# LEGISLATIVE SERVICES AGENCY
## OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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## FISCAL IMPACT STATEMENT

**LS 7936** **NOTE PREPARED:** Feb 12, 2005
**BILL NUMBER:** SB 496 **BILL AMENDED:** Feb 10, 2005

**SUBJECT:** Taxation and bonding.

**FIRST AUTHOR:** Sen. Kenley **BILL STATUS:** CR Adopted - 1st House
**FIRST SPONSOR:**

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

**Summary of Legislation:** *Local Riverboat Revenue:* This bill authorizes the use of various revenues associated with riverboat gaming to reduce a unit's levy for a particular year without reducing the unit's maximum levy. It standardizes the provisions of current law authorizing the use of riverboat gaming revenue for property tax relief.

*Local Borrowing:* This bill provides that bonds and leases issued by political subdivisions and payable from sources other than property taxes are subject to approval by the Department of Local Government Finance (DLGF). It establishes additional criteria for DLGF approval of property tax based bonds and leases (which are subject to DLGF approval under current law). The bill requires political subdivisions to report certain information concerning new bond issues and leases to the DLGF and to make annual reports to DLGF concerning outstanding bonds and leases. It also requires DLGF to compile information from the reports in a data base and to post information from the reports on the Internet.

*Library Budgets and Levies:* The bill requires, for a public library whose board is not comprised of a majority of elected members, operating budget and tax levy review by the fiscal body of the municipality, township, or county in which the library is located if the library proposes a levy increase of more than 5%.

*Assessment of Low Income Rental Housing:* The bill repeals the provision that prohibits consideration of the value of federal income tax credits in determining the assessed value of low income housing property.

*Inventory Deduction and CEDIT Homestead Credit:* This bill extends until June 1, 2005, the time in which an ordinance may be adopted in a county to provide: (1) a property tax deduction for inventory assessed in

2005; and (2) a homestead credit funded from County Economic Development Income Tax (CEDIT) revenues to eliminate the effects of the inventory deduction on homesteads.

*Appeal Notifications:* This bill provides that if the county auditor determines in an appeal of a property assessment that the assessed value of the items appealed constitutes at least 1% of a taxing unit's total assessed value for the preceding year: (1) the county auditor must provide notice to the affected taxing unit; and (2) the affected taxing unit, although not a party to the appeal, may participate in the hearing.

*Report on Local Government Finances:* This bill requires DLGF to prepare and post on the Internet an annual report on the each political subdivision's per capita spending.

*Petition and Remonstrance:* The bill allows tenants of residential property to sign petitions and remonstrances with respect to a petition and remonstrance contest for a controlled project. It requires an accompanying affidavit for tenants to affirm they are tenants.

*Local Property Tax Credits:* For property taxes payable in 2005 through 2008, the bill allows a county fiscal body to apply one of the following property tax credits: (1) a credit for property taxes on tangible property in the amount by which the taxes exceed 2% of the assessed value of the property; or (2) a credit for a homestead that had an excessive tax increase in the last general reassessment. For property taxes payable after 2008, the bill allows the county fiscal body to apply a credit for property taxes on tangible property in the amount by which the taxes exceed 2% of the assessed value of the property.

*Local Property Tax Credits Funded by Appeal Settlements:* This bill provides that the part of the money received from certain property tax settlements that is attributable to taxes imposed by a political subdivision may be used to provide property tax credits in the political subdivision to taxpayers other than taxpayers that paid the settlement.

*Limitation on Use of Multiple Tax Credits: This bill* limits a taxpayer from using more than one state tax liability credit for the same project.

*EDGE Credits:* This bill authorizes the Indiana Economic Development Corporation (IEDC) to determine the amount of local incentives required for approval of an EDGE credit for job retention. It provides that the unused portion of an EDGE credit is not refundable but may be carried over for two years. The bill extends the $5,000,000 statewide annual cap on EDGE credits for job retention through the 2006 and 2007 state fiscal years. It also requires an applicant for an EDGE credit to agree to maintain operations for at least two years after the last year in which a credit or carryover is claimed (instead of a period twice as long as the term of the tax credit). The bill requires consideration of the extent to which the granting of an EDGE credit would reduce the amount available to fund the purposes of a community revitalization enhancement district (CRED) or certified technology park (CTP).

*Hoosier Business Investment (HBI) Tax Credit:* This bill changes the amount of the Hoosier business investment tax credit from 30% to 10% of the qualified investment and deletes the provision stating that the amount of the credit claimed in a taxable year may not exceed the lesser of the taxpayer's state tax liability growth or 30% of the qualified investment. It repeals the definition of state tax liability growth. The bill also deletes the requirement that an applicant for the credit must have conducted business in Indiana for at least one year before the date of the application. This bill provides that the credit may be carried over for a maximum of five years (instead of nine years).

*CRED Tax Credit:* The bill reduces the income tax incremental amount that the state is required to pay to a CRED or CTP by the amount of the economic development for a growing economy tax credits granted to businesses operating in the CRED or CTP. It allows a taxpayer to carry over an unused CRED tax credit for only nine taxable years. The bill also defines gross retail incremental amount and income tax incremental amount in the law governing CTP's. It provides reporting standards for a business in a CRED.

*CRED and PSCDA Establishment Requirements:* This bill requires notice to be given to taxing units affected by the creation of a CRED or professional sports development area.

**Effective Date:** March 30, 2004 (retroactive); January 1, 2005 (retroactive); March 1, 2005 (retroactive); March 31, 2005 (retroactive); Upon passage; July 1, 2005.

**Explanation of State Expenditures:** *Local Riverboat Revenue:* If local riverboat money is used to reduce property taxes, the state's expenses for PTRC and Homestead Credits will be reduced. PTRC and homestead credits are paid from the Property Tax Replacement Fund (PTRF). These credits are paid from the state General Fund if insufficient balances are available in the PTRF.

