



January 29, 2018

HOUSE BILL No. 1374

DIGEST OF HB 1374 (Updated January 25, 2018 3:50 pm - DI 58)

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: Financing and transportation. Adds a new article to the Indiana Code to consolidate and rewrite various statutes related to the Indiana finance authority (IFA), including statutes: (1) establishing the IFA; (2) specifying the powers, duties, and purposes of the IFA and the members of the IFA; and (3) governing the following programs and funds administered by the IFA: (A) state facility financing, health facility financing, educational facility financing, recreational development financing, and economic development project financing; (B) the wastewater revolving loan program, the drinking water revolving loan program, the supplemental drinking water and wastewater assistance program, and the environmental remediation revolving loan program; (C) the flood control revolving fund; (D) the infrastructure assistance program; (E) the local infrastructure program; and (F) the allocation of volume cap under federal law for private activity bonds. Repeals the existing statutes governing those programs and funds. Changes program and fund names. Repeals the statutes concerning: (1) funding and insurance for export promotion; (2) the clean coal technology program; (3) the agricultural loan and rural development project guarantee fund; (4) the issuance of bonds for the underground petroleum storage tank excess liability fund; (5) the powers of the IFA related to substitute natural gas contracts; (6) The broadband development program administered by the IFA; and (7) the IFA duty to monitor and study water quality. Adds two nonvoting legislative members to the IFA. Provides for the state, the IFA, and the northwest Indiana regional development authority to finance the
(Continued next page)

Effective: Upon passage; July 1, 2018.

Soliday, Brown T, Slager

January 11, 2018, read first time and referred to Committee on Ways and Means.
January 29, 2018, amended, reported — Do Pass.

HB 1374—LS 7151/DI 58



Digest Continued

northern Indiana commuter transportation district's construction of the mainline double tracking project and the West Lake corridor project. Requires the IFA to include in a request for proposals a statement that it will consider only offerors that have experience and quality performance in comparable projects in North America in the last two years with regard to entering into a public-private partnership for a toll road, freeway, or facility project. Requires the IFA to consider affiliates of the offeror, predecessors to the offeror, and parties that would be entering into a substantive contract with the offeror. Requires a resubmission of certain information from an offeror before the IFA holds the public meeting announcing its final selection. Requires, instead of allows, the IFA to require the filing of financial statements for the term of the public-private agreement. Eliminates using a public-private partnership for a communications infrastructure project. Continues current law appropriations for the wastewater and drinking water programs. Changes cross references to statutes that are being repealed and rewritten by the bill. Makes conforming and technical changes.

HB 1374—LS 7151/DI 58



January 29, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1374

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

- 1 SECTION 1. IC 4-3-26-2, AS ADDED BY P.L.269-2017,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 2. (a) As used in this chapter, "executive state
4 agency" refers to any agency, authority, board, bureau, commission,
5 department, division, office, or other unit of state government in the
6 executive, including the administrative, department of state
7 government established by any of the following:
8 (1) The Constitution of the State of Indiana.
9 (2) An Indiana statute.
10 (3) An administrative rule.
11 (4) An executive order.
12 (b) The term does not include the following:
13 (1) The legislative department of state government.
14 (2) The judicial department of state government.
15 (3) The Indiana finance authority ~~created~~ **established** by

HB 1374—LS 7151/DI 58



- 1 ~~IC 4-4-11-4.~~ **IC 5-1.2-3-1.**
2 (4) A political subdivision.
3 (5) A state educational institution.
4 SECTION 2. IC 4-4-10.9 IS REPEALED [EFFECTIVE JULY 1,
5 2018]. (Indiana Finance Authority Law; Definitions).
6 SECTION 3. IC 4-4-11 IS REPEALED [EFFECTIVE JULY 1,
7 2018]. (Indiana Finance Authority).
8 SECTION 4. IC 4-4-11.2 IS REPEALED [EFFECTIVE JULY 1,
9 2018]. (Additional Authority: Underground Petroleum Storage Tank
10 Excess Liability Fund).
11 SECTION 5. IC 4-4-11.5 IS REPEALED [EFFECTIVE JULY 1,
12 2018]. (State Private Activity Bond Ceiling).
13 SECTION 6. IC 4-4-11.6 IS REPEALED [EFFECTIVE JULY 1,
14 2018]. (Additional Authority; Substitute Natural Gas Contracts).
15 SECTION 7. IC 4-4-11.7 IS REPEALED [EFFECTIVE JULY 1,
16 2018]. (Monitoring, Study, and Assessment by Indiana Finance
17 Authority).
18 SECTION 8. IC 4-4-21 IS REPEALED [EFFECTIVE JULY 1,
19 2018]. (Indiana Finance Authority; Export Promotion).
20 SECTION 9. IC 4-10-19 IS REPEALED [EFFECTIVE JULY 1,
21 2018]. (Local Infrastructure Revolving Fund).
22 SECTION 10. IC 4-12-1-14.9, AS ADDED BY P.L.213-2015,
23 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2018]: Sec. 14.9. (a) As used in this section, "account" refers
25 to the state bicentennial capital account established by subsection (c).
26 (b) As used in this section, "bicentennial commission" refers to the
27 Indiana 2016 bicentennial commission established by IC 4-23-33-3
28 **(expired)**.
29 (c) The state bicentennial capital account is established within the
30 state general fund for the purposes set forth in subsection (f). The
31 account shall be administered by the budget agency. The account
32 consists of the following:
33 (1) Money transferred to the account under IC 4-13-1-4(10). ~~or~~
34 ~~IC 8-15.5-1-2(g)~~.
35 (2) Appropriations, if any, made by the general assembly.
36 (3) Grants and gifts intended for deposit in the account.
37 (4) Any earnings on money in the account.
38 (d) The expenses of administering the account shall be paid from
39 money in the account.
40 (e) Money in the account at the end of the state fiscal year does not
41 revert to the state general fund.
42 (f) Money in the account may be used only for capital projects that



1 commemorate the bicentennial of Indiana's statehood.

2 (g) The budget agency shall consult with the bicentennial
3 commission in making a determination to expend money from the
4 account for the purposes under subsection (f).

5 SECTION 11. IC 4-13-1-4, AS AMENDED BY P.L.213-2015,
6 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2018]: Sec. 4. The department shall, subject to this chapter,
8 do the following:

9 (1) Execute and administer all appropriations as provided by law,
10 and execute and administer all provisions of law that impose
11 duties and functions upon the executive department of
12 government, including executive investigation of state agencies
13 supported by appropriations and the assembly of all required data
14 and information for the use of the executive department and the
15 legislative department.

16 (2) Supervise and regulate the making of contracts by state
17 agencies.

18 (3) Perform the property management functions required by
19 IC 4-20.5-6.

20 (4) Assign office space and storage space for state agencies in the
21 manner provided by IC 4-20.5-5.

22 (5) Maintain and operate the following for state agencies:

23 (A) Central duplicating.

24 (B) Printing.

25 (C) Machine tabulating.

26 (D) Mailing services.

27 (E) Centrally available supplemental personnel and other
28 essential supporting services.

29 The department may require state agencies to use these general
30 services in the interests of economy and efficiency. The general
31 services rotary fund is established through which these services
32 may be rendered to state agencies. The budget agency shall
33 determine the amount for the general services rotary fund.

34 (6) Control and supervise the acquisition, operation, maintenance,
35 and replacement of state owned vehicles by all state agencies. The
36 department may establish and operate, in the interest of economy
37 and efficiency, a motor vehicle pool, and may finance the pool by
38 a rotary fund. The budget agency shall determine the amount to
39 be deposited in the rotary fund.

40 (7) Promulgate and enforce rules relative to the travel of officers
41 and employees of all state agencies when engaged in the
42 performance of state business. These rules may allow



1 reimbursement for travel expenses by any of the following
2 methods:

3 (A) Per diem.

4 (B) For expenses necessarily and actually incurred.

5 (C) Any combination of the methods in clauses (A) and (B).

6 The rules must require the approval of the travel by the
7 commissioner and the head of the officer's or employee's
8 department prior to payment.

9 (8) Administer IC 4-13.6.

10 (9) Prescribe the amount and form of certified checks, deposits,
11 or bonds to be submitted in connection with bids and contracts
12 when not otherwise provided for by law.

13 (10) Rent out, with the approval of the governor, any state
14 property, real or personal:

15 (A) not needed for public use; or

16 (B) for the purpose of providing services to the state or
17 employees of the state;

18 the rental of which is not otherwise provided for or prohibited by
19 law. Property may not be rented out under this subdivision for a
20 term exceeding ten (10) years at a time. However,
21 communications system infrastructure, including towers and
22 associated land, improvements, foundations, access roads and
23 rights-of-way, structures, fencing, and equipment that are
24 necessary, proper, or convenient to transmit or receive voice or
25 data communications, may be rented out under this subdivision
26 for a term not to exceed twenty-five (25) years at a time. ~~Revenue~~
27 ~~received from the rental of such communications system~~
28 ~~infrastructure shall be deposited in the state bicentennial capital~~
29 ~~account established by IC 4-12-1-14.9.~~ In addition, if property is
30 rented out for a term of more than four (4) years, the
31 commissioner must make a written determination stating the
32 reasons that it is in the best interests of the state to rent property
33 for the longer term. This subdivision does not include the power
34 to grant or issue permits or leases to explore for or take coal, sand,
35 gravel, stone, gas, oil, or other minerals or substances from or
36 under the bed of any of the navigable waters of the state or other
37 lands owned by the state.

38 (11) Have charge of all central storerooms, supply rooms, and
39 warehouses established and operated by the state and serving
40 more than one (1) agency.

41 (12) Enter into contracts and issue orders for printing as provided
42 by IC 4-13-4.1.



- 1 (13) Sell or dispose of surplus property under IC 5-22-22, or if
 2 advantageous, to exchange or trade in the surplus property toward
 3 the purchase of other supplies, materials, or equipment, and to
 4 make proper adjustments in the accounts and inventory pertaining
 5 to the state agencies concerned.
- 6 (14) With respect to power, heating, and lighting plants owned,
 7 operated, or maintained by any state agency:
- 8 (A) inspect;
 9 (B) regulate their operation; and
 10 (C) recommend improvements to those plants to promote
 11 economical and efficient operation.
- 12 (15) Administer, determine salaries, and determine other
 13 personnel matters of the department of correction ombudsman
 14 bureau established by IC 4-13-1.2-3.
- 15 (16) Adopt rules to establish and implement a "Code Adam"
 16 safety protocol as described in IC 4-20.5-6-9.2.
- 17 (17) Adopt policies and standards for making state owned
 18 property reasonably available to be used free of charge as
 19 locations for making motion pictures.
- 20 (18) Administer, determine salaries, and determine other
 21 personnel matters of the department of child services ombudsman
 22 established by IC 4-13-19-3.
- 23 SECTION 12. IC 4-13.5-1 IS REPEALED [EFFECTIVE JULY 1,
 24 2018]. (General Provisions).
- 25 SECTION 13. IC 4-13.5-4 IS REPEALED [EFFECTIVE JULY 1,
 26 2018]. (Use and Management of Office Buildings).
- 27 SECTION 14. IC 4-13.6-8-1, AS AMENDED BY P.L.235-2005,
 28 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2018]: Sec. 1. As used in this chapter, "commission" means
 30 the Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3-1**.
- 31 SECTION 15. IC 4-15-2.2-11, AS ADDED BY P.L.229-2011,
 32 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2018]: Sec. 11. As used in this chapter, "state institution"
 34 means any of the following:
- 35 (1) A state institution (as defined in IC 12-7-2-184).
 36 (2) A correctional facility (as defined in ~~IC 4-13.5-1-1~~) owned by
 37 the state and operated by the department of correction.
 38 (3) The Indiana School for the Deaf established by IC 20-22-2-1.
 39 (4) The Indiana School for the Blind and Visually Impaired
 40 established by IC 20-21-2-1.
 41 (5) The Indiana Veterans' Home as described in IC 10-17-9.
 42 (6) Any other facility owned and operated by the state whose



1 employees participate in the state civil service.

2 SECTION 16. IC 4-33-13-5, AS AMENDED BY THE
3 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL
4 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax
6 revenue remitted by an operating agent operating a riverboat in a
7 historic hotel district. After funds are appropriated under section 4 of
8 this chapter, each month the treasurer of state shall distribute the tax
9 revenue deposited in the state gaming fund under this chapter to the
10 following:

11 (1) An amount equal to the following shall be set aside for
12 revenue sharing under subsection (e):

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).

16 (B) After June 30, 2021, if the total adjusted gross receipts
17 received by licensees from gambling games authorized under
18 this article during the preceding state fiscal year is equal to or
19 greater than the total adjusted gross receipts received by
20 licensees from gambling games authorized under this article
21 during the state fiscal year ending June 30, 2020, the first
22 thirty-three million dollars (\$33,000,000) of tax revenues
23 collected under this chapter shall be set aside for revenue
24 sharing under subsection (e).

25 (C) After June 30, 2021, if the total adjusted gross receipts
26 received by ~~licenses~~ **licensees** from gambling games
27 authorized under this article during the preceding state fiscal
28 year is less than the total adjusted gross receipts received by
29 licensees from gambling games authorized under this article
30 during the state year ending June 30, 2020, an amount equal
31 to the first thirty-three million dollars (\$33,000,000) of tax
32 revenues collected under this chapter multiplied by the result
33 of:

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

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

40 shall be set aside for revenue sharing under subsection (e).

41 (2) Subject to subsection (c), twenty-five percent (25%) of the
42 remaining tax revenue remitted by each licensed owner shall be



- 1 paid:
- 2 (A) to the city that is designated as the home dock of the
- 3 riverboat from which the tax revenue was collected, in the case
- 4 of:
- 5 (i) a city described in IC 4-33-12-6(b)(1)(A); or
- 6 (ii) a city located in a county having a population of more
- 7 than four hundred thousand (400,000) but less than seven
- 8 hundred thousand (700,000); or
- 9 (B) to the county that is designated as the home dock of the
- 10 riverboat from which the tax revenue was collected, in the case
- 11 of a riverboat whose home dock is not in a city described in
- 12 clause (A).
- 13 (3) Subject to subsection (d), the remainder of the tax revenue
- 14 remitted by each licensed owner shall be paid to the state general
- 15 fund. In each state fiscal year, the treasurer of state shall make the
- 16 transfer required by this subdivision not later than the last
- 17 business day of the month in which the tax revenue is remitted to
- 18 the state for deposit in the state gaming fund. However, if tax
- 19 revenue is received by the state on the last business day in a
- 20 month, the treasurer of state may transfer the tax revenue to the
- 21 state general fund in the immediately following month.
- 22 (b) This subsection applies only to tax revenue remitted by an
- 23 operating agent operating a riverboat in a historic hotel district after
- 24 June 30, 2015. After funds are appropriated under section 4 of this
- 25 chapter, each month the treasurer of state shall distribute the tax
- 26 revenue remitted by the operating agent under this chapter as follows:
- 27 (1) Fifty-six and five-tenths percent (56.5%) shall be paid to the
- 28 state general fund.
- 29 (2) Forty-three and five-tenths percent (43.5%) shall be paid as
- 30 follows:
- 31 (A) Twenty-two and four-tenths percent (22.4%) shall be paid
- 32 as follows:
- 33 (i) Fifty percent (50%) to the fiscal officer of the town of
- 34 French Lick.
- 35 (ii) Fifty percent (50%) to the fiscal officer of the town of
- 36 West Baden Springs.
- 37 (B) Fourteen and eight-tenths percent (14.8%) shall be paid to
- 38 the county treasurer of Orange County for distribution among
- 39 the school corporations in the county. The governing bodies
- 40 for the school corporations in the county shall provide a
- 41 formula for the distribution of the money received under this
- 42 clause among the school corporations by joint resolution



1 adopted by the governing body of each of the school
2 corporations in the county. Money received by a school
3 corporation under this clause must be used to improve the
4 educational attainment of students enrolled in the school
5 corporation receiving the money. Not later than the first
6 regular meeting in the school year of a governing body of a
7 school corporation receiving a distribution under this clause,
8 the superintendent of the school corporation shall submit to
9 the governing body a report describing the purposes for which
10 the receipts under this clause were used and the improvements
11 in educational attainment realized through the use of the
12 money. The report is a public record.

13 (C) Thirteen and one-tenth percent (13.1%) shall be paid to the
14 county treasurer of Orange County.

