount of the qualified investment that is directly related to:

(1) expanding the workforce in Indiana; or

(2) substantially enhancing the logistics industry and improving the overall Indiana economy.

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

(1) fifty million dollars ($50,000,000) for credits based on a qualified investment that is not being claimed as a logistics investment; and

(2) ~~ten~~ **five** million dollars ~~($10,000,000)~~ **($5,000,000)** for credits based on a qualified investment that is being claimed as a logistics investment.

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

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

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

(A) subsection (b)(1); and

(B) subsection (b)(2);

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

(A) subsection (b)(1); and

(B) subsection (b)(2); and

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

(d) The department shall separately record the time of filing of each application for a credit award for a qualified investment covered by subsection (b)(1) and for a qualified investment covered by subsection (b)(2) and shall, except as provided in subsection (e), approve the credit to the taxpayer in the chronological order in which the application is filed in the state fiscal year. The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year proposed by the taxpayer.

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

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

(2) subsection (b)(2);

including carryover credit awards covered by each subsection for a previous state fiscal year, equal the maximum amount allowable in the state fiscal year, an application for such a credit award that is filed later for that same state fiscal year may not be granted by the department. However, if an applicant for which a credit has been awarded and

applied for with the department fails to claim the credit, an amount equal to the credit previously applied for but not claimed may be allowed to the next eligible applicant or applicants until the total amount has been allowed.

SECTION 20. IC 6-3.1-30-2, AS AMENDED BY P.L.288-2013, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. As used in this chapter, "eligible business" means **either of the following:**

(1) A business that:

~~(1)~~ **(A)** is engaged in either interstate or intrastate commerce;

~~(2)~~ **(B)** maintains a corporate headquarters at a location outside Indiana;

~~(3)~~ **(C)** has not previously maintained a corporate headquarters at a location in Indiana;

~~(4)~~ **(D)** had annual worldwide revenues of at least fifty million dollars ($50,000,000) for the taxable year immediately preceding the business's application for a tax credit under section 12 of this chapter; and

~~(5)~~ **(E)** commits contractually to relocating its corporate headquarters to Indiana.

(2) A business that:

(A) is engaged in either interstate or intrastate commerce;

(B) maintains a corporate headquarters at a location outside Indiana;

(C) has not previously maintained a corporate headquarters at a location in Indiana;

(D) either:

(i) received at least four million dollars ($4,000,000) in venture capital in the six (6) months immediately preceding the business's application for a tax credit under section 12 of this chapter; or

(ii) closes on at least four million dollars ($4,000,000) in venture capital not later than six (6) months after submitting the business's application for a tax credit under section 12 of this chapter; and

(E) commits contractually to relocating:

(i) its corporate headquarters to Indiana; or

(ii) the number of jobs that equals eighty percent (80%) of the business's total payroll during the immediately preceding quarter to a location in Indiana.

SECTION 21. IC 6-3.1-30-7, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2019]: Sec. 7. As used in this chapter, "taxpayer" means an individual or entity:

(1) that has any state tax liability; **or**

(2) in the case of an eligible business under section 2(2) of this chapter, that has any state tax liability or that submits incremental income tax withholdings under IC 6-3-4-8.

SECTION 22. IC 6-3.1-30-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 7.1. As used in this chapter, "venture capital" means financing provided by investors that may include equity, convertible debt, or other forms of equity-like investment instruments.**

SECTION 23. IC 6-3.1-30-8, AS AMENDED BY P.L.288-2013, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) **Subject to entering into an agreement with the corporation under sections 14 and 15 of this chapter,** if the corporation certifies that a taxpayer:

(1) is an eligible business;

(2) completes a qualifying project;

(3) incurs relocation costs; and

(4) employs:

(A) at least seventy-five (75) employees in Indiana, **in the case of a taxpayer that qualifies as an eligible business under section 2(1) of this chapter; or**

(B) at least ten (10) employees in Indiana, in the case of a taxpayer that qualifies as an eligible business under section 2(2) of this chapter;

the taxpayer is entitled to a credit against the taxpayer's state tax liability for the taxable year in which the relocation costs are incurred, **subject to subsection (c).** The credit allowed under this section is equal to the amount determined under section 9 of this chapter.

