

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 180, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 2, delete lines 24 through 42, begin a new paragraph and insert:
2 "SECTION 2. IC 6-3.1-19-5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as~~
4 ~~provided in subsection (b);~~ A taxpayer is not entitled to claim the credit
5 provided by this chapter to the extent that the taxpayer substantially
6 reduces or ceases its operations in Indiana in order to relocate them
7 within the district.
8 ~~(b) Notwithstanding subsection (a); a taxpayer's substantial~~
9 ~~reduction or cessation of operations in Indiana in order to relocate~~
10 ~~operations to a district does not make a taxpayer ineligible for a credit~~
11 ~~under this chapter if: (1)~~
12 **Determinations under this section shall be made by the**
13 **department. The department shall adopt a proposed order**
14 **concerning a taxpayer's eligibility for the credit based on**
15 **subsection (b) and the following criteria:**
16 **(1) A site-specific economic activity, including sales, leasing,**
17 **service, manufacturing, production, storage of inventory, or**
18 **any activity involving permanent full-time or part-time**
19 **employees, shall be considered a business operation.**
20 **(2) With respect to an operation located outside the district**

1 (referred to in this section as a "nondistrict operation"), any
 2 of the following that occurs during the twelve (12) months
 3 before the completion of the physical relocation of all or part
 4 of the activity described in subdivision (1) from the
 5 nondistrict operation to the district as compared with the
 6 twelve (12) months before that twelve (12) months shall be
 7 considered a substantial reduction:

8 (A) A reduction in the average number of full-time or
 9 part-time employees of the lesser of one hundred (100)
 10 employees or twenty-five percent (25%) of all employees.

11 (B) A twenty-five percent (25%) reduction in the average
 12 number of goods manufactured or produced.

13 (C) A twenty-five percent (25%) reduction in the average
 14 value of services provided.

15 (D) A ten percent (10%) reduction in the average value of
 16 stored inventory.

17 (E) A twenty-five percent (25%) reduction in the average
 18 amount of gross income.

19 (b) Notwithstanding subsection (a), a taxpayer that would
 20 otherwise be disqualified under subsection (a) is eligible for the
 21 credit provided by this chapter if the taxpayer meets at least one
 22 (1) of the following conditions:

23 (1) The taxpayer relocates all or part of its nondistrict
 24 operation for any of the following reasons:

25 (A) The lease on property necessary for the nondistrict
 26 operation has been involuntarily lost through no fault of
 27 the taxpayer.

28 (B) The space available at the location of the nondistrict
 29 operation cannot accommodate planned expansion needed
 30 by the taxpayer.

31 (C) The building for the nondistrict operation has been
 32 certified as uninhabitable by a state or local building
 33 authority.

34 (D) The building for the nondistrict operation has been
 35 totally destroyed through no fault of the taxpayer.

1 **(E) The renovation and construction costs at the location**
2 **of the nondistrict operation are more than one and**
3 **one-half (1 1/2) times the costs of purchase, renovation,**
4 **and construction of a facility in the district, as certified by**
5 **three (3) independent estimates.**

6 **(F) The taxpayer had existing operations in the district and ~~(2)~~**
7 **the nondistrict operations relocated to the district are an**
8 **expansion of the taxpayer's operations in the district.**

9 **A taxpayer is eligible for benefits and incentives under clause**
10 **(C) or (D) only if renovation and construction costs at the**
11 **location of the nondistrict operation are more than one and**
12 **one-half (1 1/2) times the cost of purchase, renovation, and**
13 **construction of a facility in the district. These costs must be**
14 **certified by three (3) independent estimates.**

15 **(2) The taxpayer has not terminated or reduced the pension**
16 **or health insurance obligations payable to employees or**
17 **former employees of the nondistrict operation without the**
18 **consent of the employees.**

19 **(c) The department shall cause to be delivered to the taxpayer**
20 **and to any person who testified before the department in favor of**
21 **disqualification of the taxpayer a copy of the department's**
22 **proposed order. The taxpayer and these persons shall be**
23 **considered parties for purposes of this section.**

24 **(d) A party who wishes to appeal the proposed order of the**
25 **department shall, within ten (10) days after the party's receipt of**
26 **the proposed order, file written objections with the department.**
27 **The department shall immediately forward copies of the objections**
28 **to the director of the budget agency and the director of the**
29 **department of commerce. A hearing panel composed of the**
30 **commissioner of the department or the commissioner's designee,**
31 **the director of the budget agency or the director's designee, and**
32 **the director of the department of commerce or the director's**
33 **designee shall set the objections for oral argument and give notice**
34 **to the parties. A party at its own expense may cause to be filed**
35 **with the hearing panel a transcript of the oral testimony or any**

1 other part of the record of the proceedings. The oral argument
 2 shall be on the record filed with the hearing panel. The hearing
 3 panel may hear additional evidence or remand the action to the
 4 department with instructions appropriate to the expeditious and
 5 proper disposition of the action. The hearing panel may adopt the
 6 proposed order of the department, may amend or modify the
 7 proposed order, or may make such order or determination as is
 8 proper on the record. The affirmative votes of at least two (2)
 9 members of the hearing panel are required for the hearing panel
 10 to take action on any measure. The taxpayer may appeal the
 11 decision of the hearing panel to the tax court in the same manner
 12 that a final determination of the department may be appealed
 13 under IC 33-3-5.

14 (e) If no objections are filed, the department may adopt the
 15 proposed order without oral argument.

16 ~~(c)~~ (f) A determination that a taxpayer is not entitled to the credit
 17 provided by this chapter as a result of a substantial reduction or
 18 cessation of operations applies to credits that would otherwise arise in
 19 the taxable year in which the substantial reduction or cessation occurs
 20 and in all subsequent years. ~~Determinations under this section shall be~~
 21 ~~made by the department of state revenue."~~

22 Page 3, delete lines 1 through 39.

23 Renumber all SECTIONS consecutively.

(Reference is to SB 180 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Riegsecker

Chairperson