

SENATE BILL No. 456

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-6.1-2; IC 6-3.1-11.5.

Synopsis: Military base recovery tax credit. Establishes a state tax credit for rehabilitation of real property located in military base facilities designated by the state enterprise zone board.

Effective: Upon passage.

Merritt, Weatherwax

January 14, 1998, read first time and referred to Committee on Finance.

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Second Regular Session 110th General Assembly (1998)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 456



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



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

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1 disqualifies a zone business under this subsection, the legislative body
 2 shall notify the board, the state board of tax commissioners, and the
 3 department of state revenue in writing within thirty (30) days of the
 4 passage of the ordinance disqualifying the zone business.
 5 Disqualification of a zone business under this section is effective
 6 beginning with the taxable year in which the ordinance disqualifying
 7 the zone business is passed.

8 SECTION 2. IC 6-3.1-11.5 IS ADDED TO THE INDIANA CODE
 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]:

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

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

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

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

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

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

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

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

33 **Sec. 4. As used in this chapter, "facility" means a building or**
 34 **complex of buildings used, or designed and constructed for use, for**
 35 **training, housing, supplying, military readiness or other military**
 36 **activities, or for the support of military activities, military**
 37 **personnel and their dependents, including retired or reserve**
 38 **military personnel.**

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.**



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

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

5 **Sec. 9.** As used in this chapter, "placed in service" means that
6 property is placed in a condition or state of readiness and
7 availability for a specifically assigned function. In the case of a
8 facility comprised of a complex of buildings, the entire facility shall
9 be considered to have been placed in service as of the date that a
10 building was placed in service if the building has floor space that,
11 when aggregated with the floor space of all buildings in the
12 complex placed in service on earlier dates, exceeds fifty percent
13 (50%) of the total floor space of all buildings in the complex.

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

21 **Sec. 11.** As used in this chapter, "redevelopment authority"
22 means a redevelopment authority established under
23 IC 36-7-14.5-12.5.

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

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

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

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

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

41 **Sec. 15.** As used in this chapter, "taxpayer" means any person,
42 corporation, limited liability company, partnership, or other entity

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1 that has any state tax liability and that is the owner or developer
2 of a military base recovery site. The term includes a lessee that is
3 assigned some part of a credit under section 18(c) of this chapter.

4 **Sec. 16.** As used in this chapter, "vacant" means with respect to
5 a building, that at least seventy-five percent (75%) of the building
6 placed in service is not used for training, housing, supplying,
7 military readiness, or other military activities, or for the support
8 of military activities, military personnel, and their dependents,
9 including retired or reserve military personnel.

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

12 (1) is located in:

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

15 (B) a reuse authority taxing district established under
16 IC 36-7-30;

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

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

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

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

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

29 (c) A taxpayer may assign any part of the credit to which the
30 taxpayer is entitled under this chapter to a lessee of the military
31 base recovery site. A credit that is assigned under this subsection
32 remains subject to this chapter.

33 (d) An assignment under subsection (c) must be in writing and
34 both the taxpayer and the lessee must report the assignment on
35 their state tax return for the year in which the assignment is made,
36 in the manner prescribed by the department of state revenue. The
37 taxpayer shall not receive value in connection with the assignment
38 under subsection (c) that exceeds the value of the part of the credit
39 assigned.

40 **Sec. 19.** (a) If the amount determined under section 18(b) of this
41 chapter for a taxable year exceeds the taxpayer's state tax liability
42 for that taxable year, the taxpayer may carry the excess over to the

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1 immediately following taxable years. The amount of the credit
 2 carryover from a taxable year shall be reduced to the extent that
 3 the carryover is used by the taxpayer to obtain a credit under this
 4 chapter for any subsequent taxable year.

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

7 **Sec. 20. (a)** After approval by ordinance or resolution of the
 8 legislative body, the executive of a municipality may submit an
 9 application to the board requesting that a vacant military base
 10 facility within the municipality be designated as a military base
 11 recovery site.

