



February 5, 2019

HOUSE BILL No. 1473

DIGEST OF HB 1473 (Updated January 31, 2019 5:02 pm - DI 113)

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

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. Provides that the state board of education must report to the budget committee each year on any defaults on the repayment of advances from the common school fund by charter schools that have closed or otherwise ceased operations.

Effective: Upon passage; July 1, 2019.

**Steuerwald, Karickhoff, DeLaney,
Pryor**

January 15, 2019, read first time and referred to Committee on Ways and Means.
February 4, 2019, amended, reported — Do Pass.

HB 1473—LS 7522/DI 113



February 5, 2019

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:

1 SECTION 1. IC 5-1.2-4-5, AS ADDED BY P.L.189-2018,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 5. (a) This section does not apply to any
4 indebtedness issued by the authority if:
5 (1) the proceeds will be used for a project that has been
6 specifically authorized by the general assembly; or
7 (2) the indebtedness is authorized under the referenced statutes.
8 (b) Notwithstanding any other law in effect before:
9 (1) the authority issues indebtedness that establishes a procedure
10 for the authority or a person acting on behalf of the authority to
11 certify to the general assembly the amount needed to restore a
12 debt service reserve fund or another fund to a required level; or
13 (2) execution by the authority of any other agreement that creates
14 a moral obligation of the state to pay all or any part of any
15 indebtedness issued by the authority;
16 the authority is subject to, and shall comply with, to the extent
17 practicable, the requirements set forth in IC 5-1.5-5-4(c) through

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

3 (c) In addition:

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

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

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

14 (1) a bond, note, or evidence of indebtedness issued by a qualified
 15 entity;

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

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

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

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

24 SECTION 3. IC 5-1.5-2-2, AS AMENDED BY P.L.189-2018,
 25 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 2. (a) There is established a board of directors
 27 to govern the bank. The powers of the bank are vested in this board.

28 (b) The board is composed of:

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

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

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

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

36 (1) must be a resident of Indiana;

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

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

42 (4) is eligible for reappointment;



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

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

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

11 SECTION 4. IC 5-1.5-3-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The bank is
 13 granted all powers necessary, convenient, or appropriate to carry out
 14 and effectuate its public and corporate purposes, including, but not
 15 limited to, the following:

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

19 (2) Sue and be sued.

20 (3) Adopt and alter an official seal.

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

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

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

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

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

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



- 1 (10) Do anything authorized by this article, through its officers,
 2 agents, or employees or by contracts with a person.
- 3 (11) Procure insurance against any losses in connection with its
 4 property, operations, or assets in amounts and from insurers as it
 5 considers desirable.
- 6 (12) Cooperate with and exchange services, personnel, and
 7 information with any federal, state, or local government agency.
- 8 **(13) Do any act necessary or convenient to the exercise of the**
 9 **powers granted by the referenced statutes, or reasonably**
 10 **implied from those statutes, including compliance with**
 11 **requirements of federal law imposed from time to time for the**
 12 **issuance of bonds.**
- 13 **(b) The bank's powers under this article shall be interpreted**
 14 **broadly to effectuate the purposes of this article and may not be**
 15 **construed as a limitation of powers. The omission of a power from**
 16 **the list in subsection (a) does not imply that the bank lacks that**
 17 **power. The bank may exercise any power that is not listed in**
 18 **subsection (a) but is consistent with the powers listed in subsection**
 19 **(a) to the extent that the power is not expressly denied by the**
 20 **Constitution of the State of Indiana or by another statute.**
- 21 SECTION 5. IC 5-1.5-5-4, AS AMENDED BY P.L.229-2011,
 22 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (c),
 24 and in order to assure the maintenance of the required debt service
 25 reserve in any reserve fund, a resolution authorizing the bank to issue
 26 bonds or notes may include a provision stating that:
- 27 (1) the general assembly may annually appropriate to the bank for
 28 deposit in one (1) or more of the funds the sum, certified by the
 29 chairman of the board to the general assembly, that is necessary
 30 to restore one (1) or more of the funds to an amount equal to the
 31 required debt service reserve; and
- 32 (2) the chairman annually, before December 1, shall make and
 33 deliver to the general assembly a certificate stating the sum
 34 required to restore the funds to that amount.
- 35 Nothing in this subsection creates a debt or liability of the state to make
 36 any appropriation.
- 37 (b) All amounts received on account of money appropriated by the
 38 state to any reserve fund shall be held and applied in accordance with
 39 section 1(b) of this chapter. However, at the end of each fiscal year, if
 40 the amount in any reserve fund exceeds the required debt service
 41 reserve, any amount representing earnings or income received on
 42 account of any money appropriated to the reserve fund that exceeds the



1 expenses of the bank for that fiscal year may be transferred to the
2 general fund of the state.

