Reprinted
February 18, 2025

SENATE BILL No. 346

DIGEST OF SB 346 (Updated February 17, 2025 2:46 pm - DI 129)

Citations Affected: IC 6-3.1.

Synopsis: Rural business growth. Establishes a state tax credit (credit) for certain capital investments made in rural funds. Establishes procedures for a rural fund to apply to the Indiana economic development corporation (IEDC) for certification of a capital investment as eligible for a credit provided by the bill. Requires a rural fund to pay a nonrefundable application fee of $5,000 to the IEDC. Provides that the credit is an amount equal to: (1) the applicable percentage for the credit allowance date; multiplied by (2) the purchase price paid to the rural fund for the capital investment. Sets forth the maximum annual amount of credits that may be certified. Provides that the credit is subject to recapture. Requires a rural fund that has received a credit to submit reports on an annual basis to the IEDC over the credit allowance period.

Effective: July 1, 2025.

Buchanan, Gaskill, Rogers, Schmitt

January 13, 2025, read first time and referred to Committee on Tax and Fiscal Policy.
February 11, 2025, reported favorably — Do Pass.
February 17, 2025, read second time, amended, ordered engrossed.

Reprinted
February 18, 2025

First Regular Session of the 124th General Assembly (2025)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

SENATE BILL No. 346

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3.1-33.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 33.5. Rural Fund Capital Investment Tax Credit

Sec. 1. The state tax credit provided by this chapter applies to taxable years beginning after December 31, 2025. However, beginning with the period set forth in section 3(a) of this chapter, the corporation may begin to receive applications for the credit provided by this chapter.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Affiliate" means an entity that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under the common control with, another entity. An entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority of voting or ownership interest in the controlled entity or has control over day-to-day operations of the controlled entity by

contract or by law.

(2) "Applicable percentage" means zero percent (0%) for the first two (2) credit allowance dates, and fifteen percent (15%) for the next four (4) credit allowance dates.

(3) "Capital investment" means any equity investment in a rural fund by a rural investor that:

(A) is acquired after June 30, 2025, at its original issuance solely in exchange for cash;

(B) has one hundred percent (100%) of its cash purchase price used by the rural fund to make qualified investments in eligible businesses located in Indiana by the third anniversary of the initial credit allowance date; and

(C) is designated by the rural fund as a capital investment that is certified by the corporation under sections 3 through 5 of this chapter, including any capital investment that does not satisfy section 3(b)(1) of this chapter if the investment was a capital investment in the hands of a prior holder.

(4) "Corporation " means the Indiana economic development corporation established by IC 5-28-3-1.

(5) "Credit allowance date" means the date on which the corporation provides the certification set forth in section 5(a) of this chapter and each of the five (5) anniversary dates of that date thereafter.

(6) "Department" refers to the department of state revenue.

(7) "Eligible business" means a business that, at the time of the initial qualified investment in the business:

(A) has fewer than two hundred fifty (250) employees; and

(B) has its principal business operations in a rural area of Indiana.

Any business classified as an eligible business at the time of the initial investment in the business by a rural fund shall remain classified as an eligible business and may receive follow-on investments from any rural fund. The follow-on investments shall be qualified investments even though the business may not meet the definition of an "eligible business" at the time of the follow-on investment.

(8) "Municipality" means city or town.

(9) "Principal business operations" means the location where at least sixty percent (60%) of a business's employees work or where employees who are paid at least sixty percent (60%) of the business's payroll work. A business that has agreed to

relocate employees using the proceeds of a qualified investment to establish its principal business operations in a new location shall be deemed to have its principal business operations in the new location if it satisfied the requirements of this subdivision not later than one hundred eighty (180) days after receiving a qualified investment.

(10) "Purchase price" means the amount paid to the rural fund that issues a capital investment, which shall not exceed the amount of capital investment authority certified under sections 3 through 5 of this chapter.

(11) "Qualified investment" means any investment in an eligible business or any loan to an eligible business with a stated maturity date of at least one (1) year after the date of issuance, excluding revolving lines of credit and senior-secured debt unless the chief executive or similar officer of the eligible business certifies that the eligible business sought and was denied similar financing from a depository institution or by a rural fund unless, with respect to any one (1) eligible business, the maximum amount of investments made in the business by one (1) or more rural funds, on a collective basis with all of the businesses' affiliates, with the proceeds of the capital investments, are an amount equal to the greater of twenty percent (20%) of the rural fund's capital investment authority or six million five hundred thousand dollars ($6,500,000), exclusive of investments made with repaid or redeemed investments or interest or profits realized on those investments.

