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FISCAL IMPACT STATEMENT

LS 7360 **NOTE PREPARED:** Jan 7, 2009
BILL NUMBER: SB 405 **BILL AMENDED:**

SUBJECT: Historic Rehabilitation Income Tax Credit.

FIRST AUTHOR: Sen. Merritt **BILL STATUS:** As Introduced
FIRST SPONSOR:

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

Summary of Legislation: This bill provides that the Historic Rehabilitation Income Tax Credit may be assigned. It provides that the credit may be recaptured from the person who receives the certification or from an assignee to whom the property is transferred. It provides that the transfer of the property as a condominium will not cause the credit to be recaptured. (Current law provides the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation.) It provides that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low income housing credit for the historic property.

The bill increases the amount of the credit to 40% of qualified expenses for the rehabilitation or preservation of a historic property if the qualified expenses are less than $2,000,000. (Current law provides that the amount of the credit equals 20% of qualified expenses.) It increases the credit to 40% of qualified expenses if the credit is awarded to rehabilitate or preserve a: (1) school; (2) hospital; or (3) project that receives a grant from the Indiana Main Street Program. It increases the basis of qualified expenses for the preservation or rehabilitation of historic property which is located in a United States Housing and Urban Development qualified census tract or difficult to develop area. It provides that the Division of Historic Preservation and Archeology of the Department of Natural Resources may collect a fee which equals 2.5% of qualified expenses for projects with over $2,000,000 qualified expenses. It provides the fee is used to pay for administrative costs associated with certifying historic property for the tax credit.

The bill establishes the Historic Rehabilitation Credit Fund. It provides that the fee collected by the Division of Historic Preservation and Archeology shall be deposited into the fund. It provides that money in the fund in excess of $10,000,000 reverts to the state General Fund at the end of a fiscal year. The bill also repeals the annual state-wide limit for the credit.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Department of State Revenue (DOR)* -The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in the tax credit. DOR's current level of resources should be sufficient to implement these changes.

Division of Historic Preservation and Archaeology (DHPA): The bill makes several changes to the Historic Rehabilitation Income Tax Credit. As a result, credit application forms will need to be revised, which will result in increased administrative costs. Additionally, the changes provided in the bill will increase the complexity of the application, review and certification processes.

The bill also provides for the DHPA of the Department of Natural Resources (DNR) to collect a fee that equals 2.5% of qualified expenses for projects with over $2,000,000 qualified expenses. The fee will be used to pay for administrative costs associated with certifying historic property for the tax credit. The fee will be charged at the point of certification when all qualified expenses are known, thus the amount of fees that will be collected is indeterminable.

Explanation of State Revenues: *Historic Rehabilitation Credit Fund*: The bill establishes the Historic Rehabilitation Credit Fund. The fund will include fees collected by the Division of Historic Preservation and Archeology. Money that exceeds $10,000,000 will revert to the state General Fund at the end of a fiscal year.

Historic Rehabilitation Income Tax Credit: The bill repeals the annual state-wide limit of $450,000 for the credit effective FY 2010. This would mean that approved projects that are currently queued as a result of the state-wide limit of $450,000 would be able to claim their respective credit awards on 2009 state income tax returns, resulting in a revenue loss of approximately $5.5 M in FY 2010. The revenue loss will be greater to the extent that new credits are also approved, and with the state-wide limit being eliminated, the impact is indeterminable but potentially significant.

The bill also increases the amount of the credit to 40% of qualified expenses for the rehabilitation or preservation of a historic property if the qualified expenses are less than $2,000,000. The credit is increased to 40% of qualified expenses if the credit is awarded to rehabilitate or preserve a school; hospital; or project that receives a grant from the Indiana Main Street Program. The basis of qualified expenses is increased to the total qualified expenses multiplied by 30% for the preservation or rehabilitation of historic property which is located in a United States Housing and Urban Development qualified census tract or difficult to develop area. These changes will affect awards being certified after the effective date of this legislation, and will not affect the projects that are queued resulting from the state-wide limit of $450,000.

The bill allows a taxpayer who is entitled to claim the Historic Rehabilitation Tax Credit to assign any portion of the credit to another taxpayer. This will allow for more timely use of the credits, which means the impact will be noticed sooner than if the credit was not able to be assigned. It also provides that the credit may be recaptured from the person who receives the certification or from an assignee to whom the property is transferred, and that the transfer of the property as a condominium will not cause the credit to be recaptured. Current statute provides the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation. The bill also includes that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low income housing credit for the historic property.

Background Information on the Historic Rehabilitation Tax Credit - In 2005, 72 taxpayers claimed $355,372, and in 2006, 50 taxpayers claimed $117,026 in Historic Rehabilitation Tax Credits on Indiana individual income tax returns. Data was not available for corporate taxpayers. Current statute provides for a nonrefundable AGI Tax credit for individual and corporate taxpayers equal to 20% of the historic preservation or rehabilitation expenditures made by the taxpayer. The expenditures must exceed $10,000 and must be certified by the DNR. Current statute prohibits the aggregate amount of credits claimed by taxpayers during a fiscal year from exceeding $450,000. The tax credit is nonrefundable, but excess credits may be carried forward for 15 years. The tax credit may not be carried back. Revenue from the AGI Tax on individuals and corporations is distributed in the state General Fund.

Historic Rehabilitation Tax Credit Projects: The DHPA approves all qualifying Indiana Historic Rehabilitation Tax Credit projects. The $450,000 allocation for the current fiscal year was certified for projects that were approved between September 5, 2001 and September 10, 2001. The allocation for the present fiscal year was consumed by six projects with a portion of one carried forward from the previous year and a portion of one being carried forward to the next fiscal year. Three of these projects exceeded $500,000 in qualified costs and maximized the $100,000 per project cap.

The tax credit, which is calculated at 20% of qualified costs only subsidized 11% of approved project costs for this group of projects. The DHPA is currently approving credits for FY 2020.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Division of Historic Preservation and Archeology, Department of Natural Resources.

Local Agencies Affected:

Information Sources: OFMA Income Tax Databases; David Duvall, Indiana Division of Historic Preservation and Archaeology, 317-232-1635.

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