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| Adopted | Rejected |
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COMMITTEE REPORT

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| YES: | 8 |
| NO: | 0 |

MR. SPEAKER:

*Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 222, 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:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2010,
- 3 SECTION 8, AS AMENDED BY P.L.35-2010, SECTION 2, AND AS
- 4 AMENDED BY P.L.113-2010, SECTION 9, IS CORRECTED AND
- 5 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
- 6 PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action
- 7 resulting in any of the following rules:
- 8 (1) An order adopted by the commissioner of the Indiana
- 9 department of transportation under IC 9-20-1-3(d) or
- 10 IC 9-21-4-7(a) and designated by the commissioner as an
- 11 emergency rule.
- 12 (2) An action taken by the director of the department of natural
- 13 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

- 1 (3) An emergency temporary standard adopted by the
2 occupational safety standards commission under
3 IC 22-8-1.1-16.1.
- 4 (4) An emergency rule adopted by the solid waste management
5 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 6 (5) A rule, other than a rule described in subdivision (6), adopted
7 by the department of financial institutions under IC 24-4.5-6-107
8 and declared necessary to meet an emergency.
- 9 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
10 department of financial institutions and declared necessary to
11 meet an emergency under IC 24-4.5-6-107.
- 12 (7) A rule adopted by the Indiana utility regulatory commission to
13 address an emergency under IC 8-1-2-113.
- 14 (8) An emergency rule adopted by the state lottery commission
15 under IC 4-30-3-9.
- 16 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the
17 executive board of the state department of health declares is
18 necessary to meet an emergency.
- 19 (10) An emergency rule adopted by the Indiana finance authority
20 under IC 8-21-12.
- 21 (11) An emergency rule adopted by the insurance commissioner
22 under IC 27-1-23-7.
- 23 (12) An emergency rule adopted by the Indiana horse racing
24 commission under IC 4-31-3-9.
- 25 (13) An emergency rule adopted by the air pollution control
26 board, the solid waste management board, or the water pollution
27 control board under IC 13-15-4-10(4) or to comply with a
28 deadline required by or other date provided by federal law,
29 provided:
- 30 (A) the variance procedures are included in the rules; and
31 (B) permits or licenses granted during the period the
32 emergency rule is in effect are reviewed after the emergency
33 rule expires.
- 34 (14) An emergency rule adopted by the Indiana election
35 commission under IC 3-6-4.1-14.
- 36 (15) An emergency rule adopted by the department of natural
37 resources under IC 14-10-2-5.
- 38 (16) An emergency rule adopted by the Indiana gaming

- 1 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,
2 IC 4-33-4-14, *IC 4-33-22-12*, or IC 4-35-4-2.
- 3 (17) An emergency rule adopted by the alcohol and tobacco
4 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
5 IC 7.1-3-20-24.4.
- 6 (18) An emergency rule adopted by the department of financial
7 institutions under IC 28-15-11.
- 8 (19) An emergency rule adopted by the office of the secretary of
9 family and social services under IC 12-8-1-12.
- 10 (20) An emergency rule adopted by the office of the children's
11 health insurance program under IC 12-17.6-2-11.
- 12 (21) An emergency rule adopted by the office of Medicaid policy
13 and planning under IC 12-15-41-15.
- 14 (22) An emergency rule adopted by the Indiana state board of
15 animal health under IC 15-17-10-9.
- 16 (23) An emergency rule adopted by the board of directors of the
17 Indiana education savings authority under IC 21-9-4-7.
- 18 (24) An emergency rule adopted by the Indiana board of tax
19 review under IC 6-1.1-4-34 (repealed).
- 20 (25) An emergency rule adopted by the department of local
21 government finance under IC 6-1.1-4-33 (repealed).
- 22 (26) An emergency rule adopted by the boiler and pressure vessel
23 rules board under IC 22-13-2-8(c).
- 24 (27) An emergency rule adopted by the Indiana board of tax
25 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule
26 adopted by the department of local government finance under
27 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- 28 (28) An emergency rule adopted by the board of the Indiana
29 economic development corporation under IC 5-28-5-8.
- 30 (29) A rule adopted by the department of financial institutions
31 under IC 34-55-10-2.5.
- 32 (30) A rule adopted by the Indiana finance authority:
- 33 (A) under IC 8-15.5-7 approving user fees (as defined in
34 IC 8-15.5-2-10) provided for in a public-private agreement
35 under IC 8-15.5;
- 36 (B) under IC 8-15-2-17.2(a)(10):
- 37 (i) establishing enforcement procedures; and
- 38 (ii) making assessments for failure to pay required tolls;

