

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WITHDRAWN	Noes _____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
- 24 (12) months of the assessment year for which the incentive is

- 1 claimed.
- 2 (5) To disqualify a zone business from eligibility for any or all
- 3 incentives available to zone businesses in accordance with the
- 4 procedures set forth in the board's rules.
- 5 (6) After a recommendation from an urban enterprise association,
- 6 to modify an enterprise zone boundary if the board determines
- 7 that the modification:
- 8 (A) is in the best interests of the zone; and
- 9 (B) meets the threshold criteria and factors set forth in section
- 10 3 of this chapter.
- 11 (7) To employ staff and contract for services.
- 12 (8) To receive funds from any source and expend these funds for
- 13 the administration and promotion of the enterprise zone program.
- 14 (9) To make determinations under IC 6-3.1-11 concerning the
- 15 designation of locations as industrial recovery sites and the
- 16 availability of the credit provided by IC 6-1.1-20.7 to persons
- 17 owning inventory located on an industrial recovery site.
- 18 (10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11
- 19 concerning the disqualification of persons from claiming credits
- 20 provided by those chapters in appropriate cases.
- 21 **(11) To make determinations under IC 6-3.1-11.5 concerning**
- 22 **the designation of locations as military base recovery sites and**
- 23 **the availability of the credit provided by IC 6-3.1-11.5 to**
- 24 **persons making qualified investments in military base**
- 25 **recovery sites.**
- 26 **(12) To make determinations under IC 6-3.1-11.5 concerning**
- 27 **the disqualification of persons from claiming the credit**
- 28 **provided by IC 6-3.1-11.5 in appropriate cases.**
- 29 (b) In addition to a registration fee paid under subsection (a)(4),
- 30 each zone business that receives a credit under this chapter shall assist
- 31 the zone urban enterprise association created under section 4 of this
- 32 chapter in an amount determined by the legislative body of the
- 33 municipality in which the zone is located. If a zone business does not
- 34 assist an urban enterprise association, the legislative body of the
- 35 municipality in which the zone is located may pass an ordinance
- 36 disqualifying a zone business from eligibility for all credits or
- 37 incentives available to zone businesses. If a legislative body
- 38 disqualifies a zone business under this subsection, the legislative body
- 39 shall notify the board, the state board of tax commissioners, and the
- 40 department of state revenue in writing within thirty (30) days of the
- 41 passage of the ordinance disqualifying the zone business.
- 42 Disqualification of a zone business under this section is effective
- 43 beginning with the taxable year in which the ordinance disqualifying
- 44 the zone business is passed."
- 45 Page 59, between lines 4 and 5, begin a new paragraph and insert:
- 46 "SECTION 48. IC 6-3.1-11.5 IS ADDED TO THE INDIANA

1 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]:

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

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

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

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

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

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

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

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

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

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

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

32 (A) **twenty thousand (20,000) square feet, if the facility is**
33 **located in an economic development area established**
34 **under IC 36-7-14-12.5; or**

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

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

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

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

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

46 **Sec. 8.5. As used in this chapter, "pass-through entity" means:**

1 (1) a corporation that is exempt from the adjusted gross
2 income tax under IC 6-3-2-2.8(2);

3 (2) a partnership;

4 (3) a limited liability company; or

5 (4) a limited liability partnership.

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

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

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

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

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

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

26 (1) IC 6-2.1 (the gross income tax);

27 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

28 (3) IC 6-3-8 (the supplemental net income tax);

29 (4) IC 6-5-10 (the bank tax);

30 (5) IC 6-5-11 (the savings and loan association tax);

31 (6) IC 27-1-18-2 (the insurance premiums tax); and

32 (7) IC 6-5.5 (the financial institutions tax);

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

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

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

1 including retired or reserve military personnel.

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

4 (1) is located in:

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

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

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

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

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

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

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

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

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

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

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

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

46 (b) After approval by resolution of the legislative body, the

1 executive of a county may submit an application to the board
 2 requesting that a vacant military base facility within the county,
 3 but not within any municipality, be designated as a military base
 4 recovery site.

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

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

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

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

14 (1) evaluate the application;

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

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

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

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

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

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

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

42 (4) Evidence of a commitment by private or governmental
 43 entities to provide financial assistance in implementing the
 44 plan for the development and use of the vacant military base
 45 facility, including the application of IC 36-7-12, IC 36-7-13,
 46 IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-30 to assist

- 1 in the financing of improvements or redevelopment activities
 2 benefiting the vacant military base facility.
 3 (5) Evidence of efforts to implement the proposed plan
 4 without additional financial assistance from the state.
 5 (6) Whether the proposed military base recovery site is within
 6 an economic revitalization area designated under
 7 IC 6-1.1-12.1.
 8 (7) Whether action has been taken by the legislative body of
 9 the municipality or county having jurisdiction over the
 10 proposed military base recovery site to establish an enterprise
 11 zone under IC 4-4-6.1-3(g).

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

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

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

- 32 (1) Against the taxpayer's gross income tax liability (IC 6-2.1)
 33 for the taxable year.
 34 (2) Against the taxpayer's adjusted gross income tax liability
 35 (IC 6-3-1 through IC 6-3-7) for the taxable year.
 36 (3) Against the taxpayer's supplemental net income tax
 37 liability (IC 6-3-8) for the taxable year.
 38 (4) Against the taxpayer's bank tax liability (IC 6-5-10) or
 39 savings and loan association tax liability (IC 6-5-11) for the
 40 taxable year.
 41 (5) Against the taxpayer's insurance premiums tax liability
 42 (IC 27-1-18-2) for the taxable year.
 43 (6) Against the taxpayer's financial institutions tax (IC 6-5.5)
 44 for the taxable year.

45 **(b)** Whenever the tax paid by the taxpayer under any of the tax
 46 provisions listed in subsection (a) is a credit against the liability or

1 a deduction in determining the tax base under another Indiana tax
 2 provision, the credit or deduction shall be computed without
 3 regard to the credit to which a taxpayer is entitled under this
 4 chapter.

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

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

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

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

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

31 Page 73, between lines 8 and 9, begin a new paragraph and insert:
 32 "SECTION 84. [EFFECTIVE UPON PASSAGE] IC 6-3.1-11.5, as
 33 added by this act, applies to taxable years that begin after
 34 December 31, 1997."

35 Renumber all SECTIONS consecutively.

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

Representative Friend