LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6944 **NOTE PREPARED:** Jan 29, 2004
BILL NUMBER: HB 1276 **BILL AMENDED:**

SUBJECT: Historic Rehabilitation Tax Credit.

FIRST AUTHOR: Rep. Bottorff **BILL STATUS:** CR Adopted - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: The bill provides that if a taxpayer dies before using all of a Historic Rehabilitation Tax Credit to which the taxpayer is entitled, the unused credit may be used against Inheritance Tax due with respect to transfers of property interests by the taxpayer. The bill specifies that the Historic Rehabilitation Tax Credit is a credit against state income taxes. The bill provides that if the amount of Historic Rehabilitation Tax Credits claimed in a state fiscal year exceeds the allowable amount, a taxpayer may request that the legislative body of the county, city, or town in which the preservation or rehabilitation of the property occurs approve a refund to the taxpayer of the unused credit. The bill also provides that a county, city, or town that pays a refund is entitled to reimbursement from the state General Fund before the end of the state fiscal year that begins ten years after the refund is paid.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Tax Credit Refunds:* The bill could potentially lead to expenditures from the state General Fund to reimburse local units that provide refunds to taxpayers for Historic Rehabilitation Tax Credits that are not allowed during a fiscal year because of the $450,000 aggregate annual credit limit. The bill requires that state to make the reimbursement no more than 10 years after the refund is paid by the local unit and appropriates the necessary amounts form the state General Fund. Thus, initial reimbursement payments could be delayed at least until FY 2015 for refunds provided by local units during FY 2005. Depending upon the propensity of local units to provide refunds to taxpayers, however, this provision could increase the amount of credits sought by taxpayers and approved by the Department of Natural Resources in the future.

Background: Current statute provides for a non-refundable Adjusted Gross Income (AGI) Tax Credit for individual and corporate taxpayers equal to 20% of the historic preservation or rehabilitation expenditures exceeding made by the taxpayer. The expenditures must exceed $10,000 and must be certified by the Department of Natural Resources. Current statute prohibits the aggregate amount of credits claimed by taxpayers during a fiscal year from exceeding $450,000. According to the DNR, the number of projects approved for credits in recent years totaled: (1) 22 in 2001; (2) 18 in 2002; and (3) 8 in 2003. In each of these years, the $450,000 aggregate credit limit was reached. Currently, tax credits to the annual aggregate credit limit have been certified each year through FY 2014. This translates into approximately $4.95 M in tax credits to be claimed against future tax liabilities.

County Inheritance Tax Replacement: The bill could potentially increase expenditures from the state General Fund for county Inheritance Tax replacement if unused Historic Rehabilitation Tax Credits are utilized by beneficiaries against the Indiana Inheritance Tax liability. The precise impact of this provision is indeterminable. (See *Explanation of Local Revenues* below for discussion of county Inheritance Tax replacement.)

Explanation of State Revenues: The bill allows unused Historic Rehabilitation Tax Credits of a decedent who dies after June 30,2004, to be applied to an Inheritance Tax liability with respect to property transfers of the decedent. Under the bill, the unused credits would first be applied proportionally against the Inheritance Tax liabilities of beneficiaries of the decedent. The fiscal impact of this provision is indeterminable. Since the Inheritance Tax does not have to be paid until a maximum of 12 months after the decedent's death (within 9 months of the date of death to receive the 5% early payment discount), the fiscal impact of this provision could potentially begin in FY 2006.

Explanation of Local Expenditures:

Explanation of Local Revenues: Counties retain 8 percent of the Inheritance Tax collected on transfers made by Indiana residents; estimated to total about $8.8 M in FY 2004. In addition, counties are guaranteed a statutorily determined amount as determined by the replacement provision established by P.L. 254-1997. The replacement provision was established to replace county Inheritance Tax revenue lost when the Class A exemption (for lineal descendants) was increased on July 1, 1997 to $100,000. The replacement provision guarantees that each county receives Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997 excluding the highest and lowest years. The Inheritance Tax replacement that the state guarantees counties totals $7.4 M per year. Currently, most counties retain more in Inheritance Tax revenues than is guaranteed under the replacement procedure and do not receive the guaranteed replacement payment from the state. Thus, any reduction in county revenue relating to the Historic Rehabilitation Tax Credit which drops a county below its respective guarantee level would be reimbursed from the state General Fund. A table showing the amount of Inheritance Tax replacement guaranteed to each county under P.L 254-1997 is available from the Office of Fiscal and Management Analysis.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties, cities, and towns.

Information Sources: State Revenue Forecast, April 10,2003. David Duvall, Division of Historic Preservation and Archeology, Department of Natural Resources, (317) 232-1635.

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