15 (D) Five and three-tenths percent (5.3%) shall be distributed
16 quarterly to the county treasurer of Dubois County for
17 appropriation by the county fiscal body after receiving a
18 recommendation from the county executive. The county fiscal
19 body for the receiving county shall provide for the distribution
20 of the money received under this clause to one (1) or more
21 taxing units (as defined in IC 6-1.1-1-21) in the county under
22 a formula established by the county fiscal body after receiving
23 a recommendation from the county executive.

24 (E) Five and three-tenths percent (5.3%) shall be distributed
25 quarterly to the county treasurer of Crawford County for
26 appropriation by the county fiscal body after receiving a
27 recommendation from the county executive. The county fiscal
28 body for the receiving county shall provide for the distribution
29 of the money received under this clause to one (1) or more
30 taxing units (as defined in IC 6-1.1-1-21) in the county under
31 a formula established by the county fiscal body after receiving
32 a recommendation from the county executive.

33 (F) Six and thirty-five hundredths percent (6.35%) shall be
34 paid to the fiscal officer of the town of Paoli.

35 (G) Six and thirty-five hundredths percent (6.35%) shall be
36 paid to the fiscal officer of the town of Orleans.

37 (H) Twenty-six and four-tenths percent (26.4%) shall be paid
38 to the Indiana economic development corporation established
39 by IC 5-28-3-1 for transfer as follows:

40 (i) Beginning after December 31, 2017, ten percent (10%)
41 of the amount transferred under this clause in each calendar
42 year shall be transferred to the South Central Indiana



1 Regional Economic Development Corporation or a
 2 successor entity or partnership for economic development
 3 for the purpose of recruiting new business to Orange County
 4 as well as promoting the retention and expansion of existing
 5 businesses in Orange County.

6 (ii) The remainder of the amount transferred under this
 7 clause in each calendar year shall be transferred to Radius
 8 Indiana or a successor regional entity or partnership for the
 9 development and implementation of a regional economic
 10 development strategy to assist the residents of Orange
 11 County and the counties contiguous to Orange County in
 12 improving their quality of life and to help promote
 13 successful and sustainable communities.

14 To the extent possible, the Indiana economic development
 15 corporation shall provide for the transfer under item (i) to be
 16 made in four (4) equal installments. However, an amount
 17 sufficient to meet current obligations to retire or refinance
 18 indebtedness or leases for which tax revenues under this
 19 section were pledged before January 1, 2015, by the Orange
 20 County development commission shall be paid to the Orange
 21 County development commission before making distributions
 22 to the South Central Indiana Regional Economic Development
 23 Corporation and Radius Indiana or their successor entities or
 24 partnerships. The amount paid to the Orange County
 25 development commission shall proportionally reduce the
 26 amount payable to the South Central Indiana Regional
 27 Economic Development Corporation and Radius Indiana or
 28 their successor entities or partnerships.

29 (c) For each city and county receiving money under subsection
 30 (a)(2), the treasurer of state shall determine the total amount of money
 31 paid by the treasurer of state to the city or county during the state fiscal
 32 year 2002. The amount determined is the base year revenue for the city
 33 or county. The treasurer of state shall certify the base year revenue
 34 determined under this subsection to the city or county. The total
 35 amount of money distributed to a city or county under this section
 36 during a state fiscal year may not exceed the entity's base year revenue.
 37 For each state fiscal year, the treasurer of state shall pay that part of the
 38 riverboat wagering taxes that:

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

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



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

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

6 (2) Surplus revenue from the charity gaming enforcement fund
 7 under ~~IC 4-32.2-7-7~~ **IC 4-32.2-7-3**.

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

9 The treasurer of state shall make transfers on a monthly basis as needed
 10 to meet the obligations of the build Indiana fund. If in any state fiscal
 11 year insufficient money is transferred to the state general fund under
 12 subsection (a)(3) to comply with this subsection, the treasurer of state
 13 shall reduce the amount transferred to the build Indiana fund to the
 14 amount available in the state general fund from the transfers under
 15 subsection (a)(3) for the state fiscal year.

16 (e) Except as provided in subsections (l) and (m), before August 15
 17 of each year, the treasurer of state shall distribute the wagering taxes
 18 set aside for revenue sharing under subsection (a)(1) to the county
 19 treasurer of each county that does not have a riverboat according to the
 20 ratio that the county's population bears to the total population of the
 21 counties that do not have a riverboat. Except as provided in subsection
 22 (h), the county auditor shall distribute the money received by the
 23 county under this subsection as follows:

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

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

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

30 (f) Money received by a city, town, or county under subsection (e)
 31 or (h) may be used for any of the following purposes:

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

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

39 (3) To fund sewer and water projects, including storm water
 40 management projects.

41 (4) For police and fire pensions.

42 (5) To carry out any governmental purpose for which the money



1 is appropriated by the fiscal body of the city, town, or county.
 2 Money used under this subdivision does not reduce the property
 3 tax levy of the city, town, or county for a particular year or reduce
 4 the maximum levy of the city, town, or county under
 5 IC 6-1.1-18.5.

6 (g) Before July 15 of each year, the treasurer of state shall determine
 7 the total amount of money distributed to an entity under IC 4-33-12-6
 8 or IC 4-33-12-8 during the preceding state fiscal year. If the treasurer
 9 of state determines that the total amount of money distributed to an
 10 entity under IC 4-33-12-6 or IC 4-33-12-8 during the preceding state
 11 fiscal year was less than the entity's base year revenue (as determined
 12 under IC 4-33-12-9), the treasurer of state shall make a supplemental
 13 distribution to the entity from taxes collected under this chapter and
 14 deposited into the state general fund. Except as provided in subsection
 15 (i), the amount of an entity's supplemental distribution is equal to:

- 16 (1) the entity's base year revenue (as determined under
 17 IC 4-33-12-9); minus
 18 (2) the sum of:
 19 (A) the total amount of money distributed to the entity and
 20 constructively received by the entity during the preceding state
 21 fiscal year under IC 4-33-12-6 or IC 4-33-12-8; plus
 22 (B) the amount of any admissions taxes deducted under
 23 IC 6-3.1-20-7.

24 (h) This subsection applies only to a county containing a
 25 consolidated city. The county auditor shall distribute the money
 26 received by the county under subsection (e) as follows:

- 27 (1) To each city, other than a consolidated city, located in the
 28 county according to the ratio that the city's population bears to the
 29 total population of the county.
 30 (2) To each town located in the county according to the ratio that
 31 the town's population bears to the total population of the county.
 32 (3) After the distributions required in subdivisions (1) and (2) are
 33 made, the remainder shall be paid in equal amounts to the
 34 consolidated city and the county.

35 (i) This subsection applies to a supplemental distribution made after
 36 June 30, 2017. The maximum amount of money that may be distributed
 37 under subsection (g) in a state fiscal year is equal to the following:

- 38 (1) Before July 1, 2021, forty-eight million dollars (\$48,000,000).
 39 (2) After June 30, 2021, if the total adjusted gross receipts
 40 received by licensees from gambling games authorized under this
 41 article during the preceding state fiscal year is equal to or greater
 42 than the total adjusted gross receipts received by licensees from



1 gambling games authorized under this article during the state
 2 fiscal year ending June 30, 2020, the maximum amount is
 3 forty-eight million dollars (\$48,000,000).

4 (3) After June 30, 2021, if the total adjusted gross receipts
 5 received by licensees from gambling games authorized under this
 6 article during the preceding state fiscal year is less than the total
 7 adjusted gross receipts received by licensees from gambling
 8 games authorized under this article during the state fiscal year
 9 ending June 30, 2020, the maximum amount is equal to the result
 10 of:

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

12 (B) the result of:

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

16 (ii) the total adjusted gross receipts received by licensees
 17 from gambling games authorized under this article during
 18 the state fiscal year ending June 30, 2020.

19 If the total amount determined under subsection (g) exceeds the
 20 maximum amount determined under this subsection, the amount
 21 distributed to an entity under subsection (g) must be reduced according
 22 to the ratio that the amount distributed to the entity under IC 4-33-12-6
 23 or IC 4-33-12-8 bears to the total amount distributed under
 24 IC 4-33-12-6 and IC 4-33-12-8 to all entities receiving a supplemental
 25 distribution.

26 (j) This subsection applies to a supplemental distribution, if any,
 27 payable to Lake County, Hammond, Gary, or East Chicago under
 28 subsections (g) and (i). Beginning in July 2016, the treasurer of state
 29 shall, after making any deductions from the supplemental distribution
 30 required by IC 6-3.1-20-7, deduct from the remainder of the
 31 supplemental distribution otherwise payable to the unit under this
 32 section the lesser of:

33 (1) the remaining amount of the supplemental distribution; or

34 (2) the difference, if any, between:

35 (A) three million five hundred thousand dollars (\$3,500,000);
 36 minus

37 (B) the amount of admissions taxes constructively received by
 38 the unit in the previous state fiscal year.

39 The treasurer of state shall distribute the amounts deducted under this
 40 subsection to the northwest Indiana redevelopment authority
 41 established under IC 36-7.5-2-1 for deposit in the development
 42 authority **revenue** fund established under IC 36-7.5-4-1.



- 1 (k) Money distributed to a political subdivision under subsection
 2 (b):
 3 (1) must be paid to the fiscal officer of the political subdivision
 4 and may be deposited in the political subdivision's general fund
 5 or riverboat fund established under IC 36-1-8-9, or both;
 6 (2) may not be used to reduce the maximum levy under
 7 IC 6-1.1-18.5 of a county, city, or town or the maximum tax rate
 8 of a school corporation, but, except as provided in subsection
 9 (b)(2)(B), may be used at the discretion of the political
 10 subdivision to reduce the property tax levy of the county, city, or
 11 town for a particular year;
 12 (3) except as provided in subsection (b)(2)(B), may be used for
 13 any legal or corporate purpose of the political subdivision,
 14 including the pledge of money to bonds, leases, or other
 15 obligations under IC 5-1-14-4; and
 16 (4) is considered miscellaneous revenue.

17 Money distributed under subsection (b)(2)(B) must be used for the
 18 purposes specified in subsection (b)(2)(B).

19 (l) After June 30, 2020, the amount of wagering taxes that would
 20 otherwise be distributed to South Bend under subsection (e) shall be
 21 deposited as being received from all riverboats whose supplemental
 22 wagering tax, as calculated under ~~IC 4-33-12-1(e)~~, **IC 4-33-12-1(d)**, is
 23 over three and five-tenths percent (3.5%). The amount deposited under
 24 this subsection, in each riverboat's account, is proportionate to the
 25 supplemental wagering tax received from that riverboat under
 26 ~~IC 4-33-12-1(e)~~ **IC 4-33-12-1(d)** in the month of July. The amount
 27 deposited under this subsection must be distributed in the same manner
 28 as the supplemental wagering tax collected under ~~IC 4-33-12-1(e)~~:
 29 **IC 4-33-12-1(d)**. This subsection expires June 30, 2021.

30 (m) After June 30, 2021, the amount of wagering taxes that would
 31 otherwise be distributed to South Bend under subsection (e) shall be
 32 withheld and deposited in the state general fund.

33 SECTION 17. IC 4-37-4-3, AS ADDED BY P.L.167-2011,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2018]: Sec. 3. The board may do the following:

- 36 (1) Do any and all acts and things necessary, proper, or
 37 convenient to carry out this article.
 38 (2) Hold meetings under IC 5-14-1.5 at the times and places in
 39 Indiana that are prescribed by the board's bylaws.
 40 (3) Adopt an official seal.
 41 (4) Adopt bylaws.
 42 (5) Make and execute contracts and other instruments necessary



- 1 or convenient to the exercise of the board's powers.
- 2 (6) Acquire by grant, purchase, gift, devise, or lease or otherwise
- 3 and hold, use, sell, lease, manage, operate, clear, improve,
- 4 encumber, transfer, convey, exchange, or dispose of the
- 5 following:
- 6 (A) Real and personal property and any interest in real or
- 7 personal property.
- 8 (B) Facilities.
- 9 (C) Money or stocks.
- 10 (D) Any right or interest necessary or useful for carrying out
- 11 the board's powers and duties under this article.
- 12 (7) Procure insurance against any loss in connection with the
- 13 board's operations.
- 14 (8) Enter into contractual or other arrangements with the Indiana
- 15 department of administration in connection with the financing of
- 16 the state museums under IC 4-13.5.
- 17 (9) Notwithstanding IC 4-13.5-4-5 (**before its repeal**), allocate
- 18 space in museums financed by the Indiana finance authority under
- 19 IC 4-13.5.
- 20 (10) Fix and collect rents, admission charges, fees, tolls, and other
- 21 user charges for:
- 22 (A) the state museums;
- 23 (B) restaurants;
- 24 (C) other facilities; and
- 25 (D) programs, lectures, classes, tours, and trips.
- 26 (11) Maintain shops and restaurants on property that the board
- 27 manages and at other locations and employ or contract with
- 28 persons to manage the shops and restaurants.
- 29 (12) Make or sell the following:
- 30 (A) Pictures, models, books, and other representations of the
- 31 museum and its artifacts and exhibits.
- 32 (B) Souvenirs, crafts, art, videotapes, digital video discs, and
- 33 other merchandise.
- 34 (13) Pay royalties, license fees, or charges for exhibits, artifacts,
- 35 artwork, or materials.
- 36 (14) Own copyrights, trademarks, and service marks and enforce
- 37 the board's rights with respect to ownership.
- 38 (15) Conduct market research concerning the state museums.
- 39 (16) Adopt rules under IC 4-22-2 to carry out the purposes of this
- 40 article.
- 41 SECTION 18. IC 5-1-16 IS REPEALED [EFFECTIVE JULY 1,
- 42 2018]. (Indiana Finance Authority Financing of Health Facilities).



1 SECTION 19. IC 5-1-16.5 IS REPEALED [EFFECTIVE JULY 1,
2 2018]. (Indiana Health and Educational Facilities Financing Authority;
3 Additional Provisions; Financing Projects for Private Colleges and
4 Universities; Participation in Risk Retention Group).

5 SECTION 20. IC 5-1-17-5, AS ADDED BY P.L.214-2005,
6 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2018]: Sec. 5. As used in this chapter, "state agency" has the
8 meaning set forth in ~~IC 4-13.5-1-1~~; **IC 5-1.2-2**.

9 SECTION 21. IC 5-1-17.5-3 IS REPEALED [EFFECTIVE JULY
10 1, 2018]. ~~Sec. 3: As used in this chapter, "affected statutes" has the~~
11 ~~meaning set forth in IC 4-4-10.9-1.2.~~

12 SECTION 22. IC 5-1-17.5-6, AS ADDED BY P.L.233-2013,
13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2018]: Sec. 6. As used in this chapter, "bonds" has the
15 meaning set forth in ~~IC 4-4-10.9-2~~; **IC 5-1.2-2-5**.

16 SECTION 23. IC 5-1-17.5-31, AS ADDED BY P.L.233-2013,
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2018]: Sec. 31. The authority may do any of the following:

- 19 (1) Finance the improvement, construction, reconstruction,
20 renovation, and acquisition of real and personal property
21 improvements within a qualified motorsports facility.
22 (2) Exercise the authority's powers under ~~IC 4-4-11~~ **IC 5-1.2-4**
23 within a qualified motorsports facility.

