



March 27, 2019

ENGROSSED HOUSE BILL No. 1473

DIGEST OF HB 1473 (Updated March 26, 2019 11:53 am - DI 125)

Citations Affected: IC 5-1.2; IC 5-1.3; IC 5-1.5; IC 6-3.6; IC 20-49; IC 36-7.5.

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.
(Continued next page)

Effective: Upon passage; January 1, 2019 (retroactive); July 1, 2019; January 1, 2020.

Steuerwald, Karickhoff, DeLaney, Pryor

(SENATE SPONSORS — HEAD, HOLDMAN, TAYLOR G)

January 15, 2019, read first time and referred to Committee on Ways and Means.
February 4, 2019, amended, reported — Do Pass.
February 7, 2019, read second time, ordered engrossed. Engrossed.
February 11, 2019, read third time, passed. Yeas 90, nays 0.

SENATE ACTION

March 4, 2019, read first time and referred to Committee on Tax and Fiscal Policy.
March 26, 2019, amended, reported favorably — Do Pass.

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Digest Continued

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. Requires the department of local government finance to notify the Lake County auditor of the estimated and certified tax revenue that will be withheld from the county's certified distribution and distributed to the secretary-treasurer of the northwest Indiana regional development authority (authority). Requires the auditor of state to withhold local income tax revenue from the county's certified distribution and distribute it to the secretary-treasurer of the authority.



March 27, 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.

ENGROSSED 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 5-1.3-1-0.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2019]: **Sec. 0.5. (a) All bonds, notes, evidences of indebtedness,
 14 leases, or other written obligations issued or executed under this
 15 article by or in the name of the:**

- 16 (1) IFA;
 17 (2) NWIRDA; and
 18 (3) NICTD;

19 **before April 30, 2019, are hereby legalized and declared valid.**

20 (b) Any pledge, dedication or designation of revenues,
 21 conveyance, or mortgage securing the bonds, notes, evidences of
 22 indebtedness, leases, or other written obligations issued or executed
 23 under this article by or in the name of the:

- 24 (1) IFA;
 25 (2) NWIRDA; and
 26 (3) NICTD;

27 **before April 30, 2019, are hereby legalized and declared valid.**

28 (c) Any resolutions adopted, proceedings had, and actions taken
 29 under this article by the:

- 30 (1) IFA;
 31 (2) NWIRDA; and
 32 (3) NICTD;

33 **before April 30, 2019, under which the bonds, notes, evidences of
 34 indebtedness, leases, or other written obligations were or will be
 35 issued or under which the pledge, dedication or designation of
 36 revenues, conveyance, or mortgage was or will be granted are
 37 hereby legalized and declared valid.**

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

- 41 (1) a bond, note, or evidence of indebtedness issued by a qualified
 42 entity;



- 1 (2) a lease or certificate or other evidence of participation in the
 2 lessor's interest in and rights under a lease with a qualified entity;
 3 (3) an obligation of a qualified entity under an agreement between
 4 the qualified entity and the bank; ~~or~~
 5 (4) an agreement executed by a qualified entity under IC 20-49-4
 6 **or IC 20-49-10; or**
 7 **(5) an assignment agreement executed by a qualified entity**
 8 **under IC 5-1.5-8-5.1(b)(1).**

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

13 (b) The board is composed of:

- 14 (1) the treasurer of state, who shall be the chairman ex officio, **or**
 15 **the treasurer of state's designee;**
 16 (2) the public finance director appointed under IC 5-1.2-3-6, who
 17 shall be the director ex officio, **or the public finance director's**
 18 **designee;** and
 19 (3) five (5) directors appointed by the governor.

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

- 21 (1) must be a resident of Indiana;
 22 (2) must have substantial expertise in the buying, selling, and
 23 trading of municipal securities, in municipal administration or in
 24 public facilities management;
 25 (3) serves for a term of three (3) years and until the director's
 26 successor is appointed and qualified;
 27 (4) is eligible for reappointment;
 28 (5) is entitled to receive the same minimum salary per diem as is
 29 provided in IC 4-10-11-2.1(b) while performing the director's
 30 duties. Such a director is also entitled to the same reimbursement
 31 for traveling expenses and other expenses, actually incurred in
 32 connection with the director's duties as is provided in the state
 33 travel policies and procedures, established by the department of
 34 administration and approved by the budget agency; and
 35 (6) may be removed by the governor for cause.

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

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

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- 1 (1) Have a perpetual existence as a body politic and corporate,
 2 and an independent instrumentality, but not a state agency,
 3 exercising essential public functions.
 4 (2) Sue and be sued.
 5 (3) Adopt and alter an official seal.
 6 (4) Make and enforce bylaws and rules for the conduct of its
 7 business and for the use of its services and facilities, which
 8 bylaws and rules may be adopted by the bank without complying
 9 with IC 4-22-2.
 10 (5) Acquire, hold, use, and dispose of its income, revenues, funds,
 11 and money.
 12 (6) Acquire, rent, lease, hold, use, and dispose of property for its
 13 purposes.
 14 (7) Make contracts and incur liabilities, borrow money, issue its
 15 negotiable bonds or notes, subject to provisions for registration of
 16 negotiable bonds and notes, and provide for and secure their
 17 payment and provide for the rights of their holders, and purchase
 18 and hold and dispose of any of its bonds or notes.
 19 (8) Fix and revise from time to time and charge and collect fees
 20 and charges for the use of its services or facilities.
 21 (9) Accept gifts or grants of property, funds, money, materials,
 22 labor, supplies, or services from the United States, any
 23 governmental unit, or any person, carry out the terms or
 24 provisions or make agreements with respect to the gifts or grants,
 25 and do all things necessary, useful, desirable, or convenient in
 26 connection with procuring, accepting, or disposing of the gifts or
 27 grants.
 28 (10) Do anything authorized by this article, through its officers,
 29 agents, or employees or by contracts with a person.
 30 (11) Procure insurance against any losses in connection with its
 31 property, operations, or assets in amounts and from insurers as it
 32 considers desirable.
 33 (12) Cooperate with and exchange services, personnel, and
 34 information with any federal, state, or local government agency.
 35 **(13) Do any act necessary or convenient to the exercise of the**
 36 **powers granted by the referenced statutes, or reasonably**
 37 **implied from those statutes, including compliance with**
 38 **requirements of federal law imposed from time to time for the**
 39 **issuance of bonds.**
 40 **(b) The bank's powers under this article shall be interpreted**
 41 **broadly to effectuate the purposes of this article and may not be**
 42 **construed as a limitation of powers. The omission of a power from**



1 **the list in subsection (a) does not imply that the bank lacks that**
 2 **power. The bank may exercise any power that is not listed in**
 3 **subsection (a) but is consistent with the powers listed in subsection**
 4 **(a) to the extent that the power is not expressly denied by the**
 5 **Constitution of the State of Indiana or by another statute.**

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



1 shortfall in the reserve fund established under subsection (a)
2 before subsection (a) is to be applied.

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

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

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

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

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



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

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

- 12 (1) A description of the project or purpose.
- 13 (2) How the project or purpose satisfies the requirements of
- 14 subsection (e).
- 15 (3) The qualified entity's application for financing that was filed
- 16 with the bank.
- 17 (4) The estimated relative savings that can be achieved by
- 18 establishing a reserve fund under subsection (a).
- 19 (5) The finding required by subsection (f)(3) and proposed
- 20 language for those instrument provisions required by subsection
- 21 (f)(4) through (f)(6), if applicable.
- 22 (6) Any other information required by the budget committee or
- 23 budget agency.