12 (b) After approval by resolution of the legislative body, the
 13 executive of a county may submit an application to the board
 14 requesting that a vacant military base facility within the county,
 15 but not within any municipality, be designated as a military base
 16 recovery site.

17 (c) In addition to any other information required by the board,
 18 an application submitted under this section must include a
 19 description of the plan proposed for development and use of the
 20 vacant military base facility.

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

- 24 (1) evaluate the application;
- 25 (2) arrive at a decision based on the factors set forth in section
 26 21 of this chapter; and
- 27 (3) either designate the property as a military base recovery
 28 site or reject the application.

29 (e) If the board determines that a substantial reduction or
 30 cessation of operations at a military base in Indiana after January
 31 1, 1987, has created a vacant military base facility, the facility may
 32 be designated as a military base recovery site only if it has been
 33 donated or sold to a municipality, a county, a reuse authority, or a
 34 redevelopment authority. Such a facility may be designated as a
 35 military base recovery site, whether it is owned by the
 36 municipality, a county, a reuse authority, or a redevelopment
 37 authority or by a taxpayer who acquired it from the municipality,
 38 a county, a reuse authority, or a redevelopment authority after the
 39 donation or sale.

40 **Sec. 21.** The board shall consider the following factors in
 41 evaluating applications filed under this chapter:

- 42 (1) The level of distress in the surrounding community caused



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1 by the loss of jobs at the vacant military base facility.

2 (2) The desirability of the intended use of the vacant military
3 base facility under the plan proposed for the development and
4 use of the vacant military base facility and the likelihood that
5 the implementation of the plan will improve the economic and
6 employment conditions in the surrounding community.

7 (3) Evidence of support for the designation by residents,
8 businesses, and private organizations in the surrounding
9 community.

10 (4) Evidence of a commitment by private or governmental
11 entities to provide financial assistance in implementing the
12 plan for the development and use of the vacant military base
13 facility, including the application of IC 36-7-12, IC 36-7-13,
14 IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-30 to assist
15 in the financing of improvements or redevelopment activities
16 benefiting the vacant military base facility.

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

19 (6) Whether the proposed military base recovery site is within
20 an economic revitalization area designated under
21 IC 6-1.1-12.1.

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

26 **Sec. 22.** The board may provide that the military base recovery
27 site designation is contingent on the development and use of the
28 vacant military base facility in substantial compliance with the
29 plan described in the application submitted under section 20 of this
30 chapter. The board may revoke its approval of a military base
31 recovery site designation for failure to comply with these
32 conditions.

33 **Sec. 23.** A taxpayer is not entitled to claim the credit provided
34 by this chapter to the extent that it substantially reduces or ceases
35 its operations in Indiana in order to relocate them within the
36 military base recovery site. A determination that a taxpayer is not
37 entitled to the credit provided by this chapter as a result of a
38 substantial reduction or cessation of operations applies to credits
39 that would otherwise arise in the taxable year in which the
40 substantial reduction or cessation occurs and in all subsequent
41 years. Determinations under this section shall be made by the
42 board.

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

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

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

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

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

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

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

17 **(b) Whenever the tax paid by the taxpayer under any of the tax**
18 **provisions listed in subsection (a) is a credit against the liability or**
19 **a deduction in determining the tax base under another Indiana tax**
20 **provision, the credit or deduction shall be computed without**
21 **regard to the credit to which a taxpayer is entitled under this**
22 **chapter.**

23 **Sec. 25. To receive the credit provided by this chapter, a**
24 **taxpayer must claim the credit on the taxpayer's annual state tax**
25 **return or returns in the manner prescribed by the department of**
26 **state revenue. The taxpayer shall submit to the department of state**
27 **revenue the certification of the board stating the percentage of**
28 **credit allowable under this chapter and all other information that**
29 **the department determines is necessary for the calculation of the**
30 **credit provided by this chapter and for the determination of**
31 **whether an expenditure was for a qualified investment.**

32 **SECTION 3. [EFFECTIVE UPON PASSAGE] This act applies to**
33 **taxable years that begin after December 31, 1997.**

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

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