(b) For purposes of establishing the employment level required by subsection (a)(4), a taxpayer may include:

(1) individuals who:

(A) were employed in Indiana by the taxpayer before the taxpayer commenced a qualifying project; and

(B) remain employed in Indiana after the completion of the taxpayer's qualifying project; and

(2) individuals who:

(A) were not employed in Indiana by the taxpayer before the taxpayer commenced a qualifying project; and

(B) are employed in Indiana by the taxpayer as a result of the

completion of the taxpayer's qualifying project.

(c) The total amount of credits that may be approved by the corporation for all eligible businesses described in section 2(2) of this chapter may not exceed five million dollars ($5,000,000) in a state fiscal year.

SECTION 24. IC 6-3.1-30-9, AS AMENDED BY P.L.288-2013, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) Subject to subsection (b), the amount of the credit to which a taxpayer is entitled under section 8 of this chapter equals the product of:

(1) a percentage determined by the corporation that may not exceed fifty percent (50%); multiplied by

(2) the amount of the taxpayer's relocation costs in the taxable year.

(b) The credit to which a taxpayer is entitled under section 8 of this chapter may not reduce the taxpayer's state tax liability below the amount of the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred relocation costs. **However, this subsection does not apply to a taxpayer that qualifies as an eligible business under section 2(2) of this chapter.**

SECTION 25. IC 6-3.1-30-11, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for nine (9) taxable years following the unused credit year.

(b) A taxpayer **that qualifies as an eligible business under section 2(1) of this chapter** is not entitled to any carryback or refund of any unused credit.

(c) In the case of a taxpayer that qualifies as an eligible business under section 2(2) of this chapter, if the credit provided by this chapter exceeds the taxpayer's state tax liability, the excess may, at the discretion of the corporation, be refunded to the taxpayer. An eligible business under section 2(2) of this chapter is not entitled to carryback any unused credit.

SECTION 26. IC 6-3.1-30-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 14. (a) To be awarded a credit under this chapter, a taxpayer must submit an application to the corporation and enter into an agreement with the corporation.**

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

(c) A taxpayer may claim a credit awarded after June 30, 2019, against the taxpayer's state tax liability for a taxable year only if the corporation awards a credit to the taxpayer and enters into an agreement with the taxpayer under section 15 of this chapter. The corporation may deny an application for a credit under this chapter in its sole discretion. A taxpayer may not seek judicial review of a decision by the corporation to deny a taxpayer's application for a credit.

SECTION 27. IC 6-3.1-30-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 15. (a) The corporation shall require the taxpayer to enter into an agreement with the corporation as a condition of receiving a credit under this chapter.**

(b) The agreement with the corporation must:

(1) prescribe the method of certifying the taxpayer's qualified investment;

(2) include provisions that authorize the corporation to work with the department and the taxpayer, if the corporation determines that the taxpayer is noncompliant with the terms of the agreement or the provisions of this chapter, to bring the taxpayer into compliance or to protect the interests of the state; and

(3) require the taxpayer to:

(A) maintain its corporate headquarters at a location in Indiana if the business qualifies as an eligible business under section 2(1) of this chapter; or

(B) maintain either:

(i) its corporate headquarters at a location in Indiana if the business qualifies as an eligible business under section 2(2) of this chapter; or

(ii) the number of jobs that equals eighty percent (80%) of the business's total payroll at a location in Indiana if the business qualifies as an eligible business under section 2(2) of this chapter;

for not less than five (5) consecutively succeeding calendar years following the calendar year in which the taxpayer

first incurs qualifying relocation expenses.

