HOUSE BILL No. 1473

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1.2-4-5; IC 5-1.5; IC 20-49-10-14.

Synopsis: Indiana bond bank. Allows the Indiana bond bank to require certain entities to establish separate reserve accounts as additional security in connection with the issuance of bonds or notes. Allows and establishes terms and procedures for certain entities to assign or otherwise transfer a future stream of revenue to the Indiana bond bank or certain other entities to obtain funding. Establishes conditions under which the state board of finance may sell, transfer, or liquidate agreements that evidence the state's right to make deductions from state tuition support to pay advances from the common school fund under the school corporation and charter school safety advance program.

Effective: Upon passage.

Steuerwald

January 15, 2019, read first time and referred to Committee on Ways and Means.

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1473

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-1.2-4-5, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply to any indebtedness issued by the authority if:

(1) the proceeds will be used for a project that has been specifically authorized by the general assembly; or

(2) the indebtedness is authorized under the referenced statutes.

(b) Notwithstanding any other law in effect before:

(1) the authority issues indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to a required level; or

(2) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or any part of any indebtedness issued by the authority;

the authority is subject to, and shall comply with, to the extent practicable, the requirements set forth in IC 5-1.5-5-4(c) through

~~IC 5-1.5-5-4(g)~~ **IC 5-1.5-5-4(h)** as if the authority were specifically named in IC 5-1.5-5-4(c) through ~~IC 5-1.5-5-4(g).~~ **IC 5-1.5-5-4(h).**

(c) In addition:

(1) indebtedness described in IC 5-1.5-5-4(c) through ~~IC 5-1.5-5-4(g)~~ **IC 5-1.5-5-4(h)** is considered a reference to an indebtedness or agreement referred to in this section; and

(2) a qualified entity referred to in IC 5-1.5-5-4(c) through ~~IC 5-1.5-5-4(g)~~ **IC 5-1.5-5-4(h)** is considered a reference to a borrower of any indebtedness and to any other parties referred to in this section.

SECTION 2. IC 5-1.5-1-8, AS AMENDED BY P.L.189-2018, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Qualified entity" means:

(1) a political subdivision (as defined in IC 36-1-2-13);

(2) a state educational institution;

(3) a leasing body (as defined in IC 5-1-1-1(a));

(4) a not-for-profit utility (as defined in IC 8-1-2-125);

(5) any rural electric membership corporation organized under IC 8-1-13;

(6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;

(7) any telephone cooperative corporation formed under IC 8-1-17;

(8) any commission, authority, or authorized body of any qualified entity;

(9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;

(10) any commission, authority, or instrumentality of the state;

(11) any other participant (as defined in IC 5-1.2-2-54);

(12) a charter school established under IC 20-5.5 (before its repeal) or IC 20-24 that is not a qualified entity under IC 5-1.4-1-10;

(13) a volunteer fire department (as defined in IC 36-8-12-2); ~~or~~

(14) a development authority (as defined in IC 36-7.6-1-8); **or**

(15) a nonprofit hospital, college, or university located in Indiana.

SECTION 3. IC 5-1.5-1-10, AS AMENDED BY P.L.2-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. "Security" means:

(1) a bond, note, or evidence of indebtedness issued by a qualified

entity;

(2) a lease or certificate or other evidence of participation in the lessor's interest in and rights under a lease with a qualified entity;

(3) an obligation of a qualified entity under an agreement between the qualified entity and the bank; ~~or~~

(4) an agreement executed by a qualified entity under IC 20-49-4 **or IC 20-49-10; or**

(5) an assignment agreement executed by a qualified entity under IC 5-1.5-8-5.1(b)(1).

SECTION 4. IC 5-1.5-2-2, AS AMENDED BY P.L.189-2018, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio, **or the treasurer of state's designee;**

(2) the public finance director appointed under IC 5-1.2-3-6, who shall be the director ex officio, **or the public finance director's designee;** and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until the director's successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing the director's duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with the director's duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

SECTION 5. IC 5-1.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The bank is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) Have a perpetual existence as a body politic and corporate, and an independent instrumentality, but not a state agency, exercising essential public functions.

