

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 164

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-9-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. **(a) Subject to subsection (b)**, all funds coming into possession of the board of managers shall be deposited, held secured, or invested and paid in accordance with the general laws of the state relating to the handling of public funds. The handling and expenditure of funds coming into possession of the board of managers shall be subject to audit and supervision by the state board of accounts.

(b) Upon request by the Potawatomi Zoo, the board of managers shall fully support and assist the Potawatomi Zoo to secure the issuance of bonds from the applicable fiscal body up to a term of twenty (20) years to pay any costs associated with the financing, construction, renovation, improvement, and equipping of projects for the Potawatomi Zoo. Any funds received as a result of issuing bonds under this section shall be given to the Potawatomi Zoo, and the Potawatomi Zoo shall have complete control over funds received as a result of issuing the bonds. The board of managers may require that the Potawatomi Zoo issue an annual report that:

- (1) describes how funds are used to support a project; and**
- (2) provides a current update of a project's development.**

(c) Bonds issued under this section must be repaid in accordance with section 6.3(c) of this chapter.

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SECTION 2. IC 6-9-1-5, AS AMENDED BY P.L.108-2019, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) In a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), there shall be levied each year a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any commercial hotel, motel, inn, tourist camp, or tourist cabin.

(b) **Subject to subsection (c); such tax shall be Except as otherwise provided in this section, the tax imposed under subsection (a) is imposed** at the rate of six percent (6%) on the gross income derived from lodging income only and shall be in addition to the state gross retail tax imposed on such persons by IC 6-2.5. **After June 30, 2021, the county fiscal body may adopt an ordinance to increase the tax rate to not more than eight percent (8%).**

(c) The following apply to the tax rate imposed under this chapter:

(1) On the date set forth in section 6.2(d) of this chapter, the tax rate in subsection (b) shall be decreased by six-tenths of one percent (0.6%).

(2) On the date set forth in section 6.3(d) of this chapter, the tax rate in subsection (b) shall be decreased by four-tenths of one percent (0.4%).

(3) If both decreases to the tax rate are made under subdivisions (1) and (2); the tax rate imposed under this chapter shall be five percent (5%).

~~(d)~~ (c) The tax shall be paid quarterly to the county treasurer not more than twenty (20) days after the end of the quarter in which the tax is collected. All provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, exemptions, and definitions apply to the imposition of the tax imposed by this section except as otherwise provided by this chapter, and except that the county treasurer, and not the department of state revenue, is responsible for administration of the tax. All provisions of IC 6-8.1 apply to the county treasurer with respect to the tax imposed by this section in the same manner that they apply to the department of state revenue with respect to the other listed taxes under IC 6-8.1-1-1.

~~(e)~~ (d) The tax imposed under subsection (a) does not apply to the renting or furnishing of rooms, lodgings, or accommodations to a person for a period of thirty (30) days or more.

(e) **If the county fiscal body adopts an ordinance to increase the tax rate after June 30, 2021, under subsection (b), the county fiscal**



body shall:

(1) specify the effective date of the ordinance to provide that the ordinance takes effect:

(A) at least thirty (30) days after the adoption of the ordinance; and

(B) on the first day of a month; and

(2) immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(f) If the county fiscal body does not immediately send a certified copy of the ordinance to the commissioner of the department of state revenue as required under subsection (e), the department of state revenue shall treat an increase in the tax rate under this section as having been adopted on the later of:

(1) the first day of the month that is not less than thirty (30) days after the ordinance is sent to the department of state revenue; or

(2) on the effective date specified in the ordinance.

SECTION 3. IC 6-9-1-6, AS AMENDED BY P.L.108-2019, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) As used in this section, "fund" refers to the convention and exhibition center fund.

(b) As used in this section, "primary capital improvement" means a capital improvement in the nature of a convention and exhibition center for which the majority of the money deposited in the fund in calendar year 1993 was used.