24 SECTION 24. IC 5-1.2 IS ADDED TO THE INDIANA CODE AS
25 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
26 2018]:

27 **ARTICLE 1.2. INDIANA FINANCE AUTHORITY**

28 **Chapter 1. Purpose and Scope of Authority; General Provisions**

29 **Sec. 1. The authority exists and shall operate for the following**
30 **public purposes:**

- 31 (1) **Assisting, at the request of a state agency, with project or**
32 **program development on behalf of or in cooperation with the**
33 **state agency.**
34 (2) **Providing decision making concerning access to the capital**
35 **and financial markets in the name of, or for the benefit of, the**
36 **state.**
37 (3) **Enabling the state to communicate, with a single voice,**
38 **with the various participants in the financial markets,**
39 **including credit rating agencies, investment bankers,**
40 **investors, and municipal bond insurers and other credit**
41 **enhancers.**
42 (4) **Facilitating opportunities for gainful employment and**



- 1 business opportunities by the financing of economic
- 2 development projects, intrastate and interstate sales,
- 3 transactions, and business activities.
- 4 (5) Facilitating the educational enrichment (including
- 5 cultural, intellectual, scientific, or artistic opportunities) of all
- 6 the people of the state by the financing of educational facility
- 7 projects.
- 8 (6) Preventing and remediating environmental pollution,
- 9 including water pollution, air pollution, sewage and solid
- 10 waste disposal, radioactive waste, thermal pollution, radiation
- 11 contamination, and noise pollution affecting the health and
- 12 well-being of the people of the state by:
- 13 (A) the financing of economic development projects; and
- 14 (B) carrying out the purposes of this article.
- 15 (7) Facilitating the provision of safe and adequate drinking
- 16 water, helping to upgrade deteriorating infrastructure, and
- 17 facilitating wastewater and storm water management to
- 18 positively affect the public health and well-being of the people
- 19 of the state.
- 20 (8) Financing state and local infrastructure, facilities, and
- 21 assets that are publicly owned, operated, or otherwise
- 22 supported under this article.
- 23 (9) Carrying out the purposes of IC 5-1-17.5 concerning a
- 24 motorsports investment district.
- 25 (10) Administering a regional development authority
- 26 infrastructure fund established under IC 36-9-43-9.
- 27 (11) Managing, applying, and operating each of the programs
- 28 in a manner to positively affect the public health, economic
- 29 welfare, and well-being of the state and its citizens.
- 30 (12) Otherwise positively affecting the public health, economic
- 31 welfare, and well-being of the state and its citizens by
- 32 carrying out the purposes of this article.
- 33 Sec. 2. This article and the referenced statutes shall be liberally
- 34 construed to effect the purposes of this article and the referenced
- 35 statutes.
- 36 Sec. 3. Any general, special, or local law that is made applicable
- 37 to a particular entity by referring to an officer or office of the state,
- 38 an agency, a state agency, an authority, a board, a commission, a
- 39 committee, a department, a division, a bureau, an instrumentality,
- 40 an institution, an association, a service agency, a body corporate
- 41 and politic created by statute, or any other entity of the executive,
- 42 including the administrative, department of state government, or



1 a similar reference or term, is not applicable to the authority,
 2 unless the reference is made specifically applicable to or in the
 3 name of the authority or to or by naming any statutes that are
 4 specific to the authority, including the referenced statutes.
 5 However, the following statutes apply to the authority:

- 6 (1) IC 4-2-6.
 7 (2) IC 5-3.
 8 (3) IC 5-10.
 9 (4) IC 5-10.1.
 10 (5) IC 5-10.2.
 11 (6) IC 5-10.3.
 12 (7) IC 5-14-1.5.
 13 (8) IC 5-14-3.
 14 (9) IC 5-15.
 15 (10) IC 5-19.
 16 (11) IC 34-13.
 17 (12) IC 34-30-9.

18 **Chapter 2. Definitions**

19 **Sec. 1. (a)** The definitions in this chapter apply throughout this
 20 article and the referenced statutes unless the context of the statute
 21 clearly denotes otherwise.

22 **(b)** To the extent that a definition in a referenced statute is
 23 inconsistent with the definition in this chapter, the definition in the
 24 referenced statute prevails.

25 **(c)** Except as provided in subsection (b), to the extent that this
 26 article is inconsistent with any other general, special, or local law,
 27 this article is controlling and supersedes all other laws.

28 **Sec. 2. "Approved assistance"**, for purposes of the flood control
 29 program established under IC 5-1.2-13, means any loan or other
 30 financial assistance:

- 31 (1) that is requested by a participant for an eligible activity;
 32 and
 33 (2) that the authority makes available to the participant.

34 **Sec. 3. "Authority"** refers to the Indiana finance authority
 35 established by this article.

36 **Sec. 4. "Bond"**, for purposes of IC 5-1.2-16, means any:

- 37 (1) bond or mortgage credit certificate for which it is
 38 necessary to procure volume under the volume cap under
 39 Section 146 of the Internal Revenue Code; or
 40 (2) bond or other obligation for which a special volume cap is
 41 authorized under a federal act.

42 **Sec. 5. "Bonds"** means any bonds, mortgage credit certificates,



1 notes, debentures, interim certificates, revenue anticipation notes,
 2 warrants, or any other evidence of indebtedness of the authority,
 3 and, for purposes of a refunding issue, means the same types of
 4 such evidence of indebtedness of the authority and types of
 5 evidence of indebtedness of a unit (as defined in IC 36-1-2-23)
 6 issued for the purpose of refunding, renewing, paying, or otherwise
 7 providing for the payment of any such evidence of indebtedness.

8 **Sec. 6. "Bond resolution"** means the resolution or resolutions
 9 and the trust agreement, if any, authorizing or providing for the
 10 terms and conditions applicable to bonds issued under this article.

11 **Sec. 7. "Building" or "buildings"** or similar words, for purposes
 12 of financing health facility property under IC 5-1.2-7, mean any
 13 building or part of a building or addition to a building for health
 14 care purposes. The term includes the site for the building (if a site
 15 is to be acquired), equipment, heating facilities, sewage disposal
 16 facilities, landscaping, walks, drives, parking facilities, and other
 17 structures, facilities, appurtenances, materials, and supplies that
 18 may be considered necessary to render a building suitable for use
 19 and occupancy for health care purposes.

20 **Sec. 8. "Carryforward election"**, for purposes of IC 5-1.2-16,
 21 means a carryforward election of a part of the volume cap made
 22 under the authority of Section 146(f) of the Internal Revenue Code.

23 **Sec. 9. "Clean Water Act"** refers to:

- 24 (1) 33 U.S.C. 1251 et seq., and laws supplemental and
- 25 ancillary to 33 U.S.C. 1251 et seq.; and
- 26 (2) regulations adopted under 33 U.S.C. 1251 et seq., and laws
- 27 supplemental and ancillary to these regulations.

28 **Sec. 10. "Construction"**, for purposes of financing a state
 29 facility under IC 5-1.2-5, means the erection, renovation,
 30 refurbishing, or alteration of all or any part of a building, an
 31 improvement, or a structure, including installation of fixtures or
 32 equipment, landscaping of grounds, site work, and providing for
 33 other ancillary facilities pertinent to the building, improvement, or
 34 structure.

35 **Sec. 11. "Correctional facility"**, for purposes of financing a state
 36 facility under IC 5-1.2-5, means a building, a structure, or an
 37 improvement for the custody, care, confinement, or treatment of
 38 committed persons under IC 11.

39 **Sec. 12. "Cost"** includes the following:

- 40 (1) As applied to financing a health facility and health facility
- 41 property under IC 5-1.2-7, the following:
- 42 (A) The cost and the incidental and related costs of the



- 1 acquisition, repair, restoration, reconditioning,
2 refinancing, or installation of health facility property.
- 3 (B) The cost of any property interest in health facility
4 property, including an option to purchase a leasehold
5 interest.
- 6 (C) The cost of constructing health facility property, or an
7 addition to health facility property, acquiring health
8 facility property, or remodeling health facility property.
- 9 (D) The cost of architectural, engineering, legal, trustee,
10 underwriting, and related services; the cost of the
11 preparation of plans, specifications, studies, surveys, and
12 estimates of cost and of revenue; and all other expenses
13 necessary or incident to planning, providing, or
14 determining the need for or the feasibility and
15 practicability of health facility property.
- 16 (E) The cost of financing charges, including premiums or
17 prepayment penalties and interest accrued during the
18 construction of health facility property or before the
19 acquisition and installation or refinancing of the health
20 facility property for up to two (2) years after the
21 construction, acquisition, and installation or refinancing,
22 and startup costs related to health facility property for up
23 to two (2) years after such construction, acquisition, and
24 installation or refinancing.
- 25 (F) The costs paid or incurred in connection with the
26 financing of health facility property, including:
- 27 (i) out-of-pocket expenses;
28 (ii) the cost of any policy of insurance;
29 (iii) the cost of printing, engraving, and reproduction
30 services; and
31 (iv) the cost of the initial or acceptance fee of any trustee
32 or paying agent.
- 33 (G) The costs of the authority, incurred in connection with
34 providing health facility property, including reasonable
35 sums to reimburse the authority for time spent by its
36 agents or employees in providing and financing health
37 facility property.
- 38 (H) The cost paid or incurred for the administration of any
39 program for the purchase or lease of or the making of
40 loans for health facility property, by the authority, and any
41 program for the sale or lease of or making of loans for
42 health facility property to any participating provider.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(2) As applied to a park or park project under IC 5-1.2-6, the following:

- (A) The cost of construction, renovation, or improvement.**
- (B) The cost of acquisition of all land, rights in land, rights-of-way, property, rights, easements, and interests, including land under water and riparian rights acquired by the commission for construction.**
- (C) The cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any land to which buildings or structures may be moved.**
- (D) The cost of relocating public roads, railroads, and public utility facilities, including the cost of land or easements.**
- (E) The cost of all machinery and equipment, financing charges, and interest before and during construction.**
- (F) The cost of engineering and legal expenses, plans, specifications, surveys, estimates of use, and revenues.**
- (G) Other expenses necessary or incident to determining the feasibility or practicability of financing and constructing any project.**
- (H) Administrative expense.**
- (I) Other expenses that are necessary or incident to the construction of the project, the financing of construction, and the placing of the project in operation, including an initial bond service reserve.**

(3) As applied to an educational facility project under IC 5-1.2-8, all costs necessary or incident to the acquisition, construction, or funding of an educational facility project under that chapter, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of the educational facility project, reserves for principal and interest, engineering, legal, architectural, and all other necessary and incidental expenses, together with interest on bonds issued to finance the educational facility project to a date six (6) months after the estimated date of completion.

Sec. 13. "Cost of the project", for purposes of an economic development project under IC 5-1.2-9, means the cost or fair market value of construction, equipment, lands, property rights, easements, franchises, patents, financing charges, interest cost during construction, engineering and legal services, plans, specifications, surveys, cost estimates, studies, and other expenses



1 as may be necessary or incident to the development, construction,
2 financing, and placing in operation of an economic development
3 project.

4 **Sec. 14. "County", for purposes of financing health facility**
5 **property under IC 5-1.2-7, means any county in the state that owns**
6 **and operates a county hospital.**

7 **Sec. 15. "Covered taxes" refers to any of the following:**

8 (1) **The state gross retail tax imposed under IC 6-2.5-2-1 or**
9 **the use tax imposed under IC 6-2.5-3-2.**

10 (2) **The adjusted gross income tax imposed under IC 6-3-2-1.**

11 **Sec. 16. "Developer", for purposes of an economic development**
12 **project under IC 5-1.2-9, means a person who proposes to enter, or**
13 **has entered, into a financing agreement with the authority for an**
14 **economic development project and who has entered into a separate**
15 **agreement with some other persons for the substantial use of the**
16 **facilities financed.**

17 **Sec. 17. "Drinking water program" refers to the drinking water**
18 **revolving loan program established by IC 5-1.2-10.**

19 **Sec. 18. "Drinking water SRF fund" refers to the drinking**
20 **water revolving loan fund established by IC 5-1.2-10-3.**

21 **Sec. 19. "Economic development project", for purposes of**
22 **IC 5-1.2-9, means projects and undertakings that include:**

- 23 (1) **the acquisition of land, site improvements, infrastructure**
24 **improvements, buildings, or structures, rehabilitation,**
25 **renovation, and enlargement of buildings and structures,**
26 **machinery, equipment, furnishings, or facilities (or any**
27 **combination of these), comprising or being functionally**
28 **related and subordinate to any project (whether**
29 **manufacturing, commercial, agricultural, environmental,**
30 **technological, or otherwise), the development or expansion of**
31 **which serves the public purposes set forth in IC 5-1.2-1; and**
32 (2) **educational facility projects.**

33 **Sec. 20. "Educational facility", for purposes of an educational**
34 **facility project under IC 5-1.2-8, means any educational facility**
35 **property located within Indiana that:**

36 (1) **is suitable for:**

37 (A) **the instruction, feeding, recreation, or housing of**
38 **students;**

39 (B) **the conduct of research or other work of a nonprofit**
40 **college or university; or**

41 (C) **use by a nonprofit college or university in connection**
42 **with any educational, research, or related or incidental**



- 1 activity conducted by the nonprofit college or university;
 2 (2) is not used or is not to be used for sectarian instruction or
 3 study or as a place for devotional activities or workshop; and
 4 Sec. 21. (a) "Educational facility project" includes the following:
 5 (1) As applied to an educational facility project under
 6 IC 5-1.2-8, the following:
 7 (A) The acquisition, construction, enlarging, remodeling,
 8 renovation, improvement, furnishing, or equipping of an
 9 educational facility by the authority for a nonprofit college
 10 or university.
 11 (B) The funding of any liability, other loss, or insurance
 12 reserves or the funding and contribution of these insurance
 13 reserves or other capital to a risk retention group to
 14 provide insurance coverage against liability claims or
 15 other losses.
 16 (2) As applied to an educational facility project under
 17 IC 5-1.2-9, the following:
 18 (A) The acquisition of land, site improvements,
 19 infrastructure improvements, buildings, or structures, the
 20 rehabilitation, renovation, and enlargement of buildings
 21 and structures, machinery, equipment, furnishings, or
 22 facilities (or any combination of these):
 23 (i) comprising or being functionally related and
 24 subordinate to any aquaria, botanical societies, historical
 25 societies, libraries, museums, performing arts
 26 associations or societies, scientific societies, zoological
 27 societies, and independent elementary, secondary, or
 28 postsecondary educational institutions (or any
 29 combination of these) that engage in the cultural,
 30 intellectual, scientific, educational, or artistic enrichment
 31 of the people of the state, the development or expansion
 32 of which serves the purposes set forth in IC 5-1.2-9; and
 33 (ii) not used or not to be used primarily for sectarian
 34 instruction or study or as a place for devotional
 35 activities.
 36 (B) Funding (including reimbursement or refinancing) by
 37 a nonprofit organization described in subsection (b) of:
 38 (i) real property and improvements;
 39 (ii) personal property; or
 40 (iii) noncapital costs to fund a judgment, a settlement, or
 41 other cost or liability, other than an ordinary and
 42 recurring operating cost or expenditure.



1 (b) For purposes of subsection (a)(2)(B), a nonprofit
2 organization must:

3 (1) be qualified as tax exempt under Section 501(c)(3) of the
4 Internal Revenue Code; and

5 (2) have headquarters or a primary educational or exhibit
6 facility located on property owned by or titled in the name of
7 the state or an agency, a commission, or an instrumentality of
8 the state that serves the purposes set forth in IC 5-1.2-9.

9 Sec. 22. "Educational facility property", for purposes of an
10 educational facility project under IC 5-1.2-8, means any real,
11 personal, or mixed property, or any interest in real property or
12 mixed property, including:

13 (1) any real estate, appurtenances, buildings, easements,
14 equipment, furnishings, furniture, improvements, machinery,
15 or rights-of-way and structures; or

16 (2) any interest in real estate, appurtenances, buildings,
17 easements, equipment, furnishings, furniture, improvements,
18 machinery, or rights-of-way and structures.

19 Sec. 23. "Eligible activity", for purposes of the flood control
20 program established under IC 5-1.2-13, includes the following:

21 (1) The removal of obstructions and accumulated debris from
22 channels of streams.

23 (2) The clearing and straightening of channels of streams.

24 (3) The creating of new and enlarged channels of streams,
25 wherever required.

26 (4) The building or repairing of dikes, levees, or other flood
27 protective works.

28 (5) The construction of bank protection works for streams.

29 (6) The establishment of floodways.

30 (7) The conducting of all other activities that are allowed by
31 the federal Flood Control Act and federal Clean Water Act.

32 Sec. 24. "Eligible member", for purposes of an educational
33 facility project under IC 5-1.2-8, means a state educational
34 institution or any nonprofit college or university.

35 Sec. 25. "Indiana brownfields fund" refers to the Indiana
36 brownfields fund established by IC 5-1.2-12-3.

37 Sec. 26. "Indiana brownfields program" refers to the Indiana
38 brownfields revolving loan program established by IC 5-1.2-12-2.

