

SENATE BILL No. 390

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33-13-5.

Synopsis: Wagering tax distributions. Provides that the auditor of state shall distribute certain tax revenue deposited in the state gaming fund to certain cities and counties in Ohio County.

Effective: July 1, 2021.

Garten, Perfect

January 14, 2021, read first time and referred to Committee on Appropriations.



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 BILL No. 390

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

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

1 SECTION 1. IC 4-33-13-5, AS AMENDED BY P.L.238-2019,
2 SECTION 2, AND AS AMENDED BY P.L.108-2019, SECTION 73,
3 AND AS AMENDED BY P.L.293-2019, SECTION 31, IS
4 CORRECTED AND AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) This subsection does not
6 apply to tax revenue remitted by an operating agent operating a
7 riverboat in a historic hotel district. After funds are appropriated under
8 section 4 of this chapter, each month the ~~treasurer~~ auditor of state shall
9 distribute the tax revenue deposited in the state gaming fund under this
10 chapter to the following:

- 11 (1) An amount equal to the following shall be set aside for
12 revenue sharing under subsection ~~(e)~~: (d):
13 (A) Before July 1, 2021, the first thirty-three million dollars
14 (\$33,000,000) of tax revenues collected under this chapter
15 shall be set aside for revenue sharing under subsection ~~(e)~~: (d).
16 (B) After June 30, 2021, if the total adjusted gross receipts
17 received by licensees from gambling games authorized under



1 this article during the preceding state fiscal year is equal to or
 2 greater than the total adjusted gross receipts received by
 3 licensees from gambling games authorized under this article
 4 during the state fiscal year ending June 30, 2020, the first
 5 thirty-three million dollars (\$33,000,000) of tax revenues
 6 collected under this chapter shall be set aside for revenue
 7 sharing under subsection ~~(e)~~: (d).

8 (C) After June 30, 2021, if the total adjusted gross receipts
 9 received by licensees from gambling games authorized under
 10 this article during the preceding state fiscal year is less than
 11 the total adjusted gross receipts received by licensees from
 12 gambling games authorized under this article during the state
 13 year ending June 30, 2020, an amount equal to the first
 14 thirty-three million dollars (\$33,000,000) of tax revenues
 15 collected under this chapter multiplied by the result of:

16 (i) the total adjusted gross receipts received by licensees
 17 from gambling games authorized under this article during
 18 the preceding state fiscal year; divided by

19 (ii) the total adjusted gross receipts received by licensees
 20 from gambling games authorized under this article during
 21 the state fiscal year ending June 30, 2020;

22 shall be set aside for revenue sharing under subsection ~~(e)~~: (d).

23 **(2) This subdivision does not apply to a riverboat that**
 24 **operates in Ohio County.** Subject to subsection (c), twenty-five
 25 percent (25%), of the remaining tax revenue remitted by each
 26 licensed owner shall be paid:

27 (A) to the city *in which the riverboat is located* or that is
 28 designated as the home dock of the riverboat from which the
 29 tax revenue was collected, in the case of:

30 (i) a city described in IC 4-33-12-6(b)(1)(A); ~~or~~

31 (ii) a city located in a county having a population of more
 32 than four hundred thousand (400,000) but less than seven
 33 hundred thousand (700,000); *or*

34 (iii) *Terre Haute; or*

35 (B) to the county that is designated as the home dock of the
 36 riverboat from which the tax revenue was collected, in the case
 37 of a riverboat *that is not located in a city described in clause*

38 (A) *or* whose home dock is not in a city described in clause
 39 (A).

40 **(3) This subdivision applies only to a riverboat that operates**
 41 **in Ohio County.** Subject to subsection (c), for state fiscal years
 42 **beginning after June 30, 2021, fifty percent (50%) of the**



1 remaining tax revenue remitted by the licensed owner shall
2 be:

3 (A) divided between:

4 (i) the city in which the riverboat is located or that is
5 designated as the home dock of the riverboat from which
6 the tax revenue was collected, in the case of a city
7 described in IC 4-33-12-6(b)(1)(A); and

8 (ii) the county in which the riverboat is located; or

9 (B) paid to the county that is designated as the home dock
10 of the riverboat from which the tax revenue was collected,
11 in the case of a riverboat that is not located in a city
12 described in clause (A)(i) or whose home dock is not in a
13 city described in clause (A)(i).

