

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WITHDRAWN	Noes _____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

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1005 be amended to read as follows:

- 1 Page 2, between lines 20 and 21, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2011]:
- 5 **Chapter 34. Employer Tax Credit for Tuition Expenses**
- 6 **Sec. 1. This chapter applies only to taxable years beginning after**
- 7 **December 31, 2011.**
- 8 **Sec. 2. As used in this chapter, "employer" means an entity that**
- 9 **has employees, including:**
- 10 (1) an individual acting as a sole proprietor;
- 11 (2) a pass through entity; and
- 12 (3) a corporation.
- 13 **Sec. 3. As used in this chapter, "pass through entity" means:**
- 14 (1) a corporation that is exempt from the adjusted gross
- 15 income tax under IC 6-3-2-2.8(2);
- 16 (2) a partnership;
- 17 (3) a limited liability company; or
- 18 (4) a limited liability partnership.
- 19 **Sec. 4. As used in this chapter, "state educational institution"**
- 20 **has the meaning set forth in IC 21-7-13-32.**
- 21 **Sec. 5. As used in this chapter, "state tax liability" means a**
- 22 **taxpayer's total tax liability that is incurred under:**
- 23 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 24 (2) IC 6-5.5 (the financial institutions tax); and

1           **(3) IC 27-1-18-2 (the insurance premiums tax);**  
2 **as computed after the application of the credits that under**  
3 **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
4 **chapter.**

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

8           **Sec. 7. As used in this chapter, "tuition" includes required**  
9 **books, course supplies, and course fees.**

10           **Sec. 8. (a) Each taxable year, subject to subsection (b), an**  
11 **employer that incurs tuition expenses for an employee who attends**  
12 **a state educational institution during the taxable year is entitled to**  
13 **a credit against state tax liability for the amount of tuition expenses**  
14 **incurred during the taxable year for a course in which the**  
15 **employee achieves a final grade of at least:**

16                   **(1) 2.0, if a 4.0 grading scale is used; or**

17                   **(2) a grade equivalent to the grade specified in subdivision (1),**  
18 **if another grading scale is used.**

19           **(b) The credit provided by subsection (a) is not allowed for**  
20 **tuition expenses to the extent a taxpayer has claimed a deduction**  
21 **from the taxpayer's federal gross income for the tuition expenses**  
22 **in determining the taxpayer's Indiana adjusted gross income.**

23           **Sec. 9. An employer that claims the credit provided by this**  
24 **chapter shall keep the following records for each tuition payment**  
25 **the employer makes for a course taken by an employee at a state**  
26 **educational institution:**

27                   **(1) The name of the employee.**

28                   **(2) The state educational institution at which the course was**  
29 **taken.**

30                   **(3) The name of the course.**

31                   **(4) The academic semester or other period in which the course**  
32 **was taken.**

33                   **(5) The amount of the tuition payment.**

34                   **(6) The employee's final grade in the course.**

35                   **(7) Any other reasonable information required by the**  
36 **department.**

37           **Sec. 10. If a pass through entity does not have state tax liability**  
38 **for a taxable year but is otherwise entitled to the tax credit**  
39 **provided by this chapter, each shareholder, partner, or member of**  
40 **the pass through entity is entitled to a share of the tax credit equal**  
41 **to:**

42                   **(1) the amount of the tax credit determined for the pass**  
43 **through entity for the taxable year; multiplied by**

44                   **(2) the percentage of the pass through entity's distributive**  
45 **income to which the shareholder, partner, or member is**  
46 **entitled.**

47           **Sec. 11. (a) If the credit provided by this chapter exceeds a**

1 taxpayer's state tax liability for the taxable year for which the  
2 credit is first claimed, the excess may be carried forward to  
3 succeeding taxable years and used as a credit against the  
4 taxpayer's state tax liability during those taxable years. Each time  
5 the credit is carried forward to a succeeding taxable year, the  
6 credit is to be reduced by the amount that was used as a credit  
7 during the immediately preceding taxable year. The credit  
8 provided by this chapter may be carried forward and applied to  
9 succeeding taxable years for not more than five (5) taxable years  
10 following the first year for which the credit is claimed.

11 (b) A taxpayer is not entitled to a carryback or refund of any  
12 unused credit under this chapter.

13 **Sec. 12. To receive the tax credit under this chapter, a taxpayer**  
14 **must claim the credit on the taxpayer's annual state tax return or**  
15 **returns in the manner prescribed by the department."**

16 Renumber all SECTIONS consecutively.

(Reference is to HB 1005 as printed February 11, 2011.)

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Representative Battles