*Local Borrowing:* The bill provides that bonds and leases issued by political subdivisions and payable from sources other than property taxes are subject to approval by the DLGF. A political subdivision must file a petition requesting approval from the DLGF to issue bonds or enter into a lease. It establishes additional criteria for DLGF approval of property tax based bonds and leases (which are subject to DLGF approval under current law).

The DLGF may seek recommendations from the Local Government Tax Control Board (LGTCB) and the Department of State Revenue (DOR) when determining whether to authorize incurring the bonded indebtedness or the execution of the lease. The LGTCB, the DOR, and other state agencies must provide information to the DLGF that the DLGF considers necessary to determine the estimated impact of the issuance of bonds or execution of a lease on a political subdivision's tax rates. The DLGF may approve or disapprove the proposed bond issue or lease agreement; or approve an alternative financing arrangement after consideration of specified factors. The DLGF must render a decision not later than three months after the date it receives a request for approval. If a decision is not rendered within that time, the bond issue or lease agreement is considered approved unless the DLGF takes a three-month extension. The DLGF must mail notice of the extension to the executive officer of the political subdivision at least ten days before the end of the original three-month period. If a decision is not rendered within the extension period, the issue is considered approved.

A political subdivision that issues bonds or enters into a lease after December 31, 2005, must supply the DLGF with information concerning the bond issue or lease within 20 days after the issuance or execution. The DLGF may establish a procedure that permits a political subdivision to transfer the information in a uniform format through a secure connection over the Internet or through other electronic means. Each political subdivision that has any outstanding bonds or leases must submit a report to the DLGF before March 1of 2006 and each year thereafter that includes a summary of all its outstanding bonds and leases as of January 1 of that year. The report must include certain information required by the DLGF. The DLGF must compile an electronic data base that includes the information and after December 31, 2006, post the information at least annually on the Internet. The DLGF may adopt rules to implement the above.

(Revised) *Assessment of Low Income Rental Housing:* The state pays Property Tax Replacement Credits (PTRC) in the amount of 60% of school general fund levies attributable to all property and 20% of the portion

of all operating levies (including the remaining 40% of the school GF levy) that are attributable to real property and non-business personal property. Homestead credits are paid by the state in the amount of 20% of the net property tax due for qualifying funds on owner-occupied residences.

An increase in low income rental housing AV would shift part of the tax burden from personal property and from homesteads (along with all other properties) to the rental properties. Tax shifts from business personal property to real property would cause the state's expense for the 20% PTRC to increase. The shift from homesteads to non-homestead property would cause the state's homestead credit expense to decline.

If Section 42 federal income tax credits were considered in calculating AV by all assessors, as discussed in *Explanation of Local Revenues*, the increase in state PTRC expense is estimated at a range of $45,000 to $72,000 in FY 2006 (partial year) and $133,000 to $213,000 in FY 2007. The homestead credit savings would be estimated between $82,000 to $132,000 in FY 2006 (partial year) and $262,000 to $420,000 in FY 2007. **Total PTRC and homestead expenses would decline by a range of about $37,000 to $60,000 in FY 2006 (partial year) and $129,000 to $206,000 in FY 2007.**

(Revised) *Inventory Deduction:* The DLGF would be permitted to adopt interim rules in the manner provided for the adoption of emergency rules to govern the determination of deductions, the processing of personal property tax returns, and the calculation of the assessed valuation (AV) of each taxpayer in cases in which the personal property is eligible for a deduction as the result of the adoption of an ordinance after March 30, 2004, and the taxpayer did not take the deduction on the taxpayer's personal property tax return.

(Revised) *Appeal Notifications:* Under current law, the Indiana Board of Tax Review (IBTR) must mail a notice of an IBTR hearing to the taxpayer, the DLGF, township assessor, county assessor, and county auditor. The notice must include the date of the hearing. This bill would require that the notice also include the disputed item's previous year's AV, the action taken by the DLGF, and a statement that an affected taxing unit may attend the hearing, offer testimony, and file a brief in the proceeding. An affected taxing unit would not, however, be a party to the appeal. An affected unit is one in which the AV of the appealed items constitutes at least 1% of the unit's total gross certified AV for the preceding assessment date, as determined by the county auditor.

In addition, the IBTR must include a copy of the petition requesting review in the mailings and send notice of its final determination to the affected taxing units. This proposal would increase notice preparation and transmission costs.

(Revised) *Report on Local Government Finances.* Not later than May 1 of each year, the DLGF's Division of Data Analysis would be required to prepare an annual report of per capita expenditures for each political subdivision for the preceding year. The Division would have to post the report on the DLGF website, file it with the Governor, and file it in an electronic format with the General Assembly. The DLGF would incur additional administrative expenses associated with the report.

Current law requires cities and towns to publish an annual report of receipts and expenditures. School corporations are required to publish an annual financial report. The Department of Education (DOE) provides guidelines on report preparation and assistance as needed. Under this proposal, cities, towns, and schools would no longer be required to publish these reports. The DOE would no longer be required to provide guidelines or assistance in the preparation of the school reports.

(Revised) *Local Property Tax Credits:* This provision will not affect the state's expense for PTRC or homestead credits. Taxing units may not adjust their property tax levies to offset the credit under this provision.

(Revised) *Local Property Tax Credits Funded by Appeal Settlements:* This provision will not affect the state's expense for PTRC or homestead credits. The bill reduces the base on which PTRC and homestead credits are paid by the amount that taxing units would have deposited into their levy excess funds if they had not opted to provide credits with the settlement money.

*Department of State Revenue (DOR):* The bill requires an advisory commission on industrial development that designates a Community Revitalization Enhancement District (CRED) to report to the DOR (in addition to reporting the employers, streets, and street numbers in a CRED as required by current statute): (1) the federal identification number of each business in the CRED; (2) the street address of each employer in the CRED; and (3) the name, telephone number, and email address (if available) of a contact person for each employer in the CRED. The bill also requires businesses operating in a CRED to report, in the manner prescribed by the DOR, information that it determines necessary to calculate the increment sales and income taxes for the CRED.

*Budget Committee:* The bill increases from 10 to 60 days the period of time that the Budget Committee has to review and make a recommendations on allocation of state income and sales taxes in proposed Professional Sports and Convention Development Areas (PSCDAs).

