

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7431**

**BILL NUMBER:** HB 1001

**NOTE PREPARED:** Feb 15, 2021

**BILL AMENDED:** Feb 15, 2021

**SUBJECT:** State Budget.

**FIRST AUTHOR:** Rep. Brown T

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *State Biennial Budget*: This bill appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.

*State Offices and Administration Provisions:*

*Board Replacement* - The bill replaces the Governor with the Budget Director or the Budget Director's designee on the State Board of Finance.

*Personal Services/Fringe Benefits Contingency Fund* - The bill renames the Personal Services/Fringe Benefits Contingency Fund as the Budget Agency Contingency Fund. It adds the following authorized Budget Agency Contingency Fund uses: (1) Emergency capital project expenses. (2) Necessary expenses for existing programs as determined by the Governor and Budget Director. It removes a provision that prevents transfers from the fund for other purposes. The bill requires the Budget Committee to be advised of each transfer from the fund that exceeds \$500,000.

*Enhanced Access Fee Committee* - The bill replaces the State Librarian with the Budget Director as a member of the Enhanced Access Fee Committee.

*Board Replacement* - The bill replaces the director of the Budget Agency with the director of the Office of Management and Budget as an ex officio voting member of the Board of Trustees of the Indiana Public Retirement System (INPRS).

*Examinations Fee* - The bill removes the annual appropriation provision for the Examinations Fund of the State Board of Accounts.

*Bond Defeasance* - The bill appropriates amounts for defeasing bonds.

*Excise Fund* - The bill also adjusts the distributions from the Excise Fund to increase the amount transferred to the Enforcement and Administration Fund and correspondingly decreases the amount transferred to the state General Fund.

*Reversions* - The bill provides that unexpended and unencumbered amounts appropriated to the Legislative Services Agency in a state fiscal year ending before July 1, 2022, do not revert to the state General Fund.

*Next Level Regional Recovery Fund* - The bill establishes the Next Level Regional Recovery Fund to provide grants and loans to support economic development and regional recovery. It provides that the Indiana Economic Development Corporation (IEDC) administers the Next Level Regional Recovery Fund. It provides that the board of the IEDC may review applications for grants and loans from the Next Level Regional Recovery Fund. It requires the IEDC to establish a policy for the Next Level Regional Recovery Initiative.

*Gaming Provisions:*

*Gaming Research Division* - The bill transfers the operations of the Indiana Department of Gaming Research into a newly established Gaming Research Division of the Indiana Gaming Commission.

*Pari-mutuel Wagering at Racetracks* - The bill allows the Horse Racing Commission to authorize a permit holder to conduct more than 14 races on one racing day. It allows a permit holder to conduct pari-mutuel wagering at the permit holder's racetrack or satellite facility on certain horse races that are conducted during a time when the permit holder's facility is not open.

*Law Enforcement Provisions:*

*Exoneration Fund* - The bill repeals the Exoneration Fund. It provides that any money remaining in the fund is transferred to the state General Fund.

*County Jails* - The bill allows the Budget Agency to augment the County Jail Maintenance Contingency Fund appropriation from the state General Fund for the 2020-2021 state fiscal year by an amount necessary to cover jail and parole holds. The bill specifies the uses for the augmented amount.

*K-12 Education Provisions:*

*ADM Count* - The bill requires that the February count of a school corporation's average daily membership (ADM) must be increased by the number of students who, during the preceding school year: (1) were enrolled in the school corporation on the September ADM count day; (2) completed graduation requirements before the February ADM count day; and (3) were not enrolled in the school corporation on the February ADM count day.

*Choice Scholarships* - The bill changes the eligibility requirements to receive choice scholarships. It makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice

scholarship school. It repeals provisions that provide eligibility to certain students if the student's household income increases.

*School Scholarship Grants* - The bill phases in increases to the household income percentage required to qualify as an eligible student for purposes of a scholarship granting organization.

*Indiana Education Scholarship Account Program* - The bill establishes the Indiana Education Scholarship Account Program. It requires the Treasurer of State to establish an application date by which a parent of an eligible student or an emancipated eligible student may establish an account in the program. It defines an eligible student as: (1) a student with a disability who requires special education; (2) a student with a parent who is on active duty service in the armed forces of the United States or national guard; or (3) a student placed in foster care or otherwise under care and supervision of the Department of Child Services. It provides that an eligible student who has an account and attends a qualified school is eligible to receive an annual grant amount that may be used to pay for tuition at an accredited nonpublic school or education related expenses. The bill provides that the Treasurer of State shall administer the program. It also provides a deduction from Indiana adjusted gross income for a grant amount that is distributed to a taxpayer's account and used for a qualified expense, to the extent the distribution is included in the taxpayer's federal adjusted gross income.

The bill establishes the Indiana Education Scholarship Account Program Advisory Council to provide guidance on the implementation of the program as well as to provide recommendations for program improvements to the Treasurer of State and to the General Assembly.