24 SECTION 7. IC 5-1.5-8-5.1 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2019]: **Sec. 5.1 (a) The following definitions apply throughout**
 27 **this section:**

- 28 (1) "Assignment agreement" means an agreement between a
- 29 qualified entity and the issuing entity for the conveyance of all
- 30 or part of any revenues or taxes received by the qualified
- 31 entity from a disbursement agent.
- 32 (2) "Conveyance" means an assignment, sale, transfer, or
- 33 other conveyance.
- 34 (3) "Deposit account" means a designated escrow account
- 35 established by the issuing entity at a trust company or bank
- 36 having trust powers for the deposit of transferred receipts
- 37 under an assignment agreement.
- 38 (4) "Disbursement agent" means a state disbursement agent
- 39 or local disbursement agent.
- 40 (5) "Issuing entity" means:
- 41 (A) the bank;
- 42 (B) a corporation, trust, or other entity that has been



- 1 established by the bank for the limited purpose of issuing
 2 obligations for the benefit of the bank and any qualified
 3 entity; or
 4 (C) a bank or trust company in its capacity as trustee for
 5 obligations issued by an entity identified in clause (A) or
 6 (B).
- 7 (6) "Local disbursement agent" means:
 8 (A) the fiscal officer (as defined in IC 36-1-2-7) of the
 9 county for any county in which a qualified entity is wholly
 10 or partially located;
 11 (B) the fiscal officer for a qualified entity; or
 12 (C) the treasurer of a school corporation.
- 13 (7) "State disbursement agent" means the state treasurer, the
 14 state auditor, or the state department of revenue.
- 15 (8) "Transferred receipts" means all or part of any revenues
 16 or taxes received from a disbursement agent that have been
 17 conveyed by a qualified entity under an assignment
 18 agreement.
- 19 (9) "Statutory lien" has the meaning given to that term under
 20 11 U.S.C. 101(53) of the federal bankruptcy code.
- 21 (b) Subject to approval from the board under subsection (j), any
 22 qualified entity that receives revenues or taxes from a
 23 disbursement agent may (to the extent not prohibited by any
 24 applicable statute, regulation, rule, resolution, ordinance, or
 25 agreement governing the use of the revenues or taxes) authorize,
 26 by ordinance or resolution, the conveyance of all or any portion of
 27 the revenues or taxes to an issuing entity. Any conveyance of
 28 transferred receipts shall:
- 29 (1) be made pursuant to an assignment agreement in exchange
 30 for the net proceeds of obligations issued by the issuing entity
 31 for the benefit of the qualified entity and shall, for all
 32 purposes, constitute an absolute conveyance of all right, title,
 33 and interest therein;
- 34 (2) not be deemed a pledge or other security interest for any
 35 borrowing by the qualified entity;
- 36 (3) be valid, binding, and enforceable in accordance with the
 37 terms thereof and of any related instrument, agreement, or
 38 other arrangement, including any pledge, grant of security
 39 interest, or other encumbrance made by the issuing entity to
 40 secure any obligations issued by the issuing entity for the
 41 benefit of the qualified entity; and
 42 (4) not be subject to disavowal, disaffirmance, cancellation, or



1 avoidance by reason of insolvency of any party, lack of
2 consideration, or any other fact, occurrence, or state law or
3 rule. On and after the effective date of the conveyance of the
4 transferred receipts:

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

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

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

17 (c) In connection with any conveyance of transferred receipts,
18 the qualified entity is authorized to direct the applicable
19 disbursement agent to deposit or cause to be deposited any amount
20 of the transferred receipts into a deposit account in order to secure
21 the obligations issued by the issuing entity for the benefit of the
22 qualified entity. If the qualified entity states that the direction is
23 irrevocable, the direction shall be treated by the applicable
24 disbursement agent as irrevocable with respect to the transferred
25 receipts described in the direction. Notwithstanding any other law,
26 each disbursement agent shall comply with the terms of any such
27 direction received from a qualified entity and shall execute and
28 deliver the acknowledgments and agreements, including escrow
29 and similar agreements, as the qualified entity may require to
30 effectuate the deposit of transferred receipts in accordance with
31 the direction of the qualified entity. Notwithstanding any other law,
32 the disbursement agent shall distribute the transferred receipts to
33 the deposit account in accordance with the written authorization
34 and direction from the qualified entity set forth in the assignment
35 agreement and any related escrow and similar agreements, and
36 upon each distribution of transferred receipts in accordance with
37 the direction from the qualified entity, the disbursement agent shall
38 have no further duty or responsibility with respect to the
39 distribution of transferred receipts.

40 (d) Not later than the date of issuance by an issuing entity of any
41 obligations secured by collections of transferred receipts, a
42 certified copy of the ordinance or resolution authorizing the



1 conveyance of the right to receive the transferred receipts,
2 executed copies of the applicable assignment agreement, the
3 agreement providing for the establishment of the deposit account,
4 and a notice designating the dates that the disbursement agent's
5 duty to distribute transferred receipts to the deposit account shall
6 begin and end shall be filed with:

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

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

14 (3) the Indiana transparency Internet web site established
15 under IC 5-14-3.8 in a manner prescribed by the state
16 examiner. The state examiner shall make the information
17 available to the department of local government finance.

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

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

37 (2) The transferred receipts received or entitled to be received
38 shall be immediately subject to the statutory lien from the
39 time the obligations of the issuing entity are issued, and the
40 statutory lien shall automatically attach to the transferred
41 receipts (whether received or entitled to be received by the
42 issuing entity) and be effective, binding, and enforceable



1 against the issuing entity, the qualified entity, the
2 disbursement agent, the state, and their agents, successors,
3 transferees and creditors, and all others asserting rights
4 therein or having claims of any kind in tort, contract, or
5 otherwise, irrespective of whether those parties have notice of
6 the lien and without the need for any physical delivery,
7 recordation, filing, or further act.

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

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

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

42 **(g) In the case of a qualified entity that has authorized the**



1 conveyance of all or a portion of its local income tax revenues
 2 imposed under IC 6-3.6 and executed an assignment agreement
 3 with respect thereto, obligations of the issuing entity issued for the
 4 benefit of the qualified entity, together with the debt service owed
 5 each year thereon, shall be:

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

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

13 This subsection shall not be construed as a pledge of the
 14 transferred receipts or the granting of a security interest therein
 15 by the qualified entity, and is included solely for the purpose of
 16 computing the limitations on the reductions to the tax rate and
 17 allocations set forth under IC 6-3.6-4-3, IC 6-3.6-6-3, and
 18 IC 6-3.6-6-5.

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

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

31 (j) Before a qualified entity may adopt an ordinance or
 32 resolution described in subsection (b), the board must have
 33 adopted a resolution approving the qualified entity's proposed
 34 conveyance of transferred receipts to the issuing body. The
 35 resolution of the board may be preliminary in nature and may
 36 contain such terms and conditions that the board deems advisable.
 37 If, after receiving approval from the board, the qualified entity
 38 adopts an ordinance or resolution described in subsection (b), the
 39 qualified entity shall provide a certified copy of the ordinance or
 40 resolution to the bank. The bank shall notify the distressed unit
 41 appeal board of each qualified entity that adopts an ordinance or
 42 resolution under this section.



1 SECTION 8. IC 6-3.6-9-4, AS ADDED BY P.L.243-2015,
 2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]: Sec. 4. **(a) Except as provided in subsection (b),**
 4 revenue derived from the imposition of the tax shall, in the manner
 5 prescribed by this chapter, be distributed to the county that imposed it.
 6 The amount that is to be distributed to a county during an ensuing
 7 calendar year equals the amount of tax revenue that the budget agency
 8 determines has been:

9 (1) received from that county for a taxable year ending in a
 10 calendar year preceding the calendar year in which the
 11 determination is made; and

12 (2) reported on an annual return or amended return processed by
 13 the department in the state fiscal year ending before July 1 of the
 14 calendar year in which the determination is made;

15 as adjusted for refunds of tax made in the state fiscal year.