**Explanation of State Revenues:** (Revised) *Assessment of Low Income Rental Housing:* The State levies a small tax rate for State Fair and State Forestry. An increase in the AV base would increase the property tax revenue for these two funds. If the Section 42 federal income tax credits were considered by all assessors in calculating AV, as discussed in *Explanation of Local Revenues*, the increase in State Fair and State Forestry tax revenue would be estimated at $10,000 in FY 2006 (partial year) and $20,000 in FY 2007.

(Revised) *Inventory Deduction:* Extending the deadline by which a county can adopt an ordinance to provide a property tax deduction for inventory assessed in 2005 could result in an increase in deductions for taxes paid in CY 2006. Any reduction in the AV base would decrease the property tax revenue for the State Fair and State Forestry Funds.

(Revised) *Limitation on Use of Multiple Tax Credits:* The bill prohibits a taxpayer (including pass through entities and shareholders, partners, or members of pass through entities) from being granted more than one of the tax credits listed in (1) to (8) below for the same project. This change applies beginning in 2005, regardless of when tax credits were granted. Under the bill, any taxpayer that has been granted more than one of these tax credits for the same project must elect to apply only one of them. This provision could potentially reduce the amount of the specified tax credits obtained for economic development projects, to the extent that taxpayers are successfully obtaining multiple tax credits for a single project. The potential fiscal impact of this change, however, is indeterminable.

(1) Enterprise Zone Investment Cost Credit.
(2) Industrial Recovery (Dinosaur) Tax Credit.
(3) Military Base Recovery Tax Credit.
(4) Military Base Investment Cost Credit.
(5) Capital Investment Tax Credit.
(6) Community Revitalization Enhancement District (CRED) Tax Credit.
(7) Venture Capital Investment Tax Credit.

(8) Hoosier Business Investment Tax Credit.

(Revised) *EDGE Credits:* The bill makes the following changes relating to EDGE Credits.

(1) The bill extends to FY 2006 and FY 2007, the $5 M annual aggregate credit limit for EDGE Credits for job retention. Current statute places this limit on credits approved during FY 2004 and FY 2005.

(2) The bill provides that EDGE credits approved by the IEDC after June 30, 2005: (a) are not refundable; (b) may not be carried back; and (c) may be carried forward for only two taxable years. Under current statute, EDGE credits approved for taxpayer for a particular taxable year that exceed the taxpayer's state tax liability, are refundable. The precise impact of this change is indeterminable as data on refunds of EDGE credits is unavailable. However, the change presumably could reduce the impact of future EDGE credits to the extent that a taxpayer fails to exhaust the credits in three years.

(3) The bill eliminates the minimum ratio of local incentives to EDGE credits for job retention set under current statute at $1.50 in local incentives per $3 of EDGE credits. The bill provides that the IEDC determine the local incentive match for EDGE credits for job retention. To the extent, that the IEDC requires less than a 50% incentive match, the bill could potentially result in more EDGE credits being approved for some projects than would occur under current statute. The precise impact is indeterminable and depends on IEDC action.

(4) The bill excludes EDGE credits awarded for economic development projects in CREDs and certified technology parks from the determination of incremental income taxes captured by CREDs or technology parks. Under current statute, CREDs and certified technology parks are allowed to capture incremental income taxes annually generated in these areas. Fourteen certified technology parks have been designated in Anderson, Columbus, Daviess County, Evansville, Ft. Wayne, Hammond, Indianapolis, Kokomo, Muncie, Richmond, Scottsburg, Shelbyville, Terre Haute, and West Lafayette. Currently, there are 8 CREDs. Marion and South Bend each have one CRED, and Bloomington, Ft. Wayne, and Delaware County each have two CREDs. In order to carry out this change, the bill does the following:

(a) Requires that for projects in CREDs or certified technology parks to obtain EDGE credits, the local unit that established the CRED or technology park must adopt an ordinance granting a credit at least equal to the EDGE credit award.

(b) Requires the IEDC Board to consider the extent to which a CRED or certified technology park needs the incremental income tax attributable to a project for its purposes, when determining the total EDGE credit amount for a project.

(c) Specifies that the income tax incremental amount within a certified technology park does not include EDGE credits.

In 2003, the EDGE Board approved approximately $28.8 M in new credits for job creation to be used over a period of years. The credits were awarded for 16 projects expected to create 6,823 new jobs. The EDGE Board also approved $2.0 M in new credits for job retention, also to be used over a period of years. The credits were awarded for 2 projects expected to retain 2,450 jobs. From 1994 to 2003, EDGE credits for job creation were approved for 114 projects. During those years, approximately $132.4 M in EDGE credits for job creation were made available, with the total amount of credits certified so far equal to about $81.3 M. Approximately $38.2 M in EDGE credits for job creation were available for approved projects in tax year 2003. EDGE credits for

job retention were awarded for the first time in 2003. EDGE credits may be claimed against the Adjusted Gross Income Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities.

(Revised) *Hoosier Business Investment (HBI) Tax Credit:* The bill makes the following changes relating to HBI Credits approved by the IEDC Board after June 30, 2005.

(1) The bill lowers the percentage credit from 30% to 10% of qualified investment made by the taxpayer in the state. In 2004 (the first year for the HBI Tax Credit), the EDGE Board (under prior law) approved credits totaling about $331.7 M for 54 projects comprising about $1,106.1 M in qualified investment. Had the maximum percentage credit been 10% instead of 30% (and assuming these projects would have moved forward with the lower credit), total credits approved would be about $110.6 M. The impact of this change also will depend on actions of the IEDC Board which will now administer the HBI Tax Credit.