39 Sec. 27. "Equipment", for purposes of an economic development
40 project under IC 5-1.2-9, means any capital item.

41 Sec. 28. (a) "Financial assistance agreement", for purposes of
42 the wastewater program and drinking water program established



1 under IC 5-1.2-10, the supplemental program established under
 2 IC 5-1.2-11, the Indiana brownfields program established under
 3 IC 5-1.2-12, the flood control program established under
 4 IC 5-1.2-13, the water infrastructure assistance program
 5 established under IC 5-1.2-14, and the local transportation
 6 infrastructure program established under IC 5-1.2-15, refers to a
 7 financial assistance agreement, financial aid agreement, or any
 8 other obligation between the authority and a participant under
 9 those chapters establishing the terms and conditions of a grant,
 10 loan, or other financial assistance, including forgiveness of
 11 principal if allowed under federal law, by the authority to the
 12 participant under those chapters.

13 (b) Nothing in this section restricts the authority from
 14 denominating any financial assistance agreement by any other
 15 name the authority determines to be administratively convenient.

16 Sec. 29. "Financing agreement", for purposes of an economic
 17 development project under IC 5-1.2-9, means an agreement that is
 18 entered into between the authority and a developer, user, or lender
 19 concerning the financing of, the title to, or possession of an
 20 economic development project and that provides for payments to
 21 the authority in an amount sufficient to pay the principal of,
 22 premium on, if any, and interest on bonds authorized by the
 23 authority for the financing of an economic development project.

24 Sec. 30. "Flood control fund" refers to the flood control fund
 25 established by IC 5-1.2-13.

26 Sec. 31. "Flood control program" refers to the flood control
 27 program established by IC 5-1.2-13.

28 Sec. 32. "Governing board", for purposes of the flood control
 29 program established under IC 5-1.2-13, means the legislative body
 30 created by law to administer the affairs of the participant.

31 Sec. 33. "Hazardous substance", for purposes of the Indiana
 32 brownfields program established under IC 5-1.2-12, has the
 33 meaning set forth in IC 13-11-2-98.

34 Sec. 34. "Health facility", for purposes of IC 5-1.2-7, means any
 35 facility or building that is:

36 (1) owned or used by a participating provider;

37 (2) located:

38 (A) in Indiana; or

39 (B) outside Indiana, if the participating provider that
 40 operates the facility or building, or an affiliate of the
 41 participating provider, also operates a substantial health
 42 facility or facilities, as determined by the authority, in



- 1 **Indiana; and**
- 2 **(3) utilized, directly or indirectly:**
- 3 **(A) in:**
 - 4 **(i) health care;**
 - 5 **(ii) habilitation, rehabilitation, or therapeutic services;**
 - 6 **(iii) medical research;**
 - 7 **(iv) the training or teaching of health care personnel; or**
 - 8 **(v) any related supporting services;**
- 9 **(B) to provide:**
 - 10 **(i) a residential facility for individuals with a physical,**
 - 11 **mental, or emotional disability;**
 - 12 **(ii) a residential facility for individuals with a physical or**
 - 13 **mental illness; or**
 - 14 **(iii) a residential facility for the elderly; or**
- 15 **(C) as a licensed child caring institution that provides**
- 16 **residential care described in IC 12-7-2-29(1) or**
- 17 **corresponding provisions of the laws of the state in which**
- 18 **the facility or building is located.**

19 **Sec. 35. "Health facility property", for purposes of IC 5-1.2-7,**
 20 **means any tangible or intangible property or asset owned or used**
 21 **by a participating provider that:**

- 22 **(1) is determined by the authority to be necessary or helpful,**
- 23 **directly or indirectly, to provide:**
 - 24 **(A) health care;**
 - 25 **(B) medical research;**
 - 26 **(C) training or teaching of health care personnel;**
 - 27 **(D) habilitation, rehabilitation, or therapeutic services; or**
 - 28 **(E) any related supporting services;**

29 **regardless of whether the property is in existence at the time**
 30 **of, or is to be provided after the making of, the finding;**

- 31 **(2) is:**
 - 32 **(A) a residential facility for individuals with a physical,**
 - 33 **mental, or emotional disability;**
 - 34 **(B) a residential facility for individuals with a physical or**
 - 35 **mental illness; or**
 - 36 **(C) a residential facility for the elderly; or**
- 37 **(3) is a licensed child caring institution providing residential**
- 38 **care described in IC 12-7-2-29(1) or corresponding provisions**
- 39 **of the laws of the state in which the property is located.**

40 **Sec. 36. "IHCDA" refers to the Indiana housing and community**
 41 **development authority created by IC 5-20-1.**

42 **Sec. 37. "Internal Revenue Code" has the meaning set forth in**



- 1 IC 6-3-1-11.
- 2 Sec. 38. "ISMEL" refers to the Indiana secondary market for
3 education loans, incorporated, designated by the governor under
4 IC 20-12-21.2-2 (before its repeal) or IC 21-16-5-1.
- 5 Sec. 39. "Issuer", for purposes of IC 5-1.2-16, means the
6 authority, IHEDA, ISMEL, a local unit, or any other issuer of
7 bonds that must procure volume under the volume cap.
- 8 Sec. 40. "Liability", for purposes of an educational facility
9 project under IC 5-1.2-8, means legal liability for damages
10 (including costs of defense, legal costs and fees, and other claims
11 for expenses) because of injuries to other persons or entities,
12 damage to the property or business of other persons or entities, or
13 other damage or loss to the other persons or entities resulting from
14 or arising out of any activity of an eligible member.
- 15 Sec. 41. "Liability or other loss insurance reserves", for
16 purposes of an educational facility project under IC 5-1.2-8, means
17 a fund or funds set aside as a reserve to cover risk retained by an
18 eligible member in connection with liability claims or other losses.
- 19 Sec. 42. "Loan contract", for purposes of financing a state
20 facility under IC 5-1.2-5, means a debt instrument other than a
21 revenue bond and includes but is not limited to a note.
- 22 Sec. 43. "Local transportation infrastructure program" refers
23 to the local infrastructure program established by IC 5-1.2-15.
- 24 Sec. 44. "Local transportation infrastructure project" means a
25 facility to be financed under the local transportation infrastructure
26 program.
- 27 Sec. 45. "Local transportation infrastructure revolving fund"
28 refers to the local transportation infrastructure revolving fund
29 established under the local transportation infrastructure program.
- 30 Sec. 46. "Local unit", for purposes of IC 5-1.2-16, means a
31 county, city, or town.
- 32 Sec. 47. "Mental health facility", for purposes of IC 5-1.2-5,
33 means a building, a structure, or an improvement for the care,
34 maintenance, or treatment of persons with mental or addictive
35 disorders.
- 36 Sec. 48. "Mortgage credit certificate" refers to a mortgage
37 credit certificate issued under Section 25 of the Internal Revenue
38 Code.
- 39 Sec. 49. "NAICS Manual" refers to the current edition of the
40 North American Industry Classification System Manual - United
41 States published by the National Technical Information Service of
42 the United States Department of Commerce.



1 **Sec. 50. "Net revenues"**, for purposes of financing a health
 2 facility and health facility property under IC 5-1.2-7, means the
 3 revenues of a hospital remaining after provision for proper and
 4 reasonable expenses of operation, repair, replacement, and
 5 maintenance of the hospital.

6 **Sec. 51. "Nonprofit college or university"**, for purposes of an
 7 educational facility project under IC 5-1.2-8, has the meaning set
 8 forth in IC 21-7-13-23(a).

9 **Sec. 52. "Park"**, for purposes of IC 5-1.2-6, includes any land
 10 suitable for public recreational facilities, including all parks,
 11 reservoirs, land, and water under the jurisdiction of the
 12 department of natural resources. The term does not include park
 13 and park facilities of political subdivisions of the state.

14 **Sec. 53. "Park project"**, for purposes of IC 5-1.2-6, includes
 15 facilities, renovations, improvements, adjuncts, and appurtenances
 16 necessary or proper to the operation of public parks, such as the
 17 following:

- 18 (1) Means of ingress and egress and interior arterial systems.
- 19 (2) Food and lodging facilities.
- 20 (3) Camping areas.
- 21 (4) Boating facilities.
- 22 (5) Public participation sports facilities.
- 23 (6) Parking lots.
- 24 (7) Garages.
- 25 (8) Trailer sites.
- 26 (9) Automotive service facilities.
- 27 (10) Communication systems.
- 28 (11) Sewers, drains, and other sanitary facilities for the
- 29 treatment of sewage, garbage, and wastes.
- 30 (12) The furnishing of utility service necessary to serve the
- 31 property under the jurisdiction or control of the commission.
- 32 (13) Other buildings and facilities whose acquisition and use
- 33 are consistent with the purposes of this chapter.

34 The term does not include park and park facilities of political
 35 subdivisions of the state or the acquisition of railroad
 36 rights-of-way.

37 **Sec. 54. "Participant"** means the following:

- 38 (1) For purposes of the wastewater program established
 39 under IC 5-1.2-10:
 - 40 (A) a political subdivision; or
 - 41 (B) any person, entity, association, trust, or other manner
 - 42 of participant allowed by law to enter contractual



- 1 arrangements for a purpose eligible for assistance under
- 2 the federal Clean Water Act.
- 3 (2) For purposes of the drinking water program established
- 4 under IC 5-1.2-10:
- 5 (A) a political subdivision; or
- 6 (B) any person, entity, association, trust, or other manner
- 7 of participant allowed by law to enter contractual
- 8 arrangements for a purpose eligible for assistance under
- 9 the federal Safe Drinking Water Act.
- 10 (3) For purposes of the supplemental program established
- 11 under IC 5-1.2-11, the Indiana brownfields program
- 12 established under IC 5-1.2-12, the flood control program
- 13 established under IC 5-1.2-13, and the water infrastructure
- 14 assistance program established under IC 5-1.2-14:
- 15 (A) a political subdivision; or
- 16 (B) any person, entity, association, trust, or other manner
- 17 of participant allowed by law to enter contractual
- 18 arrangements for a purpose eligible for assistance under
- 19 those chapters.
- 20 (4) For purposes of the local transportation infrastructure
- 21 program established under IC 5-1.2-15:
- 22 (A) a political subdivision;
- 23 (B) an agency, authority, department, instrumentality, or
- 24 body corporate and politic acting on behalf of a political
- 25 subdivision; or
- 26 (C) a regional authority, instrumentality, or body
- 27 corporate and politic acting on behalf of one (1) or more
- 28 entities described in clause (A) or (B).
- 29 Sec. 55. "Participating provider", for purposes of financing a
- 30 health facility and health facility property under IC 5-1.2-7, means
- 31 a person, corporation, municipal corporation, political subdivision,
- 32 or other entity, public or private, that:
- 33 (1) is located in Indiana or outside Indiana;
- 34 (2) contracts with the authority for the financing or
- 35 refinancing of, or the lease or other acquisition of, health
- 36 facility property that is located:
- 37 (A) in Indiana; or
- 38 (B) outside Indiana, if the financing, refinancing, lease, or
- 39 other acquisition also includes a substantial component, as
- 40 determined by the authority, for the benefit of a health
- 41 facility or facilities located in Indiana;
- 42 (3) is:



- 1 (A) licensed under IC 12-25, IC 16-21, IC 16-28, or
 2 corresponding laws of the state in which the property is
 3 located;
- 4 (B) a regional blood center;
- 5 (C) a community mental health center or community
 6 intellectual disability and other developmental disabilities
 7 center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or
 8 corresponding provisions of laws of the state in which the
 9 property is located);
- 10 (D) an entity that:
- 11 (i) contracts with the division of disability and
 12 rehabilitative services or the division of mental health
 13 and addiction to provide the program described in
 14 IC 12-11-1.1-1(e) or IC 12-22-2; or
- 15 (ii) provides a similar program under the laws of the
 16 state in which the entity is located;
- 17 (E) a vocational rehabilitation center established under
 18 IC 12-12-1-4.1(a)(1) or corresponding provisions of the
 19 laws of the state in which the property is located;
- 20 (F) the owner or operator of a facility that is utilized,
 21 directly or indirectly, to provide health care, habilitation,
 22 rehabilitation, therapeutic services, medical research, the
 23 training or teaching of health care personnel, or any
 24 related supporting services, or of a residential facility for
 25 individuals with a physical, mental, or emotional disability,
 26 individuals with a physical or mental illness, or the elderly;
- 27 (G) a licensed child caring institution providing residential
 28 care described in IC 12-7-2-29(1) or corresponding
 29 provisions of the laws of the state in which the property is
 30 located;
- 31 (H) an integrated health care system between or among
 32 providers, a health care purchasing alliance, a health
 33 insurer or third party administrator that is a participant
 34 in an integrated health care system, a health maintenance
 35 or preferred provider organization, or a foundation that
 36 supports a health care provider; or
- 37 (I) an individual, business entity, or governmental entity
 38 that owns an equity or membership interest in any of the
 39 organizations described in clauses (A) through (H); and
- 40 (4) in the case of a person, corporation, municipal
 41 corporation, political subdivision, or other entity located
 42 outside Indiana, is owned or controlled by, under common



1 control with, affiliated with, or part of an obligated group that
 2 includes an entity that provides one (1) or more of the
 3 following services or facilities in Indiana:

4 (A) A facility that provides:

- 5 (i) health care;
- 6 (ii) habilitation, rehabilitation, or therapeutic services;
- 7 (iii) medical research;
- 8 (iv) training or teaching of health care personnel; or
- 9 (v) any related supporting services.

10 (B) A residential facility for:

- 11 (i) individuals with a physical, mental, or emotional
- 12 disability;
- 13 (ii) individuals with a physical or mental illness; or
- 14 (iii) the elderly.

15 (C) A child caring institution providing residential care
 16 described in IC 12-7-2-29(1).

17 Sec. 56. "Person" means an individual, a partnership, a
 18 corporation, a limited liability company, an unincorporated
 19 association, or a governmental entity.

20 Sec. 57. "Political subdivision" means any of the following:

- 21 (1) A political subdivision (as defined in IC 36-1-2-13).
- 22 (2) A regional water, sewage, or solid waste district organized
 23 under:
- 24 (A) IC 13-26; or
- 25 (B) IC 13-3-2 (before its repeal July 1, 1996).
- 26 (3) A local public improvement bond bank organized under
 27 IC 5-1.4.
- 28 (4) A qualified entity described in IC 5-1.5-1-8(4) that is a
 29 public water utility described in IC 8-1-2-125.
- 30 (5) A conservancy district established pursuant to IC 14-33.
- 31 (6) A district organized under IC 14-27-8.

32 Sec. 58. "Pollution", for purposes of IC 5-1.2-9, means all forms
 33 of environmental pollution, including water pollution, air pollution,
 34 sewage, solid and radioactive waste, thermal pollution, radiation
 35 contamination, and noise pollution.

36 Sec. 58.4. "Pollution control facility", for purposes of IC 5-1.2-9,
 37 means a facility for the abatement, reduction, or prevention of
 38 pollution or for the removal or treatment of any substances in
 39 materials being processed that otherwise would cause pollution
 40 when used. This includes the following:

- 41 (1) Coal washing, coal cleaning, or coal preparation facilities
 42 designed to reduce the sulfur and ash levels of Indiana coal.



- 1 (2) Coal-fired boiler facilities designed to reduce emissions
2 while burning Indiana coal.
- 3 (3) Pollution control equipment to allow for the
4 environmentally sound use of Indiana coal.
- 5 **Sec. 59. "Program" or "programs" means:**
- 6 (1) the drinking water program established under IC 5-1.2-10;
7 (2) the Indiana brownfields program established under
8 IC 5-1.2-12;
9 (3) the flood control program established under IC 5-1.2-13;
10 (4) the water infrastructure assistance program established
11 under IC 5-1.2-14;
12 (5) the local transportation infrastructure program
13 established under IC 5-1.2-15;
14 (6) the storm water management program;
15 (7) the supplemental program established under IC 5-1.2-11;
16 and
17 (8) the wastewater program established under IC 5-1.2-10.
- 18 **Sec. 60. "Public finance director" means the public finance**
19 **director appointed under IC 5-1.2-3-6.**
- 20 **Sec. 61. "Public water system", for purposes of the drinking**
21 **water program established under IC 5-1.2-10, and the**
22 **supplemental program established under IC 5-1.2-11, has the**
23 **meaning set forth in the federal Safe Drinking Water Act.**
- 24 **Sec. 62. "Referenced statutes" means all statutes that grant a**
25 **power to or impose a duty on the authority, including but not**
26 **limited to this article, IC 5-1-17, IC 5-1-17.5, IC 5-1.3, IC 8-9.5,**
27 **IC 8-14.5, IC 8-15, IC 8-15.5, and IC 8-16.**
- 28 **Sec. 63. "Regional blood center", for purposes of financing**
29 **health facility property under IC 5-1.2-7, means a nonprofit**
30 **corporation or corporation created under 36 U.S.C. 1 that:**
- 31 (1) is:
- 32 (A) accredited by the American Association of Blood
33 Banks; or
34 (B) registered or licensed by the Food and Drug
35 Administration of the Department of Health and Human
36 Services; and
- 37 (2) owns and operates a health facility that is primarily
38 engaged in:
- 39 (A) drawing, testing, processing, and storing human blood
40 and providing blood units or components to hospitals; or
41 (B) harvesting, testing, typing, processing, and storing
42 human body tissue and providing this tissue to hospitals.