(c) ~~Except as provided in sections 6.2 and 6.3 of this chapter,~~ The ~~tax revenues~~ **amount of revenue** collected by the county treasurer under section 5 of this chapter **as a result of a five percent (5%) rate** shall be deposited quarterly in the convention and exhibition center fund.

(d) Money in the fund shall be expended by the board of managers to:

(1) finance, construct, improve, equip, operate, promote, and maintain any capital improvement in the nature of a convention and exhibition center;

(2) renovate, equip, operate, and maintain any existing structure which may be used as a convention and exhibition center;

(3) refund bonds issued for a purpose described in subdivisions (1) through (2), make lease payments incurred, or retire bonds issued to finance, construct, improve, or equip a capital project described in this section;

(4) promote tourism; or

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(5) any other purpose described in this section.

(e) The board of managers shall expend money in the fund that is not used to operate a facility or make payments under a lease agreement in the following order of priority:

(1) First, to preserve and enhance the physical condition and economic competitiveness of the primary capital improvement, including the establishment of reasonable reserves.

(2) Second, for capital improvements to support, supplement, or enhance the utilization of the primary capital improvement and for tourism promotion. However, the capital improvements to which this subdivision applies must be managed directly or ultimately by the governing body of the primary capital improvement.

(f) The board of managers is authorized to enter into lease arrangements with governmental or private agencies for the purpose of using the facilities for convention, civic, or exhibition activities. The convention and exhibition center fund may be obligated by the board of managers and used for the purpose of paying any amount agreed upon in said lease agreement with governmental or private agencies.

(g) With respect to obligations to refund or retire bonds or loans issued or make lease payments incurred for a purpose described in this section, the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the portion of the tax imposed under this chapter that is authorized to be expended for an obligation; and

(2) this chapter will not be amended in any manner that will change the purpose for which the revenues from the tax imposed under this chapter;

as long as the payment of any of those obligations is outstanding.

SECTION 4. IC 6-9-1-6.2, AS ADDED BY P.L.108-2019, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.2. (a) As used in this section, "sports complex fund" refers to the Mishawaka indoor sports complex fund.

(b) ~~Beginning after June 30, 2019, and~~ Subject to subsection (d), **the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the sports complex fund as follows:**

(1) If the tax is imposed at a rate of six percent (6%), sixty percent (60%) of the amount of revenue collected by the county



treasurer under section 5 of this chapter as a result of a one percent (1%) rate. shall be deposited as follows:

(1) Sixty percent (60%) shall be deposited quarterly in the sports complex fund:

(2) Forty percent (40%) shall be deposited as set forth in section 6.3 of this chapter. **If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), the sum of:**

(A) twenty percent (20%) of the amount of revenue that is attributable to the increased tax rate; plus

(B) sixty percent (60%) of the amount of revenue collected as a result of a one percent (1%) rate.

(3) **If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one percent (1%) rate.**

In the event that section 6.3 of this chapter expires and the tax rate is decreased as set forth in section 5(c) of this chapter, the amount of revenue deposited in the sports complex fund under subdivision (1) shall not be affected and the reduction in tax revenue collected by the county treasurer under section 5 of this chapter as a result of the decrease in the rate shall only be allocated to reduce the quarterly deposit in the convention and exhibition center fund under section 6(c) of this chapter:

(c) Money in the sports complex fund shall be expended by the board of managers to develop and operate an indoor sports complex located in the city of Mishawaka.

(d) This section expires ~~and the tax rate imposed under this chapter shall be decreased as set forth in section 5(c) of this chapter on the later of:~~

(1) July 1, 2024; **2046.** or

(2) the date on which the operations of the indoor sports complex have expired:

SECTION 5. IC 6-9-1-6.3, AS ADDED BY P.L.108-2019, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.3. (a) As used in this section, "zoo fund" refers to the Potawatomi Zoo fund.