(2) The bill eliminates the "state tax liability growth limit on the amount of HBI credits that a taxpayer may claim during a taxable year. Since the credit is nonrefundable under current statute, the new credit limit would be the taxpayer's state tax liability. The precise impact of changing this credit limit is indeterminable. However, the change presumably would increase the impact of future credits approved for taxpayers that may otherwise have insufficient growth in net income and state tax liability to exhaust the credits under the current scheme. ("State tax liability growth is equal to a taxpayer's state tax liability in a taxable year minus the greater of: (a) the taxpayer's state tax liability in the most recent prior taxable year in which part of a credit was claimed or (b) the taxpayer's tax liability in the taxable year immediately preceding the taxable year in which the investment was made.)

(3) The bill reduces the carry forward period for unused HBI credits from nine to five years. As data on tax liabilities for 2004 credit recipients is not available, the impact of this change is indeterminable, but could reduce the impact of future HBI credits to the extent that a taxpayer fails to exhaust the credits in five years.

(4) The bill eliminates the current HBI Tax Credit requirement that an applicant must have conducted business in Indiana for at least one year prior to applying for the credit. Elimination of this requirement could expand the pool of potential applicants for the credit.

Under current statute, the IEDC Board is authorized to award the nonrefundable HBI Tax Credit for expenditures on qualified investment determined to foster job creation and higher wages in Indiana. The tax credit is equal to 30% of the qualified investment. However, the credit amount that the taxpayer may *claim* in a taxable year is equal to the lesser of: (1) 30% of the qualified investment or (2) the taxpayer's state tax liability growth. A taxpayer may claim the credit against the AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liability. The tax credit may be awarded only for qualified investment made during tax years 2004 to 2007. The credit is nonrefundable and may not be carried back. Unused tax credits may be carried over for up to nine years after the year in which the investment was made.

(Revised) *CRED Tax Credit:* The bill limits carry forward of the CRED Tax Credit to nine years following the year the credit is approved. This change applies to carry forward of the credit beginning in 2005, regardless of when the tax credit was first accrued. This could potentially reduce the amount of credits approved that are ultimately taken against a taxpayer's tax liability. However, the extent of this impact is indeterminable. Through November 2004, approximately $11.6 M in CRED Tax Credits have been approved. The extent to which these tax credits will be carried over is unknown.

Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a CRED is entitled to this credit. The credit is based on 25% of the qualified investment. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Indiana Economic Development Corporation (IEDC). The credit may be used to reduce the taxpayer's tax liability against the Adjusted Gross Income Tax, CAGIT, COIT, CEDIT, the Insurance Premiums Tax, and the Financial Institutions Tax. The taxpayer may carry any excess credit over to the immediately following years, but is not entitled to a carryback or refund of any unused credit. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district. Revenue from the corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%).

**Explanation of Local Expenditures:** *Local Riverboat Revenue:* The bill changes current statute to clarify the types of revenue comprising a Riverboat Fund established by a local unit. Current statute simply allows a local unit to establish a Riverboat Fund if it receives revenue from Riverboat Admission or Wagering Taxes, or from a revenue sharing agreement with a city or county that receives revenue from these two taxes. The bill specifies that a Riverboat Fund consists of money received from Riverboat Admission or Wagering Taxes, whether received directly or through a revenue sharing agreement; and money received under an economic development agreement with a licensed riverboat owner, whether received directly or through a revenue sharing agreement.

The bill also specifies that money in a Riverboat Fund may be used by a local unit to reduce its property tax levy for a particular year, but not reduce its maximum levy. This changes current statute relating to use of Riverboat Wagering Tax revenue by a local unit. Current statute, prohibits a local unit from using Riverboat Wagering Tax revenue to reduce the property tax levy for a particular year. In addition, current statute is silent regarding the use of money received by a local unit from economic development agreements with riverboat owners. Under the bill, money from these agreements also could be used to reduce a local unit's property tax levy for a particular year. (Note: Under current statute, admission tax revenue distributed to local unites and revenue sharing money received by non-Riverboat counties and local units within these counties may be used to reduce the property tax levy for a particular year, but may not be used to reduce the maximum levy.) FY 2004 distributions of Riverboat Wagering and Riverboat Admission Taxes to local units are reported in the table below. In addition, the table reports the supplemental payment from the Property Tax Replacement Fund to replace shortages in Admission Tax distributions in FY 2003. The shortages are computed as the difference between the FY 2002 distribution level and the distribution to a local unit in a particular fiscal year.

| Riverboat Admission and Wagering Tax Distributions to Local Units (in millions) - FY 2004 | | | | |
|---|---|---|---|---|
| **Local Unit** | **Supplemental Payment*** | **Admission Tax** | **Wagering Tax** | **Total** |
| Dearborn County | $ 2.52 | $ 3.89 | N/A | $ 6.41 |
| Dearborn County CVB | 0.25 | 0.39 | N/A | 0.64 |
| East Chicago | 1.46 | 4.08 | 13.55 | 19.09 |
| Evansville | 0.37 | 1.54 | 4.76 | 6.67 |
| Gary | 1.83 | 3.51 | 12.27 | 17.61 |
| Hammond | 0.96 | 3.86 | 13.75 | 18.57 |
| Harrison County | 2.36 | 6.95 | 11.77 | 21.07 |
| Harrison County CVB | 0.12 | 0.35 | N/A | 0.47 |
| Lake County | 4.25 | 11.46 | N/A | 15.71 |
| Lake County CVB | 0.38 | 1.03 | N/A | 1.41 |
| LaPorte County | 0.86 | 2.67 | N/A | 3.52 |
| LaPorte County CVB | 0.09 | 0.27 | N/A | 0.35 |
| Lawrenceburg | 2.52 | 3.89 | 17.69 | 24.10 |
| Michigan City | 0.86 | 2.67 | 9.56 | 13.08 |
| NW Ind. Law Enforcement Training Academy | 0.04 | 0.11 | N/A | 0.16 |
| Ohio County | 0.77 | 1.65 | N/A | 2.41 |
| Ohio County CVB | 0.08 | 0.16 | N/A | 0.24 |
| Rising Sun | 0.77 | 1.65 | 6.60 | 9.01 |
| Switzerland County | 0.81 | 3.59 | 5.11 | 9.51 |
| Switzerland County CVB | 0.04 | 0.18 | N/A | 0.22 |
| Vanderburgh County | 0.37 | 1.54 | N/A | 1.91 |
| Vanderburgh County CVB | 0.04 | 0.15 | N/A | 0.19 |
| **Total** | **$ 21.74** | **$ 55.59** | **$ 95.05** | **$ 172.37** |

*Supplemental payment from the state Property Tax Replacement Fund to replace FY 2003 Admission Tax distribution shortages.