(12) "Rural area" means:

(A) an area other than a municipality with a population of more than fifty thousand (50,000) or an urban area contiguous and adjacent to the municipality;

(B) an area determined to be rural in character by the United States Department of Agriculture;

(C) an urban area contiguous or adjacent to a municipality with a population of more than fifty thousand (50,000) if the corporation determines the eligible business is rural in nature, employs employees from rural areas, or is otherwise beneficial to residents of rural areas; or

(D) any municipality in Indiana with a population that does not exceed seven thousand (7,000) according to the 2020 federal decennial census.

(13) "Rural fund" means an entity certified by the

corporation under sections 3 through 5 of this chapter.

(14) "Rural investor" means an entity that makes a capital investment in a rural fund.

(15) "Senior-secured debt" means any loan that is secured by a first mortgage on real estate with a loan-to-value ratio of less than eighty percent (80%).

(16) "State tax liability" means a person's total tax liability that is incurred under:

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

(B) IC 27-1-20-12 (the insurance premiums retaliatory 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. An insurance company claiming a credit against the taxes listed in this subdivision is not required to pay any additional retaliatory tax in Indiana as a result of claiming the credit.

(17) "Taxpayer" means an entity that has state tax liability.

Sec. 3. (a) A rural fund that seeks to have an equity investment certified as a capital investment eligible for a credit allowed under this chapter must apply to the corporation. The corporation shall begin accepting applications within ninety (90) days after July 1, 2025.

(b) The application must include each of the following:

(1) The amount of capital investment requested.

(2) A copy of the applicant's or an affiliate of the applicant's license as a rural business investment company under 7 U.S.C. 2009cc or as a small business investment company under 15 U.S.C. 681 and a certificate executed by an executive officer of the applicant attesting that the license remains in effect and has not been revoked.

(3) Evidence that, as of the date the application is submitted, the applicant or affiliates of the applicant have invested at least one hundred million dollars ($100,000,000) in nonpublic companies located in counties within the United States with a population of less than seventy-five thousand (75,000) according to the 2020 federal decennial census. The evidence may be in the form of a list containing the names of the companies, the location of the companies, and the amounts invested by the applicant or affiliates of the applicant. However, an officer of the applicant must certify the list.

(4) A business plan that includes a revenue impact assessment

projecting state and local tax revenue to be generated by the applicant's proposed qualified investments, prepared by a nationally recognized, third party, independent economic forecasting firm using a dynamic economic forecasting model that analyzes the applicant's business plan over the ten (10) years following the date the application is submitted to the corporation. The plan must include an estimate of the number of jobs created and jobs retained in Indiana as a result of the applicant's qualified investments.

(5) A nonrefundable application fee of five thousand dollars ($5,000) payable to the corporation.

Sec. 4. (a) Within thirty (30) days after the receipt of a completed application, the corporation shall grant or deny the application in full or in part. The corporation shall deny the application if any of the following apply:

(1) The applicant does not satisfy all the criteria set forth in section 3 of this chapter.

(2) The revenue impact assessment submitted with the application does not demonstrate that the applicant's business plan will result in a positive fiscal impact on Indiana over a ten (10) year period that exceeds the cumulative amount of credits that would be issued to the applicant if the application were approved.

(3) The corporation has already approved the maximum amount of capital investment authority allowed under section 6 of this chapter.

(b) If the corporation denies any part of the application, it shall inform the applicant of the grounds for the denial. If the applicant provides any additional information required by the corporation or otherwise completes its application within fifteen (15) days of the notice of denial, the application shall be considered complete as of the original date of submission. If the applicant fails to provide the information or fails to complete its application within the fifteen (15) day period, the application shall remain denied and must be resubmitted with a new submission date and a new application fee.

Sec. 5. (a) Upon approval of an application, the corporation shall provide a certification of the proposed equity investment as a capital investment eligible for credits under this chapter, subject to the limitations set forth in section 6 of this chapter. The corporation shall provide written notice of the certification to the applicant, which must include the amount of the applicant's capital

investment authority and a schedule of credits by year and amount related to the capital investment authority.

