

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WITHDRAWN	Noes _____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

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

**MR. SPEAKER:**

I move that Engrossed Senate Bill 382 be amended to read as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3           "SECTION 1. IC 4-4-6.1-2, AS AMENDED BY P.L.14-1997,
- 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 2. (a) The board has the following powers, in
- 6 addition to other powers which are contained in this chapter:
- 7           (1) To review and approve or reject all applicants for enterprise
- 8 zone designation, according to the criteria for designation which
- 9 this chapter provides.
- 10          (2) To waive or modify rules as provided in this chapter.
- 11          (3) To provide a procedure by which enterprise zones may be
- 12 monitored and evaluated on an annual basis.
- 13          (4) To adopt rules for the disqualification of a zone business from
- 14 eligibility for any or all incentives available to zone businesses,
- 15 if that zone business does not do one (1) of the following:
- 16           (A) If all of its incentives, as contained in the summary
- 17 required under section 2.5 of this chapter, exceed one
- 18 thousand dollars (\$1,000) in any year, pay a registration fee to
- 19 the board in an amount equal to one percent (1%) of all of its
- 20 incentives.
- 21           (B) Use all of its incentives, except for the amount of
- 22 registration fee, for its property or employees in the zone.
- 23           (C) Remain open and operating as a zone business for twelve

- 1 (12) months of the assessment year for which the incentive is  
 2 claimed.
- 3 (5) To disqualify a zone business from eligibility for any or all  
 4 incentives available to zone businesses in accordance with the  
 5 procedures set forth in the board's rules.
- 6 (6) After a recommendation from an urban enterprise association,  
 7 to modify an enterprise zone boundary if the board determines  
 8 that the modification:
- 9 (A) is in the best interests of the zone; and  
 10 (B) meets the threshold criteria and factors set forth in section  
 11 3 of this chapter.
- 12 (7) To employ staff and contract for services.
- 13 (8) To receive funds from any source and expend these funds for  
 14 the administration and promotion of the enterprise zone program.
- 15 (9) To make determinations under IC 6-3.1-11 concerning the  
 16 designation of locations as industrial recovery sites and the  
 17 availability of the credit provided by IC 6-1.1-20.7 to persons  
 18 owning inventory located on an industrial recovery site.
- 19 (10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11  
 20 concerning the disqualification of persons from claiming credits  
 21 provided by those chapters in appropriate cases.
- 22 **(11) To make determinations under IC 6-3.1-11.5 concerning**  
 23 **the designation of locations as military base recovery sites and**  
 24 **the availability of the credit provided by IC 6-3.1-11.5 to**  
 25 **persons making qualified investments in military base**  
 26 **recovery sites.**
- 27 **(12) To make determinations under IC 6-3.1-11.5 concerning**  
 28 **the disqualification of persons from claiming the credit**  
 29 **provided by IC 6-3.1-11.5 in appropriate cases.**
- 30 (b) In addition to a registration fee paid under subsection (a)(4),  
 31 each zone business that receives a credit under this chapter shall assist  
 32 the zone urban enterprise association created under section 4 of this  
 33 chapter in an amount determined by the legislative body of the  
 34 municipality in which the zone is located. If a zone business does not  
 35 assist an urban enterprise association, the legislative body of the  
 36 municipality in which the zone is located may pass an ordinance  
 37 disqualifying a zone business from eligibility for all credits or  
 38 incentives available to zone businesses. If a legislative body  
 39 disqualifies a zone business under this subsection, the legislative body  
 40 shall notify the board, the state board of tax commissioners, and the  
 41 department of state revenue in writing within thirty (30) days of the  
 42 passage of the ordinance disqualifying the zone business.  
 43 Disqualification of a zone business under this section is effective  
 44 beginning with the taxable year in which the ordinance disqualifying  
 45 the zone business is passed."
- 46 Page 59, between lines 4 and 5, begin a new paragraph and insert:

1           "SECTION 48. IC 6-3.1-11.5 IS ADDED TO THE INDIANA  
2 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]:

4           **Chapter 11.5. Military Base Recovery Tax Credit**

5           **Sec. 1. As used in this chapter, "applicable percentage" means**  
6 **the percentage determined as follows:**

7           (1) **If a building that is located on a military base recovery site**  
8 **was placed in service at least twenty (20) years ago but less**  
9 **than thirty (30) years ago, the applicable percentage is fifteen**  
10 **percent (15%).**

11           (2) **If a building that is located on a military base recovery site**  
12 **was placed in service at least thirty (30) years ago but less**  
13 **than forty (40) years ago, the applicable percentage is twenty**  
14 **percent (20%).**