14 ~~(3) Subject to subsection (d);~~ (4) The remainder of the tax revenue
15 remitted by each licensed owner shall be paid to the state general
16 fund. In each state fiscal year, the *treasurer auditor* of state shall
17 make the transfer required by this subdivision not later than the
18 last business day of the month in which the tax revenue is
19 remitted to the state for deposit in the state gaming fund.
20 However, if tax revenue is received by the state on the last
21 business day in a month, the *treasurer auditor* of state may
22 transfer the tax revenue to the state general fund in the
23 immediately following month.

24 (b) This subsection applies only to tax revenue remitted by an
25 operating agent operating a riverboat in a historic hotel district after
26 June 30, ~~2015~~ 2019. After funds are appropriated under section 4 of
27 this chapter, each month the *treasurer auditor* of state shall distribute
28 the tax revenue remitted by the operating agent under this chapter as
29 follows:

30 (1) For state fiscal years beginning after June 30, 2019, but
31 ending before July 1, 2021, fifty-six and five-tenths percent
32 (56.5%) shall be paid to the state general fund.

33 (2) For state fiscal years beginning after June 30, 2021, fifty-six
34 and five-tenths percent (56.5%) shall be paid as follows:

35 (A) Sixty-six and four-tenths percent (66.4%) shall be paid to
36 the state general fund.

37 (B) Thirty-three and six-tenths percent (33.6%) shall be paid
38 to the West Baden Springs historic hotel preservation and
39 maintenance fund established by IC 36-7-11.5-11(b).

40 However, if:

41 (i) at any time the balance in that fund exceeds twenty-five
42 million dollars (\$25,000,000); or



- 1 (ii) in any part of a state fiscal year in which the operating
2 agent has received at least one hundred million dollars
3 (\$100,000,000) of adjusted gross receipts;
4 the amount described in this clause shall be paid to the state
5 general fund for the remainder of the state fiscal year.
- 6 ~~(2)~~ (3) Forty-three and five-tenths percent (43.5%) shall be paid
7 as follows:
- 8 (A) Twenty-two and four-tenths percent (22.4%) shall be paid
9 as follows:
- 10 (i) Fifty percent (50%) to the fiscal officer of the town of
11 French Lick.
- 12 (ii) Fifty percent (50%) to the fiscal officer of the town of
13 West Baden Springs.
- 14 (B) Fourteen and eight-tenths percent (14.8%) shall be paid to
15 the county treasurer of Orange County for distribution among
16 the school corporations in the county. The governing bodies
17 for the school corporations in the county shall provide a
18 formula for the distribution of the money received under this
19 clause among the school corporations by joint resolution
20 adopted by the governing body of each of the school
21 corporations in the county. Money received by a school
22 corporation under this clause must be used to improve the
23 educational attainment of students enrolled in the school
24 corporation receiving the money. Not later than the first
25 regular meeting in the school year of a governing body of a
26 school corporation receiving a distribution under this clause,
27 the superintendent of the school corporation shall submit to
28 the governing body a report describing the purposes for which
29 the receipts under this clause were used and the improvements
30 in educational attainment realized through the use of the
31 money. The report is a public record.
- 32 (C) Thirteen and one-tenth percent (13.1%) shall be paid to the
33 county treasurer of Orange County.
- 34 (D) Five and three-tenths percent (5.3%) shall be distributed
35 quarterly to the county treasurer of Dubois County for
36 appropriation by the county fiscal body after receiving a
37 recommendation from the county executive. The county fiscal
38 body for the receiving county shall provide for the distribution
39 of the money received under this clause to one (1) or more
40 taxing units (as defined in IC 6-1.1-1-21) in the county under
41 a formula established by the county fiscal body after receiving
42 a recommendation from the county executive.