*Department of Education* - The bill provides that the Department of Education shall provide services that offer objective advice upon request to parents of an eligible student or an emancipated eligible student relating to services that can help meet the eligible student's or emancipated eligible student's particular needs.

*Charter School Grants* - The bill increases the amount of a grant under the charter and innovation network school grant program. It extends the expiration date for funding of certain charter schools for adults.

*Board Replacement* - The bill replaces the State Superintendent of Public Instruction with the Secretary of Education or the Secretary's designee as a member of the Distressed Unit Appeal Board.

*Advanced Placement Program* - This bill removes a provision that prevents unused money appropriated to the Department of Education for the Advanced Placement Program from reverting to the state General Fund.

*Tax Provisions:*

*Cigarette Tax* - The bill increases the Cigarette Tax to \$1.50 per pack of regular size cigarettes and a corresponding increase for larger cigarettes and makes corresponding adjustments to the distribution percentages of revenue received from imposition of the Cigarette Tax.

*Electronic Cigarette Tax* - The bill imposes an excise tax, known as the Electronic Cigarette Tax, on the retail sale of vapor products and consumable material in Indiana. It provides that the excise tax equals 10% of the gross retail income received by the retail dealer for the sale. It defines "vapor product" and "consumable material". The bill requires a retail dealer to obtain an electronic cigarette retail dealer's certificate from the Department of State Revenue (in addition to a retail merchant's certificate). It deposits the revenue from the excise tax in the state General Fund.

*Internal Revenue Code (IRC)* - The bill changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on January 1, 2021. It provides that in the case of an amendment to a federal statute that is made outside of Title 26 of the United States Code and affects federal adjusted gross income, federal taxable income, federal tax credits, or other federal tax attributes, the federal statute shall be considered to be part of the Internal Revenue Code as amended and in effect on January 1, 2021.

*Venture Capital Investment Tax Credit* - The bill amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund). The bill provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities. The bill provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023. It specifies the maximum available tax credits in a calendar year with regard to a qualified fund. It also increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise. It caps the total amount of credits that the IEDC may award in a calendar year at \$20 M, provided that not more than \$7.5 M is awarded for proposed investments in a qualified fund.

*Aviation Fuel Tax* - The bill provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the Airport Development Grant Fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the General Fund and 50% is transferred to the Airport Development Grant Fund).

*School Scholarship Tax Credit* - The bill increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization.

*Wine Excise Tax* - The bill repeals the deposit of a part of the Wine Excise Tax rate collected on each gallon of wine in the Wine Grape Market Development Fund and requires the Department of State Revenue to instead deposit that part of the Wine Excise Tax in the state General Fund.

#### Transportation Provisions:

*Public Private Agreements* - The bill clarifies the equal opportunity procurement and contracting requirements for certain projects. The bill removes the sunset of provisions regarding public-private agreements that provide that legislative approval is not required to impose tolls on certain projects. It specifies that, except for those certain projects, the General Assembly must enact authorizing legislation before the Indiana Department of Transportation (INDOT), the Indiana Finance Authority (IFA), or an operator may enter into public-private agreements that impose user fees on motor vehicles for use on highways and roads in existence or under construction on July 1, 2011. It provides that the IFA must be a party to any public-private agreement that requires payments to be made to an operator after the operator receives final payment for construction. It also specifies the IFA's bonding authority for public-private partnership projects.

*Public Mass Transportation Fund* - The bill removes annual Budget Committee review of the distribution formula established by INDOT for the Public Mass Transportation Fund.

#### Health and Human Services Provisions:

*Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF)* -The bill extends the expiration of the HAF and the QAF from June 30, 2021, to June 30, 2023.

*Medicaid Waiver Services* - The bill increases the Medicaid reimbursement rate for certain services delivered by a direct care staff. It also requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.

*Marion County Health and Hospital Corporation (HHC)* - The bill decreases the amount transferred from the state General Fund to the Health and Hospital Corporation of Marion County.

*Resource Utilization Group (RUG) Classification* - The bill deletes the requirement that the Office of Medicaid policy and planning use the RUG-IV, 48-Group model for payment of nursing facility services.

*Higher Education Provisions:*

*Scholarships and Grants* - The bill provides that any increase in the maximum Higher Education Award and Freedom of Choice Award by the Commission for Higher Education (CHE) is subject to approval by the Budget Agency. (Under current law, the CHE's annual determination of the maximum awards is subject to approval by the Budget Agency with review by the Budget Committee.)

*Courts Provisions:*

*Judicial Insurance Adjustment* - The bill requires money from judicial insurance adjustment fees to be deposited in the state General Fund.

It makes corresponding changes.

**Effective Date:** (Amended) Upon passage; July 1, 2020 (retroactive); January 1, 2021 (retroactive); June 29, 2021; July 1, 2021; January 1, 2022.

**Explanation of State Expenditures:** (Revised) *State Appropriations:* The following summary table shows state appropriations that are provided in this bill for FY 2022 and FY 2023.