(2) Sue and be sued.

(3) Adopt and alter an official seal.

(4) Make and enforce bylaws and rules for the conduct of its business and for the use of its services and facilities, which bylaws and rules may be adopted by the bank without complying with IC 4-22-2.

(5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.

(6) Acquire, rent, lease, hold, use, and dispose of property for its purposes.

(7) Make contracts and incur liabilities, borrow money, issue its negotiable bonds or notes, subject to provisions for registration of negotiable bonds and notes, and provide for and secure their payment and provide for the rights of their holders, and purchase and hold and dispose of any of its bonds or notes.

(8) Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.

(9) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants.

(10) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(11) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(12) Cooperate with and exchange services, personnel, and information with any federal, state, or local government agency.

(13) Do any act necessary or convenient to the exercise of the powers granted by the referenced statutes, or reasonably implied from those statutes, including compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The bank's powers under this article shall be interpreted broadly to effectuate the purposes of this article and may not be

construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the bank lacks that power. The bank may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

SECTION 6. IC 5-1.5-5-4, AS AMENDED BY P.L.229-2011, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (c), and in order to assure the maintenance of the required debt service reserve in any reserve fund, a resolution authorizing the bank to issue bonds or notes may include a provision stating that:

(1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; and

(2) the chairman annually, before December 1, shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) to pay all or part of any indebtedness issued by the bank;

is subject to the conditions set forth in subsection (e) and review by the budget committee and approval by the budget director as required by subsection (f).

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

(e) Issuance by the bank of any indebtedness that establishes a reserve fund under subsection (a), the establishment of a procedure for certification, or the execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) may be extended only for a project or a purpose that:

(1) can be financed by a qualified entity under the law applying to financing by the qualified entity; or

(2) is specifically authorized by the general assembly.

A reserve fund established under subsection (a) may be used only to finance the purchase of securities (as defined in IC 5-1.5-1-10) issued by entities described in IC 5-1.5-1-8.

(f) The budget director may approve establishing a reserve fund under subsection (a) only if the following conditions are satisfied:

(1) The project or purpose qualifies under subsection (e).

(2) The documentation required by subsection (g) has been provided by the bank.

(3) The bank has provided the budget agency with a written finding that revenues available to the qualified entity to pay annual debt service exceed the annual debt service requirements by at least twenty percent (20%).

(4) If the financing is for a project or purpose that will produce ongoing revenue from fees or user charges, the qualified entity agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will first increase the rate of the fees or user charges, or both, by an amount sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.

(5) A qualified entity seeking the benefit of a reserve fund established under subsection (a) agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will pledge sufficient property taxes, user fees, hook up fees, connection fees, or any other available local revenues or any

combination of those revenues that will be sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.

(6) ~~The instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) will include, to the extent the budget director determines is possible, a provision that money payable to the qualified entity by the state may be withheld by the auditor of state to recover any funds provided by the state, if subsection (a) is applied in connection with the qualified entity's securities.~~ **A qualified entity seeking the benefit of a reserve fund established under subsection (a) agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) requiring that the qualified entity establish and maintain its own separate reserve fund or account under the governing instrument, in an amount acceptable to the budget director, in order to provide an additional margin of security for the security before subsection (a) is to be applied.**

(g) Notwithstanding any other law, if any amounts are appropriated by the general assembly and transferred to the bank for deposit in a reserve fund under subsection (a) as a result of a default by a qualified entity on its security, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to such qualified entity (other than for goods or services provided by the qualified entity), at any time after written notice to the department or agency head from the bank that the qualified entity is in default on the payment of principal of or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the applicable department or agency shall recover any amounts appropriated by the general assembly for deposit in a reserve fund under subsection (a) by:

(1) making deductions and withholding from any future amounts that would otherwise be available for distribution to the qualified entity under any other law, until an amount equal to the appropriation has been deducted and withheld; and

(2) transferring any amounts so deducted and withheld from time to time to the treasurer of state for the purpose of allowing the treasurer of state to reimburse the fund or account of the state from which the appropriation was made.