- 1 (E) Five and three-tenths percent (5.3%) shall be distributed
2 quarterly to the county treasurer of Crawford County for
3 appropriation by the county fiscal body after receiving a
4 recommendation from the county executive. The county fiscal
5 body for the receiving county shall provide for the distribution
6 of the money received under this clause to one (1) or more
7 taxing units (as defined in IC 6-1.1-1-21) in the county under
8 a formula established by the county fiscal body after receiving
9 a recommendation from the county executive.
- 10 (F) Six and thirty-five hundredths percent (6.35%) shall be
11 paid to the fiscal officer of the town of Paoli.
- 12 (G) Six and thirty-five hundredths percent (6.35%) shall be
13 paid to the fiscal officer of the town of Orleans.
- 14 (H) Twenty-six and four-tenths percent (26.4%) shall be paid
15 to the Indiana economic development corporation established
16 by IC 5-28-3-1 for transfer as follows:
- 17 (i) Beginning after December 31, 2017, ten percent (10%)
18 of the amount transferred under this clause in each calendar
19 year shall be transferred to the South Central Indiana
20 Regional Economic Development Corporation or a
21 successor entity or partnership for economic development
22 for the purpose of recruiting new business to Orange County
23 as well as promoting the retention and expansion of existing
24 businesses in Orange County.
- 25 (ii) The remainder of the amount transferred under this
26 clause in each calendar year shall be transferred to Radius
27 Indiana or a successor regional entity or partnership for the
28 development and implementation of a regional economic
29 development strategy to assist the residents of Orange
30 County and the counties contiguous to Orange County in
31 improving their quality of life and to help promote
32 successful and sustainable communities.
- 33 To the extent possible, the Indiana economic development
34 corporation shall provide for the transfer under item (i) to be
35 made in four (4) equal installments. However, an amount
36 sufficient to meet current obligations to retire or refinance
37 indebtedness or leases for which tax revenues under this
38 section were pledged before January 1, 2015, by the Orange
39 County development commission shall be paid to the Orange
40 County development commission before making distributions
41 to the South Central Indiana Regional Economic Development
42 Corporation and Radius Indiana or their successor entities or



1 partnerships. The amount paid to the Orange County
 2 development commission shall proportionally reduce the
 3 amount payable to the South Central Indiana Regional
 4 Economic Development Corporation and Radius Indiana or
 5 their successor entities or partnerships.

6 (c) *This subsection does not apply to tax revenue remitted by an*
 7 *inland casino operating in Vigo County.* For each city and county
 8 receiving money under subsection (a)(2) **or (a)(3)**, the *treasurer*
 9 *auditor* of state shall determine the total amount of money paid by the
 10 *treasurer auditor* of state to the city or county during the state fiscal
 11 year 2002. The amount determined is the base year revenue for the city
 12 or county. The *treasurer auditor* of state shall certify the base year
 13 revenue determined under this subsection to the city or county. The
 14 total amount of money distributed to a city or county under this section
 15 during a state fiscal year may not exceed the entity's base year revenue.
 16 For each state fiscal year, the *treasurer auditor* of state shall pay that
 17 part of the riverboat wagering taxes that:

- 18 (1) exceeds a particular city's or county's base year revenue; and
 19 (2) would otherwise be due to the city or county under this
 20 section;

21 to the state general fund instead of to the city or county.

22 (d) *Each state fiscal year the treasurer of state shall transfer from*
 23 *the tax revenue remitted to the state general fund under subsection*
 24 *(a)(3) to the build Indiana fund an amount that when added to the*
 25 *following may not exceed two hundred fifty million dollars*
 26 *(\$250,000,000):*

27 (1) *Surplus lottery revenues under IC 4-30-17-3.*

28 (2) *Surplus revenue from the charity gaming enforcement fund*
 29 *under IC 4-32.3-7-5.*

30 (3) *Tax revenue from pari-mutuel wagering under IC 4-31-9-3.*

31 *The treasurer of state shall make transfers on a monthly basis as*
 32 *needed to meet the obligations of the build Indiana fund. If in any state*
 33 *fiscal year insufficient money is transferred to the state general fund*
 34 *under subsection (a)(3) to comply with this subsection, the treasurer*
 35 *of state shall reduce the amount transferred to the build Indiana fund*
 36 *to the amount available in the state general fund from the transfers*
 37 *under subsection (a)(3) for the state fiscal year.*

38 (e) (d) Except as provided in subsections (f) (k) and (m), (l), before
 39 August 15 of each year, the *treasurer auditor* of state shall distribute
 40 the wagering taxes set aside for revenue sharing under subsection
 41 (a)(1) to the county treasurer of each county that does not have a
 42 riverboat according to the ratio that the county's population bears to the



1 total population of the counties that do not have a riverboat. Except as
 2 provided in subsection ~~(f)~~, (g), the county auditor shall distribute the
 3 money received by the county under this subsection as follows:

4 (1) To each city located in the county according to the ratio the
 5 city's population bears to the total population of the county.