<b>Appropriations by Function</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>For the Biennium</b>
General Government	647,911,533	700,436,464	0
Corrections	808,199,095	812,554,095	0
Other Public Safety	311,596,875	311,638,979	10,000,000
Conservation and Environment	79,921,871	79,976,477	0
Economic Development	137,152,584	137,152,584	160,000,000
Transportation	45,000,000	45,000,000	0
FSSA Administration	14,904,442	14,904,442	0
Office of Medicaid Policy and Planning	2,871,738,843	2,996,038,843	0
Mental Health and Addictions	281,750,436	281,133,123	0
Family Resources	123,043,484	122,243,484	0
Aging Services	54,379,566	54,705,019	0
Disability and Rehabilitation Services	41,357,108	41,357,108	0
Department of Child Services	882,634,062	882,634,062	0
Public Health	9,442,846	9,442,846	50,000,000
Other Health and Human Services	83,568,878	83,568,878	0
State Student Assistance	382,353,273	382,353,273	0
Other Higher Education	1,667,694,092	1,688,719,541	0
Education Administration	41,932,215	41,932,215	0
Tuition Support	7,648,661,250	7,838,871,250	0
Other Local Schools	220,493,502	231,368,998	48,140,000
Teacher Retirement	950,000,000	975,000,000	0
Other Education	10,250,013	10,250,013	0
Distributions	60,364,160	60,364,160	0
<b>Total GF Operating</b>	<b>\$17,374,350,128</b>	<b>\$17,801,645,854</b>	<b>\$268,140,000</b>
Higher Education Construction	36,741,725	36,741,725	0
Other Construction	478,882,138	302,330,424	0
Total Construction	515,623,863	339,072,149	0
<b>Total GF (Operating + Construction)</b>	<b>\$17,889,973,991</b>	<b>\$18,140,718,003</b>	<b>\$268,140,000</b>
Lottery and Gaming Surplus	0	0	0
Other Dedicated - Operating	2,737,313,929	2,624,032,988	0
Other Dedicated - Construction	49,159,654	37,947,853	0
Tobacco Settlement	126,510,357	126,510,357	0
Federal	1,184,000,000	1,091,666,667	0
<b>Total (Dedicated and Federal)</b>	<b>\$4,096,983,940</b>	<b>\$3,880,157,865</b>	<b>\$0</b>
<b>Total - All</b>	<b>\$21,986,957,931</b>	<b>\$22,020,875,868</b>	<b>\$268,140,000</b>

State Offices and Administration Provisions:

*Personal Services/Fringe Benefits Contingency Fund* - The bill renames the nonreverting Personal Services/Fringe Benefits Contingency Fund to the Budget Agency Contingency Fund. The bill may increase expenditures as it adds two authorized uses for the fund: necessary expenses for existing programs as determined by the Governor and the Budget Director and emergency capital project expenses. The bill also removes a provision that prevents transfers from the fund by the State Board of Finance for other purposes. It requires the Budget Committee to be advised of each transfer from the fund that exceeds \$500,000.

*Enhanced Access Fee Committee* - The bill may shift workload from one state agency to another by requiring the state Budget Director (or designee) to replace the State Librarian (or designee) on the Enhanced Access Fee Committee.

*Examinations Fund* - The bill removes the annual appropriation from the Examinations Fund for the SBOA. The Examinations Fund consists of payments made to the SBOA for examinations of public funds.

(Revised) *Bond Defeasance* - The bill appropriates \$110 M for FY 2021 to the State Budget Agency to defease any remaining bonds issued by the State Office Building Commission, the Recreational Development Commission, or the State Fair Commission.

(Revised) *Leave Conversion Pilot Program* - This bill allows the Legislative Council and the Indiana Supreme Court to continue the Leave Conversion Pilot Program for the legislative and judicial branches of state government until FY 2024. The fiscal impact of this provision will depend upon legislative and judicial branch actions. Average annual expenditures for the pilot program have been \$0.27 M since 2010.

(Revised) *Next Level Regional Recovery Fund* - The bill establishes the Next Level Regional Recovery Fund, which is a nonreverting fund to be administered by the IEDC. Money in the fund is to be used by the IEDC to make grants or loans to support proposals by eligible regional recovery organizations for economic development and regional recovery projects. Money in the fund may be used to cover any administrative expenses incurred by the IEDC in carrying out the requirements of the program. The fund is appropriated \$150 M for the biennium. [The bill also repeals the Indiana Regional Cities Development Fund.]

Gaming Provisions:

*Gaming Research Division* - Beginning on July 1, 2021, all operations of the Indiana Department of Gaming Research will be transferred into the newly established Gaming Research Division of the Indiana Gaming Commission (IGC). The IGC will be responsible for appointing or employing the executive director and other persons as necessary [This is currently the responsibility of the Governor]. The Gaming Research Division also must report findings and recommendations to the IGC in addition to the Governor and the Legislative Council. The Gaming Research Division shall continue to impose an annual \$25,000 fee upon each riverboat owner or operating agent and permit holder operating a live pari-mutual horse racing facility in Indiana.