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

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

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

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

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

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

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

30 (2) is specifically authorized by the general assembly.

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

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

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

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

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



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

9 (5) A qualified entity seeking the benefit of a reserve fund
10 established under subsection (a) agrees to include a provision in
11 the instrument governing the qualified entity's duties with respect
12 to the security (as defined in IC 5-1.5-1-10) that the qualified
13 entity will pledge sufficient property taxes, user fees, hook up
14 fees, connection fees, or any other available local revenues or any
15 combination of those revenues that will be sufficient to satisfy any
16 shortfall in the reserve fund established under subsection (a)
17 before subsection (a) is to be applied.

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

33 (g) Notwithstanding any other law, if any amounts are
34 appropriated by the general assembly and transferred to the bank
35 for deposit in a reserve fund under subsection (a) as a result of a
36 default by a qualified entity on its security, to the extent that any
37 department or agency of the state, including the treasurer of state,
38 is the custodian of money payable to such qualified entity (other
39 than for goods or services provided by the qualified entity), at any
40 time after written notice to the department or agency head from
41 the bank that the qualified entity is in default on the payment of
42 principal of or interest on the securities of the qualified entity then



1 held or owned by or arising from an agreement with the bank, the
 2 applicable department or agency shall recover any amounts
 3 appropriated by the general assembly for deposit in a reserve fund
 4 under subsection (a) by:

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

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

14 A deduction under this subsection must be made, first, from local
 15 income tax distributions under IC 6-3.6-9, and, second, from any
 16 other undistributed funds of the qualified entity in the possession
 17 of the state. However, the deduction and withholding of payment
 18 from a qualified entity and reimbursement to the fund or account
 19 of the state from which the appropriation was made under this
 20 section must not adversely affect the validity of the security in
 21 default.

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

- 26 (1) A description of the project or purpose.
 27 (2) How the project or purpose satisfies the requirements of
 28 subsection (e).
 29 (3) The qualified entity's application for financing that was filed
 30 with the bank.
 31 (4) The estimated relative savings that can be achieved by
 32 establishing a reserve fund under subsection (a).
 33 (5) The finding required by subsection (f)(3) and proposed
 34 language for those instrument provisions required by subsection
 35 (f)(4) through (f)(6), if applicable.
 36 (6) Any other information required by the budget committee or
 37 budget agency.

38 SECTION 6. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2019]: **Sec. 5.1 (a) The following definitions apply throughout
 41 this section:**

- 42 (1) "Assignment agreement" means an agreement between a



1 qualified entity and the issuing entity for the conveyance of all
 2 or part of any revenues or taxes received by the qualified
 3 entity from a disbursement agent.

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

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

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

12 (5) "Issuing entity" means:

13 (A) the bank;

14 (B) a corporation, trust, or other entity that has been
 15 established by the bank for the limited purpose of issuing
 16 obligations for the benefit of the bank and any qualified
 17 entity; or

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

21 (6) "Local disbursement agent" means:

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

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

26 (C) the treasurer of a school corporation.

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

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

33 (9) "Statutory lien" has the meaning given to that term under
 34 11 U.S.C. 101(53) of the federal bankruptcy code.

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

42 (1) be made pursuant to an assignment agreement in exchange



1 for the net proceeds of obligations issued by the issuing entity
2 for the benefit of the qualified entity and shall, for all
3 purposes, constitute an absolute conveyance of all right, title,
4 and interest therein;

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

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

13 (4) not be subject to disavowal, disaffirmance, cancellation, or
14 avoidance by reason of insolvency of any party, lack of
15 consideration, or any other fact, occurrence, or state law or
16 rule. On and after the effective date of the conveyance of the
17 transferred receipts:

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

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

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

30 (c) In connection with any conveyance of transferred receipts,
31 the qualified entity is authorized to direct the applicable
32 disbursement agent to deposit or cause to be deposited any amount
33 of the transferred receipts into a deposit account in order to secure
34 the obligations issued by the issuing entity for the benefit of the
35 qualified entity. If the qualified entity states that the direction is
36 irrevocable, the direction shall be treated by the applicable
37 disbursement agent as irrevocable with respect to the transferred
38 receipts described in the direction. Notwithstanding any other law,
39 each disbursement agent shall comply with the terms of any such
40 direction received from a qualified entity and shall execute and
41 deliver the acknowledgments and agreements, including escrow
42 and similar agreements, as the qualified entity may require to



1 effectuate the deposit of transferred receipts in accordance with
2 the direction of the qualified entity. Notwithstanding any other law,
3 the disbursement agent shall distribute the transferred receipts to
4 the deposit account in accordance with the written authorization
5 and direction from the qualified entity set forth in the assignment
6 agreement and any related escrow and similar agreements, and
7 upon each distribution of transferred receipts in accordance with
8 the direction from the qualified entity, the disbursement agent shall
9 have no further duty or responsibility with respect to the
10 distribution of transferred receipts.

11 (d) Not later than the date of issuance by an issuing entity of any
12 obligations secured by collections of transferred receipts, a
13 certified copy of the ordinance or resolution authorizing the
14 conveyance of the right to receive the transferred receipts,
15 executed copies of the applicable assignment agreement, the
16 agreement providing for the establishment of the deposit account,
17 and a notice designating the dates that the disbursement agent's
18 duty to distribute transferred receipts to the deposit account shall
19 begin and end shall be filed with:

- 20 (1) the disbursement agent having custody of the transferred
21 receipts; and
22 (2) if the conveyance of transferred receipts consists of all or
23 a portion of local income tax revenues under IC 6-3.6, the
24 adopting body (as defined in IC 6-3.6-3-1) having jurisdiction
25 over the applicable tax rate and allocations affecting such
26 local income tax revenues.

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

- 31 (1) The obligations issued by an issuing entity shall be secured
32 by a statutory lien on the transferred receipts received, or
33 entitled to be received, by the issuing entity that are
34 designated as pledged for such obligations of the issuing
35 entity. The statutory lien shall automatically attach from the
36 time the obligations of the issuing entity are issued without
37 further action or authorization by the issuing entity or any
38 other entity, person, governmental authority, or officer. The
39 statutory lien shall be valid and binding from the time the
40 obligations of the issuing entity are executed and delivered
41 without any physical delivery thereof or further act required,
42 and shall be a first priority lien, unless the obligations, or the



1 documents authorizing the obligations or providing a source
2 of payment or security for those obligations, shall otherwise
3 provide.
4 (2) The transferred receipts received or entitled to be received
5 shall be immediately subject to the statutory lien from the
6 time the obligations of the issuing entity are issued, and the
7 statutory lien shall automatically attach to the transferred
8 receipts (whether received or entitled to be received by the
9 issuing entity) and be effective, binding, and enforceable
10 against the issuing entity, the qualified entity, the
11 disbursement agent, the state, and their agents, successors,
12 transferees and creditors, and all others asserting rights
13 therein or having claims of any kind in tort, contract, or
14 otherwise, irrespective of whether those parties have notice of
15 the lien and without the need for any physical delivery,
16 recordation, filing, or further act.
17 (3) The statutory lien imposed by this section is automatically
18 released and discharged with respect to amounts of
19 transferred receipts reconveyed to the qualified entity
20 pursuant to subdivision (b)(4), effective upon the
21 reconveyance.
22 (4) The statutory lien provided in this section is separate from
23 and shall not affect any special revenues lien or other
24 protection afforded to special revenue obligations under the
25 federal Bankruptcy Code.
26 (f) The state covenants with each qualified entity, the issuing
27 entity, each disbursement agent, and the purchasers or owners of
28 the issuing entity's obligations that the state will not limit or alter
29 the rights and powers vested in the qualified entity, the issuing
30 entity, and the state entities by this section with respect to the
31 disposition of transferred receipts so as to impair the terms of any
32 contract, including any assignment agreement, made by the
33 qualified entity with the issuing entity or any contract executed by
34 the issuing entity in connection with the issuance of obligations by
35 the issuing entity for the benefit of the qualified entity, until all
36 requirements with respect to the deposit by the disbursement agent
37 of transferred receipts for the benefit of the issuing entity have
38 been fully met and the obligations of the issuing entity related
39 thereto have been discharged and satisfied. In addition, the state
40 covenants with each qualified entity, the issuing entity, each
41 disbursement agent, and the purchasers or owners of the issuing
42 entity's obligations that the state will not limit or alter the basis on



1 which the qualified entity's share or percentage of transferred
 2 receipts is derived, or the use of the funds, so as to impair the terms
 3 of any such contract. Nothing contained in this chapter shall be
 4 construed or interpreted as creating a debt of the state within the
 5 meaning of the limitation on or prohibition against state
 6 indebtedness under the Constitution of the State of Indiana or
 7 interpreted to construe the state as a guarantor of any debt or
 8 obligation subject to an assignment agreement under this section.