6 (2) To each town located in the county according to the ratio the
 7 town's population bears to the total population of the county.

8 (3) After the distributions required in subdivisions (1) and (2) are
 9 made, the remainder shall be retained by the county.

10 ~~(f)~~ (e) Money received by a city, town, or county under subsection
 11 ~~(e)~~ (d) or ~~(f)~~ (g) may be used for any of the following purposes:

12 (1) To reduce the property tax levy of the city, town, or county for
 13 a particular year (a property tax reduction under this subdivision
 14 does not reduce the maximum levy of the city, town, or county
 15 under IC 6-1.1-18.5).

16 (2) For deposit in a special fund or allocation fund created under
 17 IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and
 18 IC 36-7-30 to provide funding for debt repayment.

19 (3) To fund sewer and water projects, including storm water
 20 management projects.

21 (4) For police and fire pensions.

22 (5) To carry out any governmental purpose for which the money
 23 is appropriated by the fiscal body of the city, town, or county.

24 Money used under this subdivision does not reduce the property
 25 tax levy of the city, town, or county for a particular year or reduce
 26 the maximum levy of the city, town, or county under
 27 IC 6-1.1-18.5.

28 ~~(g)~~ (f) *This subsection does not apply to an inland casino operating*
 29 *in Vigo County.* Before July 15 of each year, the *treasurer auditor* of
 30 state shall determine the total amount of money distributed to an entity
 31 under IC 4-33-12-6 or IC 4-33-12-8 during the preceding state fiscal
 32 year. If the *treasurer auditor* of state determines that the total amount
 33 of money distributed to an entity under IC 4-33-12-6 or IC 4-33-12-8
 34 during the preceding state fiscal year was less than the entity's base
 35 year revenue (as determined under IC 4-33-12-9), the *treasurer auditor*
 36 of state shall make a supplemental distribution to the entity from taxes
 37 collected under this chapter and deposited into the state general fund.
 38 Except as provided in subsection ~~(f)~~, (h), the amount of an entity's
 39 supplemental distribution is equal to:

40 (1) the entity's base year revenue (as determined under
 41 IC 4-33-12-9); minus

42 (2) the sum of:



1 (A) the total amount of money distributed to the entity and
 2 constructively received by the entity during the preceding state
 3 fiscal year under IC 4-33-12-6 or IC 4-33-12-8; plus

4 (B) the amount of any admissions taxes deducted under
 5 IC 6-3.1-20-7.

6 ~~(f)~~ (g) This subsection applies only to a county containing a
 7 consolidated city. The county auditor shall distribute the money
 8 received by the county under subsection ~~(e)~~ (d) as follows:

9 (1) To each city, other than a consolidated city, located in the
 10 county according to the ratio that the city's population bears to the
 11 total population of the county.

12 (2) To each town located in the county according to the ratio that
 13 the town's population bears to the total population of the county.

14 (3) After the distributions required in subdivisions (1) and (2) are
 15 made, the remainder shall be paid in equal amounts to the
 16 consolidated city and the county.

17 ~~(f)~~ (h) *This subsection does not apply to an inland casino operating*
 18 *in Vigo County.* This subsection applies to a supplemental distribution
 19 made after June 30, 2017. The maximum amount of money that may be
 20 distributed under subsection ~~(g)~~ (f) in a state fiscal year is equal to the
 21 following:

22 (1) Before July 1, 2021, forty-eight million dollars (\$48,000,000).

23 (2) After June 30, 2021, if the total adjusted gross receipts
 24 received by licensees from gambling games authorized under this
 25 article during the preceding state fiscal year is equal to or greater
 26 than the total adjusted gross receipts received by licensees from
 27 gambling games authorized under this article during the state
 28 fiscal year ending June 30, 2020, the maximum amount is
 29 forty-eight million dollars (\$48,000,000).