1 **Sec. 64. "Regional health facility", for purposes of financing a**
 2 **state facility under IC 5-1.2-5, means a building, a structure, or an**
 3 **improvement to a building or structure for the care, maintenance,**
 4 **or treatment of adults or children with mental illness,**
 5 **developmental disabilities, addictions, or other medical or**
 6 **rehabilitative needs.**

7 **Sec. 65. "Remediation", for purposes of the Indiana brownfields**
 8 **program established under IC 5-1.2-12, means any of the**
 9 **following:**

10 **(1) Actions necessary to:**

11 **(A) prevent;**

12 **(B) minimize; or**

13 **(C) mitigate;**

14 **damages to the public health or welfare or to the environment**
 15 **that may otherwise result from a release or threat of a release**
 16 **of hazardous substances or petroleum.**

17 **(2) Actions consistent with a permanent remedy taken instead**
 18 **of or in addition to removal actions if a release or threatened**
 19 **release of a hazardous substance or petroleum into the**
 20 **environment occurs to eliminate the release of hazardous**
 21 **substances or petroleum so that the hazardous substances or**
 22 **petroleum do not migrate to cause substantial danger to**
 23 **present or future public health or welfare or the environment.**

24 **(3) The clean-up or removal of released hazardous substances**
 25 **or petroleum from the environment.**

26 **Sec. 66. "Revenues", for purposes of an educational facility**
 27 **project under IC 5-1.2-8, means the rents, fees, charges, and other**
 28 **income or profit derived from the educational facility project.**

29 **Sec. 67. "Risk retention group", for purposes of an educational**
 30 **facility project under IC 5-1.2-8, means a trust, pool, corporation,**
 31 **limited liability company, partnership, or joint venture funded by**
 32 **and owned and operated for the benefit of more than one (1)**
 33 **eligible member.**

34 **Sec. 68. "Safe Drinking Water Act" refers to:**

35 **(1) 42 U.S.C. 300f et seq., and laws supplemental and ancillary**
 36 **to these laws; and**

37 **(2) regulations adopted under 42 U.S.C. 300f et seq., and laws**
 38 **supplemental and ancillary to these regulations.**

39 **Sec. 69. "SIC Manual" refers to the current edition of the**
 40 **Standard Industrial Classification Manual of the United States**
 41 **Office of Management and Budget.**

42 **Sec. 70. "Special volume cap" means the maximum dollar**



1 amount of bonds that may be allocated to the state under the
 2 authority of a federal act. The special volume cap is in addition to
 3 the volume cap as defined in section 80 of this chapter.

4 Sec. 71. "State agency" means an authority, a board, a
 5 commission, a committee, a department, a division, or other
 6 instrumentality of state government, but does not include a state
 7 educational institution.

8 Sec. 72. "State educational institution", for purposes of an
 9 educational facility project under IC 5-1.2-8, has the meaning set
 10 forth in IC 21-7-13-32.

11 Sec. 73. "State facility", for purposes of IC 5-1.2-5, means all or
 12 any part of one (1) or more buildings, structures, or improvements
 13 (whether new or existing), or parking areas (whether surface or an
 14 above or below ground parking garage or garages), owned or
 15 leased by the authority or the state for the purpose of:

- 16 (1) housing the personnel or activities of state agencies or
 17 branches of state government;
- 18 (2) providing transportation or parking for state employees or
 19 persons having business with state government;
- 20 (3) providing a correctional facility;
- 21 (4) providing a mental health facility; or
- 22 (5) providing a regional health facility.

23 Sec. 74. "Storm water management program" means a program
 24 that is consistent with the requirements in:

- 25 (1) 40 CFR 122.26(d)(2)(iv) for a proposed management
 26 program; or
- 27 (2) 40 CFR 122.34 for a storm water management program.

28 Sec. 75. "Supplemental fund" refers to the supplemental
 29 drinking water and wastewater assistance fund established by
 30 IC 5-1.2-11.

31 Sec. 76. "Supplemental program" refers to the supplemental
 32 drinking water and wastewater assistance program established by
 33 IC 5-1.2-11.

34 Sec. 77. "Taxable bonds" means bonds, the interest on which
 35 will not be excluded from the gross income of the owners of the
 36 bonds under Section 103 of the Internal Revenue Code.

37 Sec. 78. "Tax exempt bonds" means bonds, the interest on which
 38 is excludable from the gross income of the owners of the bonds
 39 under Section 103 of the Internal Revenue Code.

40 Sec. 79. "User" means a person who has entered into a financing
 41 agreement with the authority or lender or a contract for use with
 42 the developer or lender in contemplation of the person's use of an



1 economic development project.

2 Sec. 80. "Volume cap", as it relates to a year, means the
3 maximum dollar amount of bonds that may be issued by issuers
4 within that year under Section 146 of the Internal Revenue Code.

5 Sec. 81. "Wastewater program" refers to the wastewater
6 revolving loan program established by IC 5-1.2-10.

7 Sec. 82. "Wastewater SRF fund" refers to the wastewater
8 revolving loan fund established by IC 5-1.2-10.

9 Sec. 83. "Water infrastructure assistance program" refers to
10 the infrastructure assistance program established by IC 5-1.2-14.

11 **Chapter 3. Indiana Finance Authority**

12 Sec. 1. (a) There is established for the public purposes set forth
13 in this article a body politic and corporate, not a state agency but
14 an independent instrumentality exercising essential public
15 functions, to be known as the Indiana finance authority. The
16 authority is separate and apart from the state in its corporate and
17 sovereign capacity, and though separate from the state, the
18 exercise by the authority of its powers constitutes an essential
19 governmental, public, and corporate function.

20 (b) The authority is composed of seven (7) members.

21 (c) The following five (5) members are voting members:

22 (1) The director of the office of management and budget, or
23 the director's designee, who shall serve as chair of the
24 authority.

25 (2) The treasurer of state, or the treasurer of state's designee.

26 (3) Three (3) members appointed by the governor, not more
27 than two (2) of whom may be from the same political party.

28 (d) The sixth and seventh members are nonvoting members.
29 Each of these members must be a member of the general assembly.
30 The chairperson and the vice chairperson of the legislative council
31 shall each appoint one (1) of the nonvoting members.

32 (e) All members must be residents of Indiana.

33 Sec. 2. (a) Appointments to the authority under section 1(c)(3)
34 of this chapter are for terms of four (4) years. Each member
35 appointed to the authority under section 1(c)(3) of this chapter:

36 (1) holds office for the term of this appointment;

37 (2) continues to serve after expiration of the appointment until
38 a successor is appointed and qualified;

39 (3) is eligible for reappointment; and

40 (4) may be removed from office by the governor with or
41 without cause and serves at the pleasure of the governor.

42 The governor shall fill a vacancy for the unexpired term of any



1 member appointed under section 1(c)(3) of this chapter.

2 (b) The appointment to the authority under section 1(d) of this
3 chapter is for a term of two (2) years. A member appointed to the
4 authority under section 1(d) of this chapter:

5 (1) holds office for the term of this appointment;

6 (2) continues to serve after expiration of the appointment until
7 a successor is appointed and qualified;

8 (3) is eligible for reappointment; and

9 (4) may be removed from office by the appointing authority
10 with or without cause and serves at the pleasure of the
11 appointing authority.

12 The appointing authority shall fill a vacancy for the unexpired
13 term of a member appointed under section 1(d) of this chapter.

14 Sec. 3. (a) The members shall elect from among their number a
15 vice chair and other officers as they may determine.

16 (b) The members of the authority are entitled to reimbursement
17 for traveling expenses and other expenses actually incurred in
18 connection with their duties as provided by law. Members are not
19 entitled to the salary per diem provided by IC 4-10-11-2.1(b) or
20 any other compensation while performing their duties.

21 Sec. 4. The powers of the authority are vested in the members.
22 Three (3) members of the authority constitute a quorum for the
23 transaction of business. The affirmative vote of at least three (3)
24 members is necessary for any action to be taken by the authority.
25 Members may vote by written proxy delivered in advance to any
26 other member who is present at the meeting. A vacancy in the
27 membership of the authority does not impair the right of a quorum
28 to exercise all rights and perform all duties of the authority.

29 Sec. 5. Meetings of the members of the authority shall be held at
30 the call of the chair or whenever any three (3) members so request.
31 The members shall meet at least once every three (3) months to
32 attend to the business of the authority.

33 Sec. 6. The governor shall appoint the public finance director,
34 who serves at the pleasure of the governor. The public finance
35 director shall:

36 (1) administer, manage, and direct the affairs and activities of
37 the authority and the employees of the authority in
38 accordance with the policies and under the control and
39 direction of the members of the authority;

40 (2) approve all accounts for salaries, allowable expenses of the
41 authority or of any employee or consultant, and expenses
42 incidental to the operation of the authority; and



1 (3) perform other duties as may be directed by the members
2 of the authority in carrying out the purposes of the referenced
3 statutes.

4 **Sec. 7. The public finance director, or the public finance**
5 **director's designee, shall attend the meetings of the members of the**
6 **authority, shall keep a record of the proceedings of the authority,**
7 **and shall maintain and be custodian of all books, documents, and**
8 **papers filed with the authority and its official seal. The public**
9 **finance director may make copies of all minutes and other records**
10 **and documents of the authority and may give certificates under**
11 **seal of the authority to the effect that the copies are true copies. All**
12 **persons dealing with the authority may rely upon these certificates.**

13 **Sec. 8. (a) The authority may, without the approval of the**
14 **attorney general or any other state officer, employ bond counsel,**
15 **other legal counsel, technical experts, and such other officers,**
16 **agents, and employees, permanent or temporary, as the authority**
17 **considers necessary to carry out the efficient operation of the**
18 **authority, and shall determine their qualifications, duties,**
19 **compensation, and terms of service. The authority shall fix the**
20 **compensation of the public finance director.**

21 **(b) The members of the authority may adopt a resolution**
22 **delegating to:**

23 **(1) a member of the authority;**

24 **(2) the public finance director; or**

25 **(3) one (1) or more agents or employees of the authority;**

26 **administrative duties that they consider proper, including the**
27 **powers of the authority set forth in this chapter.**

28 **(c) Employees of the authority shall not be considered**
29 **employees of the state.**

30 **Sec. 9. Any member or employee of the authority who has, will**
31 **have, or later acquires an interest, direct or indirect, in any**
32 **transaction with the authority shall immediately disclose the**
33 **nature and extent of the interest in writing to the authority as soon**
34 **as the member or employee has knowledge of the actual or**
35 **prospective interest. The disclosure shall be announced in an open**
36 **meeting and entered in the minutes of the authority. Upon**
37 **disclosure, the member or employee shall not participate in any**
38 **action by the authority authorizing the transaction. An interest**
39 **shall not invalidate actions by the authority with the participation**
40 **of the disclosing member before the time when the member became**
41 **aware of the interest or should reasonably have become aware of**
42 **the interest.**



1 **Sec. 10. Notwithstanding any other law, no officer or employee**
 2 **of the state forfeits the officer's or employee's office or employment**
 3 **by reason of the officer's or employee's acceptance of membership**
 4 **in the authority or by reason of the officer or employee providing**
 5 **services to the authority.**

6 **Sec. 11. (a) Each member of the authority, the public finance**
 7 **director, and any other employee or agent of the authority**
 8 **authorized by resolution of the authority to handle funds or sign**
 9 **checks, before beginning the individual's duties, shall execute a**
 10 **surety bond in the penal sum of fifty thousand dollars (\$50,000). To**
 11 **the extent an individual described in this section is already covered**
 12 **by a bond required by state law, the individual need not obtain**
 13 **another bond so long as the bond required by state law is in at least**
 14 **the penal sum specified in this section and covers the individual's**
 15 **activities for the authority. Instead of a bond, the chair of the**
 16 **authority may execute a blanket surety bond covering each**
 17 **member and the employees or other officers of the authority. Each**
 18 **surety bond shall be conditioned upon the faithful performance of**
 19 **the individual's duties and shall be issued by a surety company**
 20 **authorized to transact business in this state as surety. At all times**
 21 **after the issuance of any surety bonds, each individual described in**
 22 **this section shall maintain the surety bonds in full force and effect.**
 23 **All costs of the surety bonds shall be borne by the authority.**

24 **(b) The public finance director, before beginning the public**
 25 **finance director's duties, must:**

- 26 (1) execute a surety bond as provided in subsection (a); or
- 27 (2) be included in the coverage of a blanket surety bond
- 28 described in subsection (a).

29 **Chapter 4. General Powers and Duties**

30 **Sec. 1. (a) The authority is granted all powers necessary or**
 31 **appropriate to carry out and effectuate its public and corporate**
 32 **purposes under the referenced statutes, including the following:**

- 33 (1) Have perpetual succession as a body politic and corporate
- 34 and an independent instrumentality exercising essential public
- 35 functions.
- 36 (2) Without complying with IC 4-22-2, adopt, amend, and
- 37 repeal bylaws, rules, guidelines, and policies not inconsistent
- 38 with the referenced statutes, and necessary or convenient to
- 39 regulate its affairs and to carry into effect the powers, duties,
- 40 and purposes of the authority and conduct its business under
- 41 the referenced statutes. These bylaws, rules, guidelines, and
- 42 policies must be made by a resolution of the authority



- 1 introduced at one (1) meeting and approved at a subsequent
 2 meeting of the authority.
 3 (3) Sue and be sued in its own name.
 4 (4) Have an official seal and alter it at will.
 5 (5) Maintain an office or offices at a place or places within the
 6 state as it may designate.
 7 (6) Make, execute, and enforce contracts and all other
 8 instruments necessary, convenient, or desirable for the
 9 purposes of the authority or pertaining to:
 10 (A) a purchase, acquisition, or sale of securities or other
 11 investments; or
 12 (B) the performance of the authority's duties and execution
 13 of any of the authority's powers under the referenced
 14 statutes.
 15 (7) Employ architects, engineers, attorneys, space planners,
 16 construction managers, inspectors, accountants, agriculture
 17 experts, silviculture experts, aquaculture experts, and
 18 financial experts, and any other advisers, consultants, and
 19 agents as may be necessary in its judgment and to fix their
 20 compensation and contract for the creation of plans and
 21 specifications for a facility.
 22 (8) Procure insurance against any loss in connection with its
 23 property and other assets, including loans and loan notes in
 24 amounts and from insurers as it may consider advisable.
 25 (9) Borrow money, make guaranties, issue bonds, and
 26 otherwise incur indebtedness for any of the authority's
 27 purposes, and issue debentures, notes, or other evidence of
 28 indebtedness, whether secured or unsecured, to any person, as
 29 provided by the referenced statutes. Notwithstanding any
 30 other law, the:
 31 (A) issuance by the authority of any indebtedness that
 32 establishes a procedure for the authority or a person acting
 33 on behalf of the authority to certify to the general assembly
 34 the amount needed to restore a debt service reserve fund
 35 or another fund to required levels; or
 36 (B) execution by the authority of any other agreement that
 37 creates a moral obligation of the state to pay all or part of
 38 any indebtedness issued by the authority;
 39 is subject to review by the budget committee and approval by
 40 the budget director.
 41 (10) Procure insurance or guaranties from any public or
 42 private entities, including any department, agency, or



1 instrumentality of the United States, to guarantee, insure,
 2 coinsure, and reinsure against political and commercial risk
 3 of loss, and any other insurance the authority considers
 4 necessary, including insurance to secure payment:

5 (A) on a loan, lease, or purchase payment owed by a
 6 participating provider to the authority; and

7 (B) of any bonds issued by the authority, including the
 8 power to pay premiums on any insurance, reinsurance, or
 9 guarantee.