Law Enforcement Provisions:

*Exoneration Fund* - This bill repeals the Exoneration Fund, which was established to provide compensation to applicants determined by the Criminal Justice Institute to be wrongfully incarcerated. The Exoneration Fund was appropriated \$1 for each year of the current biennium. The balance is transferred to the General

Fund on June 30, 2021. The state General Fund would presumably be liable to pay the awarded compensation for any individuals who were determined by the Criminal Justice Institute to be wrongfully incarcerated.

(Revised) *County Jails* - This provision applies to the remaining portion of FY 2021. Any new General Fund expenditures will depend on whether reimbursements requested by county sheriffs exceed the current appropriation. For the remaining portion of FY 2021, the Budget Agency may augment the County Jail Maintenance Contingency Fund appropriation from the state General Fund by an amount necessary to cover jail and parole holds and may not be used to provide additional funding for persons convicted of Level 6 felonies.

On January 31, 2020, \$29.9 M of the \$30 M appropriation had been disbursed. Under the current state budget effective until June 30, 2021, counties receive a maximum daily \$37.50 per diem.

K-12 Education Provisions:

(Revised) *Tuition Support Formula* - The bill establishes a tuition support formula for FY 2022 and FY 2023. The bill's changes to the formula compared to the formula in effect for FY 2021 are as follows:

1. The foundation grant amount increases from \$5,703 in FY 2021 to \$5,771 in FY 2022 and \$5,913 in FY 2023.
2. All virtual ADM will be funded at 100% of the foundation grant amount.
3. The complexity index is limited to an increase or decrease of .025 year-over-year in both FY 2022 and FY 2023. The English Language Learners adjustment in the complexity calculation is eliminated.
4. The Choice scholarship award structure is modified. The 50% and 70% awards are removed. All students participating in the program would receive the lesser of tuition and fees or 90% of their home school corporation's tuition support amount.
5. The Choice scholarship eligibility is modified. In FY 2022, the maximum annual household income eligibility for all students increases to 225% of the amount to qualify for the federal Free or Reduced Price Lunch (FRL) Program; in FY 2023 and after, the maximum income eligibility increases to 300% of FRL.
6. Beginning in FY 2022, the bill eliminates the less-than-moderate value career and technical education (CTE) courses. It also increases the grant amount for high value level 1 courses from \$680 per credit hour to \$710 per credit hour, and the grant amount for high value level 2 courses from \$1,020 per credit hour to \$1,150 per credit hour.
7. Beginning in FY 2023, the bill establishes the Indiana Education Scholarship Account (ESA) Program. Funding per student will be equal to 90% of the student's home school corporation basic tuition support grant.
8. Beginning in FY 2022, the February ADM of each school corporation and charter school will be increased by the number of students who graduated at least one semester early in the previous school year and were not included in the February ADM of that school year.

The following table summarizes the estimated changes over current FY 2021 funding levels.



<b>Estimated Tuition Support Expenditures by Grant</b>			
	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>Basic Tuition Support</b>	\$6,397,554,716	\$6,597,535,435	\$6,701,782,230
<b>Special Education</b>	589,161,764	620,553,588	633,364,028
<b>Career &amp; Technical</b>	133,134,060	143,296,840	152,374,810
<b>Honors</b>	30,644,800	31,380,000	32,148,100
<b>Choice Scholarship</b>	173,521,330	214,056,505	257,583,023
<b>Education Scholarship Accounts</b>			19,273,867
<b>Mitch Daniels Scholarship</b>	1,220,000	1,220,000	1,220,000
<b>Total</b>	\$7,325,236,670	\$7,608,042,368	\$7,797,746,058
<i>FY 2021 estimates reflect the current tuition support formula; FY 2022 and FY 2023 estimates reflect the bill's proposed tuition support formula</i>			

If the actual distribution exceeds the appropriation of \$7,608,330,000 for FY 2022 and \$7,798,540,000 for FY 2023, the difference, up to \$25 M per fiscal year, can be transferred from the State Tuition Reserve Account. If the amount appropriated plus the \$25 M (augmented appropriation) is still less than the actual distribution, the distribution would be reduced so that it equals the augmented appropriation.

(Revised) *Choice Scholarship and the Indiana Education Scholarship Account (ESA) Program*- The fiscal impact of students switching from one school to a private school participating in the Choice scholarship or the ESA Program is dependent upon the type of schools students would have attended under current law. Since both programs decrease state expenditures relative to attending a public school, students switching from a public school to participate in the ESA Program or to receive a Choice scholarship and attend a Choice-eligible school decrease state expenditures. On the other hand, students homeschooled or attending a private school without a Choice scholarship who receive a Choice scholarship or participate in the ESA program would increase state expenditures.

The expansion of the Choice scholarship program in FY 2022 and the creation of the ESA Program in FY 2023, are expected to increase state expenditures by \$28.1 M in FY 2022 and \$37.8 M in FY 2023. This estimate excludes some potential savings from students who switch to the program and begin taking fewer CTE courses. These estimates do not include the administrative costs of the ESA program.