15           (3) **If a building that is located on a military base recovery site**  
16 **was placed in service at least forty (40) years ago, the**  
17 **applicable percentage is twenty-five percent (25%).**

18           **The time that has expired since a building was placed in service**  
19 **shall be determined as of the date that an application is filed with**  
20 **the board for designation of the location as a military base**  
21 **recovery site under this chapter.**

22           **Sec. 2. As used in this chapter, "board" refers to the enterprise**  
23 **zone board created under IC 4-4-6.1.**

24           **Sec. 3. As used in this chapter, "executive" has the meaning set**  
25 **forth in IC 36-1-2-5.**

26           **Sec. 4. As used in this chapter, "facility" means a building that:**

27           (1) **is used, or designed and constructed for use, for training,**  
28 **housing, supplying, military readiness or other military**  
29 **activities, or for the support of military activities, military**  
30 **personnel and their dependents, including retired or reserve**  
31 **military personnel; and**

32           (2) **has a minimum floor space of:**

33           (A) **twenty thousand (20,000) square feet, if the facility is**  
34 **located in an economic development area established**  
35 **under IC 36-7-14.5-12.5; or**

36           (B) **one hundred thousand (100,000) square feet, if the**  
37 **facility is located in a military base reuse area established**  
38 **under IC 36-7-30.**

39           **Sec. 5. As used in this chapter, "floor space" means the usable**  
40 **interior floor space of a building.**

41           **Sec. 6. As used in this chapter, "legislative body" has the**  
42 **meaning set forth in IC 36-1-2-9.**

43           **Sec. 7. As used in this chapter, "military base recovery site"**  
44 **means a military base recovery site designated under this chapter.**

45           **Sec. 8. As used in this chapter, "municipality" has the meaning**  
46 **set forth in IC 36-1-2-11.**

1           **Sec. 8.5.** As used in this chapter, "pass through entity" means:  
 2           (1) a corporation that is exempt from the adjusted gross  
 3           income tax under IC 6-3-2-2.8(2);  
 4           (2) a partnership;  
 5           (3) a limited liability company; or  
 6           (4) a limited liability partnership.

7           **Sec. 9.** As used in this chapter, "placed in service" means that  
 8           property is placed in a condition or state of readiness and  
 9           availability for a specifically assigned function.

10          **Sec. 10.** As used in this chapter, "qualified investment" means  
 11          the amount of the taxpayer's expenditures after December 31,  
 12          1997, for rehabilitation of property located within a military base  
 13          recovery site under a plan contained in an application approved by  
 14          the board under section 20 of this chapter. An expenditure for  
 15          purposes or by persons not covered by such a plan is not a  
 16          qualified investment.

17          **Sec. 11.** As used in this chapter, "redevelopment authority"  
 18          means a redevelopment authority established under  
 19          IC 36-7-14.5-12.5.

20          **Sec. 12.** As used in this chapter, "rehabilitation" means the  
 21          remodeling, repair, or betterment of real property in any manner  
 22          or any enlargement or extension of real property.

23          **Sec. 13.** As used in this chapter, "reuse authority" refers to a  
 24          military base reuse authority established under IC 36-7-30.

25          **Sec. 14.** As used in this chapter, "state tax liability" means the  
 26          taxpayer's total tax liability that is incurred under:

- 27           (1) IC 6-2.1 (the gross income tax);  
 28           (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);  
 29           (3) IC 6-3-8 (the supplemental net income tax);  
 30           (4) IC 6-5-10 (the bank tax);  
 31           (5) IC 6-5-11 (the savings and loan association tax);  
 32           (6) IC 27-1-18-2 (the insurance premiums tax); and  
 33           (7) IC 6-5.5 (the financial institutions tax);

34          as computed after the application of the credits that, under  
 35          IC 6-3.1-1-2, are to be applied before the credit provided by this  
 36          chapter.

37          **Sec. 15.** As used in this chapter, "taxpayer" means an  
 38          individual, corporation, limited liability company, partnership, or  
 39          other entity that has any state tax liability and that is the owner or  
 40          developer of a military base recovery site. The term includes a  
 41          lessee that is assigned some part of a credit under section 18(c) of  
 42          this chapter.

43          **Sec. 16.** As used in this chapter, "vacant" means, with respect  
 44          to a building, that at least seventy-five percent (75%) of the  
 45          building placed in service is not used for training, housing,  
 46          supplying, military readiness, or other military activities, or for the

1 support of military activities, military personnel, and their  
2 dependents, including retired or reserve military personnel.