16 **(b) This subsection applies to Lake County. Revenue derived**
 17 **from the imposition of the tax shall be distributed to the county**
 18 **after:**

19 **(1) the department of local government finance has certified**
 20 **to the county the amount of tax revenue that will be withheld**
 21 **from the county's certified distribution under IC 6-3.6-11;**
 22 **and**

23 **(2) the treasurer of state has withheld the tax revenue under**
 24 **IC 6-3.6-11.**

25 SECTION 9. IC 6-3.6-9-5, AS AMENDED BY P.L.184-2016,
 26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JANUARY 1, 2020]: Sec. 5. (a) Before August 2 of each calendar year
 28 before 2018, and before June 1 of each calendar year after 2017, the
 29 budget agency shall provide to the department of local government
 30 finance and the county auditor of each adopting county an estimate of
 31 the amount determined under section 4 of this chapter that will be
 32 distributed to the county, based on known tax rates. **Subject to**
 33 **subsection (c),** not later than fifteen (15) days after receiving the
 34 estimate of the certified distribution, for calendar years before 2018,
 35 and not later than July 1 of each year, for calendar years after 2017, the
 36 department of local government finance shall determine for each taxing
 37 unit and notify the county auditor of the estimated amount of property
 38 tax credits, school distributions, public safety revenue, economic
 39 development revenue, certified shares, and special purpose revenue
 40 that will be distributed to the taxing unit under this chapter during the
 41 ensuing calendar year. Not later than thirty (30) days after receiving the
 42 department's estimate, the county auditor shall notify each taxing unit



1 of the amounts estimated for the taxing unit.

2 (b) Before October 1 of each calendar year, the budget agency shall
3 certify to the department of local government finance and the county
4 auditor of each adopting county:

5 (1) the amount determined under section 4 of this chapter; and

6 (2) the amount of interest in the county's account that has accrued
7 and has not been included in a certification made in a preceding
8 year.

9 The amount certified is the county's certified distribution for the
10 immediately succeeding calendar year. The amount certified shall be
11 adjusted, as necessary, under sections 6, 7, and 8 of this chapter.
12 **Subject to subsection (d)**, not later than fifteen (15) days after
13 receiving the amount of the certified distribution, the department of
14 local government finance shall determine for each taxing unit and
15 notify the county auditor of the certified amount of property tax credits,
16 school distributions, public safety revenue, economic development
17 revenue, certified shares, and special purpose revenue that will be
18 distributed to the taxing unit under this chapter during the ensuing
19 calendar year. Not later than thirty (30) days after receiving the
20 department's estimate, the county auditor shall notify each taxing unit
21 of the certified amounts for the taxing unit.

22 (c) **This subsection applies to Lake County. When the**
23 **department of local government finance notifies the county auditor**
24 **of the estimated amount of property tax credits, school**
25 **distributions, public safety revenue, economic development**
26 **revenue, certified shares, and special purpose revenue that will be**
27 **distributed to the taxing unit under this chapter during the ensuing**
28 **calendar year, the department of local government finance shall**
29 **also notify the county auditor of the estimated tax revenue that will**
30 **be withheld from the county's certified distribution and distributed**
31 **to the secretary-treasurer of the northwest Indiana regional**
32 **development authority (IC 36-7.5) under IC 6-3.6-11.**

33 (d) **This subsection applies to Lake County. When the**
34 **department of local government finance notifies the county auditor**
35 **of the certified amount of property tax credits, school distributions,**
36 **public safety revenue, economic development revenue, certified**
37 **shares, and special purpose revenue that will be distributed to the**
38 **taxing unit under this chapter during the ensuing calendar year,**
39 **the department of local government finance shall also notify the**
40 **county auditor of the certified tax revenue that will be withheld**
41 **from the county's certified distribution and distributed to the**
42 **secretary-treasurer of the northwest Indiana regional development**



1 authority (IC 36-7.5) under IC 6-3.6-11. The county auditor shall
 2 notify the secretary-treasurer of the northwest Indiana regional
 3 development authority (IC 36-7.5) of the certified tax revenue that
 4 will be distributed to the northwest Indiana regional development
 5 authority (IC 36-7.5) not later than fifteen (15) days after receiving
 6 notice of the certified amounts under subsection (b).

7 SECTION 10. IC 6-3.6-11-5.5 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2019]: Sec. 5.5. (a) This section applies to
 10 Lake County, Porter County, and any municipality in those
 11 counties that is a member of the northwest Indiana regional
 12 development authority (IC 36-7.5) for purposes of categorizations,
 13 allocations, and distributions of additional revenue that is allocated
 14 each year for economic development purposes under IC 6-3.6-6-9
 15 and of certified shares under IC 6-3.6-6. Additional revenue
 16 received by Lake County, Porter County, and any municipality
 17 described in this subsection must first be used to:

- 18 (1) make transfers required under IC 36-7.5-4-2; and
- 19 (2) provide funding for a rail project under IC 36-7.5-4.5.

20 (b) Before the auditor of state may make a certified distribution
 21 to a county described in subsection (a), the auditor of state shall
 22 withhold the following amounts from the county's certified
 23 distribution for transfers required by IC 36-7.5-4-2:

- 24 (1) For Lake County, fourteen million dollars (\$14,000,000).
- 25 (2) For Porter County, three million five hundred thousand
 26 dollars (\$3,500,000).

27 (c) Subject to section 5.7 of this chapter, before the auditor of
 28 state may make a certified distribution to a county described in
 29 subsection (a), and after the auditor of state withholds the amounts
 30 required by subsection (b), the auditor of state shall notify the
 31 county auditor of the remaining amount of the county's certified
 32 distribution. The county auditor shall then determine whether any
 33 civil taxing unit has promised, pledged, committed, or otherwise
 34 appropriated or encumbered tax revenue received under this
 35 article to support and finance a rail project (as defined in
 36 IC 36-7.5-1-13.5) or rail projects under any executed interlocal
 37 cooperation agreement or similar agreement, any adopted
 38 ordinance or adopted resolution, or any other action taken by the
 39 civil taxing unit. For each civil taxing unit that has promised,
 40 pledged, committed, or otherwise appropriated or encumbered tax
 41 revenue received under this article to support and finance a rail
 42 project (as defined in IC 36-7.5-1-13.5) or rail projects, the county



1 auditor shall determine for each civil taxing unit an amount, from
 2 the civil taxing unit's distribution, that is equal to the following
 3 percentages of the tax revenue that would otherwise be allocated
 4 and distributed to the civil taxing unit:

5 (1) For Lake County, an amount equal to twenty-five percent
 6 (25%).

7 (2) For Crown Point, an amount equal to ten percent (10%).

8 (3) For Dyer, an amount equal to fifteen percent (15%).

9 (4) For Gary, an amount equal to seven and five-tenths
 10 percent (7.5%).

11 (5) For Hammond, an amount equal to fifteen percent (15%).

12 (6) For Highland, an amount equal to twelve percent (12%).

13 (7) For Hobart, an amount equal to eighteen percent (18%).

14 (8) For Lake Station, an amount equal to twenty percent
 15 (20%).

16 (9) For Lowell, an amount equal to fifteen percent (15%).

17 (10) For Merrillville, an amount equal to twenty-two percent
 18 (22%).

19 (11) For Munster, an amount equal to thirty-four percent
 20 (34%).

21 (12) For New Chicago, an amount equal to one percent (1%).

22 (13) For Schererville, an amount equal to ten percent (10%).

23 (14) For Schneider, an amount equal to twenty percent (20%).

24 (15) For Whiting, an amount equal to twenty-five percent
 25 (25%).

26 (16) For Winfield, an amount equal to fifteen percent (15%).

27 The county auditor shall notify the auditor of state of those
 28 amounts. The auditor of state shall withhold, from the civil taxing
 29 unit's distribution, the corresponding amount of tax revenue.

30 (d) All amounts withheld by the auditor of state under this
 31 section shall be paid to the secretary-treasurer of the northwest
 32 Indiana regional development authority (IC 36-7.5) before a
 33 certified distribution is made to the county and before the county
 34 auditor may otherwise allocate or distribute tax revenue under this
 35 article.