SECTION 28. IC 6-3.1-30-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 16. (a) If the corporation determines that a taxpayer who has claimed a credit under this chapter is not entitled to the credit because of the taxpayer's noncompliance with the requirements of the tax credit agreement or any of the provisions of this chapter, the corporation shall, after giving the taxpayer an opportunity to explain the noncompliance:**

(1) notify the department of the noncompliance; and

(2) request the department to impose an assessment on the taxpayer in an amount that may not exceed the sum of any previously allowed credits under this chapter together with interest and penalties required or permitted by law.

(b) The department shall impose an assessment on a taxpayer if requested by the corporation under subsection (a), unless the assessment is unsupported by law.

(c) Notwithstanding the provisions of IC 6-8.1-5-2, an assessment is considered timely if the department issues a proposed assessment:

(1) not later than one hundred eighty (180) days from the date the department is notified of the noncompliance; or

(2) the date on which the proposed assessment could otherwise be issued in a timely manner under IC 6-8.1-5-2;

whichever is later.

SECTION 29. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]:

Chapter 34. Redevelopment Tax Credit

Sec. 1. As used in this chapter, "board" means the board of the Indiana economic development corporation.

Sec. 2. As used in this chapter, "corporation" refers to the Indiana economic development corporation established under IC 5-28-3, unless the context clearly denotes otherwise.

Sec. 3. As used in this chapter, "floor space" means the usable interior floor space of a building.

Sec. 4. As used in this chapter, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

Sec. 5. As used in this chapter, "placed in service" means that property is placed in a condition or state of readiness and available to be occupied. In the case of a qualified redevelopment site comprised of a complex of buildings, the entire qualified redevelopment site shall be considered to have been placed in service on the date that a building was placed in service if the building has floor space that, when aggregated with the floor space of all buildings in the complex placed in service on earlier dates, exceeds fifty percent (50%) of the total floor space of all buildings in the complex.

Sec. 6. As used in this chapter, "qualified redevelopment site" means:

(1) land on which a vacant building or complex of buildings was placed in service at least fifteen (15) years before the date on which the application is filed with the corporation under this chapter;

(2) land on which a vacant building or complex of buildings:

(A) was placed in service at least fifteen (15) years before the date on which the demolition of the vacant building or complex of buildings was completed; and

(B) that was demolished in an effort to protect the health, safety, and welfare of the community;

(3) land on which a vacant building or complex of buildings:

(A) was placed in service at least fifteen (15) years before the date on which the demolition of the vacant building or complex of buildings was completed;

(B) was placed in service as a public building;

(C) was owned by a unit of local government; and

(D) has not been redeveloped since the building was taken out of service as a public building;

(4) vacant land; or

(5) brownfields consisting of more than fifty (50) acres.

For a complex of buildings to be considered a qualified redevelopment site under subdivision (1), (2) or (3), the buildings must have been located on a single parcel or contiguous parcels of land that were under common ownership at the time the site was placed in service.

Sec. 7. As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures that are:

(1) for the redevelopment or rehabilitation of real property located within a qualified redevelopment site; and

(2) approved by the corporation before the expenditure is made.

Sec. 8. As used in this chapter, "rehabilitation" means the betterment of real property, including remodeling or repair.

Sec. 9. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

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

(2) IC 27-1-18-2 (the insurance premiums tax); and

(3) IC 6-5.5 (the financial institutions tax);

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

Sec. 10. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has any state tax liability. The term includes the owner or the developer of the qualified development site property, a pass through entity, and a person that is assigned part or all of a credit under section 14 of this chapter.

Sec. 11. (a) A taxpayer may claim a credit against the taxpayer's state tax liability for a taxable year only if the corporation awards a credit to the taxpayer and enters into an agreement with the taxpayer as set forth under this chapter. The corporation may establish an application period for applying for awards. If an application period is established, the corporation shall establish policies and procedures necessary to administer the application period. The corporation may deny an application for a credit under this chapter in its sole discretion. A taxpayer may not seek judicial review of a decision by the corporation to deny a taxpayer's application for a credit.