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

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

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

22 This subsection shall not be construed as a pledge of the
 23 transferred receipts or the granting of a security interest therein
 24 by the qualified entity, and is included solely for the purpose of
 25 computing the limitations on the reductions to the tax rate and
 26 allocations set forth under IC 6-3.6-4-3, IC 6-3.6-3-3, and
 27 IC 6-3.6-6-5.

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

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

40 SECTION 7. IC 20-49-3-17 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 17. (a) Before July 1 of each year, the state



1 board, in cooperation with the department, shall:

2 (1) prepare a report of the information described in
3 subsection (b); and

4 (2) present the report to the budget committee.

5 (b) The report referred to in subsection (a) must describe the
6 following information for the immediately preceding calendar
7 year:

8 (1) Any charter schools that closed or otherwise ceased
9 operations during the immediately preceding calendar year.

10 (2) For each charter school specified in subdivision (1), and
11 for each advance from the fund that was not repaid in full
12 before the date on which the charter school closed or
13 otherwise ceased operations, the outstanding amounts of
14 principal and interest that the charter school owes to the fund.

15 (3) The efforts being made by the state board and the
16 department to collect the unpaid advances and interest
17 described in subdivision (2).

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

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

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

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

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

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



1 **(5) If necessary to facilitate a sale, transfer, or liquidation, the**
2 **state board or the state board of finance may agree to act on**
3 **behalf of an entity described in subdivision (1) by collecting**
4 **payment on advances that are:**
5 **(A) received directly from a school corporation, if any**
6 **direct payments are received; or**
7 **(B) deducted from amounts appropriated and made**
8 **available for state tuition support.**
9 **An agreement by the state board or the state board of finance**
10 **under this subdivision is a valid and an enforceable**
11 **contractual obligation but is not a debt of the state within the**
12 **meaning of the limitation against indebtedness under the**
13 **Constitution of the State of Indiana.**
14 **(6) Each proposed sale, transfer, or liquidation must be**
15 **reviewed by the budget committee and approved by the**
16 **budget agency.**
17 **(c) The state board of finance shall notify the state board and**
18 **the department of any action that the state board of finance takes**
19 **under this section.**
20 **SECTION 9. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1473, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 7 with "[EFFECTIVE JULY 1, 2019]".

Page 2, delete lines 11 through 38.

Page 10, line 24, delete "Each" and insert "**Notwithstanding any other law, each**".

Page 10, line 29, after "." insert "**Notwithstanding any other law, the disbursement agent shall distribute the transferred receipts to the deposit account in accordance with the written authorization and direction from the qualified entity set forth in the assignment agreement and any related escrow and similar agreements, and upon each distribution of transferred receipts in accordance with the direction from the qualified entity, the disbursement agent shall have no further duty or responsibility with respect to the distribution of transferred receipts.**".

Page 10, line 33, delete "together".

Page 10, line 34, delete "with".

Page 10, line 34, delete "agreement and" and insert "**agreement,**".

Page 10, line 36, after "account," insert "**and a notice designating the dates that the disbursement agent's duty to distribute transferred receipts to the deposit account shall begin and end**".

Page 13, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 8. IC 20-49-3-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Before July 1 of each year, the state board, in cooperation with the department, shall:**

(1) prepare a report of the information described in subsection (b); and

(2) present the report to the budget committee.

(b) The report referred to in subsection (a) must describe the following information for the immediately preceding calendar year:

(1) Any charter schools that closed or otherwise ceased operations during the immediately preceding calendar year.

(2) For each charter school specified in subdivision (1), and for each advance from the fund that was not repaid in full before the date on which the charter school closed or otherwise ceased operations, the outstanding amounts of



**principal and interest that the charter school owes to the fund.
(3) The efforts being made by the state board and the
department to collect the unpaid advances and interest
described in subdivision (2)."**

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1473 as introduced.)

HUSTON

Committee Vote: yeas 23, nays 0.