36 SECTION 11. IC 6-3.6-11-5.7 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: Sec. 5.7. (a)
 39 Before July 1, 2019, one (1) or more of the municipalities of Cedar
 40 Lake, East Chicago, Griffith, and St. John may:

41 (1) enter into an interlocal cooperation agreement or other
 42 agreement;



1 **(2) adopt an ordinance or adopt a resolution; or**
 2 **(3) take any other action;**
 3 **to agree to support and finance a rail project (as defined in**
 4 **IC 36-7.5-1-13.5) or rail projects. If one (1) or more of the**
 5 **municipalities agrees to support and finance a rail project (as**
 6 **defined in IC 36-7.5-1-13.5) or rail projects as described in this**
 7 **subsection, tax revenue that would otherwise be allocated to the**
 8 **municipality under this chapter shall be withheld and paid as**
 9 **described in section 5.5 of this chapter.**

10 **(b) Neither the action nor inaction of Cedar Lake, East Chicago,**
 11 **Griffith, or St. John under this section affects the enforceability of**
 12 **any of the provisions of section 5.5 of this chapter.**

13 SECTION 12. IC 6-3.6-11-6, AS AMENDED BY P.L.189-2018,
 14 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2019]: Sec. 6. (a) This section applies to Lake County,
 16 LaPorte County, Porter County, and any municipality in those counties
 17 that is a member of the northwest Indiana regional development
 18 authority (IC 36-7.5). ~~for purposes of categorizations, allocations, and~~
 19 ~~distributions of additional revenue that is allocated each year for~~
 20 ~~economic development purposes under IC 6-3.6-6-9.~~

21 (b) This subsection applies only to Lake County. **After the auditor**
 22 **of state withholds amounts under section 5.5 of this chapter,** the
 23 county or a city described in IC 36-7.5-2-3(b) may use additional
 24 revenue that is allocated each year for economic development purposes
 25 under IC 6-3.6-6-9 for making transfers required by IC 36-7.5-4-2 or
 26 to provide rail project funding under IC 36-7.5-4.5. The additional
 27 revenue allocated for economic development and used to make the
 28 transfers required by IC 36-7.5-4-2 or to provide rail project funding
 29 shall be paid by the treasurer of state to the ~~treasurer~~
 30 **secretary-treasurer** of the northwest Indiana regional development
 31 authority before certified distributions are made to the county or any
 32 cities or towns in the county. The county or a city or town in the county
 33 may use additional revenue that is allocated each year for economic
 34 development purposes under IC 6-3.6-6-9 to provide homestead credits
 35 in the county, city, or town. The following apply to homestead credits
 36 provided under this subsection:

37 (1) The county, city, or town fiscal body must adopt an ordinance
 38 authorizing the homestead credits. The ordinance must specify the
 39 amount of additional revenue that will be used to provide
 40 homestead credits in the following year.

41 (2) The county, city, or town fiscal body that adopts an ordinance
 42 under this subsection must forward a copy of the ordinance to the



- 1 county auditor and the department of local government finance
- 2 not more than thirty (30) days after the ordinance is adopted.
- 3 (3) The homestead credits must be applied uniformly to provide
- 4 a homestead credit for homesteads in the county, city, or town.
- 5 (4) The homestead credits shall be treated for all purposes as
- 6 property tax levies.
- 7 (5) The homestead credits shall be applied to the net property
- 8 taxes due on the homestead after the application of all other
- 9 assessed value deductions or property tax deductions and credits
- 10 that apply to the amount owed under IC 6-1.1.
- 11 (6) The auditor of state shall determine the homestead credit
- 12 percentage for a particular year based on the amount of additional
- 13 revenue that will be used under this subsection to provide
- 14 homestead credits in that year.
- 15 (c) This subsection applies only to LaPorte County as follows:
- 16 (1) This subsection applies if:
- 17 (A) the county fiscal body has adopted an ordinance under
- 18 IC 36-7.5-2-3(e) providing that the county is joining the
- 19 northwest Indiana regional development authority; and
- 20 (B) the fiscal body of the city described in IC 36-7.5-2-3(e) has
- 21 adopted an ordinance under IC 36-7.5-2-3(e) providing that
- 22 the city is joining the development authority.
- 23 (2) Additional revenue that is allocated each year for economic
- 24 development purposes under IC 6-3.6-6-9 ~~may be used by a~~
- 25 ~~county or a city described in IC 36-7.5-2-3(e) for making transfers~~
- 26 ~~required by IC 36-7.5-4-2; shall be withheld under section 5.5~~
- 27 ~~of this chapter.~~ In addition, if the allocation of additional revenue
- 28 for economic development purposes under IC 6-3.6-6-9 is
- 29 increased in the county, the first three million five hundred
- 30 thousand dollars (\$3,500,000) of the tax revenue that results each
- 31 year from the allocation increase shall be ~~used by the county only~~
- 32 ~~to make the county's transfer required by IC 36-7.5-4-2 and shall~~
- 33 ~~be paid included in the amounts withheld~~ by the ~~treasurer~~
- 34 ~~auditor~~ of state ~~as described under section 5.5 of this chapter~~
- 35 ~~and paid~~ to the ~~treasurer secretary-treasurer~~ of the northwest
- 36 Indiana regional development authority under IC 36-7.5-4-2
- 37 before certified distributions are made to the county ~~or any cities~~
- 38 ~~or towns in the county; and before the county auditor may~~
- 39 ~~allocate or distribute tax revenue under this article.~~
- 40 (3) All of the additional revenue allocated for economic
- 41 development purposes under IC 6-3.6-6-9 that results each year
- 42 from an allocation increase described in subdivision (2) and that



1 is in excess of the first three million five hundred thousand dollars
 2 (\$3,500,000) must be used by the county and cities and towns in
 3 the county for homestead credits under this subsection. The
 4 following apply to homestead credits provided under this
 5 subsection:

6 (A) The homestead credits must be applied uniformly to
 7 provide a homestead credit for homesteads in the county, city,
 8 or town.

9 (B) The homestead credits shall be treated for all purposes as
 10 property tax levies.

11 (C) The homestead credits shall be applied to the net property
 12 taxes due on the homestead after the application of all other
 13 assessed value deductions or property tax deductions and
 14 credits that apply to the amount owed under IC 6-1.1.

15 (D) The auditor of state shall determine the homestead credit
 16 percentage for a particular year based on the amount of
 17 additional revenue that will be used under this subdivision to
 18 provide homestead credits in that year.

19 (d) This subsection applies only to Porter County. The additional
 20 revenue designated each year for economic development purposes
 21 under IC 6-3.6-6 shall be allocated and used as follows:

22 (1) First, the revenue attributable to an income tax rate of
 23 twenty-five hundredths percent (0.25%) shall be allocated to the
 24 county and cities and towns as provided in IC 6-3.6-9.

25 (2) Second, the next three million five hundred thousand dollars
 26 (\$3,500,000) of the revenue shall be **withheld by the auditor of**
 27 **state under section 5.5 of this chapter** ~~used for the county or for~~
 28 ~~eligible municipalities (as defined in IC 36-7.5-1-11.3) in the~~
 29 ~~county;~~ to make transfers as provided in and required under
 30 IC 36-7.5-4-2. ~~The additional revenue used to make the transfers~~
 31 ~~as provided in IC 36-7.5-4-2~~ **The amounts withheld by the**
 32 **auditor of state** shall be paid by the ~~treasurer~~ **auditor** of state to
 33 the ~~treasurer~~ **secretary-treasurer** of the northwest Indiana
 34 regional development authority (**IC 36-7.5**) before certified
 35 distributions are made to the county ~~or~~ **and before the county**
 36 **auditor may allocate or distribute tax revenue under this**
 37 **article to** any taxing unit in the county. If Porter County ceases to
 38 be a member of the northwest Indiana regional development
 39 authority under IC 36-7.5 but two (2) or more municipalities in
 40 the county have become members of the northwest Indiana
 41 regional development authority as authorized by IC 36-7.5-2-3(i),
 42 the ~~treasurer~~ **auditor** of state shall continue to **withhold the**



1 **amount under section 5.5 of this chapter and** transfer this
 2 amount to the ~~treasurer~~ **secretary-treasurer** of the northwest
 3 Indiana regional development authority under IC 36-7.5-4-2
 4 **before making certified distributions to the county and before**
 5 **the county auditor may allocate or distribute tax revenue**
 6 **under this article.**

7 (3) Third, except as provided in IC 36-7.5-3-5, all of the revenue
 8 each year that is in excess of the amounts described in
 9 subdivisions (1) and (2) must be used by the county and cities and
 10 towns in the county for homestead credits. The following apply to
 11 homestead credits provided under this subdivision:

12 (A) The homestead credits must be applied uniformly to
 13 provide a homestead credit for homesteads in the county, city,
 14 or town.

