

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6604
BILL NUMBER: SB 244

NOTE PREPARED: Feb 4, 2013
BILL AMENDED: Jan 29, 2013

SUBJECT: Hoosier Business Investment Income Tax Credit.

FIRST AUTHOR: Sen. Wyss
FIRST SPONSOR: Rep. Thompson

BILL STATUS: As Passed Senate

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation:(Amended) This bill revises the Hoosier Business Investment Tax Credit (HBI). It adds logistics investments as a specific type of qualified investment under HBI. The bill specifies in detail the expenditures that qualify as a logistics investment. It requires the Indiana Economic Development Corporation (IEDC) to find that an applicant's logistics investment project will enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving the overall Indiana economy in order to approve the applicant's project for a tax credit. It makes conforming changes to the credit application and agreement provisions.

The bill provides that the percentage credit maximum is 25% (instead of 10%) if a qualified investment is a logistics investment. It provides that for logistics investments, the qualified investments used to determine the credit are based on growth in qualified investments by the taxpayer using 105% of the investments made by the taxpayer during the immediately preceding two years. It adds a \$50 M state fiscal year ceiling for tax credits that are based on nonlogistics investments and establishes a \$10 M state fiscal year ceiling for tax credits that are based on logistics investments.

The bill also requires the Department of State Revenue (DOR) to annually report to the Budget Committee on the use of the tax credit for logistics investments.

Effective Date: January 1, 2014.

Explanation of State Expenditures: (Revised) *Department of State Revenue (DOR):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the modifications to the

HBI credit. The bill requires the DOR to monitor the amount of credits claimed each year and insure that the credit caps are not exceeded by taxpayers. In addition, the DOR is required to submit an annual report concerning the use of HBI for logistics investments. The DOR's current level of resources should be sufficient to implement this change.

Indiana Economic Development Corporation (IEDC): The IEDC will incur additional expenses to revise applications and upgrade evaluation procedures. The IEDC's current level of resources should be sufficient to implement the modifications within the bill.

Explanation of State Revenues: (Revised) *Summary-* This bill makes changes to the HBI tax credit. It defines a new award criterion for logistics investments, establishes a new credit award tier for logistics investments, and specifies that the current credit award applies to nonlogistics investments. The changes are effective for taxable years beginning January 1, 2014. The revenue loss from these changes will likely begin in FY 2015, but could begin in FY 2014 if taxpayers change their quarterly estimated payments in the first half of CY 2014. The revenue loss to the state General Fund due to the bill is estimated to be \$10 M per year beginning in FY 2015. This revenue loss would be attributable to HBI credits for qualified logistics investments.

(Revised) *Additional Information* - Under current statute, the HBI credit equals up to 10% of the qualified investments made during the taxable year. The credit percentage is determined by the IEDC. Under the bill, the HBI credit would be computed differently for nonlogistics and logistics investments. The credit allowed under current statute would, under the bill, apply to nonlogistics investments. For logistics investments, the bill would allow the IEDC to grant a credit of up to 25% of the qualified logistics investments made during the taxable year. However, the amount of qualified logistics investments used to determine the credit is derived by taking the difference of the qualified logistics investments made in the current year and 105% of the average annual qualified logistics investments made in the prior two years. Under the bill, the total amount of HBI credits granted specifically for logistics investments is limited to \$10 M per fiscal year and \$50 M per fiscal year for nonlogistics investments.

The bill provides that projects involving logistics investments should be evaluated using a different criterion than nonlogistics investments when determining whether the credit should be awarded. Under the bill, a nonlogistics investment must directly result in job creation, job retention, or increased wages in order for the IEDC to enter into a tax credit agreement with the applicant. A logistics investment will be evaluated based on how the project will enhance the logistics industry by creating new jobs, preserving existing jobs that otherwise would be lost, increasing wages in Indiana, or improving the overall Indiana economy.

The credit can be used to offset tax liabilities from the Individual Adjusted Gross Income Tax, Corporate Adjusted Gross Income Tax, Financial Institutions Tax, and Insurance Premiums Tax. Revenue collected from those taxes are deposited in the General Fund. The credit is nonrefundable, but unused credits may be carried forward for up to nine years. Unused credits may not be carried back.

The U.S. Bureau of Economic Analysis (BEA) provides national data on the amount of fixed private investments by industry type. This information can be used to establish the potential level of investments for which the credit could be claimed. The national data was apportioned to Indiana using the ratio of Indiana GDP to the U.S. GDP. The analysis focused primarily on the transportation and warehousing industrial sectors.

Measure (in millions)	Calendar Year						
	2005	2006	2007	2008	2009	2010	2011
HBI Credits Offered	\$75.8	\$26.4	\$10.6	\$3.6	\$2.5	\$7.1	\$5.8
Total Indiana Private Nonresidential Fixed Investment in Structures*	6,900	8,150	10,130	11,020	8,390	7,150	7,730
Transportation and Warehouse: Indiana Private Nonresidential Fixed Investment in Structures*	454	534	585	585	407	343	354

*U.S. Bureau of Economic Analysis

The annual average level of private fixed investment in structures by Indiana businesses in the transportation and warehousing sector is estimated at \$459 M per year between 2000 and 2011. Using the formula from the bill, the average growth during the three positive years was approximately \$50.8 M per year. While there were nine years of decline in the aggregate data, individual firms could have increased levels of investments and qualified for an HBI tax credit for logistics improvements. The tax credit for investments in structures alone could potentially be \$12.7 M a year. However, the bill caps the maximum amount of logistics-based HBI to \$10 M per fiscal year.

The national investment data for nonresidential equipment is not detailed enough to separate creditable expenditures from total equipment investments.

The actual cost of this tax credit is contingent on the IEDC. While HBI was created to provide incentives for capital investments, it does not follow the trend for private nonresidential fixed investments in Indiana. The differing trends could be attributed to the HBI award process. HBI credits are provided after a taxpayer submits an application to the IEDC. The IEDC evaluates the application to determine whether the taxpayer is eligible for the credit and offers an amount of HBI credit based on their evaluation of investments that expand the Indiana workforce. HBI awarded for logistics investments do not have the same evaluation criteria, so it is likely that more logistics credits may be granted.

The bill places two limits on the amount of HBI that can be awarded by the IEDC and claimed by taxpayers. The IEDC can only award a total of \$10 M in HBI credits per fiscal year towards qualifying logistics investments and a total of \$50 M in nonlogistics investments per fiscal year. However, the caps also apply to the amount of credits that may be claimed per fiscal year. A situation may occur where several taxpayers were legitimately awarded HBI credits, but find themselves unable to claim them. For example, a taxpayer is granted a logistics credit of \$5 M in 2014, and they can only claim \$2 M for that taxable year. Next year, another taxpayer is granted a logistics credit of \$9 M. When filing their returns, one of the taxpayers will not be allowed to claim the full value of their remaining credits because the total will exceed the \$10 M per fiscal year limit. This will unlikely be an issue for credits awarded for nonlogistics investments. The average annual amount of credit claimed between 2005 and 2010 was approximately \$10.4 M.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation.

Local Agencies Affected:

Information Sources: U.S. Bureau of Economic Statistics, *Table 5.4.5. Private Fixed Investment in Structures by Type, Table 5.5.5. Private Fixed Investment in Equipment and Software by Type, GDP by State: Indiana*, accessed on December 20, 2012, LSA Income Tax Database; LSA, *Indiana Income Tax Credit Study: Hoosier Business Investment Tax Credit*, September 2012.

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