3 **Sec. 17.** As used in this chapter, "vacant military base facility"  
4 means a facility that:

5 (1) is located in:

6 (A) an economic development area established under  
7 IC 36-7-14.5-12.5; or

8 (B) a military base reuse area established under  
9 IC 36-7-30;

10 (2) was placed in service at least twenty (20) years ago; and

11 (3) has been vacant for two (2) or more years.

12 However, subdivision (3) does not apply to a facility that is owned  
13 by a municipality, a county, a military base reuse authority, or a  
14 redevelopment authority.

15 **Sec. 18.** (a) Subject to section 23 of this chapter, a taxpayer is  
16 entitled to a credit against the taxpayer's state tax liability for a  
17 taxable year if the taxpayer makes a qualified investment in that  
18 year.

19 (b) The amount of the credit to which a taxpayer is entitled is  
20 the qualified investment made by the taxpayer during the taxable  
21 year multiplied by the applicable percentage.

22 (c) A taxpayer may assign any part of the credit to which the  
23 taxpayer is entitled under this chapter to a lessee of the military  
24 base recovery site. A credit that is assigned under this subsection  
25 remains subject to this chapter.

26 (d) An assignment under subsection (c) must be in writing and  
27 both the taxpayer and the lessee must report the assignment on  
28 their state tax return for the year in which the assignment is made,  
29 in the manner prescribed by the department of state revenue. The  
30 taxpayer shall not receive value in connection with the assignment  
31 under subsection (c) that exceeds the value of the part of the credit  
32 assigned.

33 **Sec. 19.** (a) If the amount determined under section 18(b) of this  
34 chapter for a taxable year exceeds the taxpayer's state tax liability  
35 for that taxable year, the taxpayer may carry the excess over to the  
36 immediately following taxable years. The amount of the credit  
37 carryover from a taxable year shall be reduced to the extent that  
38 the carryover is used by the taxpayer to obtain a credit under this  
39 chapter for any subsequent taxable year.

40 (b) A taxpayer is not entitled to a carryback or refund of any  
41 unused credit.

42 **Sec. 20.** (a) After approval by ordinance or resolution of the  
43 legislative body, the executive of a municipality may submit an  
44 application to the board requesting that a vacant military base  
45 facility within the municipality be designated as a military base  
46 recovery site.

1 (b) After approval by resolution of the legislative body, the  
 2 executive of a county may submit an application to the board  
 3 requesting that a vacant military base facility within the county,  
 4 but not within any municipality, be designated as a military base  
 5 recovery site.

6 (c) In addition to any other information required by the board,  
 7 an application submitted under this section must include:

8 (1) a description of the plan proposed for development and  
 9 use of the vacant military base facility; and

10 (2) the maximum amount of qualified investment for which a  
 11 credit will be available under this chapter.

12 (d) If the property described in the application submitted to the  
 13 board meets the definition of a vacant military base facility as of  
 14 the date of filing of the application, the board shall:

15 (1) evaluate the application;

16 (2) arrive at a decision based on the factors set forth in section  
 17 21 of this chapter; and

18 (3) either designate the property as a military base recovery  
 19 site or reject the application.

20 (e) If the board determines that a substantial reduction or  
 21 cessation of operations at a military base in Indiana after January  
 22 1, 1987, has created a vacant military base facility, the facility may  
 23 be designated as a military base recovery site only if it has been  
 24 donated or sold to a municipality, a county, a reuse authority, or a  
 25 redevelopment authority. Such a facility may be designated as a  
 26 military base recovery site, whether it is owned by the  
 27 municipality, a county, a reuse authority, or a redevelopment  
 28 authority or by a taxpayer who acquired it from the municipality,  
 29 a county, a reuse authority, or a redevelopment authority after the  
 30 donation or sale.

31 Sec. 21. The board shall consider the following factors in  
 32 evaluating applications filed under this chapter:

33 (1) The level of distress in the surrounding community caused  
 34 by the loss of jobs at the vacant military base facility.

35 (2) The desirability of the intended use of the vacant military  
 36 base facility under the plan proposed for the development and  
 37 use of the vacant military base facility and the likelihood that  
 38 the implementation of the plan will improve the economic and  
 39 employment conditions in the surrounding community.

40 (3) Evidence of support for the designation by residents,  
 41 businesses, and private organizations in the surrounding  
 42 community.

