

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2012 (RETROACTIVE)]:
- 6 **Chapter 34. Hoosier Job Creation Tax Credit**
- 7 **Sec. 1. As used in this chapter, "base employment period" of a**
- 8 **small business refers to the six (6) month period beginning January**
- 9 **1, 2010. However, if a small business began doing business in**
- 10 **Indiana after January 1, 2010, the term refers to the initial period**
- 11 **before January 1, 2012, in which the small business employed**
- 12 **full-time employees in Indiana in the trade or business of the small**
- 13 **business, not to exceed six (6) months.**
- 14 **Sec. 2. As used in this chapter, "department" refers to the**
- 15 **department of state revenue or the department of insurance,**
- 16 **whichever is obligated to administer the tax against which a tax**
- 17 **credit is applied.**
- 18 **Sec. 3. As used in this chapter, "full-time employee" means an**
- 19 **individual who:**
- 20 **(1) is employed for consideration for at least thirty-five (35)**
- 21 **hours each week or who renders any other standard of service**
- 22 **generally accepted by custom or specified by contract as**
- 23 **full-time employment; and**
- 24 **(2) earns income for service described in subdivision (1) that**

1 is subject to withholding under IC 6-3 (before the application
2 of any earned income tax credit) in an amount that is the
3 equivalent of at least two hundred percent (200%) of the
4 federal hourly minimum wage in effect during the week of
5 employment.

6 Sec. 4. As used in this chapter, "qualified new employee" refers
7 to a full-time employee described in section 14 of this chapter.

8 Sec. 5. As used in this chapter, "small business" refers to a small
9 business (as defined in IC 5-28-2-6) that existed and employed
10 full-time employees in Indiana in its trade or business before
11 January 1, 2012.

12 Sec. 6. As used in this chapter, "state tax liability" means a
13 taxpayer's total tax liability that is incurred under:

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

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

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

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

20 Sec. 7. As used in this chapter, "tax credit" refers to a tax credit
21 granted by this chapter against state tax liability.

22 Sec. 8. As used in this chapter, "taxpayer" means an individual
23 or entity that has state tax liability.

24 Sec. 9. (a) This section applies only to taxable years beginning
25 after December 31, 2011, and before January 1, 2015.

26 (b) Subject to this chapter, a small business that employs a
27 qualified new employee in Indiana in a taxable year is eligible for
28 a tax credit against the state tax liability imposed against the small
29 business for the taxable year if, on average, the small business
30 employed a greater number of full-time employees in Indiana in
31 the taxable year than the small business employed in Indiana, on
32 average, in the small business's base employment period.

33 Sec. 10. The amount of the tax credit to which a small business
34 is entitled in a taxable year is equal to the lesser of the following:

35 (1) Three thousand dollars (\$3,000) multiplied by the lesser
36 of:

37 (A) the average number of qualified new employees that
38 the small business employed in Indiana during the taxable
39 year in the trade or business of the small business; or

40 (B) the average number of additional full-time employees
41 that the small business employed in Indiana in the trade or
42 business of the small business during the taxable year in
43 excess of the average number of full-time employees that
44 the small business employed in Indiana in its trade or
45 business during the small business's base employment
46 period.

47 (2) One hundred thousand dollars (\$100,000).

1 **However, if the taxable year of the small business is less than**
2 **twelve (12) months, the amounts of three thousand dollars (\$3,000)**
3 **and one hundred thousand dollars (\$100,000) are reduced in**
4 **proportion to the amount by which the taxable year of the small**
5 **business is shortened.**

6 **Sec. 11. (a) If the amount of a tax credit to which a small**
7 **business is entitled in a taxable year exceeds the small business's**
8 **state tax liability for that taxable year, the small business may**
9 **carry the excess over to not more than three (3) subsequent taxable**
10 **years. The amount of the credit carryover from a taxable year shall**
11 **be reduced to the extent that the carryover is used by the small**
12 **business to obtain a credit under this chapter for any subsequent**
13 **taxable year.**

14 **(b) A small business is not entitled to a carryback or refund of**
15 **any unused credit.**

16 **Sec. 12. If a small business is a pass through entity that does not**
17 **have state tax liability against which a tax credit may be applied,**
18 **a shareholder, partner, fiduciary, or member of the pass through**
19 **entity is entitled to a tax credit equal to:**

20 **(1) the tax credit that the pass through entity would be**
21 **entitled to for the taxable year if the pass through entity were**
22 **a taxpayer; multiplied by**

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

26 **Sec. 13. To receive a tax credit, a taxpayer must claim the credit**
27 **on the taxpayer's annual state tax return or returns in the manner**
28 **prescribed by the department. The taxpayer shall maintain the**
29 **records required by the department for the period specified by the**
30 **department to substantiate the taxpayer's eligibility for a tax**
31 **credit.**

32 **Sec. 14. To be a qualified new employee in a particular taxable**
33 **year, an individual must meet all the following criteria:**