(b) **Beginning after June 30, 2019; and Subject to subsection (d), the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the zoo fund as follows:**



(1) If the tax is imposed at a rate of six percent (6%), forty percent (40%) of the amount of revenue collected by the county treasurer under section 5 of this chapter as a result of a one percent (1%) rate, shall be deposited as follows:

(1) Forty percent (40%) shall be deposited quarterly in the zoo fund:

(2) Sixty percent (60%) shall be deposited as set forth in section 6.2 of this chapter. If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), the sum of:

(A) five percent (5%) of the amount of revenue that is attributable to the increased tax rate; plus

(B) forty percent (40%) of the amount of revenue collected as a result of a one percent (1%) rate.

(3) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one-half of one percent (0.5%) rate.

In the event that section 6.2 of this chapter expires and the tax rate is decreased as set forth in section 5(c) of this chapter, the amount of revenue deposited in the zoo fund under subdivision (1) shall not be affected and the reduction in tax revenue collected by the county treasurer under section 5 of this chapter as a result of the decrease in the rate shall only be allocated to reduce the quarterly deposit in the convention and exhibition center fund under section 6(c) of this chapter.

(c) Money in the zoo fund shall be expended by the board of managers to:

(1) finance projects for the Potawatomi Zoo located in the city of South Bend that are included in the Potawatomi Zoo's capital improvement master plan as in effect on July 1, 2019; and

(2) refund bonds issued or pay other obligations incurred for a purpose described in subdivision (1), make lease payments incurred, or retire bonds issued to finance projects for the Potawatomi Zoo located in the city of South Bend as described in subdivision (1).

(d) This section expires and the tax rate imposed under this chapter shall be decreased as set forth in section 5(c) of this chapter on the later of:

(1) July 1, 2024; 2046. or

(2) the date on which any bonds, leases, or debt obligations that



are financed with tax revenue in the zoo fund have expired or been paid:

SECTION 6. IC 6-9-1-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 6.4. (a) As used in this section, "fund" means the Morris Performing Arts Center fund.**

(b) If the county fiscal body adopts an ordinance to increase the tax rate under section 5(b) of this chapter, the fund is established for the purpose of investing money in the Morris Performing Arts Center, which may include construction costs to:

- (1) alter or expand existing structures and buildings of, or connected or immediately adjacent to, the Morris Performing Arts Center;**
- (2) construct, expand, or repair parking facilities;**
- (3) add levels or stories to the Morris Performing Arts Center;**
- (4) improve or update the Morris Performing Arts Center; or**
- (5) create private development opportunities, such as adding retail space or residential units in, or connected or immediately adjacent to, the Morris Performing Arts Center.**

(c) Subject to subsection (e), the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the fund as follows:

- (1) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), twenty-five percent (25%) of the amount of revenue that is attributable to the increased tax rate.**
- (2) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one-half of one percent (0.5%) rate.**

(d) The board of managers shall administer the fund to:

- (1) finance, construct, improve, equip, operate, promote, and maintain the Morris Performing Arts Center;**
- (2) renovate, equip, operate, and maintain any existing structure of the Morris Performing Arts Center;**
- (3) refund bonds issued for a purpose described in subdivision (1) or (2), make lease payments incurred, or retire bonds issued to finance, construct, improve, or equip a capital project described in this section; or**
- (4) carry out any other purpose described in subsection (b).**



(e) This section expires on July 1, 2046.

SECTION 7. IC 6-9-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 6.5. (a) As used in this section, "fund" means the tourism capital investment fund.**

(b) If the county fiscal body adopts an ordinance to increase the tax rate under section 5(b) of this chapter, the fund is established for the purpose of investing money in projects that aim to enhance and expand tourism in St. Joseph County. The board of managers shall administer the fund, including establishing an application process that provides applicants with an opportunity to acquire investment money from the board of managers.