- 1 (C) under IC 8-15-2-14(a)(3) authorizing the use of and
 2 establishing procedures for the implementation of the
 3 collection of user fees by electronic or other nonmanual
 4 means; or
- 5 (D) to make other changes to existing rules related to a toll
 6 road project to accommodate the provisions of a public-private
 7 agreement under IC 8-15.5.
- 8 (31) An emergency rule adopted by the board of the Indiana
 9 health informatics corporation under IC 5-31-5-8.
- 10 ~~(32) An emergency rule adopted by the state athletic commission~~
 11 ~~under IC 25-9-1-4.5.~~
- 12 (32) ~~(33)~~ An emergency rule adopted by the department of child
 13 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or
 14 IC 31-27-4-3.
- 15 ~~(34)~~ (33) An emergency rule adopted by the Indiana real estate
 16 commission under IC 25-34.1-2-5(15).
- 17 ~~(35)~~ (34) A rule adopted by the department of financial
 18 institutions under IC 24-4.4-1-101 and determined necessary to
 19 meet an emergency.
- 20 **(35) An emergency rule adopted by the department of**
 21 **homeland security to implement IC 6-3.1-34.**
- 22 (b) The following do not apply to rules described in subsection (a):
- 23 (1) Sections 24 through 36 of this chapter.
- 24 (2) IC 13-14-9.
- 25 (c) After a rule described in subsection (a) has been adopted by the
 26 agency, the agency shall submit the rule to the publisher for the
 27 assignment of a document control number. The agency shall submit the
 28 rule in the form required by section 20 of this chapter and with the
 29 documents required by section 21 of this chapter. The publisher shall
 30 determine the format of the rule and other documents to be submitted
 31 under this subsection.
- 32 (d) After the document control number has been assigned, the
 33 agency shall submit the rule to the publisher for filing. The agency
 34 shall submit the rule in the form required by section 20 of this chapter
 35 and with the documents required by section 21 of this chapter. The
 36 publisher shall determine the format of the rule and other documents
 37 to be submitted under this subsection.
- 38 (e) Subject to section 39 of this chapter, the publisher shall:

- 1 (1) accept the rule for filing; and
 2 (2) electronically record the date and time that the rule is
 3 accepted.
- 4 (f) A rule described in subsection (a) takes effect on the latest of the
 5 following dates:
- 6 (1) The effective date of the statute delegating authority to the
 7 agency to adopt the rule.
 8 (2) The date and time that the rule is accepted for filing under
 9 subsection (e).
 10 (3) The effective date stated by the adopting agency in the rule.
 11 (4) The date of compliance with every requirement established by
 12 law as a prerequisite to the adoption or effectiveness of the rule.
- 13 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
 14 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
 15 subsections (j), (k), and (l), a rule adopted under this section expires
 16 not later than ninety (90) days after the rule is accepted for filing under
 17 subsection (e). Except for a rule adopted under subsection (a)(13),
 18 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting
 19 another rule under this section, but only for one (1) extension period.
 20 The extension period for a rule adopted under subsection (a)(28) may
 21 not exceed the period for which the original rule was in effect. A rule
 22 adopted under subsection (a)(13) may be extended for two (2)
 23 extension periods. Subject to subsection (j), a rule adopted under
 24 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited
 25 number of extension periods. Except for a rule adopted under
 26 subsection (a)(13), for a rule adopted under this section to be effective
 27 after one (1) extension period, the rule must be adopted under:
- 28 (1) sections 24 through 36 of this chapter; or
 29 (2) IC 13-14-9;
 30 as applicable.
- 31 (h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires
 32 on the earlier of the following dates:
- 33 (1) The expiration date stated by the adopting agency in the rule.
 34 (2) The date that the rule is amended or repealed by a later rule
 35 adopted under sections 24 through 36 of this chapter or this
 36 section.
- 37 (i) This section may not be used to readopt a rule under IC 4-22-2.5.
 38 (j) A rule described in subsection (a)(24) or (a)(25) expires not later

1 than January 1, 2006.

2 (k) A rule described in subsection (a)(28) expires on the expiration
3 date stated by the board of the Indiana economic development
4 corporation in the rule.

5 (l) A rule described in subsection (a)(30) expires on the expiration
6 date stated by the Indiana finance authority in the rule.