34 **(1) Be initially hired into a position as a full-time employee by**
35 **the small business for the first time after December 31, 2011.**

36 **(2) Be, at the time the small business initially employs the**
37 **individual after December 31, 2011:**

38 **(A) an individual who is receiving state or federal**
39 **unemployment insurance benefits or has exhausted the**
40 **individual's eligibility for state or federal unemployment**
41 **insurance benefits since last becoming unemployed; or**

42 **(B) a former member of the military services of the United**
43 **States who served on active duty in any branch of the**
44 **armed forces of the United States or National Guard and**
45 **who at no time received a discharge or separation under**
46 **other than honorable conditions, except corrected**
47 **separation or discharge to read "honorable" as evidenced**

1 by appropriate records presented from the United States
2 Department of Defense or appropriate branch of the
3 military service;

4 or both.

5 (3) Is not an individual who was employed by a related
6 member (as defined in IC 6-3.1-13-8) of the small business (or
7 another business entity that would be a related member (as
8 defined in IC 6-3.1-13-8) if the other entity were a
9 corporation) within twelve (12) months of being initially
10 employed by the small business.

11 (4) Is not a child, grandchild, parent, or spouse (other than a
12 spouse who is legally separated from the individual) of any
13 individual who is an employee of the small business or who
14 has a direct or an indirect ownership interest of at least five
15 percent (5%) in the profits, capital, or value of the small
16 business or a related member (as defined in IC 6-3.1-13-8) of
17 the small business (or another business entity that would be a
18 related member (as defined in IC 6-3.1-13-8) if the other
19 entity were a corporation). An ownership interest shall be
20 determined in accordance with Section 1563 of the Internal
21 Revenue Code and regulations prescribed under Section 1563
22 of the Internal Revenue Code.

23 Sec. 15. The tax credit to which a taxpayer would otherwise be
24 entitled under this chapter in a taxable year is reduced by the sum
25 of the following tax credits received for the same qualified new
26 employee:

27 (1) The economic development for a growing economy tax
28 credits (IC 6-3.1-13) allowable to the taxpayer in a taxable
29 year and attributable to the same employee for which a tax
30 credit would otherwise be granted under this chapter.

31 (2) The Hoosier business investment tax credits (IC 6-3.1-26)
32 allowable to the taxpayer in a taxable year and attributable to
33 the same employee for which a tax credit would otherwise be
34 granted under this chapter.

35 (3) The amount of federal or state training grants used in the
36 taxable year to train an employee for which a tax credit would
37 otherwise be granted under this chapter.

38 Sec. 16. A small business (or if section 12 of this chapter applies,
39 a shareholder, partner, fiduciary, or member of a small business)
40 forfeits fifty percent (50%) of the amount of the tax credits
41 attributable to the employment of a qualified new employee, if
42 within eighteen (18) months after the qualified new employee was
43 initially hired:

44 (1) the qualified new employee is terminated, laid off, or
45 otherwise reclassified to a position that is not a full-time
46 employment position with the small business; or

47 (2) the position created for the qualified new employee is

1 **eliminated.**
 2 **For purposes of this section, the replacement, within a reasonable**
 3 **time as determined by the department, of a qualified new employee**
 4 **with another qualified new employee shall be treated as continuous**
 5 **employment of a qualified new employee from the date of the**
 6 **hiring or rehiring of the initial qualified new employee.**

7 **Sec. 17. The amount due to the department from a forfeiture**
 8 **under section 16 of this chapter shall be treated as due to the state**
 9 **on the date the taxpayer's annual return or informational return**
 10 **is due for the taxable year in which the reduction in employment**
 11 **occurred.**

12 **Sec. 18. (a) Employment levels shall be determined using the**
 13 **total number of employees reported by the small business on the**
 14 **quarterly payroll report submitted by the small business to the**
 15 **department of workforce development. The department of**
 16 **workforce development shall give the information to the**
 17 **department on the schedule and in the form requested by the**
 18 **department.**

19 **(b) A small business shall use the method prescribed by the**
 20 **department to determine the average number of full-time**
 21 **employees or qualified new employees that the small business**
 22 **employed during the small business's base employment period.**

23 **Sec. 19. The department may adopt rules under IC 4-22-2,**
 24 **including emergency rules under IC 4-22-2-37.1, to implement this**
 25 **chapter.**

26 **Sec. 20. This chapter expires January 1, 2021."**

27 Page 1, line 4, delete "Right to Work" and insert "**Labor**
 28 **Organization Membership"**.

29 Page 2, delete lines 41 through 42, begin a new paragraph and
 30 insert:

31 **"Sec. 7. A person may not require an individual to become or**
 32 **remain a member of a labor organization.**

33 **Sec. 8. Nothing in this chapter shall be construed to prohibit**
 34 **collective bargaining agreements that require the payment of**
 35 **representation fees."**

36 Delete page 3.

37 Page 4, delete lines 1 through 4.

38 Re-number all SECTIONS consecutively.

(Reference is to HB 1001 as printed January 12, 2012.)

Representative Battles