A deduction under this subsection must be made, first, from local

income tax distributions under IC 6-3.6-9, and, second, from any other undistributed funds of the qualified entity in the possession of the state. However, the deduction and withholding of payment from a qualified entity and reimbursement to the fund or account of the state from which the appropriation was made under this section must not adversely affect the validity of the security in default.

~~(g)~~ **(h)** If the bank proposes that a reserve fund be established under subsection (a) for a project or purpose, the bank shall provide to the budget committee and the budget agency at or before the time of the bank's request, the following information in writing:

(1) A description of the project or purpose.

(2) How the project or purpose satisfies the requirements of subsection (e).

(3) The qualified entity's application for financing that was filed with the bank.

(4) The estimated relative savings that can be achieved by establishing a reserve fund under subsection (a).

(5) The finding required by subsection (f)(3) and proposed language for those instrument provisions required by subsection (f)(4) through (f)(6), if applicable.

(6) Any other information required by the budget committee or budget agency.

SECTION 7. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.1 (a) The following definitions apply throughout this section:**

(1) "Assignment agreement" means an agreement between a qualified entity and the issuing entity for the conveyance of all or part of any revenues or taxes received by the qualified entity from a disbursement agent.

(2) "Conveyance" means an assignment, sale, transfer, or other conveyance.

(3) "Deposit account" means a designated escrow account established by the issuing entity at a trust company or bank having trust powers for the deposit of transferred receipts under an assignment agreement.

(4) "Disbursement agent" means a state disbursement agent or local disbursement agent.

(5) "Issuing entity" means:

(A) the bank;

(B) a corporation, trust, or other entity that has been

established by the bank for the limited purpose of issuing obligations for the benefit of the bank and any qualified entity; or

(C) a bank or trust company in its capacity as trustee for obligations issued by an entity identified in clause (A) or (B).

(6) "Local disbursement agent" means:

(A) the fiscal officer (as defined in IC 36-1-2-7) of the county for any county in which a qualified entity is wholly or partially located;

(B) the fiscal officer for a qualified entity; or

(C) the treasurer of a school corporation.

(7) "State disbursement agent" means the state treasurer, the state auditor, or the state department of revenue.

(8) "Transferred receipts" means all or part of any revenues or taxes received from a disbursement agent that have been conveyed by a qualified entity under an assignment agreement.

(9) "Statutory lien" has the meaning given to that term under 11 U.S.C. 101(53) of the federal bankruptcy code.

(b) Any qualified entity that receives revenues or taxes from a disbursement agent may (to the extent not prohibited by any applicable statute, regulation, rule, resolution, ordinance, or agreement governing the use of the revenues or taxes) authorize, by ordinance or resolution, the conveyance of all or any portion of the revenues or taxes to an issuing entity. Any conveyance of transferred receipts shall:

(1) be made pursuant to an assignment agreement in exchange for the net proceeds of obligations issued by the issuing entity for the benefit of the qualified entity and shall, for all purposes, constitute an absolute conveyance of all right, title, and interest therein;

(2) not be deemed a pledge or other security interest for any borrowing by the qualified entity;

(3) be valid, binding, and enforceable in accordance with the terms thereof and of any related instrument, agreement, or other arrangement, including any pledge, grant of security interest, or other encumbrance made by the issuing entity to secure any obligations issued by the issuing entity for the benefit of the qualified entity; and

(4) not be subject to disavowal, disaffirmance, cancellation, or avoidance by reason of insolvency of any party, lack of

consideration, or any other fact, occurrence, or state law or rule. On and after the effective date of the conveyance of the transferred receipts:

(A) the qualified entity shall have no right, title, or interest in or to the transferred receipts conveyed; and

(B) the transferred receipts conveyed shall be the property of the issuing entity to the extent necessary to pay the obligations issued by the issuing entity for the benefit of the qualified entity, and shall be received, held, and disbursed by the issuing entity in a trust fund outside the treasury of the qualified entity.