(b) The amount of the credit that a taxpayer may claim is equal to:

(1) the qualified investment made by the taxpayer during the taxable year and approved by the corporation in an agreement entered into under section 17 of this chapter; multiplied by

(2) the applicable credit percentage determined by the corporation under section 17(b) and 17(c) of this chapter.

(c) If a pass through entity may claim a credit under this section but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, beneficiary, or member of the pass through entity may claim a credit equal to:

(1) the credit determined for the pass through entity for the

taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income that the shareholder, partner, beneficiary, or member may claim.

The credit provided under this subsection is in addition to a credit that a shareholder, partner, beneficiary, or member of a pass through entity may claim. However, a pass through entity and a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified investment.

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

Sec. 12. (a) A tax credit that a taxpayer may claim under this chapter shall be applied against taxes owed by the taxpayer in the following order:

(1) First, against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for the taxable year.

(2) Second, against the taxpayer's insurance premiums tax liability (IC 27-1-18-2) for the taxable year.

(3) Third, against the taxpayer's financial institutions tax liability (IC 6-5.5) for the taxable year.

(b) If the tax paid by the taxpayer under a tax provision listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer may claim under this chapter.

Sec. 13. (a) If the amount of the credit determined under section 11 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess credit over for a period not to exceed the taxpayer's following nine (9) taxable years, beginning with the taxable year after the year in which the corporation certifies the

taxpayer's expenditures as a qualified investment. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

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

Sec. 14. (a) If a taxpayer is awarded a credit under this chapter before July 1, 2029, the taxpayer may assign any part of the credit that the taxpayer may claim under this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(b) If a taxpayer assigns a part of a credit during a taxable year, the assignee may not subsequently assign all or part of the credit to another person. A taxpayer may make only one (1) assignment of a credit. Before a credit may be assigned, the taxpayer must notify the corporation of the assignment of the credit in the manner prescribed by the corporation. An assignment of a credit must be in writing, and both the taxpayer and assignee shall report the assignment on the taxpayer's and assignee's state tax returns for the year in which the assignment is made, in the manner prescribed by the department. A taxpayer may not receive value in connection with an assignment under this section that exceeds the value of that part of the credit assigned.

(c) The corporation shall collect and compile data on the assignments of tax credits under this chapter and determine the effectiveness of each assignment in getting projects completed. The corporation shall report its findings under this subsection to the legislative council in an electronic format under IC 5-14-6 before November 1, 2022.

Sec. 15. To be awarded a credit under this chapter, a taxpayer must file an application with the corporation and enter into an agreement with the corporation as set forth under this chapter.

Sec. 16. (a) The corporation shall consider the following factors in deciding whether to award a credit under this chapter for a proposed qualified investment:

(1) Evidence that the project aligns with the community's development plans.

(2) The economic development potential for the project for which the taxpayer proposes to make the qualified investment.

(3) Evidence of barriers preventing the development or redevelopment of the qualified redevelopment site in which the qualified investment is made, such as significant

environmental contamination requiring remediation.

(4) The level of commitment by the public sector and local government to assist in the financing of improvements or redevelopment activities benefiting the qualified redevelopment site in which the qualified investment is made.

(5) Evidence of support by residents, businesses, and private organizations in the surrounding community for the project for which the taxpayer proposes to make the qualified investment.

(6) The level of economic distress in the surrounding community and the extent to which the project for which the taxpayer proposes to make the qualified investment mitigates the economic distress.

(7) The extent to which the project is estimated to enhance the economic opportunity, health, safety, aesthetics, or amenities of the community in a manner that:

(A) improves quality of life factors for residents of the region; and

(B) increases the ability of the region to attract and retain a talented workforce.

(8) Any other factors as determined by the corporation.

(b) The corporation shall not approve an application to receive a tax credit under this chapter for a qualified investment made in a qualified redevelopment site described in section 6(2) of this chapter unless the applicant can provide evidence that the local unit having jurisdiction over the property made a determination that the qualified redevelopment site was unsafe (as defined in IC 36-7-9-4), and the local unit took appropriate steps to remedy the unsafe conditions at the qualified redevelopment site, which led to its demolition.