15 (B) The homestead credits shall be treated for all purposes as
 16 property tax levies.

17 (C) The homestead credits shall be applied to the net property
 18 taxes due on the homestead after the application of all other
 19 assessed value deductions or property tax deductions and
 20 credits that apply to the amount owed under IC 6-1.1.

21 (D) The auditor of state shall determine the homestead credit
 22 percentage for a particular year based on the amount of
 23 additional revenue that will be used under this subdivision to
 24 provide homestead credits in that year.

25 (e) **Amounts:**

26 **(1) withheld under section 5.5 of this chapter; and**

27 **(2) ~~A transfer made transferred~~ on behalf of a city, town, or**
 28 **county under this section chapter;**

29 after December 31, 2018, **is are** to be considered a payment for
 30 services provided to residents by a rail project as those services are
 31 rendered.

32 (f) A pledge by the northwest Indiana regional development
 33 authority of **withheld or** transferred revenue **received** under this
 34 **section chapter** to the payment of bonds, leases, or obligations under
 35 **this article IC 36-7.5** or IC 5-1.3:

36 (1) constitutes the obligations of the northwest Indiana regional
 37 development authority; and

38 (2) does not constitute an indebtedness of:

39 (A) a county or municipality described in this ~~section;~~
 40 **chapter; or**

41 (B) the state;

42 within the meaning or application of any constitutional or



1 statutory provision or limitation.

2 (g) Neither the **withholding of or** transfer of revenue nor the pledge
3 of revenue **withheld or** transferred under this **section chapter** is an
4 impairment of contract within the meaning or application of any
5 constitutional provision or limitation because of the following:

6 (1) The statutes governing local income taxes, including the
7 **withheld or** transferred revenue, have been the subject of
8 legislation annually since 1973, and during that time the statutes
9 have been revised, amended, expanded, limited, and recodified
10 dozens of times.

11 (2) Owners of bonds, leases, or other obligations to which local
12 income tax revenues have been pledged recognize that the
13 regulation of local income taxes has been extensive and
14 consistent.

15 (3) All bonds, leases, or other obligations, due to their essential
16 contractual nature, are subject to relevant state and federal law
17 that is enacted after the date of a contract.

18 (4) The state has a legitimate interest in assisting the northwest
19 Indiana regional development authority in financing rail projects
20 (as defined in IC 36-7.5-1-13.5).

21 (h) All:

22 **(1) agreements;**

23 **(2) ordinances or resolutions; and**

24 **(3) proceedings had and actions described in this section chapter;**
25 are valid pledges under IC 5-1-14-4 as of the date of those pledges or
26 actions and are hereby legalized and declared valid if taken before
27 ~~March 15, 2018.~~ **April 30, 2019.**

28 SECTION 13. IC 6-3.6-11-7, AS ADDED BY P.L.189-2018,
29 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2019]: Sec. 7. (a) This section applies to a civil taxing unit
31 that has previously:

32 (1) entered into an interlocal cooperation or similar agreement;

33 (2) adopted an ordinance or resolution; or

34 (3) taken any other action;

35 offering to provide revenue ~~from the unit's economic development~~
36 ~~allocation~~ to support and finance a rail project or rail projects (as
37 defined under IC 36-7.5-1-13.5).

38 (b) ~~The civil taxing unit may use additional revenue that is allocated~~
39 ~~each year for economic development purposes under IC 6-3.6-6-9 to~~
40 ~~provide funding for a rail project. The additional revenue allocated for~~
41 ~~economic development to provide funding for a rail project~~ **The**
42 **additional revenue that would otherwise be allocated to a civil**



1 **taxing unit described in subsection (a) shall be withheld under**
 2 **section 5.5 of this chapter by the auditor of state and** shall be paid
 3 by the ~~treasurer auditor~~ auditor of state to the ~~treasurer secretary-treasurer~~
 4 of the northwest Indiana regional development authority under
 5 IC 36-7.5-4-2 before certified distributions are made to the county ~~or~~
 6 **and before the county auditor may allocate or distribute tax**
 7 **revenue under this article to** any civil taxing unit in the county or
 8 counties in which the unit is located.

9 (c) **Amounts:**

10 (1) **withheld under section 5.5 of this chapter; and**

11 (2) ~~A transfer made~~ **transferred** on behalf of a civil taxing unit
 12 under this section;

13 after December 31, 2018, ~~is~~ **are** considered to be a payment for
 14 services provided to residents by a rail project as such services are
 15 rendered.

16 (d) A pledge by the northwest Indiana regional development
 17 authority of **withheld or** transferred revenue **received** under this
 18 ~~section~~ **chapter** to the payment of bonds, leases, or obligations under
 19 ~~this article~~ **IC 36-7.5** or IC 5-1.3:

20 (1) constitutes the obligations of the northwest Indiana regional
 21 development authority; and

22 (2) does not constitute an indebtedness of:

23 (A) a unit described in this section; or

24 (B) the state;

25 within the meaning or application of any constitutional or
 26 statutory provision or limitation.

27 (e) Neither the **withholding or** transfer of revenue nor the pledge of
 28 revenue **withheld or** transferred under this ~~section~~ **chapter** is an
 29 impairment of contract within the meaning or application of any
 30 constitutional provision or limitation because of the following:

31 (1) The statutes governing local income taxes, including the
 32 **withheld or** transferred revenue, have been the subject of
 33 legislation annually since 1973, and during that time the statutes
 34 have been revised, amended, expanded, limited, and recodified
 35 dozens of times.

36 (2) Owners of bonds, leases, or other obligations to which local
 37 income tax revenues have been pledged recognize that the
 38 regulation of local income taxes has been extensive and
 39 consistent.

40 (3) All bonds, leases, or other obligations, due to their essential
 41 contractual nature, are subject to relevant state and federal law
 42 that is enacted after the date of a contract.



1 (4) The state has a legitimate interest in assisting the northwest
 2 Indiana regional development authority in financing rail projects
 3 (as defined in IC 36-7.5-1-13.5).

4 (f) All:

5 (1) agreements;

6 (2) ordinances or resolutions; and

7 (3) proceedings had and actions described in this ~~section~~ **chapter**;
 8 are valid pledges under IC 5-1-14-4 as of the date of those pledges or
 9 actions and are hereby legalized and declared valid if taken before
 10 ~~March 15, 2018.~~ **April 30, 2019.**

11 SECTION 14. IC 6-3.6-11-7.5 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2019]: **Sec. 7.5. (a) An action challenging any**
 14 **action taken under section 5.5, 5.7, 6, or 7 of this chapter to**
 15 **withhold or transfer revenue to the secretary-treasurer of the**
 16 **northwest Indiana regional developmental authority (IC 36-7.5)**
 17 **from a county's certified distribution must be brought within ten**
 18 **(10) days after the date on which the county auditor notifies the**
 19 **secretary-treasurer of the northwest Indiana regional development**
 20 **authority (IC 36-7.5) of the amount of certified tax revenue that**
 21 **will be distributed under section 5(d) of this chapter.**

22 (b) A court shall require a plaintiff to provide a bond with
 23 surety in an amount equal to the total amounts of tax revenue
 24 estimated to be withheld or transferred by the auditor of state
 25 from the date of the filing until December 31, 2049.

26 (c) The burden of proof in an action under this section is on the
 27 plaintiff.

28 (d) If the defendant prevails in an action under this section, the
 29 court shall award attorney's fees to the defendant.