(c) The board of managers shall establish a point scoring system that scores each application based upon a project's likelihood of successfully enhancing and expanding tourism in St. Joseph County. Investment money must be awarded on a sliding scale in proportion to a project's direct ability to generate overnight lodging in the hotel motel industry of St. Joseph County. When reviewing an application, the board of managers may consider the following criteria:

- (1) A project's overall economic impact on the St. Joseph County community, including the project's ability to complement existing attractions or tourism opportunities.**
- (2) The scale of a project.**
- (3) The need for a particular project in St. Joseph County.**
- (4) The established or estimated timeline of a project, including a proposed date that a project will be completed.**
- (5) The potential for a project to provide sustainable and long term benefits.**
- (6) The estimated number of annual visitors the project will bring to St. Joseph County.**
- (7) Whether an applicant is a private-public partnership or a nonprofit organization.**
- (8) Any other information provided by an applicant or requested by the board of managers.**

(d) The county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the fund as follows:

- (1) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), fifty percent (50%) of the amount of revenue that is attributable to**



the increased tax rate.

(2) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one percent (1%) rate.

(e) In addition to subsection (d)(1) or (d)(2), as applicable, the following apply:

(1) If section 6.2 of this chapter expires, the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the fund as follows:

(A) If the tax is imposed at a rate of six percent (6%), sixty percent (60%) of the amount of revenue collected as a result of a one percent (1%) rate.

(B) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), the sum of:

(i) twenty percent (20%) of the amount of revenue that is attributable to the increased tax rate; plus

(ii) sixty percent (60%) of the amount of revenue collected as a result of a one percent (1%) rate.

(C) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one percent (1%) rate.

(2) If section 6.3 of this chapter expires, the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the fund as follows:

(A) If the tax is imposed at a rate of six percent (6%), forty percent (40%) of the amount of revenue collected as a result of a one percent (1%) rate.

(B) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), the sum of:

(i) five percent (5%) of the amount of revenue that is attributable to the increased tax rate; plus

(ii) forty percent (40%) of the amount of revenue collected as a result of a one percent (1%) rate.

(C) If the county fiscal body adopts an ordinance to



increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one-half of one percent (0.5%) rate.

(3) If section 6.4 of this chapter expires, the county treasurer, after collecting the tax revenue in accordance with section 5 of this chapter, shall quarterly deposit tax revenue in the fund as follows:

(A) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of more than six percent (6%), but less than eight percent (8%), twenty-five percent (25%) of the amount of revenue that is attributable to the increased tax rate.

(B) If the county fiscal body adopts an ordinance to increase the tax rate imposed under this chapter to a rate of eight percent (8%), the amount of revenue collected as a result of a one-half of one percent (0.5%) rate.

(f) To be eligible for investment money, an applicant must do the following:

(1) The applicant must demonstrate to the board of managers that the applicant has the capability of securing an amount of the applicant's own source revenue that must be an acceptable proportion to the board of managers relative to the amount of money requested in an application submitted under this section.

(2) As specified and agreed upon by the parties, the applicant and board of managers must enter into an agreement, before the board of managers awards investment money to an applicant under this chapter, that at a minimum requires that the applicant:

(A) use the applicant's own source revenue to support the project; and

(B) refund a percentage of investment money awarded under this section if a project is discontinued.

(3) The applicant must provide the following information in an application submitted to the board of managers:

(A) A thorough plan for the project, including a detailed analysis that demonstrates the project's strengths, weaknesses, opportunities, and potential hindrances.

(B) A project's goals and a plan to achieve those goals.

(C) An overall market analysis, including the target market and expected visitor attraction.

(D) Plans to market and promote a project.



(E) A proposed budget for a project, including identifying potential funding sources or partners.

(F) Proposed benefits expected from a project, in addition to forecasted visitor attraction so that the board of managers may determine whether a project proposes a sustainable and long term benefit.

(G) Any feasibility study completed to determine the need, opportunity, scope, and impact of a project.

(H) A list of all owners, equity partners, or significant operating partners affiliated with a project.

(g) Investment money awarded under this section may not be used to:

(1) pay maintenance or administrative expenses related to a project; or

(2) support projects that do not involve a local unit of government or nonprofit organization.

(h) A project that develops, expands, or improves:

(1) a sports venue;

(2) a convention facility;

(3) an arts venue;

(4) a tourist attraction;

(5) a park; or

(6) a college or university;

may qualify for investment money under this section.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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