

# HOUSE BILL No. 1553

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-34.

**Synopsis:** Tax incentives for new employees. Provides a tax credit against state tax liability to a small business for hiring a sufficient number of new employees after December 31, 2012, and before January 1, 2016: (1) who are receiving unemployment benefits or have exhausted their unemployment benefits; or (2) who are former members of the armed services of the United States or the National Guard.

**Effective:** January 1, 2013 (retroactive).

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**Moed, Harman**

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January 22, 2013, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1553



A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2013 (RETROACTIVE)];

4 **Chapter 34. Hoosier Job Creation Tax Credit**

5 **Sec. 1. This chapter applies only to taxable years beginning after**  
6 **December 31, 2012.**

7 **Sec. 2. The following definitions apply throughout this chapter:**

8 (1) "Base employment period" of a small business refers to  
9 the six (6) month period beginning January 1, 2011. However,  
10 if a small business began doing business in Indiana after  
11 January 1, 2011, the term refers to the initial period before  
12 January 1, 2013, in which the small business employed  
13 full-time employees in Indiana in the trade or business of the  
14 small business, not to exceed six (6) months.

15 (2) "Department" refers to the department of state revenue or  
16 the department of insurance, whichever is obligated to  
17 administer the tax against which a tax credit is applied.



- 1 (3) "Full-time employee" means an individual who:  
 2 (A) is employed for consideration for at least thirty-five  
 3 (35) hours each week or who renders any other standard  
 4 of service generally accepted by custom or specified by  
 5 contract as full-time employment; and  
 6 (B) earns income for service described in subdivision (1)  
 7 that is subject to withholding under IC 6-3 (before the  
 8 application of any earned income tax credit) in an amount  
 9 that is the equivalent of at least two hundred percent  
 10 (200%) of the federal hourly minimum wage in effect  
 11 during the week of employment.  
 12 (4) "Qualified new employee" refers to a full-time employee  
 13 described in section 8 of this chapter.  
 14 (5) "Small business" refers to a small business (as defined in  
 15 IC 5-28-2-6) that existed and employed full-time employees in  
 16 Indiana in its trade or business before January 1, 2013.  
 17 (6) "State tax liability" means a taxpayer's total tax liability  
 18 that is incurred under:  
 19 (A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income  
 20 tax);  
 21 (B) IC 27-1-18-2 (the insurance premiums tax); and  
 22 (C) IC 6-5.5 (the financial institutions tax);  
 23 as computed after the application of the credits that under  
 24 IC 6-3.1-1-2 are to be applied before the credit provided by  
 25 this chapter.  
 26 (7) "Tax credit" refers to a tax credit granted by this chapter  
 27 against state tax liability.  
 28 (8) "Taxpayer" means an individual or entity that has state  
 29 tax liability.  
 30 Sec. 3. (a) This section applies only to taxable years beginning  
 31 after December 31, 2012, and before January 1, 2016.  
 32 (b) Subject to this chapter, a small business that employs a  
 33 qualified new employee in Indiana in a taxable year is eligible for  
 34 a tax credit against the state tax liability imposed against the small  
 35 business for the taxable year if, on average, the small business  
 36 employed a greater number of full-time employees in Indiana in  
 37 the taxable year than the small business employed in Indiana, on  
 38 average, in the small business's base employment period.  
 39 Sec. 4. The amount of the tax credit to which a small business is  
 40 entitled in a taxable year is equal to the lesser of the following:  
 41 (1) Three thousand dollars (\$3,000) multiplied by the lesser  
 42 of:

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1 (A) the average number of qualified new employees that  
 2 the small business employed in Indiana during the taxable  
 3 year in the trade or business of the small business; or

4 (B) the average number of additional full-time employees  
 5 that the small business employed in Indiana in the trade or  
 6 business of the small business during the taxable year in  
 7 excess of the average number of full-time employees that  
 8 the small business employed in Indiana in its trade or  
 9 business during the small business's base employment  
 10 period.

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

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

17 Sec. 5. (a) If the amount of a tax credit to which a small business  
 18 is entitled in a taxable year exceeds the small business's state tax  
 19 liability for that taxable year, the small business may carry the  
 20 excess over to not more than three (3) subsequent taxable years.  
 21 The amount of the credit carryover from a taxable year shall be  
 22 reduced to the extent that the carryover is used by the small  
 23 business to obtain a credit under this chapter for any subsequent  
 24 taxable year.