10 (11) Purchase, receive, take by grant, gift, devise, bequest, or
 11 otherwise, and accept, from any source, aid or contributions
 12 of money, property, labor, or other things of value to be held,
 13 used, and applied to carry out the purposes of the referenced
 14 statutes, subject to the conditions upon which the grants or
 15 contributions are made, including but not limited to gifts or
 16 grants from any department, agency, or instrumentality of the
 17 United States, and lease or otherwise acquire, own, hold,
 18 improve, employ, use, and otherwise deal in and with real or
 19 personal property or any interest in real or personal property,
 20 wherever situated, for any purpose consistent with the
 21 referenced statutes.

22 (12) Enter into agreements with any department, agency, or
 23 instrumentality of the United States or this state and with
 24 lenders and enter into loan agreements, sales contracts,
 25 financial assistance agreements, and leases with contracting
 26 parties, including participants for any purpose allowed under
 27 IC 5-1.2-10, IC 5-1.2-11, or IC 5-1.2-14, borrowers, lenders,
 28 developers, or users, for the purpose of planning, regulating,
 29 and providing for the financing and refinancing of any
 30 economic development project, for any purpose allowed
 31 under IC 5-1.2-10, IC 5-1.2-11, or IC 5-1.2-14, or intrastate
 32 and interstate sales, transactions and business activities or
 33 international exports, and distribute data and information
 34 concerning the encouragement and improvement of economic
 35 development projects, intrastate and interstate sales,
 36 transactions and business activities, international exports, and
 37 other types of employment in the state undertaken with the
 38 assistance of the authority under this article.

39 (13) Enter into contracts or agreements with lenders and
 40 lessors for the servicing and processing of loans and leases
 41 pursuant to the referenced statutes.

42 (14) Provide technical assistance to local public bodies and to



- 1 for profit and nonprofit entities in the development or
 2 operation of economic development projects.
- 3 (15) To the extent allowed under its contract with the holders
 4 of the bonds of the authority, consent to any modification with
 5 respect to the rate of interest, time, and payment of any
 6 installment of principal or interest, or any other term of any
 7 contract, loan, loan note, loan note commitment, contract,
 8 lease, or agreement of any kind to which the authority is a
 9 party.
- 10 (16) To the extent allowed under its contract with the holders
 11 of bonds of the authority, enter into contracts with any lender
 12 containing provisions enabling it to reduce the rental or
 13 carrying charges to persons unable to pay the regular
 14 schedule of charges when, by reason of other income or
 15 payment by any department, agency, or instrumentality of the
 16 United States or of this state, the reduction can be made
 17 without jeopardizing the economic stability of the economic
 18 development project being financed.
- 19 (17) Notwithstanding IC 5-13, but subject to the requirements
 20 of any trust agreement entered into by the authority, invest:
 21 (A) the authority's money, funds, and accounts;
 22 (B) any money, funds, and accounts in the authority's
 23 custody; and
 24 (C) proceeds of bonds or notes;
 25 in the manner provided by an investment policy established
 26 by resolution of the authority.
- 27 (18) Fix and revise periodically, and charge and collect, fees
 28 and charges as the authority determines to be reasonable in
 29 connection with:
 30 (A) the authority's loans, guarantees, advances, insurance,
 31 commitments, and servicing; and
 32 (B) the use of the authority's services or facilities.
- 33 (19) Cooperate and exchange services, personnel, and
 34 information with any federal, state, or local government
 35 agency, or instrumentality of the United States or this state.
- 36 (20) Sell, at public or private sale, with or without public
 37 bidding, any loan or other obligation held by the authority.
- 38 (21) Enter into agreements concerning, and acquire, hold, and
 39 dispose by any lawful means, land or interests in land,
 40 building improvements, structures, personal property,
 41 franchises, patents, accounts receivable, loans, assignments,
 42 guarantees, and insurance needed for the purposes of the



- 1 referenced statutes.
- 2 (22) Purchase, lease as lessee, construct, remodel, rebuild,
3 enlarge, or substantially improve economic development
4 projects, including land, machinery, equipment, or any
5 combination of these.
- 6 (23) Lease economic development projects to users or
7 developers, with or without an option to purchase.
- 8 (24) Sell economic development projects to users or
9 developers, for consideration to be paid in installments or
10 otherwise.
- 11 (25) Make direct loans from the proceeds of the bonds to users
12 or developers for:
- 13 (A) the cost of acquisition, construction, or installation of
14 economic development projects, including land,
15 machinery, equipment, or any combination of these; or
- 16 (B) eligible expenditures for an educational facility project;
17 with the loans to be secured by the pledge of one (1) or more
18 bonds, notes, warrants, or other secured or unsecured debt
19 obligations of the users or developers.
- 20 (26) Lend or deposit the proceeds of bonds to or with a lender
21 for the purpose of furnishing funds to the lender to be used
22 for making a loan to a developer or user for the financing of
23 economic development projects under this article.
- 24 (27) Enter into agreements with users or developers to allow
25 the users or developers, directly or as agents for the authority,
26 to wholly or partially construct economic development
27 projects to be leased from or to be acquired by the authority.
- 28 (28) Establish reserves from the proceeds of the sale of bonds,
29 other funds, or both, in the amount determined to be
30 necessary by the authority to secure the payment of the
31 principal of and interest on the bonds.
- 32 (29) Adopt rules and guidelines governing its activities
33 authorized under the referenced statutes.
- 34 (30) Use the proceeds of bonds to make guaranteed
35 participating loans.
- 36 (31) Purchase, discount, sell, and negotiate, with or without
37 guaranty, notes and other evidence of indebtedness.
- 38 (32) Sell and guarantee securities.
- 39 (33) Procure letters of credit or other credit facilities or
40 agreements from any national or state banking association or
41 other entity authorized to issue a letter of credit or other
42 credit facilities or agreements to secure the payment of any



- 1 bonds issued by the authority or to secure the payment of any
2 loan, lease, or purchase payment owed by a participating
3 provider to the authority, including the power to pay the cost
4 of obtaining such letter of credit or other credit facilities or
5 agreements.
- 6 (34) Accept gifts, grants, or loans from, and enter into
7 contracts or other transactions with, any federal or state
8 agency, municipality, private organization, or other source.
- 9 (35) Sell, convey, lease, exchange, transfer, or otherwise
10 dispose of property or any interest in property, wherever the
11 property is located.
- 12 (36) Reimburse from bond proceeds expenditures for
13 economic development projects under this article.
- 14 (37) Acquire, hold, use, and dispose of the authority's income,
15 revenues, funds, and money.
- 16 (38) Purchase, acquire, or hold debt securities or other
17 investments for the authority's own account at prices and in
18 a manner the authority considers advisable, and sell or
19 otherwise dispose of those securities or investments at prices
20 without relation to cost and in a manner the authority
21 considers advisable.
- 22 (39) Fix and establish terms and provisions with respect to:
- 23 (A) a purchase of securities by the authority, including
24 dates and maturities of the securities;
- 25 (B) redemption or payment before maturity; and
- 26 (C) any other matters that in connection with the purchase
27 are necessary, desirable, or advisable in the judgment of
28 the authority.
- 29 (40) To the extent allowed under the authority's contracts
30 with the holders of bonds or notes, amend, modify, and
31 supplement any provision or term of:
- 32 (A) a bond, a note, or any other obligation of the authority;
- 33 or
- 34 (B) any agreement or contract of any kind to which the
35 authority is a party.
- 36 (41) Subject to the authority's investment policy, do any act
37 and enter into any agreement pertaining to a swap agreement
38 (as defined in IC 8-9.5-9-4) related to the purposes of the
39 referenced statutes in accordance with IC 8-9.5-9-5 and
40 IC 8-9.5-9-7, whether the action is incidental to the issuance,
41 carrying, or securing of bonds or otherwise.
- 42 (42) Do any act necessary or convenient to the exercise of the



1 powers granted by the referenced statutes, or reasonably
 2 implied from those statutes, including compliance with
 3 requirements of federal law imposed from time to time for the
 4 issuance of bonds.

5 (b) The authority's powers under this article shall be
 6 interpreted broadly to effectuate the purposes of this article and
 7 may not be construed as a limitation of powers. The omission of a
 8 power from the list in subsection (a) does not imply that the
 9 authority lacks that power. The authority may exercise any power
 10 that is not listed in subsection (a) but is consistent with the powers
 11 listed in subsection (a) to the extent that the power is not expressly
 12 denied by the Constitution of the State of Indiana or by another
 13 statute.

14 (c) This chapter does not authorize the financing of economic
 15 development projects for a developer unless any written agreement
 16 that may exist between the developer and the user at the time of the
 17 bond resolution is fully disclosed to and approved by the authority.

18 (d) The authority shall work with and assist the Indiana housing
 19 and community development authority created by IC 5-20-1-3, the
 20 ports of Indiana created under IC 8-10-1-3, and the state fair
 21 commission established by IC 15-13-2-1 in the issuance of bonds,
 22 notes, or other indebtedness. The Indiana housing and community
 23 development authority, the ports of Indiana, and the state fair
 24 commission shall work with and cooperate with the authority in
 25 connection with the issuance of bonds, notes, or other indebtedness.

26 **Sec. 2. The authority:**

27 (1) may not deal in securities within the meaning of or subject
 28 to any securities law, securities exchange law, or securities
 29 dealers law of the United States or of the state of Indiana or
 30 of any other state or jurisdiction, domestic or foreign, except
 31 as authorized in the referenced statutes;

32 (2) may not:

33 (A) emit bills of credit;

34 (B) accept deposits of money for time or demand deposit;

35 (C) administer trusts;

36 (D) engage in any form or manner, or in the conduct of,
 37 any private or commercial banking business; or

38 (E) act as a savings bank, savings association, or any other
 39 kind of financial institution; and

40 (3) may not engage in any form of private or commercial
 41 banking business.

42 **Sec. 3. (a) The authority may issue bonds or notes and invest or**



1 loan the proceeds of those bonds or notes to a participant for the
2 purposes of one (1) or more programs.

3 (b) If the authority loans money to or purchases debt securities
4 of a political subdivision, the authority may, by the resolution
5 approving the bonds or notes, provide that subsection (c) is
6 applicable to the political subdivision.

7 (c) Notwithstanding any other law or any other right in an
8 agreement with the authority, any state department or state
9 agency, including the treasurer of state, that is the custodian of
10 money payable to a political subdivision, other than money in
11 payment for goods or services provided by the political subdivision,
12 at any time after written notice from the public finance director
13 that the political subdivision is in default on the payment of
14 principal or interest on the obligations then held or owned by or
15 arising from an agreement with the authority, the state department
16 or state agency shall:

17 (1) withhold payment of money from that political
18 subdivision; and

19 (2) pay over the money to the authority for the purpose of
20 paying principal of and interest on the bonds or notes of the
21 authority.

22 However, the withholding of payment from the political
23 subdivision and payment to the authority under this section must
24 not adversely affect the validity of the obligation in default.

25 (d) Upon receiving notice from the authority that the political
26 subdivision has failed to pay when due the principal or interest on
27 the obligations of the political subdivision then held or owned by or
28 arising from an agreement with the authority, the fiscal officer (as
29 defined in IC 36-1-2-7) of the county, for any county in which the
30 political subdivision is wholly or partially located, shall do the
31 following:

32 (1) Reduce the amount of any revenues or other money or
33 property that:

34 (A) is held, possessed, maintained, controlled, or otherwise
35 in the custody of the county or a department, an agency, or
36 an instrumentality of the county; and

37 (B) would otherwise be available for distribution to the
38 political subdivision under any other law;

39 by an amount equal to the amount of the political
40 subdivision's unpaid obligations.

41 (2) Pay the amount by which the revenues or other money or
42 property is reduced under subdivision (1) to the authority to



1 pay the principal of and interest on bonds or other obligations
2 of the authority.

3 (3) Notify the political subdivision that the revenues or other
4 money or property, which would otherwise be available for
5 distribution to the political subdivision, has been reduced by
6 an amount necessary to satisfy all or part of the political
7 subdivision's unpaid obligations to the authority.

8 (e) This subsection applies to securities of a political subdivision
9 acquired by the authority, or arising from an agreement with the
10 authority, that is covered by subsection (d). A reduction under
11 subsection (d) must be made as follows:

12 (1) First, from local income tax distributions under IC 6-3.6-9
13 that would otherwise be distributed to the political
14 subdivision under the schedules in IC 6-3.6-9-12 and
15 IC 6-3.6-9-16.

16 (2) Second, from any other revenues or other money or
17 property that:

18 (A) is held, possessed, maintained, or controlled by, or
19 otherwise in the custody of, the county or a department, an
20 agency, or an instrumentality of the county; and

21 (B) would otherwise be available for distribution to the
22 political subdivision under any other law.

23 Sec. 4. In addition to the powers listed in section 1 of this
24 chapter, the authority may:

25 (1) enter into leases and issue bonds under terms and
26 conditions determined by the authority and use the proceeds
27 of the bonds to:

28 (A) acquire obligations issued by any entity authorized to
29 acquire, finance, construct, or lease capital improvements
30 under IC 5-1-17;

31 (B) acquire any obligations issued by the northwest
32 Indiana regional development authority established by
33 IC 36-7.5-2-1; or

34 (C) carry out the purposes of IC 5-1-17.5 within a
35 motorsports investment district.

36 (2) perform any other functions determined by the authority
37 to be necessary or appropriate to carry out the purposes of
38 this section.

39 Sec. 5. (a) This section does not apply to any indebtedness issued
40 by the authority if:

41 (1) the proceeds will be used for a project that has been
42 specifically authorized by the general assembly; or



- 1 (2) the indebtedness is authorized under the referenced
2 statutes.
- 3 **(b) Notwithstanding any other law in effect before:**
- 4 (1) the authority issues indebtedness that establishes a
5 procedure for the authority or a person acting on behalf of the
6 authority to certify to the general assembly the amount
7 needed to restore a debt service reserve fund or another fund
8 to a required level; or
- 9 (2) execution by the authority of any other agreement that
10 creates a moral obligation of the state to pay all or any part of
11 any indebtedness issued by the authority;
- 12 the authority is subject to, and shall comply with, to the extent
13 practicable, the requirements set forth in IC 5-1.5-5-4(c) through
14 IC 5-1.5-5-4(g) as if the authority were specifically named in
15 IC 5-1.5-5-4(c) through IC 5-1.5-5-4(g).
- 16 **(c) In addition:**
- 17 (1) indebtedness described in IC 5-1.5-5-4(c) through
18 IC 5-1.5-5-4(g) is considered a reference to an indebtedness or
19 agreement referred to in this section; and
- 20 (2) a qualified entity referred to in IC 5-1.5-5-4(c) through
21 IC 5-1.5-5-4(g) is considered a reference to a borrower of any
22 indebtedness and to any other parties referred to in this
23 section.
- 24 **Sec. 6. (a) The authority has the power to borrow money and to**
25 **issue its bonds from time to time in the principal amounts as the**
26 **authority determines are necessary to provide sufficient funds to**
27 **carry out its purposes, powers, and programs, including:**
- 28 (1) carrying out the purposes, powers, and programs stated in
29 this article;
- 30 (2) the payment of interest on bonds of the authority;
- 31 (3) the establishment of reserves to secure the bonds; and
- 32 (4) all other expenditures of the authority incident to,
33 necessary, and convenient to carry out the authority's
34 purposes, powers, and programs.
- 35 **(b) The authority may also issue bonds in the manner and for**
36 **the purposes provided by the referenced statutes.**
- 37 **Sec. 7. Except as may otherwise be expressly provided by the**
38 **authority, every issue of its bonds shall be obligations of the**
39 **authority payable solely out of any specified revenue or money of**
40 **the authority, subject only to any agreements with the holders of**
41 **particular bonds pledging any particular money or revenue. The**
42 **bonds may be additionally secured by a pledge of any grant,**



1 contribution, or guarantee from the federal government or any
2 corporation, limited liability company, association, institution, or
3 person or a pledge of any money, income, or revenue of the
4 authority from any source.

5 Sec. 8. No bonds issued by the authority under this article shall
6 constitute a debt, liability, or obligation of the state, or a pledge of
7 the faith and credit of the state, but shall be payable solely as
8 provided by section 7 of this chapter. Each bond issued under this
9 article shall contain on its face a statement that neither the faith
10 and credit nor the taxing power of the state is pledged to the
11 payment of the principal of or the interest on the bond.