(b) The corporation shall certify proposed capital investments in the order that the applications are received by the corporation. Applications received on the same day shall be deemed to have been received simultaneously. For applications that are complete and received on the same day, the corporation shall certify applications in proportionate percentages based upon the ratio of the amount of capital investment authority requested in all applications.

Sec. 6. (a) The corporation may not certify capital investment authority under this chapter in an amount that exceeds fifteen million dollars ($15,000,000) in credits to be claimed against state tax liability in any calendar year, excluding any credit amounts carried forward under section 7 of this chapter.

(b) Within ninety (90) days of the applicant receiving notice of certification, the rural fund shall issue the capital investment to and receive cash in the amount of the certified amount from a rural investor. At least ten percent (10%) of the rural investor's capital investment shall be composed of capital raised by the rural investor directly or indirectly from sources including directors, members, employees, officers, and affiliates of the rural investor, other than the amount invested by the allocatee claiming the credits in exchange for the allocation of credits. The rural fund shall provide the corporation with evidence of the receipt of the cash investment within ninety-five (95) days of the applicant receiving notice of certification.

(c) If the rural fund does not receive the cash investment and issue the capital investment within the time period following receipt of the certification set forth in section 5(a) of this chapter, the certification shall lapse and the rural fund shall not issue the capital investment without reapplying to the corporation for certification. Lapsed certifications shall revert to the corporation and shall be reissued on a pro rata basis to applicants whose capital investment allocations were reduced in accordance with the application process set forth in section 5 of this chapter.

Sec. 7. (a) Upon making a capital investment in a rural fund, a rural investor is entitled to a vested credit against the taxpayer's state tax liability that may be used on each credit allowance date of the capital investment in an amount equal to:

(1) the applicable percentage for the credit allowance date; multiplied by

(2) the purchase price paid to the rural fund for the capital investment.

(b) The amount of the credit claimed by a taxpayer shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. Any amount of credit that a taxpayer is prohibited from claiming in a tax year as a result of this section may be carried forward for use in any of the five (5) subsequent tax years.

(c) The credit shall not be carried back and is not refundable.

Sec. 8. No credit claimed under this chapter shall be refundable or saleable on the open market. Credits may be transferred to affiliates of a taxpayer. Credits earned by or allocated to a partnership, limited liability company, or S corporation may be allocated to the partners, members, or shareholders of such an entity for their use in accordance with the provisions of any agreement among such partners, members or shareholders, and a rural fund shall notify the department of taxpayers that are eligible to utilize credits and transfers upon such allocation, change, or transfer. Such allocations shall not be considered a sale for the purpose of this section.

Sec. 9. To apply a credit under this chapter against the taxpayer's state tax liability, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer must attach the certification provided by the corporation in accordance with section 5(a) of this chapter and any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the credit.

Sec. 10. (a) A credit is subject to recapture if any of the following circumstances apply:

(1) The rural fund does not invest:

(A) at least sixty percent (60%) of its capital investment authority in qualified investments in Indiana within two (2) years of the credit allowance date; and

(B) one hundred percent (100%) of its capital investment authority in qualified investments in Indiana within three (3) years of the credit allowance date.

(2) The rural fund fails to maintain qualified investments equal to one hundred percent (100%) of its capital investment authority from the third anniversary until the sixth anniversary of the credit allowance date. For purposes of this subdivision, a qualified investment is considered maintained

even if the qualified investment was sold or repaid as long as the rural fund reinvests an amount equal to the capital returned or recovered or repaid by the rural fund from the original investment, exclusive of any profits realized, in other qualified investments in Indiana within twelve (12) months of receipt of the capital. Amounts received periodically by a rural fund shall be treated as maintained in qualified investments if the amounts are reinvested in one (1) or more qualified investments by the end of the following calendar year. A rural fund is not required to reinvest capital returned from qualified investments after the fifth anniversary of the credit allowance date, and the qualified investments shall be considered maintained by the rural fund through the sixth anniversary of the credit allowance date.

(3) Before the earlier of:

(A) exiting the program in accordance with this chapter; or

(B) thirty (30) days after the sixth anniversary of the credit allowance date;

the rural fund makes a distribution or payment that results in the rural fund having less than one hundred percent (100%) of its capital investment authority invested in qualified investments in Indiana or held in cash or other marketable securities.

(4) The rural fund violates section 11 of this chapter, in which case the corporation may recapture an amount equal to the amount of the rural fund's capital investment authority found to be in violation of those provisions.