The bill has the following provisions that would increase state expenditures to administer the ESA program:

*Online Portal:* The bill provides that the Treasurer of State must provide online services related to the ESA Program. The initial implementation of the online portal related to the ESA Program may cost \$5 M in FY 2022. If portal development costs are greater, expenditures will increase. There could also be ongoing costs related to website maintenance. The cost of this project would depend on the specific business requirements the Treasurer of State would require.

*Annual Audit:* The bill provides that the ESA Program is subject to annual audit by an independent accounting firm retained by the Treasurer of State. While the cost of the contract(s) is unknown, the expenditure increase could be significant.

*Contract with Financial Institutions:* The Treasurer of State may contract with one or more financial

institutions to maintain and manage the accounts under the bill's ESA Program. While the cost of the contract(s) is unknown, the expenditure increase could be significant.

*Treasurer of State:* The Treasurer of State would experience a substantial workload increase that may require additional staff and resources.

*DOE:* The bill's requirement that the DOE provide services that offer advice to parents of students eligible for the ESA is an additional workload increase that may require additional staff or resources. The bill allows the DOE to contract with a third party provider to provide the services. The bill has other requirements that are workload increases that would be implemented with existing staff and resources.

*Indiana Education Scholarship Account Program Advisory Council:* The 13 member council is established to provide guidance and recommendations on the implementation of the ESA Program. The Treasurer of State shall provide staffing for the council.

(Revised) *Charter and Innovation Network School Grant Program* - The bill increases the grant amount for each eligible student from \$750 in FY 2021 to \$1,000 in FY 2022 and \$1,250 in FY 2023. In FY 2021, the appropriation for the grant program was \$22.5 M. After factoring in projected growth in non-virtual charter schools and innovation schools, it would cost an estimated \$36.4 M to \$38.8 M in FY 2022 and \$47.3 M to \$50.7 M in FY 2023 to fully fund the program, depending on the schools that qualify for the grant and actions taken by the State Board of Education.

(Revised) *Virtual ADM* - Increasing the per-student funding for virtual ADM from 85% of the foundation grant amount to 100% of the foundation grant amount is estimated to increase state tuition support expenditures by \$13.4 M in FY 2022 and \$14.8 M in FY 2023 above costs at the 85% level.

(Revised) *Complexity Grant* - The complexity index is limited to an increase or decrease of .025 year-over-year in both FY 2022 and FY 2023. In addition, the English Language Learners adjustment in the complexity calculation has been removed. This will result in a net reduction in state tuition support expenditures of \$0.7 M in FY 2022 and by \$2.7 M.

(Revised) *Career and Technical Education* - Beginning in FY 2022, the bill eliminates the less-than-moderate value CTE courses. It also increases the grant amount for high value level 1 courses from \$680 per credit hour to \$710 per credit hour, and the grant amount for high value level 2 courses from \$1,020 per credit hour to \$1,150 per credit hour. These changes will result in a net reduction in state tuition support expenditures of \$1.4 M in FY 2022 and \$1.2 M in FY 2023.

(Revised) *Early Graduation* - Beginning in FY 2022, the February ADM for school corporations would be increased by the number of students who graduated at least one semester early in the previous school year. Tuition support expenditures are estimated to increase by \$9.0 M in FY 2022 and \$9.2 M in FY 2023.

*Advanced Placement Program* - Under this bill, the appropriation for the Advanced Placement program would no longer be nonreverting. Unexpended money appropriated to the Department of Education to implement the program at the end of the fiscal year will revert to the state General Fund.

*Transportation Provisions:*

*Public Mass Transportation Fund* - This bill would decrease annual workload of the Budget Committee to review the Public Mass Transportation Fund formula established by INDOT. Additionally, the bill will decrease INDOT workload to prepare and provide information for Budget Committee members. Decreases in workload will be minimal.

*Health and Human Services Provisions:*

(Revised) *Medicaid Waiver Services* - The Medicaid reimbursement rate for certain services under the Home- and Community- Based Services Waiver and the Family Support Waiver will increase by 7%, or an estimated \$17.1 M to \$17.6 M for the state share, based on total costs in the waiver applications. Services provided through a waiver must be cost-neutral compared to the costs of services provided in an institutional setting. If the 7% increase were to cause the cost of services to exceed the cost-neutrality requirement, waiver recipients' services budgets may be reduced or the additional costs may be paid exclusively with state funds. Additionally, if a service provider were not to use 85% of the additional reimbursement to increase wages for direct service providers or were not to properly maintain the required records, the FSSA is to recoup up to 85% of the increased reimbursement rate.

(Revised) *Resource Utilization Group (RUG) Classification* - This classification system is used to determine reimbursement rates for long term care facilities and requires each facility to be reviewed at least every three years by a state consultant. Any change in administrative cost or reimbursement would result from the replacement system chosen.

