

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 396 be amended to read as follows:

- 1 Page 2, between lines 26 and 27, begin a new paragraph and insert:
- 2 "SECTION 7. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOW [EFFECTIVE
- 4 JANUARY 1, 2010 (RETROACTIVE)]:
- 5 **Chapter 33. New Employer Tax Credit and Grant**
- 6 **Sec. 1. This chapter applies to:**
- 7 (1) a new Indiana business that initially begins doing business
- 8 in Indiana; and
- 9 (2) taxable years beginning;
- 10 after December 31, 2009.
- 11 **Sec. 2. As used in this chapter, "department" refers to the**
- 12 **department of state revenue or the department of insurance,**
- 13 **whichever is obligated to administer the tax against which a credit**
- 14 **is applied.**
- 15 **Sec. 3. As used in this chapter, "new Indiana business" means**
- 16 **a corporation or pass through entity that locates or relocates the**
- 17 **operations of a business enterprise in Indiana after December 31,**
- 18 **2009, and employs at least one (1) full-time employee (as defined in**
- 19 **IC 6-3.1-13-4) in Indiana during a taxable year for which a tax**
- 20 **credit is sought. The term does not include a corporation or pass**
- 21 **through entity that:**
- 22 (1) is directly or indirectly under common ownership or
- 23 control with another corporation or pass through entity that
- 24 conducts business operations in Indiana in the same line of

1 **business; or**
2 **(2) is the successor to part or all of the assets or business**
3 **operations of another corporation or pass through entity that**
4 **conducted business operations in Indiana in the same line of**
5 **business;**

6 **as determined by the department.**

7 **Sec. 4. As used in this chapter, "state tax liability" means a**
8 **taxpayer's total tax liability that is incurred under:**

- 9 **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**
10 **(2) IC 27-1-18-2 (the insurance premiums tax); and**
11 **(3) IC 6-5.5 (the financial institutions tax);**

12 **as computed before the application of any other credit against state**
13 **tax liability to which the taxpayer is entitled, including any credit**
14 **described in IC 6-3.1-1-2.**

15 **Sec. 5. As used in this chapter, "tax credit" refers to a tax credit**
16 **against state tax liability granted by this chapter before the**
17 **application of any other tax credits to which a new Indiana**
18 **business might be eligible.**

19 **Sec. 6. As used in this chapter, "taxpayer" means a person,**
20 **corporation, partnership, or other entity that has any state tax**
21 **liability.**

22 **Sec. 7. Subject to this chapter, a new Indiana business is entitled**
23 **to a tax credit against the state tax liability imposed on the new**
24 **Indiana business in a taxable year that includes any of the first**
25 **twenty-four (24) months after the new Indiana business begins**
26 **doing business in Indiana if the new Indiana business elects to**
27 **comply with section 11 of this chapter in the manner specified by**
28 **the department.**

29 **Sec. 8. The amount of the tax credit available under this chapter**
30 **is equal to the following:**

31 **(1) Fifty percent (50%) of the state tax liability imposed on**
32 **the new Indiana business for the taxable year that begins and**
33 **ends within the first twenty-four (24) months in which the new**
34 **Indiana business operates in Indiana.**

35 **(2) Fifty percent (50%) of the state tax liability imposed on**
36 **the new Indiana business for the taxable year that begins**
37 **before or ends after the first twenty-four (24) months in which**
38 **the new Indiana business operates in Indiana, multiplied by**
39 **a fraction. The numerator of the fraction is the number of**
40 **consecutive days in which the new Indiana business operates**
41 **in Indiana during the taxable year, including any intervening**
42 **weekends and holidays. The denominator of the fraction is**
43 **three hundred sixty-five (365).**

44 **Sec. 9. If a pass through entity does not have state tax liability**
45 **against which a tax credit may be applied, a shareholder, partner,**
46 **fiduciary, or member of the pass through entity is entitled to a tax**
47 **credit equal to:**

- 1 **(1) the tax credit to which the pass through entity would be**
 2 **entitled under this chapter for the taxable year if the pass**
 3 **through entity were a taxpayer; multiplied by**
 4 **(2) the percentage of the pass through entity's distributive**
 5 **income to which the shareholder, partner, fiduciary, or**
 6 **member is entitled.**

7 **Sec. 10. To qualify for a tax credit under this chapter, a**
 8 **taxpayer must claim the tax credit and demonstrate compliance**
 9 **with section 11 of this chapter on the taxpayer's annual state tax**
 10 **return or returns in the manner prescribed by the department. The**
 11 **taxpayer shall maintain the records required by the department**
 12 **for the period specified by the department to substantiate the**
 13 **taxpayer's eligibility for the credit.**

14 **Sec. 11. To qualify for a tax credit under this chapter for a**
 15 **particular taxable year, a new Indiana business must elect in the**
 16 **manner specified by the department to pay an amount equal to**
 17 **twenty-five percent (25%) of the amount of the tax credit for that**
 18 **taxable year as bonus compensation to the employees of the new**
 19 **Indiana business who were employed in Indiana during the taxable**
 20 **year according to a formula that results in each bonus being an**
 21 **amount that is the lesser of the following:**

22 **(1) An amount proportional to the number of:**

23 **(A) hours that the employee worked; or**

24 **(B) other units of pay for which the employee worked;**

25 **for the new Indiana business during the taxable year, relative**
 26 **to the total number of hours that all employees worked or**
 27 **other units of pay for which all employees worked for the new**
 28 **Indiana business in Indiana during the taxable year.**

29 **(2) Three thousand dollars (\$3,000).**

30 **However, less than twenty-five percent (25%) of the amount of the**
 31 **tax credit may be devoted to bonuses to the extent that the total**
 32 **amount is not needed to implement the bonus formula specified in**
 33 **subdivisions (1) and (2). The bonuses must be paid not later than**
 34 **the date the final tax or informational return for the taxable year**
 35 **is due, including any extension period."**

36 Renumber all SECTIONS consecutively.

(Reference is to ESB 396 as printed February 19, 2010.)

Representative Pearson