30 SECTION 15. IC 20-49-3-17 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE UPON PASSAGE]: **Sec. 17. (a) Before July 1 of each**
 33 **year, the state board, in cooperation with the department, shall:**

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

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

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

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

42 (2) For each charter school specified in subdivision (1), and



1 for each advance from the fund that was not repaid in full
 2 before the date on which the charter school closed or
 3 otherwise ceased operations, the outstanding amounts of
 4 principal and interest that the charter school owes to the fund.
 5 (3) The efforts being made by the state board and the
 6 department to collect the unpaid advances and interest
 7 described in subdivision (2).

8 SECTION 16. IC 20-49-10-14 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Upon request of the
 11 treasurer of state, the state board of finance may periodically sell,
 12 transfer, or liquidate agreements, in whole or in part, including
 13 without limitation the sale, transfer, or liquidation of all or any
 14 part of the principal or interest to be received at any time under
 15 one (1) or more agreements that evidence the right of the state to
 16 make deductions from state tuition support to pay advances under
 17 this chapter under the terms and conditions that the state board of
 18 finance considers necessary and appropriate.

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

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

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

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

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

33 (5) If necessary to facilitate a sale, transfer, or liquidation, the
 34 state board or the state board of finance may agree to act on
 35 behalf of an entity described in subdivision (1) by collecting
 36 payment on advances that are:

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

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

41 An agreement by the state board or the state board of finance
 42 under this subdivision is a valid and an enforceable



1 contractual obligation but is not a debt of the state within the
 2 meaning of the limitation against indebtedness under the
 3 Constitution of the State of Indiana.

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

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

10 SECTION 17. IC 36-7.5-4-19 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2019]: **Sec. 19. (a) All bonds, notes, evidences**
 13 **of indebtedness, leases, or other written obligations issued or**
 14 **executed by or in the name of the development authority under this**
 15 **chapter before April 30, 2019, are hereby legalized and declared**
 16 **valid.**

17 (b) Any pledge, dedication or designation of revenues securing
 18 the bonds, notes, evidences of indebtedness, leases, or other written
 19 obligations issued or executed by or in the name of the
 20 development authority under this chapter before April 30, 2019,
 21 are hereby legalized and declared valid.

22 (c) The:

23 (1) financing plan for the West Lake project (as described in
 24 IC 36-7.5-1-13.5) submitted to the United States Department
 25 of Transportation and the Federal Transit Administration;
 26 and

27 (2) governance agreement between the development
 28 authority, the Indiana finance authority, and a commuter
 29 transportation district are hereby legalized and declared
 30 valid.

31 (d) Any resolutions adopted, proceedings had, and actions taken
 32 under this chapter by the development authority before April 30,
 33 2019, under which the bonds, notes, evidences of indebtedness,
 34 leases, or other written obligations were or will be issued or under
 35 which the pledge or dedication or designation of revenues was or
 36 will be granted, are hereby legalized and declared valid.

37 SECTION 18. IC 36-7.5-4-20 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) Before July 1, 2019,**
 40 **the Lake County auditor shall transfer to the secretary-treasurer**
 41 **of the development authority all amounts held in the commuter rail**
 42 **extension and improvement fund established by an ordinance**



1 **adopted by the fiscal body of Lake County on June 9, 2015.**
2 **(b) On or before December 31, 2019, the Lake County auditor**
3 **shall transfer to the secretary-treasurer of the development**
4 **authority all amounts received after June 30, 2019, and deposited**
5 **in the commuter rail extension and improvement fund described**
6 **in subsection (a).**
7 **SECTION 19. 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.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1473, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 5-1.3-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 0.5. (a) All bonds, notes, evidences of indebtedness, leases, or other written obligations issued or executed under this article by or in the name of the:**

- (1) IFA;**
- (2) NWIRDA; and**
- (3) NICTD;**

before April 30, 2019, are hereby legalized and declared valid.

(b) Any pledge, dedication or designation of revenues, conveyance, or mortgage securing the bonds, notes, evidences of indebtedness, leases, or other written obligations issued or executed under this article by or in the name of the:

- (1) IFA;**
- (2) NWIRDA; and**
- (3) NICTD;**

before April 30, 2019, are hereby legalized and declared valid.

(c) Any resolutions adopted, proceedings had, and actions taken under this article by the:

- (1) IFA;**

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(2) NWIRDA; and

(3) NICTD;

before April 30, 2019, under which the bonds, notes, evidences of indebtedness, leases, or other written obligations were or will be issued or under which the pledge, dedication or designation of revenues, conveyance, or mortgage was or will be granted are hereby legalized and declared valid."

Page 6, line 30, delete "acceptable to the" and insert "to be determined by the budget director, upon the recommendation of the bank,".

Page 6, line 31, delete "budget director,".

Page 8, line 35, delete "Any" and insert "Subject to approval from the board under subsection (j), any".

Page 10, line 21, delete "and".

Page 10, line 26, delete "." and insert "; and

(3) the Indiana transparency Internet web site established under IC 5-14-3.8 in a manner prescribed by the state examiner. The state examiner shall make the information available to the department of local government finance."

Page 12, line 21, delete "IC 6-3.6-3-3" and insert "IC 6-3.6-6-3".

Page 12, line 26, delete "IC 6-3.6-3-3," and insert "IC 6-3.6-6-3,".

Page 12, between lines 39 and 40, begin a new paragraph and insert:

"(j) Before a qualified entity may adopt an ordinance or resolution described in subsection (b), the board must have adopted a resolution approving the qualified entity's proposed conveyance of transferred receipts to the issuing body. The resolution of the board may be preliminary in nature and may contain such terms and conditions that the board deems advisable. If, after receiving approval from the board, the qualified entity adopts an ordinance or resolution described in subsection (b), the qualified entity shall provide a certified copy of the ordinance or resolution to the bank. The bank shall notify the distressed unit appeal board of each qualified entity that adopts an ordinance or resolution under this section.

SECTION 8. IC 6-3.6-9-4, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) Except as provided in subsection (b), revenue derived from the imposition of the tax shall, in the manner prescribed by this chapter, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of tax revenue that the budget agency determines has been:



(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted for refunds of tax made in the state fiscal year.

(b) This subsection applies to Lake County. Revenue derived from the imposition of the tax shall be distributed to the county after:

(1) the department of local government finance has certified to the county the amount of tax revenue that will be withheld from the county's certified distribution under IC 6-3.6-11; and

(2) the treasurer of state has withheld the tax revenue under IC 6-3.6-11.

SECTION 9. IC 6-3.6-9-5, AS AMENDED BY P.L.184-2016, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020]: Sec. 5. (a) Before August 2 of each calendar year before 2018, and before June 1 of each calendar year after 2017, the budget agency shall provide to the department of local government finance and the county auditor of each adopting county an estimate of the amount determined under section 4 of this chapter that will be distributed to the county, based on known tax rates. **Subject to subsection (c)**, not later than fifteen (15) days after receiving the estimate of the certified distribution, for calendar years before 2018, and not later than July 1 of each year, for calendar years after 2017, the department of local government finance shall determine for each taxing unit and notify the county auditor of the estimated amount of property tax credits, school distributions, public safety revenue, economic development revenue, certified shares, and special purpose revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year. Not later than thirty (30) days after receiving the department's estimate, the county auditor shall notify each taxing unit of the amounts estimated for the taxing unit.

(b) Before October 1 of each calendar year, the budget agency shall certify to the department of local government finance and the county auditor of each adopting county:

(1) the amount determined under section 4 of this chapter; and

(2) the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.



The amount certified is the county's certified distribution for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under sections 6, 7, and 8 of this chapter. **Subject to subsection (d)**, not later than fifteen (15) days after receiving the amount of the certified distribution, the department of local government finance shall determine for each taxing unit and notify the county auditor of the certified amount of property tax credits, school distributions, public safety revenue, economic development revenue, certified shares, and special purpose revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year. Not later than thirty (30) days after receiving the department's estimate, the county auditor shall notify each taxing unit of the certified amounts for the taxing unit.

