HB 1395-1—Filed 1/28/1998, 4:40 PM

Adopted	Rejected

COMMITTEE REPORT

YES: 18
NO: 0

MR. SPEAKER:

Your Committee on ***Ways and Means*** *, to which was referred House Bill 1395 , has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill* ***be amended*** *as follows:*

Page 5, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 5. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer or by an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4),~~ **IC 6-3-2-2.8(4),** or ~~(5)~~ **IC 6-3-2-2.8(5)** and who:

(1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;

(2) performs services for the taxpayer or employer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's or employer's trade or business that is located in an enterprise zone; and

(3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) For purposes of this section, "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.

(c) For purposes of this section, "taxpayer" includes a pass through entity.

~~(b)~~ **(d)** Except as provided in subsection ~~(c),~~ **(e),** a qualified employee is entitled to deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or

(2) seven thousand five hundred dollars ($7,500).

~~(c)~~ **(e)** No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides.

SECTION 6. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 10. (a) As used in this section:

"Base period wages" means wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means:

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

(2) a partnership;

(3) a trust;

(4) a limited liability company; or

(5) a limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

(1) has his principal place of residence in the enterprise zone in which he is employed;

(2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone; and

(3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone.

"Qualified increased employment expenditures" means the following:

(1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(1) IC 6-2.1 (gross income tax) with respect to enterprise zone gross income;

(2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;

(3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and

(4) 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 section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or

(2) one thousand five hundred dollars ($1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, 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, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.".

Page 5, between lines 39 and 40, begin a new paragraph and insert the following:

"SECTION 6. IC 6-3.1-10-4, AS AMENDED BY P.L.57-1996, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 4. ~~(a)~~ As used in this chapter, "taxpayer" means **the following:**

(1) Any individual that has any state tax liability.

~~(b) Notwithstanding subsection (a), for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000), "taxpayer" includes a pass through entity.~~

(2) A corporation that has any state tax liability.

(3) A pass through entity (as defined in IC 6-3-3-10).".

Page 6, between lines 19 and 20, begin a new paragraph and insert the following:

"SECTION 7. IC 6-5.5-1-2, AS AMENDED BY P.L.28-1997, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States, or for taxes on property levied by a state or a subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue

Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) **or Section 593** of the Internal Revenue Code.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

(1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

(2) solicits or receives a payment to be made to itself and issues in exchange for the payment:

(A) a so-called bond;

(B) a share;

(C) a coupon;

(D) a certificate of membership;

(E) an agreement;

(F) a pretended agreement; or

(G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).".

Page 8, line 32, before "cider" insert "**hard**".

Page 11, line 7, before "cider" insert "**hard**".

Page 11, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 11. IC 6-9-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a coliseum expansion fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund may be appropriated only:

(1) for the acquisition, improvement, remodeling, or expansion of an athletic and exhibition coliseum in existence before ~~the effective day of an ordinance adopted under section 3 of this~~

~~chapter;~~ **January 1, 1998;** and

(2) to retire any bonds issued, loans obtained, or lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire an athletic and exhibition coliseum in existence before ~~the effective day of an ordinance adopted under section 3 of this chapter.~~ **January 1, 1998.**

(b) Obligations entered into for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

(c) Money collected under this chapter and set aside for debt reserve before July 1, 1998, may not be used for the purposes set forth in subsection (a)(1).".

Page 11, line 29, delete "or pears;" and insert "**;**".

Page 11, line 34, delete "or pear must." and insert "**.**".

Page 11, line 41, before "cider" insert "**hard**".

Page 12, line 7, before "cider" insert "**hard**".

Page 12, line 11, before "Cider" insert "**Hard**".

Page 12, line 14, before "cider" insert "**hard**".

Page 12, line 15, after "The" insert "**hard**".

Page 12, line 15, after "to" insert "**hard**".

Page 12, line 16, before "cider" insert "**hard**".

Page 12, line 18, before "cider" insert "**hard**".

Page 12, line 21, before "cider" insert "**hard**".

Page 12, line 23, before "cider" insert "**hard**".

Page 12, line 27, before "cider" insert "**hard**".

Page 12, line 29, before "cider" insert "**hard**".

Page 13, line 9, before "cider" insert "**hard**".

Page 13, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)] **(a) IC 6-5.5-1-2, as amended by this act, applies to taxable years beginning after December 31, 1996.**

(b) SECTIONS of this act that become effective January 1, 1998, apply to taxable years beginning after December 31, 1997.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1395 as introduced.)

and when so amended that said bill do pass.

Representative Bauer