25 (b) A small business is not entitled to a carryback or refund of  
 26 any unused credit.

27 Sec. 6. If a small business is a pass through entity that does not  
 28 have state tax liability against which a tax credit may be applied,  
 29 a shareholder, partner, fiduciary, or member of the pass through  
 30 entity is entitled to a tax credit equal to:

31 (1) the tax credit that the pass through entity would be  
 32 entitled to for the taxable year if the pass through entity were  
 33 a taxpayer; multiplied by

34 (2) the percentage of the pass through entity's distributive  
 35 income to which the shareholder, partner, fiduciary, or  
 36 member is entitled.

37 Sec. 7. To receive a tax credit, a taxpayer must claim the credit  
 38 on the taxpayer's annual state tax return or returns in the manner  
 39 prescribed by the department. The taxpayer shall maintain the  
 40 records required by the department for the period specified by the  
 41 department to substantiate the taxpayer's eligibility for a tax  
 42 credit.

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1           **Sec. 8. To be a qualified new employee in a particular taxable**  
 2 **year, an individual must meet all the following criteria:**

3           **(1) Be initially hired into a position as a full-time employee by**  
 4 **the small business for the first time after December 31, 2012.**

5           **(2) Be, at the time the small business initially employs the**  
 6 **individual after December 31, 2012:**

7           **(A) an individual who is receiving state or federal**  
 8 **unemployment insurance benefits or has exhausted the**  
 9 **individual's eligibility for state or federal unemployment**  
 10 **insurance benefits since last becoming unemployed; or**

11           **(B) a former member of the military services of the United**  
 12 **States who served on active duty in any branch of the**  
 13 **armed forces of the United States or National Guard and**  
 14 **who at no time received a discharge or separation under**  
 15 **other than honorable conditions, except corrected**  
 16 **separation or discharge to read "honorable" as evidenced**  
 17 **by appropriate records presented from the United States**  
 18 **Department of Defense or appropriate branch of the**  
 19 **military service;**

20 **or both.**

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

27           **(4) Is not a child, grandchild, parent, or spouse (other than a**  
 28 **spouse who is legally separated from the individual) of any**  
 29 **individual:**

30           **(A) who is an employee of the small business; or**

31           **(B) who has a direct or an indirect ownership interest of at**  
 32 **least five percent (5%) in the profits, capital, or value of**  
 33 **the small business or a related member (as defined in**  
 34 **IC 6-3.1-13-8) of the small business (or another business**  
 35 **entity that would be a related member (as defined in**  
 36 **IC 6-3.1-13-8) if the other entity were a corporation). An**  
 37 **ownership interest shall be determined in accordance with**  
 38 **Section 1563 of the Internal Revenue Code and regulations**  
 39 **prescribed under Section 1563 of the Internal Revenue**  
 40 **Code.**

41           **Sec. 9. The tax credit to which a taxpayer would otherwise be**  
 42 **entitled under this chapter in a taxable year is reduced by the sum**

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1 of the following tax credits received for the same qualified new  
2 employee:

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

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

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

14 **Sec. 10.** A small business (or if section 6 of this chapter applies,  
15 a shareholder, partner, fiduciary, or member of a small business)  
16 forfeits fifty percent (50%) of the amount of the tax credits  
17 attributable to the employment of a qualified new employee, if  
18 within eighteen (18) months after the qualified new employee was  
19 initially hired:

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

23 (2) the position created for the qualified new employee is  
24 eliminated.

25 For purposes of this section, the replacement, within a reasonable  
26 time as determined by the department, of a qualified new employee  
27 with another qualified new employee shall be treated as continuous  
28 employment of a qualified new employee from the date of the  
29 hiring or rehiring of the initial qualified new employee.

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

35 **Sec. 12. (a)** Employment levels shall be determined using the  
36 total number of employees reported by the small business on the  
37 quarterly payroll report submitted by the small business to the  
38 department of workforce development. The department of  
39 workforce development shall give the information to the  
40 department on the schedule and in the form requested by the  
41 department.

42 (b) A small business shall use the method prescribed by the

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1 department to determine the average number of full-time  
2 employees or qualified new employees that the small business  
3 employed during the small business's base employment period.

4 Sec. 13. The department may adopt rules under IC 4-22-2,  
5 including emergency rules in the manner provided under  
6 IC 4-22-2-37.1, to implement this chapter.

7 Sec. 14. This chapter expires January 1, 2022.

8 SECTION 2. An emergency is declared for this act.

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