(c) This subsection applies to Lake County. When the department of local government finance notifies the county auditor of the estimated amount of property tax credits, school distributions, public safety revenue, economic development revenue, certified shares, and special purpose revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year, the department of local government finance shall also notify the county auditor of the estimated tax revenue that will be withheld from the county's certified distribution and distributed to the secretary-treasurer of the northwest Indiana regional development authority (IC 36-7.5) under IC 6-3.6-11.

(d) This subsection applies to Lake County. When the department of local government finance notifies the county auditor of the certified amount of property tax credits, school distributions, public safety revenue, economic development revenue, certified shares, and special purpose revenue that will be distributed to the taxing unit under this chapter during the ensuing calendar year, the department of local government finance shall also notify the county auditor of the certified tax revenue that will be withheld from the county's certified distribution and distributed to the secretary-treasurer of the northwest Indiana regional development authority (IC 36-7.5) under IC 6-3.6-11. The county auditor shall notify the secretary-treasurer of the northwest Indiana regional development authority (IC 36-7.5) of the certified tax revenue that will be distributed to the northwest Indiana regional development authority (IC 36-7.5) not later than fifteen (15) days after receiving notice of the certified amounts under subsection (b).

SECTION 10. IC 6-3.6-11-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2019]: **Sec. 5.5. (a) This section applies to Lake County, Porter County, and any municipality in those counties that is a member of the northwest Indiana regional development authority (IC 36-7.5) for purposes of categorizations, allocations, and distributions of additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 and of certified shares under IC 6-3.6-6. Additional revenue received by Lake County, Porter County, and any municipality described in this subsection must first be used to:**

- (1) make transfers required under IC 36-7.5-4-2; and**
- (2) provide funding for a rail project under IC 36-7.5-4.5.**

(b) Before the auditor of state may make a certified distribution to a county described in subsection (a), the auditor of state shall withhold the following amounts from the county's certified distribution for transfers required by IC 36-7.5-4-2:

- (1) For Lake County, fourteen million dollars (\$14,000,000).**
- (2) For Porter County, three million five hundred thousand dollars (\$3,500,000).**

(c) Subject to section 5.7 of this chapter, before the auditor of state may make a certified distribution to a county described in subsection (a), and after the auditor of state withholds the amounts required by subsection (b), the auditor of state shall notify the county auditor of the remaining amount of the county's certified distribution. The county auditor shall then determine whether any civil taxing unit has promised, pledged, committed, or otherwise appropriated or encumbered tax revenue received under this article to support and finance a rail project (as defined in IC 36-7.5-1-13.5) or rail projects under any executed interlocal cooperation agreement or similar agreement, any adopted ordinance or adopted resolution, or any other action taken by the civil taxing unit. For each civil taxing unit that has promised, pledged, committed, or otherwise appropriated or encumbered tax revenue received under this article to support and finance a rail project (as defined in IC 36-7.5-1-13.5) or rail projects, the county auditor shall determine for each civil taxing unit an amount, from the civil taxing unit's distribution, that is equal to the following percentages of the tax revenue that would otherwise be allocated and distributed to the civil taxing unit:

- (1) For Lake County, an amount equal to twenty-five percent (25%).**
- (2) For Crown Point, an amount equal to ten percent (10%).**
- (3) For Dyer, an amount equal to fifteen percent (15%).**



(4) For Gary, an amount equal to seven and five-tenths percent (7.5%).

(5) For Hammond, an amount equal to fifteen percent (15%).

(6) For Highland, an amount equal to twelve percent (12%).

(7) For Hobart, an amount equal to eighteen percent (18%).

(8) For Lake Station, an amount equal to twenty percent (20%).

(9) For Lowell, an amount equal to fifteen percent (15%).

(10) For Merrillville, an amount equal to twenty-two percent (22%).

(11) For Munster, an amount equal to thirty-four percent (34%).

(12) For New Chicago, an amount equal to one percent (1%).

(13) For Schererville, an amount equal to ten percent (10%).

(14) For Schneider, an amount equal to twenty percent (20%).

(15) For Whiting, an amount equal to twenty-five percent (25%).

(16) For Winfield, an amount equal to fifteen percent (15%).

The county auditor shall notify the auditor of state of those amounts. The auditor of state shall withhold, from the civil taxing unit's distribution, the corresponding amount of tax revenue.

(d) All amounts withheld by the auditor of state under this section shall be paid to the secretary-treasurer of the northwest Indiana regional development authority (IC 36-7.5) before a certified distribution is made to the county and before the county auditor may otherwise allocate or distribute tax revenue under this article.

SECTION 11. IC 6-3.6-11-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 5.7. (a) Before July 1, 2019, one (1) or more of the municipalities of Cedar Lake, East Chicago, Griffith, and St. John may:**

(1) enter into an interlocal cooperation agreement or other agreement;

(2) adopt an ordinance or adopt a resolution; or

(3) take any other action;

to agree to support and finance a rail project (as defined in IC 36-7.5-1-13.5) or rail projects. If one (1) or more of the municipalities agrees to support and finance a rail project (as defined in IC 36-7.5-1-13.5) or rail projects as described in this subsection, tax revenue that would otherwise be allocated to the municipality under this chapter shall be withheld and paid as



described in section 5.5 of this chapter.

(b) Neither the action nor inaction of Cedar Lake, East Chicago, Griffith, or St. John under this section affects the enforceability of any of the provisions of section 5.5 of this chapter.

SECTION 12. IC 6-3.6-11-6, AS AMENDED BY P.L.189-2018, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) This section applies to Lake County, LaPorte County, Porter County, and any municipality in those counties that is a member of the northwest Indiana regional development authority (IC 36-7.5). ~~for purposes of categorizations, allocations, and distributions of additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9.~~

(b) This subsection applies only to Lake County. **After the auditor of state withholds amounts under section 5.5 of this chapter**, the county or a city described in IC 36-7.5-2-3(b) may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 for making transfers required by IC 36-7.5-4-2 or to provide rail project funding under IC 36-7.5-4.5. The additional revenue allocated for economic development and used to make the transfers required by IC 36-7.5-4-2 or to provide rail project funding shall be paid by the treasurer of state to the ~~treasurer~~ **secretary-treasurer** of the northwest Indiana regional development authority before certified distributions are made to the county or any cities or towns in the county. The county or a city or town in the county may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 to provide homestead credits in the county, city, or town. The following apply to homestead credits provided under this subsection:

- (1) The county, city, or town fiscal body must adopt an ordinance authorizing the homestead credits. The ordinance must specify the amount of additional revenue that will be used to provide homestead credits in the following year.
- (2) The county, city, or town fiscal body that adopts an ordinance under this subsection must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.
- (3) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.
- (4) The homestead credits shall be treated for all purposes as property tax levies.
- (5) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other



assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(6) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subsection to provide homestead credits in that year.

(c) This subsection applies only to LaPorte County as follows:

(1) This subsection applies if:

(A) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and

(B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

(2) Additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 ~~may be used by a county or a city described in IC 36-7.5-2-3(e) for making transfers required by IC 36-7.5-4-2.~~ **shall be withheld under section 5.5 of this chapter.** In addition, if the allocation of additional revenue for economic development purposes under IC 6-3.6-6-9 is increased in the county, the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the allocation increase shall be ~~used by the county only to make the county's transfer required by IC 36-7.5-4-2 and shall be paid~~ **included in the amounts withheld** by the ~~treasurer~~ **auditor** of state ~~as described under section 5.5 of this chapter and paid to the treasurer~~ **secretary-treasurer** of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county ~~or any cities or towns in the county.~~ **and before the county auditor may allocate or distribute tax revenue under this article.**

(3) All of the additional revenue allocated for economic development purposes under IC 6-3.6-6-9 that results each year from an allocation increase described in subdivision (2) and that is in excess of the first three million five hundred thousand dollars (\$3,500,000) must be used by the county and cities and towns in the county for homestead credits under this subsection. The following apply to homestead credits provided under this subsection:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.



(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

(d) This subsection applies only to Porter County. The additional revenue designated each year for economic development purposes under IC 6-3.6-6 shall be allocated and used as follows:

(1) First, the revenue attributable to an income tax rate of twenty-five hundredths percent (0.25%) shall be allocated to the county and cities and towns as provided in IC 6-3.6-6-9.