(Revised) *Marion County Health and Hospital Corporation (HHC)* - The statutory amount that the FSSA is required to annually transfer to the HHC of Marion County is reduced by \$7.7 M, from \$40 M to \$32.3 M. However, the actual appropriations for HHC in the current biennium were \$38 M per year. This transfer is paid from the General Fund.

*Higher Education Provisions:*

*Scholarships and Grants* - The bill would reduce workload for the Budget Agency, Budget Committee, and CHE. The Budget Committee would no longer be required to annually review maximum award amounts for the Higher Education Award and Freedom of Choice Award. The Budget Agency would only have to approve the award amounts determined by CHE in years when maximum award amounts increase.

**Explanation of State Revenues:**

*State Offices and Administration Provisions:*

*Excise Fund* - The bill increases the amount transferred from the Excise Fund to the Enforcement and Administration Fund from 30% to 45%. It also makes a corresponding decrease to the General Fund distribution, from 37% to 22%. Current law (unchanged by the bill) provides that 33% of the money in the Excise Fund is distributed to the general funds of the cities, towns, and counties in which licensed alcoholic beverage retailers and dealers are located. The bill would increase revenue to the Enforcement and Administration Fund and decrease revenue to the General Fund by approximately \$1.5 M annually beginning in FY 2022.

*K-12 Education Provisions:*

(Revised) *Indiana Education Scholarship Account Program* - The bill allows the Treasurer of State to charge an administrative fee of no more than 1.5% of the distributions made to the accounts in the ESA Program, up to a maximum of \$250,000. The Treasurer of State is estimated to receive approximately \$250,000 in FY 2023.

Gaming Provisions:

(Revised) *Pari-mutuel Wagering at Racetracks* - The provisions allowing the Indiana Horse Racing Commission to authorize a permit holder to conduct more than 14 races on one racing day and allowing a permit holder to conduct pari-mutuel wagering that are conducted during a time when the permit holder's facility is not open will increase the amount of pari-mutuel wagering tax and pari-mutuel satellite facility tax. Any additional revenue will be deposited in Indiana Horse Racing Commission Operating Fund, Livestock Industry Promotion and Development Fund, and State Fair Commission.

Tax Provisions:

(Revised) *Cigarette Tax* - The bill increases the Cigarette Tax rate from \$0.995 to \$1.50 per pack of 20 cigarettes beginning July 1, 2021. This provision would increase total Cigarette Tax revenue by an estimated \$149.3 M in FY 2022 and \$157.7 M in FY 2023. The bill also changes the distribution of Cigarette Tax revenue in a manner that distributes the majority of the increase to the General Fund for Medicaid provider reimbursements. The following table shows the distribution change and the estimated impact on each fund. [The estimated impact on Cigarette Tax revenue is based on the December 2020 state revenue forecast. LSA estimates that increasing the rate by \$0.505 would cause the forecasted number of packs sold to decrease by approximately 6.5% each year. There will be an updated revenue forecast in April 2021.]

<b>Estimated Cigarette Tax Revenue Increase (Millions)</b>				
<b>Fund</b>	<b>Current Distribution</b>	<b>Proposed Distribution</b>	<b>FY 2022</b>	<b>FY 2023</b>
General Fund	56.24%	41.5%	\$0.0	\$5.6
Healthy Indiana Plan Trust Fund	27.05%	19.96%	\$0.0	\$2.7
Pension Relief Fund	5.43%	4.01%	\$0.0	\$0.6
Cigarette Tax Fund*	4.22%	3.11%	\$0.0	\$0.4
State Retiree Health Benefit Trust Fund	4%	2.95%	\$0.0	\$0.4
Medicaid Reimbursements (General Fund)	2.46%	28.03%	\$149.3	\$148.0
Mental Health Centers Fund	0.6%	0.44%	\$0.0	\$0.0
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>\$149.3</b>	<b>\$157.7</b>

\*Of the amount distributed to the Cigarette Tax Fund, 1/6 goes to the Department of Natural Resources, the Department of Agriculture, and the State Construction Fund; 1/6 is deposited in the Clean Water Indiana Fund; and 2/3 goes to cities and towns based on population.

In addition, raising the Cigarette Tax rate by \$0.505 would increase Sales Tax revenue by approximately \$3.3 M in FY 2022 and \$3.4 M in FY 2023. Sales Tax revenue is distributed to the General Fund (99.838%,

Commuter Rail Service Fund (0.131%), and Industrial Rail Service Fund (0.031%). [Current law specifies that for purposes of Sales Tax, the taxable retail price of cigarettes includes the state Cigarette Tax.]

