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FISCAL IMPACT STATEMENT

LS 7936

BILL NUMBER: SB 496

NOTE PREPARED: May 4, 2005

BILL AMENDED: Apr 29, 2005

SUBJECT: Taxation and Bonding.

FIRST AUTHOR: Sen. Kenley

FIRST SPONSOR: Rep. Espich

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *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.

CREDs and Certified Technology Parks: The bill reduces the income tax incremental amount that the state is required to pay to a Community Revitalization Enhancement District (CRED) or Certified Technology Park (CTP) by the amount of the Economic Development for a Growing Economy (EDGE) Tax Credits granted to businesses operating in the CRED or CTP. The bill defines gross retail incremental amount and income tax incremental amount in the law governing CTPs. It also provides reporting standards for a business in a CRED.

CREDs and Professional Sports & Convention Development Areas: This bill requires notice to be given to taxing units affected by the creation of a CRED or Professional Sports Development Area.

Hoosier Business Investment (HBI) Tax Credit: The bill changes the amount of the HBI Tax Credit from 30% of the qualified investment to a percentage set by the Indiana Economic Development Corporation, which may not exceed 10%. The bill deletes the use of the taxpayer's state tax liability growth and deletes the requirement that an applicant for the HBI Tax Credit must have conducted business in Indiana for at least one year before the date of the application. The bill also provides that the HBI Tax Credit may be carried over for a period set by the Indiana Economic Development Corporation, which may not exceed nine years.

This bill also makes (1) distribution, transportation, and logistical distribution equipment, and (2) machinery,

equipment, or special purpose buildings used to make motion pictures or audio productions, qualified for the HBI Tax Credit.

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.

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.

Local Borrowing: 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.

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 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.

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%.

Riverboat Development Agreement Funds: This bill specifies requirements for cities and counties regarding the managing funds received under a riverboat development agreement. The bill also requires operating agents and riverboat owners to annually report to the Indiana Gaming Commission amounts paid under the development agreements, and the recipients of these incentive payments.

Low Income Rental Property: This bill prescribes a property tax assessment method for certain low income rental property.

Effective Date: March 30, 2004 (retroactive); January 1, 2005 (retroactive); March 31, 2005 (retroactive); Upon passage; May 15, 2005; July 1, 2005; January 1, 2006.

Explanation of State Expenditures: *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.

CREDs and Professional Sports & Convention Development Areas: **DOR:** The bill requires an advisory commission on industrial development that designates a Community Revitalization Enhancement District (CRED) to report to the Department of State Revenue (DOR): (1) the federal tax 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. Under current statute, the advisory commission must report to DOR the employers, streets, and street numbers in the CRED. The bill also requires businesses operating in a CRED to report, in the manner prescribed by the DOR, information that the DOR determines necessary to calculate the incremental 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 recommendations on allocation of state income and sales taxes in the Marion County Professional Sports Development Area, and Professional Sports and Convention Development Areas in other counties.

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.

Local Borrowing: A political subdivision that issues bonds or enters into a lease after December 31, 2005, would be required to 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 1 of 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.

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 action taken by the DLGF or the county property tax assessment board of appeals (PTABOA) 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.

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.

Riverboat Development Agreement Funds: The bill requires the Indiana Gaming Commission (IGC) to prescribe the format and filing deadline for the report of development agreement incentive payments. This report must be submitted annually to the IGC by each licensed riverboat owner and the operating agent of the Orange County riverboat casino.

If local units use incentive payments from riverboat development agreements to reduce the local unit's property tax levy for a particular year, the state's expenditures for Property Tax Replacement Credits and Homestead Credits could be reduced. These credits are paid from the Property Tax Replacement Fund, which is annually supplemented by the state General Fund.

Explanation of State Revenues: *CREDs and Certified Technology Parks:* The bill reduces the incremental income tax amount that may be captured by a Community Revitalization Enhancement District (CRED) or a Certified Technology Park (CTP) by the amount of EDGE Tax Credits awarded for economic development projects in the CRED or CTP. Under current statute, CREDs and CTPs 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 eight CREDs. Marion and South Bend each have one CRED, and Bloomington, Ft. Wayne, and Delaware County each have two CREDs.

In 2003, the EDGE Board (under prior law) approved approximately \$28.8 M in new credits for job creation and \$2.0 M in new credits for job retention, to be used over a period of years. From 1994 to 2003, approximately \$132.4 M in EDGE credits for job creation were approved, 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.