CVB = County Convention and Visitor's Bureau

N/A = Local units don't receive statutory distributions of Wagering Tax.

(Revised) *Local Borrowing and Report on Local Government Finances:* The bill provides that a political subdivision must file a petition requesting DLGF's approval to issue bonds or enter into leases payable from sources other than property taxes. A political subdivision may also petition for judicial review of the final determination of the DLGF pertaining to the approval or disapproval of a bond issuance or lease contract. The petition must be filed in the tax court not more than 45 days after the DLGF enters its order.

Each political subdivision that has any outstanding bonds or leases must submit a report to the DLGF before March 1of 2006 and each year thereafter that includes a summary of all the outstanding bonds or leases of the political subdivision as of January 1 of that year. A political subdivision that issues bonds or enters into a lease after December 31, 2005, must supply the DLGF with information concerning the bond issue or lease within 20 days after the issuance of the bonds or execution of the lease. A copy of the official statement and bond covenants, if any, must be supplied with this information. The DLGF may establish a procedure that permits a political subdivision to transfer the information to the DLGF in a uniform format through a secure connection over the Internet or through other electronic means.

*Appeal Notifications - By County Assessors and County Auditors:* Currently, the county or township assessor notifies the county auditor of all assessments under appeal. Under this proposal, the notification would be in writing. The notice would have to include the appellant's name, address, current year AV, and prior year AV. This bill also requires the county auditor to send a copy of the notice to any taxing unit in which the AV of the

appealed items constitutes at least 1% of the unit's total gross certified AV for the preceding assessment date (affected unit), as determined by the county auditor. Preparation and transmission of notices would increase township and county assessor, and county auditor costs. Township and county assessor, and county auditor offices are funded through the county General Fund.

*Appeal Notifications - By County Property Tax Assessment Boards of Appeals and County Auditors:* Under current law, the county property tax assessment board of appeals (PTABOA) must give notice of the hearing date to the petitioner and the township assessor. Under the proposal, the PTABOA must also give notice to the county assessor and the county auditor. All notices would have to include the AV of the appealed item for the current year and for the preceding year and a statement that an affected taxing unit may attend the hearing, offer testimony, and file a brief in the proceeding. An affected taxing unit would not, however, be a party to the appeal.

Under current law, the PTABOA must give notice of its determination to the petitioner, the township assessor, and the county assessor. Under the proposal, the PTABOA must also notify the county auditor, and any affected taxing units.

The proposal also makes the county assessor responsible for transmitting a petition for review to the Indiana Board of Tax Review not later than 10 days after the petition is filed.

Preparation and transmission of these notices will increase costs for the PTABOA , the county auditor, and the county assessor by an indeterminable amount.

*Appeal Notifications - To the Indiana Tax Court by Affected Units:* The proposal allows an affected taxing unit to request that the county executive initiate an appeal (1) to the IBTR, of a final determination of a corrected assessment made by the PTABOA or DLGF and (2) to the Tax Court, of a final determination made by the IBTR. The bill requires an affected taxing unit that requests an appeal to pay for the appeal. This provision could increase the number of appeals that are initiated by the counties. Appeals initiated by local units will increase local costs.

*Petition and Remonstrance:* Under current law, the issuance of public debt of $2 million or more by a local governmental unit or school corporation is subject to a petition and remonstrance procedure. It takes the lesser of 100 or 5% of the property owners' signatures to invoke the process. Property owners may then sign either the petition (in favor of) or the remonstrance (against), with the greater number of signatures prevailing. Under this proposal, tenants of residential property within the taxing unit would also be permitted to sign the either the petition or the remonstrance. A petition or the remonstrance that is signed by a tenant would have to be accompanied by an affidavit with the landlord's name and the property's address. This provision could affect the disposition of challenges to future controlled projects.

*CRED and PSCDA Establishment Requirements:* The bill specifies additional information and notification requirements for: (1) an advisory commission on industrial development designating a Community Revitalization Enhancement District (CRED); or a city or county council designating a Professional Sports and Convention Development Area (PSCDA). The bill requires the designating entity to: (1) publish notice of the adoption and substance of the resolution designating a CRED or PSCDA; and (2) file information with each taxing unit where the CRED or PSCDA is located relating to its boundaries, its economic impact, and its tax impact. In addition, the bill requires an advisory commission designating a CRED to report to the Department of State Revenue (in addition to reporting the employers, streets, and street numbers in a CRED as required

by current statute): (1) the federal identification number of each business in the CRED; (2) the street address of each employer in the CRED; and (3) the name, telephone number, and email address (if available) of a contact person for each employer in the CRED.

**Explanation of Local Revenues:**

*Local Borrowing:* The bill provides that bonds and leases issued by political subdivisions and payable from sources other than property taxes are subject to approval by the DLGF. It also establishes additional criteria for DLGF approval of property tax based bonds and leases (which are subject to DLGF approval under current law). The impact that these provisions will have on local borrowing is indeterminable; however, additional oversight and the consideration of additional factors as identified in the bill could result in less borrowing.

*Library Budgets and Levies:* Under current law, fiscal bodies of cities, towns, and counties must review and adopt budgets and tax levies for taxing units that (a) are not comprised of a majority of officials who are elected to serve on the governing bodies and (b) are proposing an increase in the total unit tax levy that is greater than 5%. Under this provision, instead of a review trigger based on the proposed increase in the total unit tax levy, the trigger for libraries only would be based on the proposed increase in the library's operating tax levy. This measure would remove debt levies and library capital projects levies from the trigger calculation.