30 (3) After June 30, 2021, if the total adjusted gross receipts
 31 received by licensees from gambling games authorized under this
 32 article during the preceding state fiscal year is less than the total
 33 adjusted gross receipts received by licensees from gambling
 34 games authorized under this article during the state fiscal year
 35 ending June 30, 2020, the maximum amount is equal to the result
 36 of:

37 (A) forty-eight million dollars (\$48,000,000); multiplied by

38 (B) the result of:

39 (i) the total adjusted gross receipts received by licensees
 40 from gambling games authorized under this article during
 41 the preceding state fiscal year; divided by

42 (ii) the total adjusted gross receipts received by licensees



1 from gambling games authorized under this article during
2 the state fiscal year ending June 30, 2020.

3 If the total amount determined under subsection ~~(g)~~ (f) exceeds the
4 maximum amount determined under this subsection, the amount
5 distributed to an entity under subsection ~~(g)~~ (f) must be reduced
6 according to the ratio that the amount distributed to the entity under
7 IC 4-33-12-6 or IC 4-33-12-8 bears to the total amount distributed
8 under IC 4-33-12-6 and IC 4-33-12-8 to all entities receiving a
9 supplemental distribution.

10 ~~(f)~~ (i) This subsection applies to a supplemental distribution, if any,
11 payable to Lake County, Hammond, Gary, or East Chicago under
12 subsections ~~(g)~~ (f) and ~~(i)~~ (h). Beginning in July 2016, the *treasurer*
13 *auditor* of state shall, after making any deductions from the
14 supplemental distribution required by IC 6-3.1-20-7, deduct from the
15 remainder of the supplemental distribution otherwise payable to the
16 unit under this section the lesser of:

- 17 (1) the remaining amount of the supplemental distribution; or
18 (2) the difference, if any, between:
19 (A) three million five hundred thousand dollars (\$3,500,000);
20 minus
21 (B) the amount of admissions taxes constructively received by
22 the unit in the previous state fiscal year.

23 The *treasurer auditor* of state shall distribute the amounts deducted
24 under this subsection to the northwest Indiana redevelopment authority
25 established under IC 36-7.5-2-1 for deposit in the development
26 authority revenue fund established under IC 36-7.5-4-1.

27 ~~(k)~~ (j) Money distributed to a political subdivision under subsection
28 (b):

- 29 (1) must be paid to the fiscal officer of the political subdivision
30 and may be deposited in the political subdivision's general fund
31 *(in the case of a school corporation, the school corporation may*
32 *deposit the money into either the education fund (IC 20-40-2) or*
33 *the operations fund (IC 20-40-18))* or riverboat fund established
34 under IC 36-1-8-9, or both;
35 (2) may not be used to reduce the maximum levy under
36 IC 6-1.1-18.5 of a county, city, or town or the maximum tax rate
37 of a school corporation, but, except as provided in subsection
38 ~~(b)(2)(B)~~, (b)(3)(B), may be used at the discretion of the political
39 subdivision to reduce the property tax levy of the county, city, or
40 town for a particular year;
41 (3) except as provided in subsection ~~(b)(2)(B)~~, (b)(3)(B), may be
42 used for any legal or corporate purpose of the political



1 subdivision, including the pledge of money to bonds, leases, or
2 other obligations under IC 5-1-14-4; and
3 (4) is considered miscellaneous revenue.
4 Money distributed under subsection ~~(b)(2)(B)~~ (b)(3)(B) must be used
5 for the purposes specified in subsection ~~(b)(2)(B)~~: (b)(3)(B).
6 ~~(j)~~ (k) After June 30, 2020, the amount of wagering taxes that would
7 otherwise be distributed to South Bend under subsection ~~(e)~~ (d) shall
8 be deposited as being received from all riverboats whose supplemental
9 wagering tax, as calculated under IC 4-33-12-1.5(b), is over three and
10 five-tenths percent (3.5%). The amount deposited under this
11 subsection, in each riverboat's account, is proportionate to the
12 supplemental wagering tax received from that riverboat under
13 IC 4-33-12-1.5 in the month of July. The amount deposited under this
14 subsection must be distributed in the same manner as the supplemental
15 wagering tax collected under IC 4-33-12-1.5. This subsection expires
16 June 30, 2021.
17 ~~(m)~~ (l) After June 30, 2021, the amount of wagering taxes that
18 would otherwise be distributed to South Bend under subsection ~~(e)~~ (d)
19 shall be withheld and deposited in the state general fund.