Sec. 17. (a) The following apply if the corporation determines that a credit should be awarded under this chapter:

(1) The corporation shall require the taxpayer to enter into an agreement with the corporation as a condition of receiving a credit under this chapter.

(2) The agreement with the corporation must:

(A) prescribe the method of certifying the taxpayer's qualified investment; and

(B) include provisions that authorize the corporation to work with the department and the taxpayer, if the corporation determines that the taxpayer is noncompliant with the terms of the agreement or the provisions of this

chapter, to bring the taxpayer into compliance or to protect the interests of the state.

(3) The corporation shall specify the taxpayer's expenditures that will be considered a qualified investment.

(4) The corporation shall determine the applicable credit percentage under subsections (b) and (c).

(b) If the corporation determines that a credit should be awarded under this chapter, the corporation shall determine the applicable credit percentage for a qualified investment certified by the corporation. However, and except as provided in subsection (c), the applicable credit percentage may not exceed the following:

(1) If the qualified redevelopment site was placed in service at least fifteen (15) years ago but less than thirty (30) years ago, or is vacant land or a brownfield described in section 6(5) of this chapter:

(A) fifteen percent (15%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or

(B) ten percent (10%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A).

(2) If the qualified redevelopment site was placed in service at least thirty (30) years ago but less than forty (40) years ago:

(A) twenty percent (20%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or

(B) ten percent (10%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A).

(3) If the qualified redevelopment site was placed in service at least forty (40) years ago:

(A) twenty-five percent (25%), if the qualified redevelopment site is part of a development plan of a regional development authority established under IC 36-7.5-2-1 or IC 36-7.6-2-3; or

(B) fifteen percent (15%), if the qualified redevelopment site is not part of a development plan of a regional development authority described under clause (A).

(c) The corporation may increase the credit amount by not more than an additional five percent (5%) if:

(1) the qualified redevelopment site is located in a federally designated qualified opportunity zone (Section 1400Z-1 and 1400Z-2 of the Internal Revenue Code); or

(2) the project qualifies for federal new markets tax credits under Section 45D of the Internal Revenue Code.

(d) To be eligible for the credit for a qualified investment, a taxpayer's expenditures that are considered a qualified investment must be certified by the corporation not later than two (2) taxable years after the end of the calendar year in which the taxpayer's expenditures are made.

Sec. 18. (a) Subject to subsection (e), the corporation may, as part of an agreement entered into under section 17 of this chapter:

(1) require a taxpayer to repay all or part of a credit awarded under this chapter over a period of years; and

(2) limit the maximum amount of a credit awarded to a taxpayer under this chapter that may be claimed during a taxable year.

(b) The corporation may elect to enter into an agreement with a local unit that has jurisdiction over the real property that is subject to the proposed qualified investment, through which such agreement the local unit commits local revenue generated by the project to the corporation rather than the corporation including a repayment provision in an agreement with a taxpayer under subsection (a)(1). The total amount of revenue committed under an agreement entered into under this subsection may not exceed the credit repayment amount determined under subsection (a)(1). Any amounts received under an agreement entered into under this subsection shall be deposited in the state general fund.

(c) Notwithstanding subsections (a) and (b), if the corporation awards a tax credit to a taxpayer under this chapter that exceeds seven million dollars ($7,000,000), the corporation shall include in an agreement entered into under section 17 of this chapter a provision that requires the taxpayer to repay the portion of the credit that exceeds seven million dollars ($7,000,000).

(d) If the corporation enters into an agreement with a taxpayer under section 17 of this chapter that includes a repayment provision under subsection (a)(1) or (c), the corporation shall include in the repayment provision a provision establishing the interest rate that will be applied. The interest rate shall be determined by the board and approved by the budget agency.