12 Sec. 9. The bonds shall be authorized by a resolution of the
13 authority, shall bear the date or dates, and shall mature at a time
14 or times as the resolution may provide, except that no bond shall
15 mature more than fifty (50) years from the date of its issue, except
16 as provided in section 11 of this chapter. The bonds shall be in
17 denominations, be in the form, either coupon or registered, carry
18 the conversion or registration privileges, be executed in the
19 manner, be payable in the medium of payment at the place or
20 places inside or outside Indiana, and be subject to the terms of
21 redemption, including redemption prior to maturity, as the
22 resolution or any trust agreement or indenture of the authority
23 securing the bonds may provide. The bonds shall bear interest at
24 a rate or rates that may be fixed, variable, fixed convertible to
25 variable, variable convertible to fixed, or any combination of these
26 rates. Variable rates shall be determined in the manner and in
27 accordance with the provisions set forth in the resolution or the
28 trust agreement or indenture securing the bonds. The interest on
29 the bonds may be payable at the time or times or at the interval or
30 intervals as may be provided in the resolution or the trust
31 agreement or indenture securing the bonds, including the
32 compounding and payment of interest at maturity or at any other
33 time or times as may be specified in the resolution, trust
34 agreement, or indenture. The bonds and their issuance shall not be
35 subject to the provisions of any other statute concerning bonds or
36 the issuance of bonds. Bonds of the authority may be sold by the
37 authority at public or private sale, and at a price or prices as the
38 authority shall determine. No action to contest the validity of any
39 bonds issued or guarantees entered into by the authority under this
40 article shall be commenced more than thirty (30) days following
41 the adoption of the resolution approving such bonds or guarantees
42 as provided in section 10 of this chapter.



1 **Sec. 10. Any resolution authorizing the issuance of bonds or**
2 **trust agreement or indenture pursuant to which the bonds are**
3 **issued may contain provisions, which shall be a part of the contract**
4 **or contracts with the holders of the bonds, as to the following:**

5 **(1) Pledging all or any part of the revenue of the authority to**
6 **secure the payment of the bonds, subject to agreements with**
7 **bondholders as may then exist.**

8 **(2) Pledging all or any part of the assets of the authority,**
9 **including loans and obligations securing the loans and**
10 **obligations, to secure the payment of the bonds, subject to**
11 **agreements with bondholders as may then exist.**

12 **(3) The use and disposition of the gross income from loans**
13 **owned by the authority and payment of the principal of loans**
14 **owned by the authority.**

15 **(4) The setting aside of reserves or sinking funds and the**
16 **regulation and disposition of these reserves or sinking funds.**

17 **(5) Limitations on the purposes to which or the investments in**
18 **which the proceeds from the sale of bonds may be applied and**
19 **pledging the proceeds to secure the payment of the bonds.**

20 **(6) Limitations on the issuance of additional bonds, the terms**
21 **upon which additional bonds may be issued and secured, and**
22 **the refunding of outstanding or other bonds.**

23 **(7) The procedure, if any, by which the terms of any contract**
24 **with bondholders may be amended or abrogated, the amount**
25 **of bonds the holders must consent to, and the manner in**
26 **which the consent may be given.**

27 **(8) Limitations on the amount of money to be expended by the**
28 **authority for operating expenses of the authority.**

29 **(9) Vesting in a trustee or trustee property, rights, powers,**
30 **and trust as the authority may determine, and limiting or**
31 **abrogating the right of the bondholders to appoint a trustee**
32 **or limiting the rights, powers, and duties of the trustee.**

33 **(10) Defining the acts or omissions that constitute a default**
34 **and the obligations or duties of the authority to the holders of**
35 **the bonds, and providing for the rights and remedies of the**
36 **holders of the bonds in the event of a default, including as a**
37 **matter of right the appointment of a receiver. However, the**
38 **rights and remedies shall not be inconsistent with the general**
39 **laws of this state and this article.**

40 **(11) The rentals, fees, and other amounts to be charged, and**
41 **the amounts to be raised in each year and the use, investment,**
42 **and disposition of these amounts.**



- 1 **(12) Any other matter, of like or different character, which in**
 2 **any way affects the security or protection of the holders of the**
 3 **bonds.**
- 4 **Sec. 11. (a) The authority has the power to issue, from time to**
 5 **time, bonds to renew or to pay bonds, including the interest on**
 6 **these bonds, whenever the authority considers refunding expedient,**
 7 **to refund any bonds by the issuance of new bonds, whether the**
 8 **bonds to be refunded have or have not matured, and to issue bonds**
 9 **partly to refund outstanding bonds and partly for any other of its**
 10 **purposes, powers, and programs.**
- 11 **(b) The refunding bonds may be sold and the proceeds applied**
 12 **to the purchase, redemption, or payment of the bonds to be**
 13 **refunded, or exchanged for the bonds to be refunded.**
- 14 **(c) A savings to the authority or to the unit issuing the bonds to**
 15 **be refunded is not required for the issuance of the refunding bonds**
 16 **or the issuance of bonds to refund refunding bonds. Refunding**
 17 **bonds issued under this article are payable out of any specified**
 18 **revenue or money of the authority, subject only to any agreements**
 19 **with the holders of particular bonds pledging any particular money**
 20 **or revenue.**
- 21 **(d) Refunding bonds issued under this section are not:**
- 22 **(1) in any respect a general obligation of the authority; and**
 23 **(2) payable in any manner from revenues raised by taxation.**
- 24 **Sec. 12. Any pledge made by the authority is valid and binding**
 25 **from the time when the pledge is made. The revenue, money, or**
 26 **properties so pledged and received by the authority after the**
 27 **pledge is immediately subject to the lien of the pledge without any**
 28 **physical delivery or further act, and the lien of any pledge is valid**
 29 **and binding against all parties having claims of any kind in tort,**
 30 **contract, or otherwise against the authority, irrespective of**
 31 **whether the parties have notice. The resolution or any other**
 32 **instrument by which a pledge is created does not need to be**
 33 **recorded.**
- 34 **Sec. 13. The authority, subject to any agreements with**
 35 **bondholders as may then exist, has the power out of any funds**
 36 **available to purchase bonds of the authority, which, at the option**
 37 **of the authority, shall be canceled after the purchase, at any**
 38 **reasonable price which, if the bonds are then redeemable, shall not**
 39 **exceed the redemption price then applicable plus accrued interest**
 40 **to the next interest payment on the bond.**
- 41 **Sec. 14. The bonds may be secured by a trust agreement or**
 42 **indenture by and between the authority and a corporate trustee,**



1 which may be a bank having the power of a trust company or any
2 trust company within or without the state. The trust agreement or
3 indenture may contain provisions for protecting and enforcing the
4 rights and remedies of the bondholders as may be reasonable and
5 proper and not in violation of law, including covenants setting
6 forth the duties of the authority in relation to the exercise of the
7 authority's powers and the custody, safekeeping, and application
8 of all money related to the particular bond financing for which the
9 trust agreement or indenture exists. The authority may provide by
10 the trust agreement or indenture for the payment of the proceeds
11 of the bonds and the revenue to the trustee under the trust
12 agreement or indenture or other depository, and for the method of
13 disbursement of the proceeds, with safeguards and restrictions as
14 the authority may determine. All expenses incurred in carrying out
15 the trust agreement or indenture may be treated as a part of the
16 operating expenses of the authority. If the bonds are secured by a
17 trust agreement or indenture, the bondholders have no authority
18 to appoint a separate trustee to represent them.

19 Sec. 15. Whether the bonds are in the form and character of
20 negotiable instruments, the bonds are negotiable instruments,
21 subject only to provisions of the bonds relating to registration.

22 Sec. 16. Any bonds issued by the authority under this article
23 shall be executed by the manual or facsimile, except as otherwise
24 provided in this article, signatures of the officers or agents of the
25 authority that the authority designates. If bonds are issued
26 pursuant to a trust indenture, the manual authentication of each
27 bond by the trustee shall be required. If bonds are issued without
28 a trust indenture or trustee, at least one (1) of the officers or agents
29 of the authority shall manually execute each bond. If any of the
30 members or officers of the authority shall cease to be members or
31 officers of the authority before the delivery of any bonds or
32 coupons signed by them, their signatures or facsimiles shall
33 nevertheless be valid and sufficient for all purposes, the same as if
34 the members or officers had remained in office until the delivery.
35 Pending preparation of the definitive bonds, the authority may
36 issue interim receipts or certificates, which must be exchanged for
37 the definitive bonds.

38 Sec. 17. The members of the authority, the officers and
39 employees of the authority, the public finance director, any agents
40 of the authority, and any other persons executing bonds issued
41 under the referenced statutes are not subject to personal liability
42 or accountability by reason of any act authorized by the referenced



1 statutes, including without limitation the issuance of bonds, the
2 failure to issue bonds, the execution of bonds, and the making of
3 guarantees.

4 **Sec. 18.** The authority may create and establish any funds and
5 accounts necessary or desirable for the authority's purposes.

6 **Sec. 19.** All money received by the authority, except as provided
7 in the referenced statutes, shall be deposited as soon as practical in
8 a separate account or accounts in banks or trust companies
9 organized under the laws of this state or in national banking
10 associations. The money in these accounts shall be paid out on
11 checks signed by the chair or other officers or employees of the
12 authority that the authority authorizes or by wire transfer or other
13 electronic means authorized by the authority. All deposits of
14 money shall, if required by the authority, be secured in a manner
15 that the authority determines to be prudent, and all banks or trust
16 companies are authorized to give security for the deposits.
17 Notwithstanding any other law to the contrary, all money received
18 pursuant to the referenced statutes are trust funds to be held and
19 applied solely as provided in the referenced statutes. The resolution
20 authorizing any obligations, or trust agreement or indenture
21 securing the same, may provide that any of the money may be
22 temporarily invested pending the disbursement of the money, and
23 shall provide that any officer with whom or any bank or trust
24 company with which the money is deposited shall act as trustee of
25 the money and shall hold and apply the money for the authorized
26 purposes of the authority, subject to the referenced statutes, the
27 authority's investment policy, and the resolution or trust
28 agreement or indenture.

29 **Sec. 20.** Notwithstanding section 19 of this chapter, the authority
30 has the power to contract with the holders of any of its bonds as to
31 the custody, collection, securing, investment, and payment of any
32 money of the authority and of any money held in trust or otherwise
33 for the payment of bonds, and to carry out the contract. Money
34 held in trust or otherwise for the payment of bonds or in any way
35 to secure bonds and deposits of money may be secured in the same
36 manner as money of the authority, and all banks and trust
37 companies are authorized to give security for the deposits.

38 **Sec. 21.** The state pledges to and agrees with the holder of any
39 bonds issued under this article that the state will not limit or alter
40 the rights vested in the authority to fulfill the terms of any
41 agreements made with bondholders or in any way impair the rights
42 or remedies of bondholders until the bonds, together with the



1 interest, with interest on any unpaid installments of interest, and
 2 all costs and expenses in connection with any action or proceeding
 3 by or on behalf of bondholders, are fully met and discharged. The
 4 authority is authorized to include this pledge and agreement of the
 5 state in any agreement with the bondholders.

6 **Sec. 22. Bonds issued under this article and:**

- 7 (1) proceeds received from their sale by a holder, to the extent
 8 of the holder's costs of acquisition;
 9 (2) proceeds received on their redemption before maturity;
 10 (3) proceeds received at their maturity; and
 11 (4) interest received on them;

12 are exempt from state taxes as provided by IC 6-8-5.

13 **Sec. 23. The bonds issued under this article by the authority are**
 14 **declared to be legal investments in which all public officers or**
 15 **public bodies of this state, its political subdivisions, all**
 16 **municipalities and municipal subdivisions, all insurance companies**
 17 **and associations and other persons carrying on insurance business,**
 18 **all banks, bankers, banking associations, trust companies, savings**
 19 **associations, including savings and loan associations, building and**
 20 **loan associations, investment companies, and other persons**
 21 **carrying on a banking business, all administrators, guardians,**
 22 **executors, trustees and other fiduciaries, and all other persons who**
 23 **are authorized to invest in bonds or in other obligations of this**
 24 **state, may invest funds, including capital, in their control or**
 25 **belonging to them. The bonds are also made securities that may be**
 26 **deposited with and received by all public officers and bodies of this**
 27 **state or any agency or political subdivisions of this state and all**
 28 **municipalities and public commissions for any purpose for which**
 29 **the deposit of bonds or other obligations of this state is authorized**
 30 **by law.**

31 **Sec. 24. The issuance of bonds and the adoption of rules under**
 32 **the referenced statutes need not comply with the requirements of**
 33 **any other state laws applicable to the issuance of the bonds or**
 34 **adoption of these rules. No proceedings, notice, or approval is**
 35 **required for the issuance of any bonds or any instrument or the**
 36 **security for the bonds or instrument, except as provided in the**
 37 **referenced statutes. All economic development projects for which**
 38 **funds are advanced, loaned, or otherwise provided by the authority**
 39 **under IC 5-1.2-9 must be in compliance with any land use, zoning,**
 40 **subdivision, and other laws of this state applicable to the land upon**
 41 **which the economic development project is located or is to be**
 42 **constructed, but a failure to comply with these laws does not**



1 invalidate any bonds issued to finance an economic development
2 project under IC 5-1.2-9.

3 Sec. 25. Any bonds issued by the authority pursuant to this
4 article and any other securities issued in connection with a
5 financing under this article are exempt from the registration and
6 other requirements of IC 23-19 and any other securities
7 registration laws.

8 Sec. 26. (a) All expenses incurred by the authority in carrying
9 out the referenced statutes is payable solely from funds provided
10 under the referenced statutes, and nothing in the referenced
11 statutes shall be construed to authorize the authority to incur
12 indebtedness or liability of the state or any political subdivision.

13 (b) The authority shall annually prepare a budget that allocates
14 the expenses incurred by the authority in an equitable manner
15 among the programs administered by the authority.

16 Sec. 27. (a) Except as provided in subsection (b), all property,
17 both tangible and intangible, acquired or held by the authority
18 under the referenced statutes is declared to be public property used
19 for public and governmental purposes, and all the property and
20 income from the property is at all times exempt from all taxes
21 imposed by this state, any county, any city, or any other political
22 subdivision of this state, except for the financial institutions tax
23 imposed under IC 6-5.5.

24 (b) Property owned by the authority and:

25 (1) leased to a person for an economic development project;

26 or

27 (2) financed by a loan;

28 under IC 5-1.2-9 is not public property. The property and the
29 economic development project are subject to all taxes of this state
30 or any county, city, or other political subdivision of this state in the
31 same manner and subject to the same exemptions that apply to all
32 persons.

33 Sec. 28. The authority shall, following the close of each fiscal
34 year, submit an annual report of the authority's activities under
35 the referenced statutes for the preceding year to the governor, the
36 budget committee, and the general assembly. A report submitted
37 to the general assembly must be in an electronic format under
38 IC 5-14-6. Each report shall set forth a complete operating and
39 financial statement for the authority during the fiscal year it
40 covers.

41 Sec. 29. Notwithstanding any statute applicable to or
42 constituting any limitation on the investment or reinvestment of



1 funds by or on behalf of political subdivisions:

2 (1) a participant receiving financial assistance in connection
3 with a program may invest and reinvest funds that constitute,
4 replace, or substitute for the proceeds of bonds or other
5 evidence of indebtedness sold to the authority under the
6 program, together with any account or reserves of a
7 participant not funded with the proceeds of the bonds or other
8 evidence of indebtedness purchased by the authority but that
9 secure or provide payment for those bonds or other evidence
10 of indebtedness, in any instrument or other investment
11 authorized under a resolution of the authority; and

12 (2) a participant that is obligated to make payments on bonds
13 or other evidence of indebtedness purchased in connection
14 with the operation of a program may invest and reinvest
15 funds that constitute, replace, or substitute for the proceeds
16 of those bonds or other evidence of indebtedness, together
17 with any account or reserves of a participant not funded with
18 the proceeds of the bonds or other evidence of indebtedness
19 purchased under the program but that secure or provide
20 payment for those bonds or other evidence of indebtedness, in
21 any instrument or other investment authorized under a
22 resolution of the authority.