43 (4) Evidence of a commitment by private or governmental  
 44 entities to provide financial assistance in implementing the  
 45 plan for the development and use of the vacant military base  
 46 facility, including the application of IC 36-7-12, IC 36-7-13,

1           **IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-30 to assist**  
 2           **in the financing of improvements or redevelopment activities**  
 3           **benefiting the vacant military base facility.**

4           **(5) Evidence of efforts to implement the proposed plan**  
 5           **without additional financial assistance from the state.**

6           **(6) Whether the proposed military base recovery site is within**  
 7           **an economic revitalization area designated under**  
 8           **IC 6-1.1-12.1.**

9           **(7) Whether action has been taken by the legislative body of**  
 10           **the municipality or county having jurisdiction over the**  
 11           **proposed military base recovery site to establish an enterprise**  
 12           **zone under IC 4-4-6.1-3(g).**

13           **Sec. 22. The board may provide that the military base recovery**  
 14           **site designation is contingent on the development and use of the**  
 15           **vacant military base facility in substantial compliance with the**  
 16           **plan described in the application submitted under section 20 of this**  
 17           **chapter. The board may revoke its approval of a military base**  
 18           **recovery site designation for failure to comply with these**  
 19           **conditions.**

20           **Sec. 23. A taxpayer is not entitled to claim the credit provided**  
 21           **by this chapter to the extent that the taxpayer substantially reduces**  
 22           **or ceases its operations in Indiana in order to relocate its**  
 23           **operations within the military base recovery site. A determination**  
 24           **that a taxpayer is not entitled to the credit provided by this chapter**  
 25           **as a result of a substantial reduction or cessation of operations**  
 26           **applies to credits that would otherwise arise in the taxable year in**  
 27           **which the substantial reduction or cessation occurs and in all**  
 28           **subsequent years. Determinations under this section shall be made**  
 29           **by the board.**

30           **Sec. 24. (a) A credit to which a taxpayer is entitled under this**  
 31           **chapter shall be applied against taxes owed by the taxpayer in the**  
 32           **following order:**

33           **(1) Against the taxpayer's gross income tax liability (IC 6-2.1)**  
 34           **for the taxable year.**

35           **(2) Against the taxpayer's adjusted gross income tax liability**  
 36           **(IC 6-3-1 through IC 6-3-7) for the taxable year.**

37           **(3) Against the taxpayer's supplemental net income tax**  
 38           **liability (IC 6-3-8) for the taxable year.**

39           **(4) Against the taxpayer's bank tax liability (IC 6-5-10) or**  
 40           **savings and loan association tax liability (IC 6-5-11) for the**  
 41           **taxable year.**

42           **(5) Against the taxpayer's insurance premiums tax liability**  
 43           **(IC 27-1-18-2) for the taxable year.**

44           **(6) Against the taxpayer's financial institutions tax (IC 6-5.5)**  
 45           **for the taxable year.**

46           **(b) Whenever the tax paid by the taxpayer under any of the tax**

1 provisions listed in subsection (a) is a credit against the liability or  
 2 a deduction in determining the tax base under another Indiana tax  
 3 provision, the credit or deduction shall be computed without  
 4 regard to the credit to which a taxpayer is entitled under this  
 5 chapter.

6 **Sec. 25.** To receive the credit provided by this chapter, a  
 7 taxpayer must claim the credit on the taxpayer's annual state tax  
 8 return or returns in the manner prescribed by the department of  
 9 state revenue. The taxpayer shall submit to the department of state  
 10 revenue the certification of the board stating the percentage of  
 11 credit allowable under this chapter and all other information that  
 12 the department determines is necessary for the calculation of the  
 13 credit provided by this chapter and for the determination of  
 14 whether an expenditure was for a qualified investment.

15 **Sec. 26. (a)** If a pass through entity is entitled to a credit under  
 16 this chapter but does not have state tax liability against which the  
 17 credit may be applied, an individual who is a shareholder, partner,  
 18 or member of the pass through entity is entitled to a credit equal  
 19 to:

20 (1) the credit determined for the pass through entity for the  
 21 taxable year; multiplied by

22 (2) the percentage of the pass through entity's distributable  
 23 income to which the individual is entitled.

24 (b) The credit provided under subsection (a) is in addition to a  
 25 tax credit to which a shareholder, partner, or member of a pass  
 26 through entity is in addition to a tax credit to which a shareholder,  
 27 partner, or member of a pass through entity is otherwise entitled  
 28 under this chapter. However, a pass through entity and an  
 29 individual who is a shareholder, partner, or member of the pass  
 30 through entity may not claim more than one (1) credit for the same  
 31 investment."

32 Page 73, between lines 8 and 9, begin a new paragraph and insert:

33 "SECTION 86. [EFFECTIVE UPON PASSAGE] IC 6-3.1-11.5, as  
 34 added by this act, applies only to taxable years beginning after  
 35 December 31, 1997."

36 Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed February 16, 1998.)

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Representative Crawford