From 2003 to 2004, there were 22 libraries that had total levy increases over 3% but had operating levy increases under 3%. Conversely, there were 38 libraries that had operating levy increases over 3% but had total levy increases under 3%. There were 63 libraries that had both operating and total levy increases over 3% and there were 117 libraries that had both operating and total levy increases under 3%.

So, if this bill had been in effect for 2004, 22 libraries that were subject to review would not have been reviewed, 38 libraries that were not subject to review would have been reviewed, and the status of 180 libraries would not have changed.

Under current law, the reviewing body is (1) the municipal fiscal body , if the unit is totally contained in the municipality, or if the unit was originally established by the municipality; or (2) the county fiscal body if the municipality is not the appropriate body.

Under this bill, the reviewing body for library unit would be (1) the municipal fiscal body, if the unit is totally contained in the municipality; (2) the township fiscal body, if the unit is totally contained in the township and the municipality is not the appropriate body; or (3) the county fiscal body if neither the township nor the municipality is the appropriate body.

(Revised) *Assessment of Low Income Rental Housing:* Current law prohibits consideration of Section 42 federal income tax credits in determining the AV of low-income rental housing. Under this proposal, the prohibition would be repealed beginning with property taxes paid in 2006.

There is a great deal of uncertainty surrounding the issue of when and how the credits are to be considered under statutory law (before the prohibition was enacted), case law, and the new market value-based assessment rule. Before the prohibition was enacted, the assessment of low- income housing property under the income method may or may not have considered the income from the credits.

The Indiana Housing Finance Authority (IHFA) oversees the granting of Section 42 credits in the state.

According to the IHFA, about $15 M in net credits were awarded in 22 counties in CY 2004. Net credits are total credits ($16.6 M) less returned credits ($1.6 M). These credits continue for a total of ten years. The amount of the credit in each subsequent year is equal to the amount awarded in the first year. So, for instance, the credits granted in 2004 of $15 M are actually worth a total of $150 M over the 10 year period.

There is uncertainty as to how to value the credits for property tax purposes. The following are two of several theories on how to convert the federal credits into assessed value.

One theory is to use the net present value of the credits granted over the past ten years. The net present value of the total 10-year value of the credits granted in each year was calculated by discounting the annual payments at the average 10-year treasury bill rate in effect in the year that the credits were issued. This amount was further discounted by 20% as it is understood that the credits are resold at about 80% of their value. Under this theory, the credits granted over the past 10 years, discounted for resale, would be worth AV of about $652 M for taxes paid in 2006 and $725 M for 2007.

Another theory recognizes only the unused portion of the discounted net present value. So, the values calculated above would be reduced by the used portion of those credits. Under this theory, the credits granted over the past 10 years, discounted for resale, would be worth AV of about $405 M for taxes paid in 2006 and $460 M for 2007.

If it is assumed that all local assessors would incorporate these credits in the AV of low income rental housing, the tax base could rise by a range of $405 M to $652 M in CY 2006 and $460 M to $725 M in CY 2006. These AV increases would reduce the state average net tax rate by a range of about $0.0025 to $0.0040 per $100 of AV. The resulting net tax shift from all taxpayers to owners of low income rental property is estimated at a range of about $7.0 M to $11.2 M in CY 2006 and $8.1 M to $12.8 M in CY 2007. The actual increase in AV and the resulting tax shift would depend on (1) whether or not each local assessor adds the value of the credits to the value of the property, (2) the method used to convert the credits into AV, and (3) future appeals and court rulings.

(Revised) *Inventory Deduction and CEDIT Homestead Credit:* Under current law, each county was permitted to adopt an ordinance to provide a 100% inventory deduction for taxes paid in CY 2004, CY 2005, and CY 2006. This deduction will apply statewide beginning with property taxes paid in CY 2007. Counties that elected to provide the deduction for 2004, 2005, and 2006, and then all counties beginning in 2007, are permitted to use CEDIT proceeds to pay for additional homestead credits in the county in order to mitigate any shift of the tax burden from inventory property to homestead property. The county may impose an additional CEDIT rate of up to 0.25% for this purpose.

Deduction: The ability to adopt the deduction for the March 1, 2005 assessment date (for taxes paid in 2006) expired on March 30, 2004. This bill would extend the time in which a county may adopt the deduction ordinance through May 30, 2005

Extending the deadline by which a county can adopt an ordinance to provide a property tax deduction for inventory assessed in 2005 would result in additional deductions for taxes paid in 2006 if there are any counties that elect to enact the deduction under this provision. Deductions from property taxes shift the property tax burden from the owner of the property receiving the deduction to all taxpayers.

Credit: Currently, a county may adopt an ordinance regarding the CEDIT rate for homestead credits from

January 2 through March 31 in any year. This bill would change the March 31 deadline to May 30, each year.

Currently, this additional homestead credit, if adopted by the county, may be applied at a uniform credit rate across the county or it may be allocated among the county's taxing districts on a pro rata basis using the proportion of the county's inventory valuation in the district as the basis. The allocation method, if adopted by the county, is supposed to equitably distribute the credits in counties with a non-uniform inventory distribution.

However, some counties have taxing districts with large amounts of inventory, but few homesteads. If the allocation method were employed in these counties, then the available credits in districts with a lot of inventory but few homesteads would far exceed the inventory tax shift, and possibly the total tax liability, of the homesteads in the district. Homesteads in other districts would not get an equitable share of total credits.

This bill would give the county auditor, with the approval of the imposing body, the authority to adjust each district's credit percentage under the allocation method in order to achieve equity. The total amount of local homestead credits and the CEDIT rate necessary to generate them would not be affected by this provision. This provision does not change the countywide total value of the credits.

(Revised) *Local Property Tax Credits:* Under this provision, each county has an option to provide local property tax credits. For taxes paid in 2005, 2006, 2007, and 2008, counties that offer a credit may choose between two credit programs.

Under the first option, the first credit would be available to all owners of both real and personal property whose net property tax, after all credits are applied, exceeds 2% of the property's gross assessed value (AV). The credit would equal the amount of tax that exceeds the 2% threshold.