(e) This subsection applies to an active multi-phased project occurring on a defined footprint for which the taxpayer has

received approval for at least the first phase of the active multi-phased project from the corporation's board before July 1, 2018, for a tax credit under IC 6-3.1-11 (industrial recovery tax credit) before its expiration. The following apply to a project described in this subsection:

(1) Only qualified investments that are made after June 30, 2021, are eligible for a credit award under this chapter.

(2) The annual amount of credits awarded under this chapter for the project may not exceed five million dollars ($5,000,000).

(3) The corporation may not include a repayment provision as part of an agreement entered into under section 17 of this chapter for the credits awarded for the project.

Sec. 19. To receive a credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit the following to the department:

(1) The certification of the corporation stating the applicable credit percentage approved by the corporation under section 17(b) of this chapter.

(2) All other information that the department determines is necessary for:

(A) the calculation for the credit provided by this chapter; and

(B) the determination of whether an expenditure was a qualified investment.

Sec. 20. (a) If the corporation determines that a taxpayer that has claimed a credit under this chapter is not entitled to the credit because of the taxpayer's noncompliance with the requirements of the tax credit agreement or any of the provisions of this chapter, the corporation shall, after giving the taxpayer an opportunity to explain the noncompliance:

(1) notify the department of the noncompliance; and

(2) request the department to impose an assessment on the taxpayer in an amount that may not exceed the sum of any previously allowed credits under this chapter together with interest and penalties required or permitted by law.

(b) If a credit was assigned under section 14 of this chapter (before its expiration), the assessment under this section shall be issued against the taxpayer that could have claimed the credit had no assignment occurred. If an assessment is issued to a taxpayer, other than an assignee of a credit that was assigned, the assessment

shall not be offset by any nonrefundable credit. An assessment may not be made against an assignee of a credit except in the case of fraud by the assignee in the assignment of the credit. Notwithstanding the provisions of IC 6-8.1-5-2, an assessment is considered timely if the department issues a proposed assessment:

(1) not later than one hundred eighty (180) days from the date the department is notified of the noncompliance; or

(2) the date on which the proposed assessment could otherwise be issued in a timely manner under IC 6-8.1-5-2;

whichever is later.

Sec. 21. (a) The board shall establish measurements for evaluating the performance of the tax credit program under this chapter.

(b) Beginning in 2023, and each odd-numbered year thereafter, the corporation shall provide for an evaluation of the tax credit program. The evaluation shall include an assessment of the effectiveness of the program, and the evaluation shall specifically report on the extent to which the tax credit program met the measurements established by the board under subsection (a). The corporation shall include information received or compiled under this section in the economic incentives and compliance report submitted under IC 5-28-28 for the calendar year in which the evaluation is completed.

Sec. 22. (a) Except as provided in subsection (b), the total amount of credits that the corporation may award under this chapter for a state fiscal year for all taxpayers for all qualified investments is fifty million dollars ($50,000,000). The portion of the credits that is subject to a repayment provision under section 18(b) or 18(c) of this chapter is not included in the calculation of the annual limit.

(b) If the corporation determines that a credit should be awarded under this chapter for a taxpayer's qualified investment but the award:

(1) will result in the corporation's cumulative credit awards under this chapter for a state fiscal year for all taxpayers for all qualified investments to exceed the limit established by subsection (a); or

(2) should not be considered when calculating the corporation's cumulative credit awards under this chapter for a state fiscal year for all taxpayers for all qualified investments;

the corporation may, after review by the budget committee, enter

into an agreement with the taxpayer under section 17 of this chapter.

SECTION 30. IC 36-7-32-8, AS AMENDED BY P.L.197-2016, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. As used in this chapter, "income tax base period amount" means **the following:**

(1) Except as provided in subdivision (2), the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:

~~(1)~~ **(A)** The adjusted gross income tax.

~~(2)~~ **(B)** The local income tax (IC 6-3.6).

