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**FISCAL IMPACT STATEMENT**

**LS 6599**

**BILL NUMBER: HB 1120**

**NOTE PREPARED: Feb 1, 2005**

**BILL AMENDED: Jan 31, 2005**

**SUBJECT:** Hoosier Business Investment Tax Credit.

**FIRST AUTHOR:** Rep. Espich

**FIRST SPONSOR:**

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) The bill extends the availability of the Hoosier Business Investment Tax Credit for investments made after December 31, 2007. The bill requires the Economic Development for a Growing Economy Board to consider and evaluate all applications for credit awards using the criteria required by statute. It also prohibits the Board from establishing eligibility standards that are not specified by statute. The bill also removes the Board's authority to require performance conditions that are not specified by statute in an agreement between a taxpayer and the Board. The bill also clarifies the method for applying the tax credit to the members of a pass through entity.

**Effective Date:** (Amended) January 1, 2004 (retroactive); July 1, 2005.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** (Revised) *Summary:* The bill makes the Hoosier Business Investment Tax Credit permanent. Under current statute, taxpayers are not entitled to credits for qualified investment made after December 31, 2007. The amount of credits that could potentially be claimed in future years as a result of this change is indeterminable. The net revenue impact depends on the extent that collections from taxable activities and earnings attributable to the investment in new property or new employees is less than or exceeds the amount of credits claimed by businesses. However, if the investment or new employment would have occurred in the absence of the tax credit, the net impact would be the total credits claimed by businesses. The fiscal impact from these changes could potentially begin as early as the second half of FY 2008 if taxpayers adjust their quarterly estimated payments.

The bill makes the following additional changes.

(1) The bill requires the EDGE Board to consider and evaluate all applications for credit awards using the criteria required by current statute, and prohibits the EDGE Board from establishing eligibility standards that are not specified by current statute. The bill also repeals a provision of current law allowing the EDGE Board to set performance conditions not specified in current law in an agreement between a taxpayer and the EDGE Board. The potential impact of these changes is unknown.

(2) The bill clarifies the current law regarding the application of the credit to members of a pass through entity so that credit amounts can actually be claimed by members. The bill provides that a pass through entity compute its state tax liability growth as if it were a taxpayer so that members are able to claim credits under current law provisions allowing the credits to be used by pass through members. This clarification is effective beginning January 1, 2004.

*Background:* Under current statute, the EDGE Board is authorized to award a taxpayer (an individual, corporation, or pass through entity) a nonrefundable tax credit for expenditures on qualified investment that the Board determines will 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. If a pass through entity does not have a tax liability, the credit may be claimed by shareholders or partners in proportion to their distributive income from the pass through entity. 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.

In 2004 (the first year for the Hoosier Business Investment Tax Credit), the EDGE Board approved credits totaling about \$331.7 M for 54 qualified investment projects.

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:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue, Department of Commerce, EDGE Board.

**Local Agencies Affected:**

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