7 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
8 date the department is next required to issue a rule under the statute
9 authorizing or requiring the rule.

10 SECTION 2. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JANUARY 1, 2012]:

13 **Chapter 34. Transportation and Logistics Tax Credit**

14 **Sec. 1. As used in this chapter, "pass through entity" means a:**

- 15 (1) corporation that is exempt from the adjusted gross income
16 tax under IC 6-3-2-2.8(2);
17 (2) partnership;
18 (3) trust;
19 (4) limited liability company; or
20 (5) limited liability partnership.

21 **Sec. 2. As used in this chapter, "qualified expenditure" means**
22 **an expenditure described in section 6 of this chapter.**

23 **Sec. 3. As used in this chapter, "state tax liability" means a**
24 **taxpayer's total tax liability that is incurred under:**

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

28 **as computed after the application of the credits that under**
29 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
30 **chapter.**

31 **Sec. 4. As used in this chapter, "taxpayer" means an individual,**
32 **a corporation, a pass through entity, or other entity that has state**
33 **tax liability.**

34 **Sec. 5. (a) A taxpayer is entitled to a credit against the**
35 **taxpayer's state tax liability in a taxable year for making a**
36 **qualified expenditure. An expenditure that:**

- 37 (1) is used by the taxpayer for a special tax benefit or tax
38 credit or other economic development incentive under any

- 1 **other law; or**
 2 **(2) pertains to property owned by the taxpayer that:**
 3 **(A) receives any other special tax benefit or economic**
 4 **development incentive under any other law, including a**
 5 **property tax abatement, deduction, or credit; or**
 6 **(B) will be located in an allocation area;**

7 **is not a qualified expenditure and may not be used as the basis for**
 8 **the credit under this chapter.**

9 **(b) The amount of a taxpayer's credit under this chapter for a**
 10 **taxable year equals thirty-five percent (35%) of the qualified**
 11 **expenditure made by the taxpayer during the taxable year.**

12 **Sec. 6. For purposes of this chapter, a qualified expenditure is**
 13 **an expenditure for one (1) or more of the following purposes:**

14 **(1) Implementing a homeland security measure to comply**
 15 **with federal homeland security requirements, limited to the**
 16 **following:**

- 17 **(A) Gates, fencing, and checkpoints.**
 18 **(B) Tank and grain elevator access restrictions.**
 19 **(C) Tunnel emergency access restrictions.**
 20 **(D) Security alarms.**
 21 **(E) Lighting and motion sensors.**
 22 **(F) Heavy duty locks.**
 23 **(G) Valve locks for anhydrous ammonia nurse tanks.**
 24 **(H) Employee security training.**

25 **A taxpayer must obtain the certification of the department of**
 26 **homeland security (IC 10-19-2-1) that an expenditure under**
 27 **this subdivision is a qualified expenditure for purposes of this**
 28 **chapter before claiming the tax credit. The department of**
 29 **homeland security in consultation with the department shall**
 30 **adopt rules under IC 4-22-2, including emergency rules under**
 31 **IC 4-22-2-37.1, to implement a certification process for**
 32 **purposes of this subdivision.**

33 **(2) Making an improvement to real property located in**
 34 **Indiana that is related to constructing a new, or modernizing**
 35 **an existing, transportation or logistical distribution facility.**

36 **(3) Improving the transportation of goods on Indiana**
 37 **highways, limited to the following:**

- 38 **(A) Upgrading to terminal facilities that serve tractors (as**

- 1 defined in IC 9-13-2-180) and semitrailers (as defined in
2 IC 9-13-2-164).
- 3 (B) Improving paved access to terminal facilities.
- 4 (C) Adding maintenance areas.
- 5 (D) Purchasing new shop equipment having a useful life of
6 at least five (5) years, such as diagnostic equipment, oil
7 delivery systems, air compressors, and truck lifts.
- 8 (4) Improving the transportation of goods by rail, limited to
9 the following:
- 10 (A) Upgrading or building mainline, secondary, yard, and
11 spur trackage.
- 12 (B) Upgrading or replacing bridges to obtain higher load
13 bearing capability.
- 14 (C) Upgrading or replacing grade crossings to increase
15 visibility for motorists, including improvements to
16 roadway surfaces, signage and traffic signals, and signal
17 system upgrades and replacements to meet Federal
18 Railroad Administration Positive Train Control
19 regulations.
- 20 (D) Upgrading fueling facilities, including upgrading
21 fueling and sanding locomotives or tanks, pumps, piping,
22 containment areas, track pans, lighting, and security.
- 23 (E) Upgrading team track facilities, including railroad
24 owned warehouses, loading docks, and transfer stations for
25 loading and unloading freight.
- 26 (F) Upgrading shop facilities, including upgrading
27 structures, inspection pits, drop pits, cranes, employee fall
28 protection, lighting, climate control, and break rooms.
- 29 (5) Improving the transportation of goods by water, limited to
30 the following:
- 31 (A) Upgrading or replacing a permanent waterside dock.
- 32 (B) Upgrading or building a new terminal facility that
33 serves waterborne transportation.
- 34 (C) Improving paved access to a waterborne terminal
35 facility.
- 36 (D) Purchasing new equipment having a useful life of at
37 least five (5) years, including diagnostic equipment, an oil
38 delivery system, an air compressor, or a barge lift.