(2) Second, the next three million five hundred thousand dollars (\$3,500,000) of the revenue shall be **withheld by the auditor of state under section 5.5 of this chapter used for the county or for eligible municipalities (as defined in IC 36-7.5-1-11.3) in the county**, to make transfers as provided in and required under IC 36-7.5-4-2. ~~The additional revenue used to make the transfers as provided in IC 36-7.5-4-2~~ **The amounts withheld by the auditor of state** shall be paid by the ~~treasurer~~ **auditor** of state to the ~~treasurer~~ **secretary-treasurer** of the northwest Indiana regional development authority (**IC 36-7.5**) before certified distributions are made to the county ~~or and before the county auditor may allocate or distribute tax revenue under this article~~ to any taxing unit in the county. If Porter County ceases to be a member of the northwest Indiana regional development authority under IC 36-7.5 but two (2) or more municipalities in the county have become members of the northwest Indiana regional development authority as authorized by IC 36-7.5-2-3(i), the ~~treasurer~~ **auditor** of state shall continue to **withhold the amount under section 5.5 of this chapter and** transfer this amount to the ~~treasurer~~ **secretary-treasurer** of the northwest Indiana regional development authority under IC 36-7.5-4-2 **before making certified distributions to the county and before the county auditor may allocate or distribute tax revenue under this article.**

(3) Third, except as provided in IC 36-7.5-3-5, all of the revenue each year that is in excess of the amounts described in



subdivisions (1) and (2) must be used by the county and cities and towns in the county for homestead credits. The following apply to homestead credits provided under this subdivision:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

(e) **Amounts:**

(1) **withheld under section 5.5 of this chapter; and**

(2) ~~A transfer made~~ **transferred** on behalf of a city, town, or county under this ~~section~~ **chapter;**

after December 31, 2018, ~~is~~ **are** to be considered a payment for services provided to residents by a rail project as those services are rendered.

(f) A pledge by the northwest Indiana regional development authority of **withheld or** transferred revenue **received** under this ~~section~~ **chapter** to the payment of bonds, leases, or obligations under ~~this article~~ **IC 36-7.5** or IC 5-1.3:

(1) constitutes the obligations of the northwest Indiana regional development authority; and

(2) does not constitute an indebtedness of:

(A) a county or municipality described in this ~~section;~~ **chapter;** or

(B) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(g) Neither the **withholding of or** transfer of revenue nor the pledge of revenue **withheld or** transferred under this ~~section~~ **chapter** is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

(1) The statutes governing local income taxes, including the **withheld or** transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes



have been revised, amended, expanded, limited, and recodified dozens of times.

(2) Owners of bonds, leases, or other obligations to which local income tax revenues have been pledged recognize that the regulation of local income taxes has been extensive and consistent.

(3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.

(4) The state has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects (as defined in IC 36-7.5-1-13.5).

(h) All:

(1) agreements;

(2) ordinances or resolutions; and

(3) proceedings had and actions described in this section chapter; are valid pledges under IC 5-1-14-4 as of the date of those pledges or actions and are hereby legalized and declared valid if taken before ~~March 15, 2018:~~ **April 30, 2019.**

SECTION 13. IC 6-3.6-11-7, AS ADDED BY P.L.189-2018, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) This section applies to a civil taxing unit that has previously:

(1) entered into an interlocal cooperation or similar agreement;

(2) adopted an ordinance or resolution; or

(3) taken any other action;

offering to provide revenue ~~from the unit's economic development allocation~~ to support and finance a rail project or rail projects (as defined under IC 36-7.5-1-13.5).

(b) ~~The civil taxing unit may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 to provide funding for a rail project. The additional revenue allocated for economic development to provide funding for a rail project~~ **The additional revenue that would otherwise be allocated to a civil taxing unit described in subsection (a) shall be withheld under section 5.5 of this chapter by the auditor of state and shall be paid by the treasurer auditor of state to the treasurer secretary-treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or and before the county auditor may allocate or distribute tax revenue under this article to any civil taxing unit in the county or counties in which the unit is located.**



(c) **Amounts:**(1) **withheld under section 5.5 of this chapter; and**(2) ~~A transfer made~~ **transferred** on behalf of a civil taxing unit under this section;

after December 31, 2018, ~~is~~ **are** considered to be a payment for services provided to residents by a rail project as such services are rendered.

(d) A pledge by the northwest Indiana regional development authority of **withheld or** transferred revenue **received** under this ~~section~~ **chapter** to the payment of bonds, leases, or obligations under ~~this article~~ **IC 36-7.5** or IC 5-1.3:

(1) constitutes the obligations of the northwest Indiana regional development authority; and

(2) does not constitute an indebtedness of:

(A) a unit described in this section; or

(B) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(e) Neither the **withholding or** transfer of revenue nor the pledge of revenue **withheld or** transferred under this ~~section~~ **chapter** is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

(1) The statutes governing local income taxes, including the **withheld or** transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.

(2) Owners of bonds, leases, or other obligations to which local income tax revenues have been pledged recognize that the regulation of local income taxes has been extensive and consistent.

(3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.

(4) The state has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects (as defined in IC 36-7.5-1-13.5).

(f) All:

(1) **agreements;**(2) **ordinances or resolutions; and**(3) proceedings had and actions described in this ~~section~~ **chapter;**

are valid pledges under IC 5-1-14-4 as of the date of those pledges or



actions and are hereby legalized and declared valid if taken before ~~March 15, 2018~~. **April 30, 2019.**

SECTION 14. IC 6-3.6-11-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 7.5. (a) An action challenging any action taken under section 5.5, 5.7, 6, or 7 of this chapter to withhold or transfer revenue to the secretary-treasurer of the northwest Indiana regional developmental authority (IC 36-7.5) from a county's certified distribution must be brought within ten (10) days after the date on which the county auditor notifies the secretary-treasurer of the northwest Indiana regional development authority (IC 36-7.5) of the amount of certified tax revenue that will be distributed under section 5(d) of this chapter.**

(b) A court shall require a plaintiff to provide a bond with surety in an amount equal to the total amounts of tax revenue estimated to be withheld or transferred by the auditor of state from the date of the filing until December 31, 2049.

(c) The burden of proof in an action under this section is on the plaintiff.

(d) If the defendant prevails in an action under this section, the court shall award attorney's fees to the defendant."

Page 13, line 20, after "14" insert ".".

Page 14, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 17. IC 36-7.5-4-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 19. (a) All bonds, notes, evidences of indebtedness, leases, or other written obligations issued or executed by or in the name of the development authority under this chapter before April 30, 2019, are hereby legalized and declared valid.**

(b) Any pledge, dedication or designation of revenues securing the bonds, notes, evidences of indebtedness, leases, or other written obligations issued or executed by or in the name of the development authority under this chapter before April 30, 2019, are hereby legalized and declared valid.

(c) The:

- (1) financing plan for the West Lake project (as described in IC 36-7.5-1-13.5) submitted to the United States Department of Transportation and the Federal Transit Administration; and**
- (2) governance agreement between the development authority, the Indiana finance authority, and a commuter**



transportation district are hereby legalized and declared valid.

(d) Any resolutions adopted, proceedings had, and actions taken under this chapter by the development authority before April 30, 2019, under which the bonds, notes, evidences of indebtedness, leases, or other written obligations were or will be issued or under which the pledge or dedication or designation of revenues was or will be granted, are hereby legalized and declared valid.

SECTION 18. IC 36-7.5-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) Before July 1, 2019, the Lake County auditor shall transfer to the secretary-treasurer of the development authority all amounts held in the commuter rail extension and improvement fund established by an ordinance adopted by the fiscal body of Lake County on June 9, 2015.**

(b) On or before December 31, 2019, the Lake County auditor shall transfer to the secretary-treasurer of the development authority all amounts received after June 30, 2019, and deposited in the commuter rail extension and improvement fund described in subsection (a)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1473 as printed February 5, 2019.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