(b) Recaptured credits and related capital investment authority shall revert to the corporation and shall be reissued on a pro rata basis to applicants whose capital investment allocations were reduced in accordance with sections 3 through 5 of this chapter.

(c) No recapture shall occur until the rural fund has been given notice of noncompliance and afforded six (6) months from the date of the notice to cure the noncompliance.

(d) A rural fund, before making a qualified investment, may request from the corporation a written opinion as to whether the business in which it proposes to invest is an eligible business. The corporation, not later than fifteen (15) business days after the date of receipt of the request, shall notify the rural fund of its determination. If the corporation fails to notify the rural fund of its determination by the twentieth business day, the business in which

the rural fund proposes to invest shall be deemed an eligible business.

Sec. 11. No eligible business that receives a qualified investment under this chapter or any affiliates of the eligible business shall directly or indirectly:

(1) own or have the right to acquire an ownership interest in a rural fund or in a member or affiliate of a rural fund including, but not limited to, a holder of a capital investment issued by a rural fund; or

(2) lend to or invest in a rural fund or any member or affiliate of a rural fund including, but not limited to, a holder of capital investment issued by a rural fund, where the proceeds of the loan or investment are directly or indirectly used to fund or refinance the purchase of capital investments under this chapter.

Sec. 12. (a) A rural fund shall submit a report to the corporation by June 30 of each calendar year during the credit allowance period.

(b) The report following the second anniversary of the initial credit allowance date shall provide documentation as to the investment of at least sixty percent (60%) of the purchase price of such capital investment in qualified investments.

(c) The report following the third anniversary of the initial credit allowance date shall provide documentation as to the investment of one hundred percent (100%) of the purchase price of such capital investment in qualified investments. Unless previously reported under this section, the report must also include the following information:

(1) The name and location of each eligible business receiving a qualified investment.

(2) Bank statements of the rural fund evidencing each qualified investment.

(3) A copy of the written opinion of the corporation, as provided in section 10(d) of this chapter, or evidence that the business was an eligible business at the time of the qualified investment, as applicable.

(4) The number of jobs created and jobs retained as a result of each qualified investment.

(5) The average salary of the jobs described in subdivision (4).

(6) Any other information required by the corporation.

(d) For all subsequent years, a rural fund shall submit an annual report to the corporation by June 30 of each calendar year during

the credit allowance period, which must include the following information:

(1) The number of jobs created and jobs retained as a result of qualified investments.

(2) The average annual salary of jobs described in subdivision (1).

(3) Any other information required by the corporation.

Sec. 13. On or after the sixth anniversary of the credit allowance date, a rural fund may apply to the corporation to exit the program and no longer be subject to the requirements established under this chapter. The corporation shall respond to the exit application within fifteen (15) days of receipt. In evaluating the exit application, the fact that no credits have been recaptured and that the rural fund has not received a notice of recapture that has not been cured as allowed under section 10(c) of this chapter shall be sufficient evidence to prove that the rural fund is eligible for exit. The corporation shall not unreasonably deny an exit application submitted under this section. If an exit application is denied, the notice shall include the reasons for the determination.

COMMITTEE REPORT

Mr. President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 346, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 346 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 12, Nays 1

SENATE MOTION

Mr. President: I move that Senate Bill 346 be amended to read as follows:

Page 2, between lines 37 and 38, begin a new line block indented and insert:

"**(8) "Municipality" means city or town.**".

Page 2, line 38, delete "(8)" and insert "**(9)**".

Page 3, line 6, delete "(9)" and insert "**(10)**".

Page 3, line 10, delete "(10)" and insert "**(11)**".

Page 3, line 27, delete "(11)" and insert "**(12)**".

Page 3, line 32, delete "or".

Page 3, line 37, delete "rural areas." and insert "**rural areas; or**

(D) any municipality in Indiana with a population that does not exceed seven thousand (7,000) according to the 2020 federal decennial census.".

Page 3, line 38, delete "(12)" and insert "**(13)**".

Page 3, line 40, delete "(13)" and insert "**(14)**".

Page 3, line 42, delete "(14)" and insert "**(15)**".

Page 4, line 3, delete "(15)" and insert "**(16)**".

Page 4, line 14, delete "(16)" and insert "**(17)**".

(Reference is to SB 346 as printed February 12, 2025.)

BUCHANAN