- 1 **(6) Improving the transportation of goods by air, limited to**
 2 **the following:**
- 3 **(A) Upgrading or building a new cargo building, apron,**
 4 **hangar, warehouse facility, freight forwarding facility,**
 5 **cross-dock distribution facility, or aircraft maintenance**
 6 **facility.**
- 7 **(B) Improving paved access to a terminal or cargo facility.**
- 8 **(C) Upgrading a fueling facility.**
- 9 **(7) Improving warehousing and logistical capabilities, limited**
 10 **to the following:**
- 11 **(A) Upgrading warehousing facilities, including upgrading**
 12 **loading dock doors and loading dock plates, fueling**
 13 **equipment, fueling installations, or dolly drop pads for**
 14 **trailers.**
- 15 **(B) Improving logistical distribution by purchasing new**
 16 **equipment, limited to the following:**
- 17 **(i) Picking modules (systems of racks, conveyor, and**
 18 **controllers).**
- 19 **(ii) Racking equipment.**
- 20 **(iii) Warehouse management systems, including scanning**
 21 **or coding equipment.**
- 22 **(iv) Security equipment.**
- 23 **(v) Temperature control and monitoring equipment.**
- 24 **(vi) Dock levelers and pallet levelers and inverters.**
- 25 **(vii) Conveyors and related controllers, scales, and like**
 26 **equipment.**
- 27 **(viii) Packaging equipment.**
- 28 **(ix) Moving, separating, sorting, and picking equipment.**
- 29 **Sec. 7. (a) If the amount of the credit under this chapter for a**
 30 **taxpayer in a taxable year exceeds the taxpayer's state tax liability**
 31 **for that taxable year, the taxpayer may carry the excess over to the**
 32 **following taxable years. However, the carryover period may not**
 33 **exceed nine (9) consecutive taxable years, beginning with the**
 34 **taxable year after the taxable year in which the taxpayer makes the**
 35 **qualified expenditure. The amount of the credit carryover from a**
 36 **taxable year shall be reduced to the extent that the carryover is**
 37 **used by the taxpayer to obtain a credit under this chapter for any**
 38 **subsequent taxable year.**

1 **(b) A taxpayer is not entitled to a refund or carryback of any**
2 **unused credit.**

3 **(c) A taxpayer may not assign, convey, sell, or otherwise**
4 **transfer the credit to any other taxpayer.**

5 **Sec. 8. If a pass through entity does not have state tax liability**
6 **against which the tax credit may be applied, a shareholder or**
7 **partner of the pass through entity is entitled to a tax credit equal**
8 **to:**

9 **(1) the tax credit determined for the pass through entity for**
10 **the taxable year; multiplied by**

11 **(2) the percentage of the pass through entity's distributive**
12 **income to which the shareholder or partner is entitled.**

13 **Sec. 9. To receive the credit provided by this chapter, a taxpayer**
14 **must claim the credit in the manner prescribed by the department.**
15 **The taxpayer shall submit to the department all information that**
16 **the department determines is necessary for the calculation of the**
17 **credit and for the determination of whether an expenditure is a**
18 **qualified expenditure.**

19 **SECTION 3. [EFFECTIVE JANUARY 1, 2012] (a) IC 6-3.1-34, as**
20 **added by this act, applies to taxable years beginning after**
21 **December 31, 2011.**

22 **(b) This SECTION expires January 1, 2014.**

23 **SECTION 4. An emergency is declared for this act.**

(Reference is to SB 222 as printed February 16, 2011.)

and when so amended that said bill do pass.

Representative Stemler