(Revised) *Electronic Cigarette Tax* - The bill imposes an Electronic Cigarette Tax at a rate of 10% of the retail price of consumable materials and vapor products. This tax could generate an estimated \$4.2 M in FY 2022 and \$4.7 M in FY 2023. All revenue would be deposited in the General Fund. The bill also provides that for purposes of Sales Tax, the taxable retail price of consumable materials and vapor products includes the Electronic Cigarette Tax. This provision could increase revenue to the General Fund by an additional \$0.3 M annually. [These estimates are based on data published by the Centers for Disease Control and Prevention regarding unit sales and prices of e-cigarettes and revenue collected by other states that have implemented similar taxes. The long-term impact of regulations recently imposed by the federal government are not known.] Potential revenue from the annual \$25 fee for an electronic cigarette retail dealer's certificate is indeterminable.

(Revised) *Internal Revenue Code (IRC)* - The bill updates the reference to the IRC as amended and in effect on January 1, 2021. The current reference to the IRC pertains to IRC provisions amended and in effect on January 1, 2020. The update would include the changes in federal law as a result of the *Coronavirus Aid, Relief, and Economic Security Act, 2020* and the *Consolidated Appropriations Act, 2021*. Some of the major changes include allowing active passthrough losses above a specified threshold that was set by the *Tax Cut and Jobs Act*, temporary allowance of full deduction of business meals, and exclusion of certain employer payment of students loan. The revenue impact of recognizing the updated IRC will decrease state General Fund revenue by approximately \$312.7 M in FY 2021, \$57.2 M in FY 2022, and \$15 M in FY 2023.

*Venture Capital Investment Credit* - The bill expands the definition of qualified investment capital to include investment capital provided to certain qualified Indiana investment funds for the purposes of the venture capital investment tax credit. The bill increases the maximum amount of the tax credit that may be claimed from 20% to 25% of the qualified investment capital provided, up to \$1 M, beginning in tax year 2022. If the qualified Indiana business is a minority or women's business enterprise, the tax credit is increased to 30% of the qualified investment capital provided, up to \$1.5 M. However, the credit for investments to a qualified Indiana investment fund is 20% of the qualified investment provided during the year up to \$5 M. The bill also increases the cap on annual credits that may be awarded by the IEDC under this chapter from \$12.5 M to \$20 M, with no more than \$7.5 M of that amount awarded for investment capital provided to qualified Indiana investment funds.

The new annual cap on the tax credit is effective beginning in tax year 2022, but the claiming of credits awarded for investment capital provided to qualified Indiana investment funds may not be claimed until FY 2024. The provisions of the bill may decrease revenue deposited into the General Fund beginning in FY 2023. The total revenue loss from the tax credit cannot exceed \$20 M annually per the bill's credit cap. The impact will depend in part on the applications received by the IEDC, the amount of investment capital made to qualifying businesses and funds, and subsequent certifications. [The credits will reduce General Fund revenue equal to the amount of credits claimed.]

*Aviation Fuel Tax* - Beginning in FY 2022, this bill will result in a General Fund loss of approximately \$1.85 M per year, and it will increase revenue to the Airport Development Grant Fund by the same amount each year.

(Revised) *School Scholarship Tax Credit* - The bill increases the total amount of School Scholarship Tax Credits that may be awarded to \$18 M for FY 2022, and to \$19 M beginning in FY 2023. [The maximum

amount of credit the DOR may award in FY 2021 is \$16.5 M. As of February 10, 2021, the DOR approved \$10.2 M in credits.]

(Revised) *Wine Excise Tax* - The bill increases the amount of Wine Excise Tax deposited in the General Fund from \$0.20 to \$0.25 per gallon. It also repeals the \$0.05 per gallon distribution to the Wine Grape Market Development Fund. This provision would increase General Fund revenue by \$0.7 M annually beginning in FY 2022. The Wine Grape Market Development Fund would no longer receive state tax revenue.

(Revised) *Indiana Education Scholarship Account Program* - The bill makes grant money distributed to a taxpayer's account and used for a qualified expense under the Indiana ESA Program eligible to be deducted from Indiana adjusted gross income. This deduction could reduce General Fund revenues by an indeterminable amount.

Transportation Provisions:

*Public Private Agreements* - Beginning July 1, 2021, action by the General Assembly would be required to enact statute authorizing tolling in the state on certain sections of road. These sections include new construction of I-69 after FY 2011, new lanes of existing interstate, the Illiana Expressway, and the three tolled RiverLink bridges connecting Indiana and Kentucky. Removing this sunset date would remove one step that would be necessary beginning in FY 2022 to begin tolling on select sections of road.

Health and Human Services Provisions:

*Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF)*- The bill extends the sunset date for the HAF, the Incremental HAF, and the Health Facility QAF by two years to FY 2023. These fees generated approximately \$1.18 B in FY 2020 and leveraged an estimated \$4.14 B in federal funds devoted to Medicaid expenditures.