An assignment agreement may provide for the periodic reconveyance to the qualified entity of amounts of transferred receipts remaining after the payment of the obligations issued by the issuing entity for the benefit of the qualified entity.

(c) In connection with any conveyance of transferred receipts, the qualified entity is authorized to direct the applicable disbursement agent to deposit or cause to be deposited any amount of the transferred receipts into a deposit account in order to secure the obligations issued by the issuing entity for the benefit of the qualified entity. If the qualified entity states that the direction is irrevocable, the direction shall be treated by the applicable disbursement agent as irrevocable with respect to the transferred receipts described in the direction. Each disbursement agent shall comply with the terms of any such direction received from a qualified entity and shall execute and deliver the acknowledgments and agreements, including escrow and similar agreements, as the qualified entity may require to effectuate the deposit of transferred receipts in accordance with the direction of the qualified entity.

(d) Not later than the date of issuance by an issuing entity of any obligations secured by collections of transferred receipts, a certified copy of the ordinance or resolution authorizing the conveyance of the right to receive the transferred receipts, together with executed copies of the applicable assignment agreement and the agreement providing for the establishment of the deposit account, shall be filed with:

(1) the disbursement agent having custody of the transferred receipts; and

(2) if the conveyance of transferred receipts consists of all or a portion of local income tax revenues under IC 6-3.6, the adopting body (as defined in IC 6-3.6-3-1) having jurisdiction over the applicable tax rate and allocations affecting such

local income tax revenues.

(e) Any obligations of an issuing entity issued or incurred to provide funds to purchase any transferred receipts from a qualified entity under this chapter shall be entitled to the following benefits and protections:

(1) The obligations issued by an issuing entity shall be secured by a statutory lien on the transferred receipts received, or entitled to be received, by the issuing entity that are designated as pledged for such obligations of the issuing entity. The statutory lien shall automatically attach from the time the obligations of the issuing entity are issued without further action or authorization by the issuing entity or any other entity, person, governmental authority, or officer. The statutory lien shall be valid and binding from the time the obligations of the issuing entity are executed and delivered without any physical delivery thereof or further act required, and shall be a first priority lien, unless the obligations, or the documents authorizing the obligations or providing a source of payment or security for those obligations, shall otherwise provide.

(2) The transferred receipts received or entitled to be received shall be immediately subject to the statutory lien from the time the obligations of the issuing entity are issued, and the statutory lien shall automatically attach to the transferred receipts (whether received or entitled to be received by the issuing entity) and be effective, binding, and enforceable against the issuing entity, the qualified entity, the disbursement agent, the state, and their agents, successors, transferees and creditors, and all others asserting rights therein or having claims of any kind in tort, contract, or otherwise, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(3) The statutory lien imposed by this section is automatically released and discharged with respect to amounts of transferred receipts reconveyed to the qualified entity pursuant to subdivision (b)(4), effective upon the reconveyance.

(4) The statutory lien provided in this section is separate from and shall not affect any special revenues lien or other protection afforded to special revenue obligations under the federal Bankruptcy Code.