The second option for taxes paid in 2005, 2006, 2007, and 2008 would provide property tax credits to homeowners if (1) the net property tax on the homestead in 2003, after all credits are applied, was more than twice the amount of the 2002 net tax (an increase of more than 100%), and (2) the increase in net tax was at least $500. Each year, the credit would equal the 2003 net tax increase multiplied by: 80% in 2005, 60% in 2006, 40% in 2007, and 20% in 2008. This credit would be available only if the person liable for taxes on the homestead in the credit year is the same person that0 was liable in 2003.

For years following 2008, all counties may offer the credit for taxes that exceed 2% of gross AV contained in the first option for 2005 through 2008.

No application is required to receive either credit. The county auditor would identify the eligible properties and apply the credit. The entire 2005 credit could be applied to the tax installment that is due in November, 2005.

There is no specific funding mechanism for this credit. Property tax credits that are not funded reduce the tax collections that are distributed to local civil taxing units and school corporations. So, the entire cost of the credit would be a local revenue reduction. However, the bill permits counties to use any available source of revenue to offset this loss. The bill prohibits a taxing unit from appealing for an excessive levy in a succeeding year to cover a shortfall caused by the allowance of a credit.

An analysis of 2002 and 2003 parcel level property tax data for 43 counties (including Lake, Marion, St. Joseph, and Vanderburgh) was performed to estimate the impact of enacting either of the two optional credits.

Each of the 43 counties had homesteads that would qualify for the excessive tax increase. The full amount of the tax subject to credit at the appropriate percentage each year in the 43 counties is $48.9 M. Lake County led all 43 counties with $29.5 M. At the appropriate credit percentage, the total possible credit for all 43 counties is estimated at $39.1 M in CY 2005, $29.3 M in CY 2006, $19.6 M in CY 2007, and $9.8 M in CY 2008.

According to the data, homesteads in 9 of the 43 counties would benefit from the credit that would be based on net taxes that exceed 2% of gross assessed value. The total for the 9 counties was estimated at $16.4 M with $15 M of the total amount in Lake County.

The following table is a summary of the estimated credits for homesteads in each county. The credit for taxes over 2% of gross assessed value would also include non-homestead real property and personal property. Assuming no deductions, property other than a homestead would qualify for the credit in a county that adopts the credit if the net tax rate applicable to that property is greater than $2.0000 per $100 of assessed value. The net rate begins with the district gross tax rate and then nets out PTRC, which differs for real property and business personal property. The cost of the 2% credit for non-homestead properties would be added to the cost of the 2% credit for homesteads to determine the full cost of that credit in a county.

## Credits for Homesteads Credits Under Both Options

| County | Total # | Credit for Taxes that Doubled in 2003 | | | | | | Credit Over 2% of Gross AV | |
|---|---|---|---|---|---|---|---|---|---|
| | Hmstds | Count | Base | 80% | 60% | 40% | 20% | Credit | Count |
| Adams | 6,466 | 82 | 79,877 | 63,902 | 47,926 | 31,951 | 15,975 | 0 | 0 |
| Bartholomew | 15,725 | 48 | 69,401 | 55,521 | 41,640 | 27,760 | 13,880 | 0 | 0 |
| Benton | 2,456 | 5 | 6,566 | 5,252 | 3,939 | 2,626 | 1,313 | 0 | 0 |
| Blackford | 4,645 | 39 | 38,315 | 30,652 | 22,989 | 15,326 | 7,663 | 926 | 21 |
| Boone | 10,208 | 134 | 197,690 | 158,152 | 118,614 | 79,076 | 39,538 | 0 | 0 |
| Carroll | 4,998 | 42 | 41,008 | 32,806 | 24,605 | 16,403 | 8,202 | 0 | 0 |
| Clay | 7,251 | 40 | 34,411 | 27,529 | 20,647 | 13,764 | 6,882 | 0 | 0 |
| Clinton | 7,187 | 23 | 20,485 | 16,388 | 12,291 | 8,194 | 4,097 | 0 | 0 |
| Decatur | 5,806 | 63 | 60,697 | 48,558 | 36,418 | 24,279 | 12,139 | 0 | 0 |
| Dubois | 9,432 | 34 | 40,170 | 32,136 | 24,102 | 16,068 | 8,034 | 0 | 0 |
| Elkhart | 36,990 | 242 | 334,180 | 267,344 | 200,508 | 133,672 | 66,836 | 0 | 0 |
| Fayette | 6,547 | 241 | 258,611 | 206,889 | 155,167 | 103,445 | 51,722 | 6,410 | 29 |
| Floyd | 16,471 | 83 | 105,862 | 84,690 | 63,517 | 42,345 | 21,172 | 0 | 0 |
| Fulton | 4,498 | 31 | 31,272 | 25,017 | 18,763 | 12,509 | 6,254 | 0 | 0 |
| Grant | 15,416 | 127 | 173,732 | 138,985 | 104,239 | 69,493 | 34,746 | 77 | 1 |
| Greene | 7,069 | 63 | 80,409 | 64,327 | 48,245 | 32,163 | 16,082 | 0 | 0 |
| Hamilton | 47,175 | 134 | 258,064 | 206,451 | 154,838 | 103,226 | 51,613 | 0 | 0 |
| Hancock | 13,625 | 64 | 59,546 | 47,637 | 35,727 | 23,818 | 11,909 | 0 | 0 |
| Howard | 19,737 | 28 | 25,749 | 20,600 | 15,450 | 10,300 | 5,150 | 0 | 0 |
| Jay | 5,294 | 43 | 41,950 | 33,560 | 25,170 | 16,780 | 8,390 | 0 | 0 |
| Jefferson | 7,399 | 149 | 178,961 | 143,169 | 107,377 | 71,584 | 35,792 | 0 | 0 |
| Jennings | 6,883 | 85 | 82,002 | 65,602 | 49,201 | 32,801 | 16,400 | 0 | 0 |
| Johnson | 25,491 | 67 | 89,844 | 71,875 | 53,907 | 35,938 | 17,969 | 0 | 0 |
| LaGrange | 6,137 | 79 | 92,552 | 74,041 | 55,531 | 37,021 | 18,510 | 0 | 0 |
| Lake | 114,565 | 22,242 | 29,541,424 | 23,633,139 | 17,724,854 | 11,816,570 | 5,908,285 | 15,023,278 | 29,997 |
| Madison | 33,078 | 312 | 347,274 | 277,819 | 208,365 | 138,910 | 69,455 | 1,213 | 19 |
| Marion | 185,990 | 6,368 | 11,865,119 | 9,492,096 | 7,119,072 | 4,746,048 | 2,373,024 | 18,710 | 86 |
| Marshall | 9,953 | 96 | 178,812 | 143,050 | 107,287 | 71,525 | 35,762 | 0 | 0 |
| Miami | 671 | 38 | 32,882 | 26,306 | 19,729 | 13,153 | 6,576 | 0 | 0 |
| Monroe | 20,955 | 257 | 290,154 | 232,123 | 174,092 | 116,061 | 58,031 | 0 | 0 |
| Montgomery | 8,436 | 205 | 226,668 | 181,334 | 136,001 | 90,667 | 45,334 | 7,384 | 26 |
| Newton | 3,270 | 11 | 12,084 | 9,667 | 7,250 | 4,833 | 2,417 | 0 | 0 |
| Pike | 1,506 | 75 | 81,592 | 65,273 | 48,955 | 32,637 | 16,318 | 0 | 0 |
| Porter | 31,015 | 317 | 398,638 | 318,910 | 239,183 | 159,455 | 79,728 | 0 | 0 |
| Pulaski | 3,306 | 27 | 29,344 | 23,475 | 17,606 | 11,738 | 5,869 | 0 | 0 |
| Randolph | 6,707 | 39 | 40,488 | 32,390 | 24,293 | 16,195 | 8,098 | 3,796 | 7 |
| St. Joseph | 60,814 | 2,220 | 2,950,514 | 2,360,411 | 1,770,308 | 1,180,205 | 590,103 | 1,288,412 | 2,780 |
| Scott | 5,137 | 39 | 37,091 | 29,673 | 22,255 | 14,836 | 7,418 | 0 | 0 |
| Tipton | 4,286 | 28 | 29,278 | 23,422 | 17,567 | 11,711 | 5,856 | 0 | 0 |
| Vanderburgh | 40,374 | 247 | 302,482 | 241,985 | 181,489 | 120,993 | 60,496 | 0 | 0 |
| Wabash | 8,070 | 51 | 61,196 | 48,957 | 36,718 | 24,479 | 12,239 | 0 | 0 |
| Wells | 7,509 | 22 | 32,353 | 25,882 | 19,412 | 12,941 | 6,471 | 0 | 0 |
| White | 5,603 | 19 | 19,289 | 15,431 | 11,573 | 7,716 | 3,858 | 0 | 0 |
| **Totals** | **844,151** | **34,559** | **48,878,033** | **39,102,426** | **29,326,820** | **19,551,215** | **9,775,606** | **16,350,207** | **32,966** |
| **# Counties** | **43** | | **43** | | | | | **9** | |

