



States' Biofuels Statutes

STATE OF INDIANA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Indiana General Assembly.

6-3.1-31.9-1 “Alternative fuel” defined

Sec. 1. As used in this chapter, “alternative fuel” means:

- (1) methanol, denatured ethanol, and other alcohols;
- (2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;
- (3) natural gas;
- (4) liquefied petroleum gas;
- (5) hydrogen;
- (6) coal-derived liquid fuels;
- (7) non-alcohol fuels derived from biological material;
- (8) P-Series fuels;
- (9) electricity; or
- (10) biodiesel or ultra low sulfur diesel fuel.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007. Amended by P.L.182-2009 (ss), SEC.206.

6-3.1-31.9-2 “Alternative fuel vehicle” defined

Sec. 2. As used in this chapter, “alternative fuel vehicle” means any passenger car or light truck with a gross weight of eight thousand five hundred (8,500) pounds or less that is designed to operate on at least one (1) alternative fuel.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007. Amended by P.L.182-2009 (ss), SEC.207.

6-3.1-31.9-3 “Corporation” defined

Sec. 3. As used in this chapter, “the corporation” means the Indiana economic development corporation established by IC 5-28-3-1.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-4 “Director” defined

Sec. 4. As used in this chapter, “director” has the meaning set forth in IC 6-3.1-13-3.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-5 “Highly compensated employee” defined

Sec. 5. As used in this chapter, “highly compensated employee” has the meaning set forth in Section 414(q) of the Internal Revenue Code.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-6 “New employee” defined

Sec. 6. As used in this chapter, “new employee” has the meaning set forth in IC 6-3.1-13-6.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-7 “Qualified investment” defined

Sec. 7. As used in this chapter, “qualified investment” means the amount of a taxpayer’s expenditures in Indiana that are reasonable and necessary for the manufacture or assembly of alternative fuel vehicles, including:

- (1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly,

finishing, distribution, transportation, or logistical distribution equipment, jigs, dies, or fixtures;

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

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

(4) onsite infrastructure improvements;

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

(6) costs associated with retooling existing machinery and equipment;

(7) costs associated with the construction of special purpose buildings, pits, and foundations; and

(8) costs associated with the purchase of machinery, equipment, or special purpose buildings used to manufacture or assemble alternative fuel vehicles;

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

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-8 “State tax liability” defined

Sec. 8. As used in this chapter, “state tax liability” means a 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 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums 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.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-9 “Taxpayer” defined

Sec. 9. As used in this chapter, “taxpayer” means an individual, a corporation, a partnership, or other entity that has state tax liability.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-10 Designated uses for credit awards

Sec. 10. The corporation may make credit awards under this chapter to:

- (1) foster job creation and higher wages;
- (2) reduce dependency upon energy sources imported into the United States; and
- (3) reduce air pollution as the result of the manufacture or assembly of alternative fuel vehicles in Indiana.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-11 Compliance of taxpayer with credit agreement; credit against state tax liability

Sec. 11. A taxpayer that:

- (1) is awarded a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-12 Limit of tax credit; carrying forward unused credit

Sec. 12. 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 fifteen percent (15%) of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year. The taxpayer may carry forward any unused credit.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-13 Carrying forward unused credit; not to exceed 9 consecutive taxable years

Sec. 13. (a) A taxpayer may carry forward an unused credit for the number of years determined by the

corporation, not to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the unused part of a credit allowed under this chapter.

(c) A taxpayer may:

- (1) claim a tax credit under this chapter for a qualified investment; and
- (2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed fifteen percent (15%) of the qualified investment for which the tax credit is claimed.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-14 Form of application for proposal to manufacture or assemble alternative fuel vehicles; submission to corporation

Sec. 14. A person that proposes a project to manufacture or assemble alternative fuel vehicles that would create new jobs, increase wage levels, or involve substantial capital investment in Indiana may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-15 Receipt of application by corporation; required conditions for agreement

Sec. 15. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

- (1) The applicant's project will raise the total earnings of employees of the applicant in Indiana.
- (2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.
- (3) The manufacture or assembly of alternative fuel vehicles by the applicant will reduce air pollution.
- (4) The manufacture or assembly of alternative fuel vehicles by the applicant will reduce dependence by the United States on foreign energy sources.

- (5) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project.
- (6) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
- (7) The credit is not prohibited by section 16 of this chapter.
- (8) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-16 Credit not available for jobs relocated from inside state

Sec. 16. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the corporation.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-17 Certification of amount for qualified investment; limitations on use of qualified investment

Sec. 17. 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 expanding:

- (1) the workforce in Indiana; or
- (2) the capital investment in Indiana.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-18 Agreement between corporation and application; requirements of agreement

Sec. 18. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.

- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.
- (8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.
- (10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.
- (11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.
- (12) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.
- (13) Any other performance conditions that the corporation determines are appropriate.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-19 Submittal of certificate of verification to department of state revenue; claim not invalidated for failure to submit

Sec. 19. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-20 Failure to comply with requirements; request assessment against noncomplying taxpayer; assessment not to exceed sum of previous credits

Sec. 20. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the Indiana economic development corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-21 Report to corporation; contents of report

Sec. 21. On or before March 31 each year, the director shall submit a report to the corporation on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-22 Evaluation of tax credit program; biennial basis; report due between June 30 and November 1 in odd-numbered years; format of report

Sec. 22. On a biennial basis, the corporation shall provide for an evaluation of the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year. The report provided to the president pro tempore of the senate and the speaker of the house of representatives must be in an

electronic format under IC 5-14-6.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007.

6-3.1-31.9-23 Time limitations on approval of credit for qualified investment

Sec. 23. (a) This chapter applies to taxable years beginning after December 31, 2006.

(b) Notwithstanding the other provisions of this chapter, the corporation may not approve an alternative fuel vehicle manufacturing credit for a qualified investment made after December 31, 2016. However, 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, 2017, forward to a taxable year beginning after December 31, 2016, in the manner provided by section 13 of this chapter.

Credits: As added by P.L.223-2007, SEC.4, eff. Jan. 1, 2007. Amended by P.L.137-2012, SEC.62.