(f) The state covenants with each qualified entity, the issuing entity, each disbursement agent, and the purchasers or owners of the issuing entity's obligations that the state will not limit or alter the rights and powers vested in the qualified entity, the issuing entity, and the state entities by this section with respect to the disposition of transferred receipts so as to impair the terms of any contract, including any assignment agreement, made by the qualified entity with the issuing entity or any contract executed by the issuing entity in connection with the issuance of obligations by the issuing entity for the benefit of the qualified entity, until all requirements with respect to the deposit by the disbursement agent of transferred receipts for the benefit of the issuing entity have been fully met and the obligations of the issuing entity related thereto have been discharged and satisfied. In addition, the state covenants with each qualified entity, the issuing entity, each disbursement agent, and the purchasers or owners of the issuing entity's obligations that the state will not limit or alter the basis on which the qualified entity's share or percentage of transferred receipts is derived, or the use of the funds, so as to impair the terms of any such contract. Nothing contained in this chapter shall be construed or interpreted as creating a debt of the state within the meaning of the limitation on or prohibition against state indebtedness under the Constitution of the State of Indiana or interpreted to construe the state as a guarantor of any debt or obligation subject to an assignment agreement under this section.

(g) In the case of a qualified entity that has authorized the conveyance of all or a portion of its local income tax revenues imposed under IC 6-3.6 and executed an assignment agreement with respect thereto, obligations of the issuing entity issued for the benefit of the qualified entity, together with the debt service owed each year thereon, shall be:

(1) included as part of the outstanding debt service of the qualified entity solely for purposes of calculating the minimum coverage ratio under IC 6-3.6-4-3; and

(2) treated as outstanding obligations of the qualified entity payable from the revenues solely for purposes of limiting the reduction of the proportional allocation of revenues under IC 6-3.6-3-3 and IC 6-3.6-6-5.

This subsection shall not be construed as a pledge of the transferred receipts or the granting of a security interest therein by the qualified entity, and is included solely for the purpose of computing the limitations on the reductions to the tax rate and

allocations set forth under IC 6-3.6-4-3, IC 6-3.6-3-3, and IC 6-3.6-6-5.

(h) The bank is authorized to create one (1) or more nonprofit corporations in order to effectuate the purposes of this chapter and the bank may grant or delegate to any such nonprofit corporation powers of the bank as may be necessary, convenient, or appropriate to carry out and effectuate the public and corporate purposes of this article.

(i) A qualified entity may not enter into assignment agreements in a manner inconsistent with the provisions of this chapter. This chapter constitutes the specific manner for exercising the power to enter into assignment agreements for purposes of IC 20-26-3, IC 36-1-3, or any other statute granting home rule power to a qualified entity.

SECTION 8. IC 20-49-10-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14 (a) Upon request of the treasurer of state, the state board of finance may periodically sell, transfer, or liquidate agreements, in whole or in part, including without limitation the sale, transfer, or liquidation of all or any part of the principal or interest to be received at any time under one (1) or more agreements that evidence the right of the state to make deductions from state tuition support to pay advances under this chapter under the terms and conditions that the state board of finance considers necessary and appropriate.**

(b) Each sale, transfer, or liquidation under this section is subject to the following conditions:

(1) Each sale, transfer, or liquidation may be made only to a department, an agency, a commission, an instrumentality, or a public body of the state, including the Indiana bond bank.

(2) Each sale, transfer, or liquidation of agreements may be made only for cash.

(3) Payments under the sale, transfer, or liquidation must be made to the treasurer of state for the fund and reported to the state board of finance.

(4) The total amount of cash received by the fund from the sale may not be less than the outstanding principal amount of all or a part of the agreements sold plus accrued interest owed.

(5) If necessary to facilitate a sale, transfer, or liquidation, the state board or the state board of finance may agree to act on behalf of an entity described in subdivision (1) by collecting

payment on advances that are:

(A) received directly from a school corporation, if any direct payments are received; or

(B) deducted from amounts appropriated and made available for state tuition support.

An agreement by the state board or the state board of finance under this subdivision is a valid and an enforceable contractual obligation but is not a debt of the state within the meaning of the limitation against indebtedness under the Constitution of the State of Indiana.

(6) Each proposed sale, transfer, or liquidation must be reviewed by the budget committee and approved by the budget agency.

(c) The state board of finance shall notify the state board and the department of any action that the state board of finance takes under this section.

SECTION 9. **An emergency is declared for this act.**