<b>Fee Extension</b>	<b>FY 2020 State Revenue</b>	<b>FY 2020 Federal Dollars Leveraged</b>	<b>Total</b>
HAF	\$752 M	\$1.46 B	\$2.21 B
Incremental HAF*	\$262 M	\$2.36 B	\$2.62 B
QAF	\$162 M	\$315 M	\$478 M
<b>Total</b>	<b>\$1.18 B</b>	<b>\$4.14 B</b>	<b>\$5.31 B</b>

\* 90% Federal Match Rate

Of the total HAF revenue, 71.5% is used to increase Medicaid hospital reimbursement up to specified limits. Any remaining funds within the 71.5% portion of the fee that is not used for increased hospital reimbursement are distributed to the Hospital Medicaid Fee Fund. The remaining 28.5% of the HAF revenue is distributed to the state General Fund to offset other Medicaid costs incurred by the state. Revenue from the Incremental HAF is deposited in the Incremental Hospital Fee Fund to be used to partially fund the state share of the Medicaid expansion population receiving services within the Healthy Indiana Plan. Of the Health Facility QAF revenue, 70.6% is used to increase targeted Medicaid nursing facility reimbursement rates, while approximately 29.4% is distributed to the state General Fund for other Medicaid services.

Courts Provisions:

*Judicial Insurance Adjustment* - The bill will increase revenue to the state General Fund. It also removes the Judicial Insurance Adjustment Account and provides that any balance remaining in the account before June 30, 2021, will be transferred to the state General Fund.

The clerks collect the judicial insurance adjustment fee from litigants filing civil cases and from persons convicted of a felony, misdemeanor, ordinance violation, infraction, or required to pay a pretrial diversion fee. The judicial insurance adjustment fee is \$1. Based on a five-year average, the clerk collects \$733,752 in judicial insurance adjustment fees.

**Explanation of Local Expenditures:**

Health and Human Services Provisions:

*Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF)* - Local government-owned hospitals and nursing homes would continue to be assessed the HAF and QAF.

(Revised) *Marion County Health and Hospital Corporation (HHC)* - The bill reduces the statutorily required amount to be transferred by FSSA to the HHC from \$40 M each year to \$32.3 M. However, the actual appropriations for HHC in the current biennium were \$38 M per year.

Courts Provisions:

*Judicial Insurance Adjustment* - This provision will have no impact on the clerks of the court.

**Explanation of Local Revenues:**

(Revised) *Next Level Regional Recovery Fund* - Eligible regional recovery organizations may receive a grant or loan from the Next Level Regional Recovery Fund to support projects that are part of a regional recovery strategy that conforms with the Next Level Regional Recovery Initiative framework developed by the IEDC.

K-12 Education Provisions:

(Revised) *Choice Scholarship and Indiana Education Scholarship Account (ESA) Program*- The expansion of the Choice scholarship and the creation of the ESA Program are expected to decrease public school ADM. In FY 2022, public school ADM is expected to decrease by 1,538 due to the Choice expansion, decreasing revenue from state tuition support by \$10.3 M. In FY 2023, public school ADM is expected to decrease by 8,830 due to both the Choice expansion and the implementation of the ESA Program, decreasing revenue from state tuition support by \$60.1 M.

(Revised) *Charter and Innovation Network School Grant Program*- Charter schools and Innovation Network Schools are expected to receive an estimated \$36.4 M to \$38.8 M in FY 2022 and \$47.3 M to \$50.7 M in FY 2023, assuming the grant is fully funded.

(Revised) *Virtual ADM* - The bill increases the funding for virtual ADM from 85% of the foundation grant amount to 100% of the foundation grant amount. Applicable schools are expected to receive an additional \$13.3 M in FY 2022 and \$14.7 M in FY 2023 above what they would have otherwise received.

(Revised) *Complexity Grant* - The complexity index is limited to an increase or decrease of .025 year-over-year in both FY 2022 and FY 2023. In addition, the English Language Learners adjustment in the complexity calculation has been removed. Tuition support funding for local schools would be \$0.7 M less in FY 2022 and \$2.7 M less in FY 2023 than they would have otherwise received.

(Revised) *Career and Technical Education (CTE)* - CTE grant funding to public schools is estimated to be \$1.4 M less in FY 2022 and \$1.2 M less in FY 2023 than they would have otherwise received.

(Revised) *Early Graduation* - Tuition support funding for public schools is estimated to increase by \$9.0 M in FY 2022 and \$9.2 M in FY 2023 above what they would have otherwise received.

Law Enforcement Provisions:

*County Jails* - Any new revenue would depend on augmentations from the state budget. [See Explanation of State Expenditures.]

Tax Provisions:

(Revised) *Indiana Education Scholarship Account Program* - To the extent that eligible distributions are deducted from Indiana adjusted gross income, there could be a decrease in local income tax revenues.

Health and Human Services Provisions:

(Revised) *Medicaid Waiver Services* - Locally owned home health agencies may receive additional reimbursement for certain services.

(Revised) *Resource Utilization Group (RUG) Classification* - If FSSA were to adopt a different reimbursement method, locally owned long term care facilities could have different reimbursement.

*Hospital Assessment Fee (HAF) and Health Facility Quality Assessment Fee (QAF)* - Local government-owned hospitals and nursing homes would continue to receive the increased reimbursement rates financed by the HAF and QAF.

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:**

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