(Revised) *Local Property Tax Credits Funded by Appeal Settlements:* There is currently a pending settlement of property tax assessment cases regarding U.S. Steel in Gary. It is understood that, under the settlement, the total amount that the affected Lake County taxing units would receive is about $53 M. This would include the amount actually paid by U.S. Steel plus the amount paid by the state in PTRC per the agreement.

Under current law, the settlement money is considered as ordinary property tax collections and it will be distributed to local taxing units and the school corporation just as all property tax collections are distributed. The distribution will be proportional, based on 2004 tax rates. The table following this section contains the estimated distribution of the $53 M to each unit that services the taxing district including U.S. Steel.

This provision would permit any taxing unit that receives a portion of the settlement to use its share to provide property tax credits in the year following receipt of the money to all taxpayers in the taxing unit, except U.S. Steel.

Under current law, collections of property tax that exceed 100% of a unit's certified levy in a year must be placed in the unit's levy excess fund. This money is then used to reduce the following year's tax levy. Taxing units may use part of the settlement for their current budget if property tax collections are below 100%. Only that part of collections that exceed 100% of the total tax levy must go into the levy excess fund. All taxpayers in the taxing unit, including U.S. Steel, will benefit from the levy reduction in the following year.

There are two differences between the impact of the settlement under current law as opposed to the impact under this proposal. If, under this proposal, a taxing unit chooses to pay credits with the settlement amount, then (1) the unit may not spend any of the settlement for any other reason, and (2) U.S. Steel would not receive any benefit from the settlement money.

**Estimated Distribution of $53 M U.S. Steel Property Tax Settlement**

| Taxing Unit | Est. Share | Taxing Unit | Est. Share |
|---|---|---|---|
| State Unit | 14,000 | Gary Airport | 451,000 |
| Lake County | 6,680,000 | Gary Redevelopment | 74,000 |
| Calumet Township | 3,623,000 | Gary Public Trans. | 1,218,000 |
| City of Gary | 21,452,000 | Lake Co. Solid Waste | 150,000 |
| Cary Comm. Schools | 14,119,000 | Gary Storm Water | 312,000 |
| Gary Public Library | 2,090,000 | Gary Redevelopment (TIF) | 49,000 |
| Gary Sanitary | 2,762,000 | | |

**State Agencies Affected:** Department of Local Government Finance; Indiana Board of Tax Review; Local Government Tax Control Board; Department of Revenue; Department of Natural Resources; State Fair Board.

**Local Agencies Affected:** County auditors; County assessors; Township assessors; County property tax assessment boards of appeals; Political subdivisions.

**Information Sources:** Kurt Barrow, Assessment Director, DLGF, 317-232-3777; Local Government

Database; Indiana Department of Commerce, *2003 EDGE Annual Report*, March 31, 2004; *2003 EDGE for Retention Annual Report*, March 31, 2004; Claudia Fuentes, Department of Commerce, 317-234-0616.

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