(2) In the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter has been exceeded, the aggregate amount of adjusted gross income taxes and local income taxes (IC 6-3.6) paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for:

(A) the state fiscal year in which the total deposits in the incremental tax financing fund for the certified technology park first exceeded the amount limit under section 22(c) or 22(d) of this chapter; or

(B) the state fiscal year beginning July 1, 2019, and ending June 30, 2020, in the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter was exceeded before July 1, 2020.

SECTION 31. IC 36-7-32-8.5, AS AMENDED BY P.L.259-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8.5. As used in this chapter, "income tax incremental amount" means **the following:**

(1) Except as provided in subdivision (2), the remainder of:

~~(1)~~ **(A)** the total amount of state adjusted gross income taxes and local income taxes paid by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

~~(2)~~ **(B)** the sum of the:

~~(A)~~ **(i)** income tax base period amount **as defined in section**

8(1) of this chapter; and

~~(B)~~ **(ii)** tax credits awarded by the Indiana economic development corporation under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

(2) In the case of a certified technology park for which the amount limit under section 22(c) or 22(d) of this chapter has been exceeded, the remainder of:

(A) the total amount of state adjusted gross income taxes and local income taxes paid by employees employed in the territory comprising the certified technology park with respect to wages and salary earned for work in the territory comprising the certified technology park for a particular state fiscal year; minus

(B) the sum of the:

(i) income tax base period amount as defined in section 8(2) of this chapter; and

(ii) tax credits awarded by the Indiana economic development corporation under IC 6-3.1-13 to businesses operating in a certified technology park as the result of wages earned for work in the certified technology park for the state fiscal year;

as determined by the department of state revenue.

SECTION 32. IC 36-7-32-11, AS AMENDED BY P.L.259-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the Indiana economic development corporation may designate a certified technology park if the corporation determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education, a private research based institute, or a military research and development or testing facility on an active United States government military base or other military installation located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under the control of the postsecondary educational institution or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the Indiana economic development corporation.

(2) A demonstration of a significant commitment by the postsecondary educational institution, private research based institute, or military research and development or testing facility on an active United States government military base or other military installation to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The Indiana economic development corporation may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park. The Indiana economic development corporation may designate not more than two (2) new certified technology parks during any state fiscal year. The designation of a new certified technology park is subject to review and approval under section 11.5 of this chapter.

(c) A certified technology park designated under this section is subject to the review of the Indiana economic development corporation and must be recertified:

(1) every four (4) years, for a recertification occurring before January 1, 2018, **or after December 31, 2019;** and

(2) every three (3) years, for a recertification occurring after December 31, 2017, **and before January 1, 2020.**

(d) The corporation shall develop procedures and the criteria to be used in the review required under subsection (c). ~~Beginning after December 31, 2017,~~ The procedures and criteria must include the metrics developed under subsection (h) for measuring the performance of a certified technology park.

(e) A certified technology park shall furnish to the corporation the following information to be used in the course of the review:

(1) Total employment and payroll levels for all businesses operating within the certified technology park.

(2) The nature and extent of any technology transfer activity occurring within the certified technology park.

(3) The nature and extent of any nontechnology businesses operating within the certified technology park.

(4) The use and outcomes of any state money made available to the certified technology park.

(5) An analysis of the certified technology park's overall contribution to the technology based economy in Indiana.

(f) ~~Beginning after December 31, 2017,~~ A certified technology park must meet or exceed the minimum threshold requirements developed under subsection (h)(2) before the certified technology park may be recertified under this section. If a certified technology park is not recertified, the Indiana economic development corporation shall send a certified copy of a notice of the determination to the county auditor, the department of local government finance, and the department of state revenue.

(g) To the extent allowed under IC 5-14-3, the corporation shall maintain the confidentiality of any information that is:

(1) submitted as part of the review process under subsection (c); and

(2) marked as confidential;

by the certified technology park.

(h) ~~Before January 1, 2018,~~ The corporation, in conjunction with the office of management and budget, shall develop metrics for measuring the performance of a certified technology park during the review period for recertification under subsection (c). The corporation shall consult with local units of government in developing the metrics under this subsection. The metrics shall include at least the following elements:

(1) Specific criteria to be used to analyze and evaluate each category of information furnished to the corporation under subsection (e)(1) through (e)(5).

