

# In the Indiana Supreme Court

International Business Machines Corporation,  
Appellant/Cross-Appellee,

v.

State of Indiana,  
Appellee/Cross-Appellant.

Supreme Court Case No.  
19S-PL-19

Court of Appeals Case No.  
49A02-1709-PL-2006

Trial Court Case No.  
49D01-1005-PL-21451



## Amended Order

(This Amended Order modifies the Order issued October 10, 2019, by adding Justice David's name to the vote line; no other change is made.)

This matter comes before the Court on the petition for rehearing that International Business Machine Corporation (“IBM”) filed on July 25, 2019, and the parties’ briefing on the petition.

Being duly advised, the Court grants rehearing in part and modifies its original opinion, issued June 26, 2019, as follows:

We hold that the post-judgment interest due to IBM ~~runs~~ stems from the judgment on remand. Under Indiana Code section 34-13-1-6, the judgment “draw[s] interest at an annual rate of six percent (6%) from the date of the adjournment of the next ensuing session of the general assembly....” Following the judgment in this case on August 4, 2017, the next ensuing session of the General Assembly adjourned on March 14, 2018. Therefore, the post-judgment interest due to IBM runs from March 14, 2018. We summarily affirm the Court of Appeals on all other issues and affirm the trial court on all issues.

Slip op. 7.

Contemporaneous with the entry of this Order, the Court is filing its Opinion on Rehearing reflecting these changes.

Done at Indianapolis, Indiana on 10/11/2019.

Loretta H. Rush

Chief Justice of Indiana

Rush, CJ., David, J., and Goff, J., concur.

Slaughter, J., concurs in part and dissents in part with separate opinion.

Massa, J., not participating.

**Slaughter, J., concurring in part, dissenting in part.**

I respectfully dissent from the Court's limited grant of rehearing. For the reasons expressed in my separate opinion, *IBM v. State*, 124 N.E.3d 1187, 1191-93 (Ind. 2019) (Slaughter, J., concurring in part, dissenting in part), I would modify the Court's opinion further by treating the State's additional costs to implement "Hybrid" not as direct damages subject to a \$125-million cap but as consequential damages subject to a \$3-million cap.