Hoosier Business Investment (HBI) Tax Credit: The bill makes the following changes relating to the HBI Tax Credit for credits approved by the Indiana Economic Development Corporation (IEDC) Board after May 15, 2005.

(1) The bill lowers the percentage credit from 30% of the qualified investment made by the taxpayer in the state, to a percentage determined by the IEDC not exceeding 10% of the qualified investment. 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 may award a credit of less than 10%.

(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 awarded to taxpayers that may otherwise have insufficient growth in net income and state tax liability to exhaust the awarded 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 provides that the carry forward period for unused HBI credits may be a period, as determined by the IEDC, that is less than the current maximum of nine years. As data on tax liabilities for 2004 credit

recipients is not available, the impact of this change is indeterminable and depends on decisions by the IEDC.

(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.

(5) The bill extends the HBI Tax Credit to qualified investment in distribution, transportation, and logistical distribution equipment and facilities. The bill also extends the HBI Tax Credit to include costs associated with the purchase of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions, provided these items are purchased before January 1, 2008. (Note: Under current statute unchanged by the bill, HBI credits may not be approved for investment made after December 31, 2007.) Credits for such purchases and investment could potentially be approved beginning in 2005. These changes could expand the pool of potential applicants for the credit and result in an indeterminable reduction in Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, and Insurance Premiums Tax revenue.

Background: 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 approved 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.

Limitation on Use of Multiple Tax Credits: The bill prohibits a taxpayer (including a pass through entity and shareholders, partners, or members of a pass through entity) 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.

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.

Assessment of Low Income Rental Housing: The State levies a small tax rate for State Fair and State Forestry. Any change in the AV of low income rental housing would affect the property tax revenue for these two funds. This provision could result in a minimal revenue increase.

Explanation of Local Expenditures: *CREDs and Professional Sports & Convention Development Areas:* The bill specifies additional information and notification requirements for: (1) an advisory commission on industrial development designating a CRED; or a city or county council designating a Professional Sports and Convention Development Area (PSCDA) (Professional Sports Development Area in Marion County). 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 tax 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.

Local Borrowing: Each political subdivision that has any outstanding bonds or leases must submit a report to the DLGF before March 1 of 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 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.

Appeals Requested 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, or (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.

Riverboat Development Agreement Funds: The bill establishes requirements for local units relating to budgeting and spending of revenue received under development agreements between the local units and riverboat casino owners. These requirements are consistent with current law budgeting and spending requirements for local units relating to revenue from the Riverboat Admission Tax and the Riverboat Wagering Tax.

The bill requires local units that receive revenue under a riverboat development agreement to prepare an estimate of the amount of revenue to be received during the budget year consistent with estimates that must be completed for other revenues sources. The bill specifies that revenue from a riverboat development agreement is miscellaneous revenue, and that it may be used for any legal or corporate purpose of the local unit, including pledging the revenue to bonds, leases, or other obligations. The bill authorizes local units to use the development agreement revenue to reduce the local unit's property tax levy for a particular year. However, the bill also specifies that development agreement revenue may not be used to reduce the local unit's maximum levy.

Explanation of Local Revenues: *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 taxes 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

<u>Taxing Unit</u>	<u>Est. Share</u>	<u>Taxing Unit</u>	<u>Est. Share</u>
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		

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, can distribute the credits proportional to inventory levels across the taxing districts within the county that has 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 significant

amount 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 a proportional share of total credits to offset the inventory shift.

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 for the tax credits to more closely match the shift from inventory. 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.

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.

Assessment of Low Income Rental Housing: Beginning with property taxes paid in 2007, this bill sets the assessed value of low-income rental housing that is eligible for Section 42 credits at the greater of (1) the amount determined under the income capitalization method or (2) the value that would result in taxes equal to 5% of the annual total gross rents for the property. This provision's effect on the assessed value of low income housing is unknown at this time, but could result in an increase in the assessments of some properties.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review; Department of Revenue; State Budget Agency; Indiana Gaming Commission.

Local Agencies Affected: County auditors; County assessors; Township assessors; County property tax assessment boards of appeals; County treasurers; Local units receiving revenue under riverboat development agreements.

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, IEDC, 317-234-0616.

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