(2) Minimum threshold requirements for the performance of a certified technology park regarding each category of information furnished to the corporation under subsection (e)(1) through (e)(5) based on the criteria for the analysis and evaluation of the information under subdivision (1).

(i) The board of the Indiana economic development corporation shall adopt the metrics developed under subsection (h) as part of the criteria to be used in the corporation's review under subsection (c).

~~(j) Before July 1, 2018, the corporation shall submit a report to the legislative council and the interim study committee on fiscal policy established by IC 2-5-1.3-4 that describes the metrics adopted by the corporation under subsection (h). The report to the legislative council must be in an electronic format under IC 5-14-6.~~

SECTION 33. IC 36-7-32-22, AS AMENDED BY P.L.197-2016, SECTION 139, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2020]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) **Except as provided in subdivision (3),** the aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount **as defined in section 8.5(1) of this chapter:**

(A) The adjusted gross income tax.

(B) The local income tax (IC 6-3.6).

(3) In the case of a certified technology park to which subsection (e) applies, the amount determined under subsection (e), if any.

(c) Except as provided in ~~subsection~~ **subsections** (d) **and (e),** not more than a total of five million dollars ($5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) **Except as provided in subsection (e),** in the case of a certified technology park that is operating under a written agreement entered into by two (2) or more redevelopment commissions, and subject to section 26(b)(4) of this chapter:

(1) not more than a total of five million dollars ($5,000,000) may be deposited over the life of the certified technology park in the incremental tax financing fund of each redevelopment commission participating in the operation of the certified technology park; and

(2) the total amount that may be deposited in all incremental tax financing funds, over the life of the certified technology park, in aggregate, may not exceed the result of:

(A) five million dollars ($5,000,000); multiplied by

(B) the number of redevelopment commissions that have

entered into a written agreement for the operation of the certified technology park.

(e) If a certified technology park maintains its certification under section 11(c) of this chapter and the limit on deposits under subsection (c) or (d) has been reached for a period, an additional annual deposit amount shall, if applicable, be deposited in the incremental tax financing fund for the certified technology park equal to the following:

(1) For a certified technology park to which subsection (c) applies, the lesser of:

(1) the income tax incremental amount as defined in section 8.5(2) of this chapter; or

(2) one hundred thousand dollars ($100,000).

(2) For a certified technology park to which subsection (d) applies, the lesser of:

(1) the aggregate income tax incremental amounts as defined in section 8.5(2) of this chapter attributable to each redevelopment commission that has entered into a written agreement for the operation of the certified technology park; or

(2) one hundred thousand dollars ($100,000) multiplied by the number of redevelopment commissions that have entered into a written agreement for the operation of the certified technology park.

~~(c)~~ **(f)** On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

SECTION 34. IC 36-7-32-23, AS AMENDED BY P.L.1-2006, SECTION 571, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal,

construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement to the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

(10) For any purpose authorized by an agreement between redevelopment commissions entered into under section 26 of this chapter.

(c) The certified technology park fund may not be used for operating expenses of the redevelopment commission.

(d) If a redevelopment commission has designated a third party manager or operator of the certified technology park, the redevelopment commission shall transfer the appropriate amount from the certified technology park fund to the manager or operator within thirty (30) days of receiving a distribution under section 22 of this chapter.

SECTION 35. [EFFECTIVE UPON PASSAGE] **(a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the development of regional airports throughout Indiana.**

(b) This SECTION expires December 31, 2019.

SECTION 36. [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)] **(a) IC 6-3-1-24, IC 6-3-2-2, and IC 6-3-2-2.2, all**

as amended by this act, and IC 6-3-1-37 and IC 6-3-1-38, both as added by this act, apply to taxable years beginning after December 31, 2018.

(b) This SECTION expires June 30, 2022.

SECTION 37. **An emergency is declared for this act.**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____