23 Sec. 30. (a) Notwithstanding any other law, a participant may
24 borrow money from the authority for any program by negotiating
25 a loan or other financial assistance directly with the authority and
26 without complying with requirements for the competitive sale of
27 bonds, notes, or other obligations or evidence of indebtedness. A
28 participant shall observe any existing contractual commitments to
29 bondholders or other persons when entering into a financial
30 assistance agreement.

31 (b) Notwithstanding any other law, a participant may issue and
32 sell notes, the principal and accrued interest on which shall be paid
33 with proceeds from the issuance of bonds or other available money
34 at the time the notes are due. The notes must be issued under a
35 resolution or ordinance and the proceeds must be used to carry out
36 the purposes allowed by the program.

37 (c) A participant that issues notes under subsection (b) may
38 renew or extend the notes periodically on terms agreed to with the
39 authority, and the authority may purchase and sell the renewed or
40 extended notes. Accrued interest on the date of renewal or
41 extension may be paid or added to the principal amount of the note
42 being renewed or extended.



1 (d) The notes issued by a participant under subsection (b),
2 including any renewals or extensions, must mature:

3 (1) in the amounts; and

4 (2) at the times not exceeding four (4) years from the date of
5 original issuance;

6 that are agreed to by the participant and the authority.

7 (e) Compliance with subsection (b) constitutes full authority for
8 a participant to issue notes and sell the notes to the authority, and
9 the participant is not required to comply with any other law
10 applicable to the authorization, approval, issuance, and sale of the
11 notes. The notes are:

12 (1) valid and binding obligations of the participant;

13 (2) enforceable in accordance with the terms of the notes; and

14 (3) payable solely from the sources specified in the resolution
15 or ordinance authorizing the issuance of the notes.

16 (f) If the participant issues bonds, all or part of the proceeds of
17 which will be used to pay notes issued under subsection (b), the:

18 (1) provisions of this section; or

19 (2) actual issuance by a participant of notes under subsection
20 (b);

21 do not relieve the participant of the obligation to comply with the
22 statutory requirements for the issuance of bonds.

23 Sec. 31. (a) Notwithstanding any other law, the authority,
24 program, or the program related fund, or any person or agent
25 acting on behalf of the authority, the program, or the program
26 related fund, is not liable in damages or otherwise to any
27 participant or party seeking to be a participant for any act or
28 omission in connection with a loan or other financial assistance, or
29 any application, service, or other undertaking, allowed by or taken
30 under this article applicable to any program or any related fund or
31 under any financial assistance agreement or related agreement or
32 understanding.

33 (b) No direction given by or service or other undertaking
34 allowed or taken under this article applicable to any program or
35 related fund or under any financial assistance agreement or related
36 agreement or understanding by the authority is a defense for or
37 otherwise excuses any act or omission of a participant otherwise
38 required or imposed by law upon a participant under any chapter
39 applicable to any program or related fund or under any financial
40 assistance agreement or related agreement or understanding.

41 Sec. 32. (a) Notwithstanding any other law and if provided in a
42 financial assistance agreement related to any program, any state



1 department or state agency, including the treasurer of state:

2 (1) that is the custodian of money payable to a participant,
3 other than money in payment for goods or services provided
4 by the participant; and

5 (2) after written notice from the public finance director that
6 the participant is in default on the payment of principal of or
7 interest on a loan or evidence of other financial assistance
8 related to any program owed to the authority;

9 may withhold payment of money from that participant and pay
10 over the money to the authority as directed by the public finance
11 director, for the purpose of curing the default.

12 (b) The withholding of payment from the participant and
13 payment to the authority may not adversely affect the validity of
14 the loan or other financial assistance.

15 Sec. 33. A person who, with intent to defraud, knowingly or
16 intentionally makes a material misstatement in connection with an
17 application for a loan or other financial assistance pursuant to any
18 program commits a Level 6 felony.

19 Sec. 34. The public finance director shall prepare an annual
20 report that provides an update on transportation projects in which
21 the authority is involved. The report must be submitted to the
22 legislative council in an electronic format under IC 5-14-6.

23 Sec. 35. The authority, after consulting with the treasurer of
24 state, the Indiana bond bank, the budget agency, and the
25 commission for higher education, shall establish and periodically
26 update a state debt management plan. The plan must include at
27 least the following provisions with respect to debt issued or to be
28 issued by the authority, other bodies corporate and politic of the
29 state, and state educational institutions:

30 (1) An inventory of existing debt.

31 (2) Projections of future debt obligations.

32 (3) Recommended criteria for the appropriate use of debt as
33 a means to finance capital projects.

34 (4) Recommended strategies to minimize costs associated with
35 debt issuance.

36 (5) An analysis of the impact of debt issued by all bodies
37 corporate and politic and state educational institutions on the
38 state budget.

39 (6) Recommended guidelines for the prudent issuance of debt
40 that creates a moral obligation of the state to pay all or part
41 of the debt.

42 (7) Recommended policies for the investment of:



- 1 (A) proceeds of bonds, notes, or other obligations issued by
 2 bodies corporate and politic and state educational
 3 institutions; and
 4 (B) other money, funds, and accounts owned or held by a
 5 body corporate and politic.
- 6 (8) Recommended policies for the establishment of a system
 7 of record keeping and reporting to meet the arbitrage rebate
 8 compliance requirements of the Internal Revenue Code.
- 9 (9) Recommended policies for the preparation of financial
 10 disclosure documents, including official statements
 11 accompanying debt issues, comprehensive annual financial
 12 reports, and continuing disclosure statements. The
 13 recommended policies must include a provision for approval
 14 by the budget director of any statements or reports that
 15 include a discussion of the state's economic and fiscal
 16 condition.
- 17 (10) Potential opportunities to more effectively and efficiently
 18 authorize and manage debt.
- 19 (11) Recommendations to the budget director, the governor,
 20 and the general assembly with respect to financing of capital
 21 projects.
- 22 The recommendations to the general assembly under subdivision
 23 (11) must be in an electronic format under IC 5-14-6.
- 24 **Chapter 5. State Facility Financing**
- 25 **Sec. 1. This chapter does not apply to the authority when acting**
 26 **under any other statute for any other purpose.**
- 27 **Sec. 2. At the request of the department of administration, the**
 28 **authority may provide for facilities for state agencies or branches**
 29 **of state government if the general assembly, by statute:**
- 30 (1) finds that the state needs renovation, refurbishing, or
 31 alteration of existing facilities or construction of additional
 32 facilities; and
 33 (2) authorizes the authority to provide for the facilities.
- 34 **In providing for the facilities, the authority shall proceed under**
 35 **this chapter.**
- 36 **Sec. 3. To accomplish the governmental purposes of this**
 37 **chapter, the department of administration or applicable state**
 38 **agency may convey, transfer, or sell, with or without consideration,**
 39 **real property (including the buildings, structures, and**
 40 **improvements), title to which is held in the name of the state, to the**
 41 **authority, without being required to advertise or solicit bids or**
 42 **proposals.**



1 **Sec. 4.** The department of administration may enter into a
 2 contract with the authority to renovate, refurbish, or alter a state
 3 facility owned by the state without advertising or soliciting bids or
 4 proposals under IC 4-13.6 or IC 5-22. However, in accomplishing
 5 the project to renovate, refurbish, or alter a state facility owned by
 6 the state, the authority shall comply with IC 4-13.5-1-8.

7 **Sec. 5.** The authority may borrow money from the public
 8 deposits insurance fund, a bank, an insurance company, an
 9 investment company, or any other person to carry out this chapter.
 10 The authority shall negotiate the terms of the loan contract.

11 **Sec. 6. (a)** For the purpose of providing money to carry out the
 12 provisions of this chapter with respect to:

- 13 (1) the construction and equipment of a state facility;
- 14 (2) acquiring or providing a site or sites; or
- 15 (3) the refunding of any bonds or payment of any loan
 16 contract of the authority;

17 the authority may, by resolution, issue and sell interest-bearing
 18 revenue bonds of the authority.

19 **(b)** The proceeds of the revenue bonds are appropriated for and
 20 may be used for the purpose for which the bonds may be issued
 21 under this chapter. The proceeds shall be deposited and disbursed
 22 in accordance with any provisions and restrictions that the
 23 authority may provide in:

- 24 (1) the resolution or trust indenture authorizing:
 - 25 (A) the issuance of the bonds in the first instance; or
 - 26 (B) the issuance of any refunding bonds; or
- 27 (2) a trust indenture authorized and approved by resolution
 28 of the authority.

29 **Sec. 7.** Except for persons the authority considers necessary to
 30 prepare complete plans and specifications necessary for bidding
 31 for construction, the authority may not enter into:

- 32 (1) a contract for the performance of work, other than a
 33 contract of employment with a professional person or a
 34 commission employee; or
- 35 (2) a contract for the purchase or sale of materials or
 36 supplies;

37 without complying with IC 4-13-2 and the rules and procedures of
 38 the department of administration.

39 **Sec. 8. (a)** The authority shall consider economy of operation to
 40 the extent practicable in preparing and approving plans and
 41 specifications. The authority shall present plans and specifications
 42 for a state facility for approval to the department of administration



- 1 **and:**
- 2 **(1) if the state facility is designed to house the supreme court**
- 3 **or court of appeals, the administrator of the supreme court**
- 4 **for approval by the courts; and**
- 5 **(2) if the state facility is a correctional facility, the department**
- 6 **of correction.**
- 7 **(b) After the plans and specifications have been approved by the**
- 8 **authority under subsection (a), the authority shall advertise for**
- 9 **and receive construction bids and award contracts to the best**
- 10 **bidders in the same manner as required by law for the department**
- 11 **of administration.**
- 12 **(c) With regard to participation by minority and women's**
- 13 **business enterprises (as defined in IC 4-13-16.5-1 and**
- 14 **IC 4-13-16.5-1.3), the authority shall act in the same manner as**
- 15 **required by law for the department of administration.**
- 16 **Sec. 9. Except with respect to a correctional facility, the**
- 17 **department of administration shall allocate space in each state**
- 18 **facility to state agencies and departments of state government. The**
- 19 **department of correction shall allocate space in correctional**
- 20 **facilities under IC 11.**
- 21 **Sec. 10. If the authority is unable to agree with the owners,**
- 22 **lessees, or occupants of any real property selected for the purposes**
- 23 **of this chapter, the authority may proceed to procure the**
- 24 **condemnation of the property under IC 32-24-1. The authority**
- 25 **may not institute a proceeding until the authority has adopted a**
- 26 **resolution that:**
- 27 **(1) describes the real property sought to be acquired and the**
- 28 **purpose for which the real property is to be used;**
- 29 **(2) declares that the public interest and necessity require the**
- 30 **acquisition by the authority of the property involved; and**
- 31 **(3) sets out any other facts that the authority considers**
- 32 **necessary or pertinent.**
- 33 **The resolution is conclusive evidence of the public necessity of the**
- 34 **proposed acquisition and shall be referred to the attorney general**
- 35 **for action, in the name of the authority, in the circuit or superior**
- 36 **court of the county in which the real property is located.**
- 37 **Sec. 11. (a) Before or after the award of construction contracts,**
- 38 **or the arranging of financing, the authority and the department of**
- 39 **administration may negotiate a use and occupancy agreement. The**
- 40 **budget agency, after consulting with the budget committee, must**
- 41 **approve any use and occupancy agreement before the department**
- 42 **of administration may execute the agreement. The use and**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

occupancy agreement:

- (1) must set forth the terms and conditions of the use and occupancy;**
- (2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy;**
- (3) must provide that the department of administration is not obligated to continue to pay for the use and occupancy but is instead required to vacate the state facility if it is shown that the terms and conditions of the use and occupancy and the amount to be paid for the use and occupancy are unjust and unreasonable considering the value of the services and facilities being provided;**
- (4) must provide that the department of administration is required to vacate the state facility if funds have not been appropriated or are not available to pay any sum agreed to be paid for use and occupancy when due;**
- (5) may provide for costs such as maintenance, operations, taxes, and insurance to be paid by the department of administration;**
- (6) may contain an option to renew the agreement;**
- (7) may contain an option to purchase the state facility for an amount equal to the amount required to pay the principal of and interest on indebtedness of the authority incurred on account of the state facility and expenses of the authority attributable to the state facility;**
- (8) may not provide for payment of sums for use and occupancy until the construction of the state facility has been completed and the state facility is available for use and occupancy by the department of administration; and**
- (9) may contain any other provisions agreeable to the authority and the department of administration.**

(b) In determining just and reasonable amounts to be paid for the use and occupancy of the state facility under subsection (a)(3), the authority shall impose and collect amounts that in the aggregate will be sufficient to:

- (1) pay the expenses of operation, maintenance, and repair of the state facility, to the extent that the expenses are not otherwise provided; and**
- (2) leave a balance of revenues from the state facility to pay the principal of and interest (including any reserve or sinking funds) on bonds or loans as they become due and retire them at or before maturity.**



1 (c) The department of administration may negotiate and execute
 2 a use and occupancy agreement for all or any state agencies or
 3 branches of state government.

4 Sec. 12. Unless the use and occupancy agreement provides
 5 otherwise, the department of administration shall provide for the
 6 operation, maintenance, and repair of each state facility.

7 Sec. 13. (a) The general assembly authorizes the authority to
 8 continue to undertake and complete a project for the construction,
 9 equipping, purchasing, or leasing for Central Indiana
 10 Neuro-Diagnostic Institute and Advanced Treatment Center to
 11 replace the Larue D. Carter Memorial Hospital, including the
 12 borrowing of money or the issuance and sale of bonds, or both.

13 (b) This section does not authorize any:

14 (1) additional construction; or

15 (2) issuance of additional bonds or other evidence of
 16 indebtedness;

17 other than as described in subsection (a).

18 **Chapter 6. Recreational Development Facilities and Park**
 19 **Projects**

20 Sec. 1. At the request of the department of natural resources,
 21 the authority may provide for recreational facilities and park
 22 projects if the general assembly, by statute:

23 (1) finds that the state needs renovation, refurbishing, or
 24 alteration of a recreational facility or park project or the
 25 construction of a new recreational facility or park project;
 26 and

27 (2) authorizes the authority to provide for the recreational
 28 facility or park project.

29 In providing for the recreational facility or park project, the
 30 authority shall proceed under this chapter.

31 Sec. 2. The general purposes of this chapter are the following:

32 (1) To provide for the general health and welfare of Indiana
 33 citizens by the acquisition, construction, improvement, and
 34 operation of public recreational facilities.

35 (2) To facilitate, support, and promote the development and
 36 use of the parks of the state.

37 Sec. 3. This chapter applies only to recreational facilities and
 38 park projects and not to any other facilities or projects financed by
 39 the authority.

40 Sec. 4. The exercise by the authority of the powers conferred by
 41 this chapter in the acquisition, construction, improvement,
 42 operation, and maintenance of a park project is an essential



1 governmental function of the state.

2 **Sec. 5. (a) The authority may acquire sites or improvements**
3 **from the department of natural resources.**

4 **(b) The authority may make improvements and enter into**
5 **agreements for use with the department of natural resources. The**
6 **agreements:**

7 **(1) do not need to be approved by the attorney general; and**

8 **(2) must be approved by the:**

9 **(A) budget agency, after consulting with the budget**
10 **committee; and**

11 **(B) governor;**

12 **before the department of natural resources may execute the**
13 **agreement.**

14 **Sec. 6. The authority may lease property to the department of**
15 **natural resources and others. A lease:**

16 **(1) may provide for the operation, maintenance,**
17 **improvement, or renovation of the property;**

18 **(2) must contain standards for operation, quality of goods and**
19 **services, and price of goods and services;**

20 **(3) need not be approved by the attorney general or the**
21 **governor;**

22 **(4) may be executed by the:**

23 **(A) chair or vice chair of the authority; and**

24 **(B) public finance director; and**

25 **(5) is binding on the state after advertisement one (1) time a**
26 **week for two (2) weeks in two (2) newspapers published in**
27 **Indianapolis. The first publication must be at least fourteen**
28 **(14) days before a public hearing by the authority, and the**
29 **proposed lease must be on file in the department of natural**
30 **resources during the period of publication.**

31 **Sec. 7. If the cost of a contract for construction or for the**
32 **purchase of equipment, materials, or supplies involves an**
33 **expenditure of more than twenty thousand dollars (\$20,000), the**
34 **authority shall make a written contract with the lowest and best**
35 **bidder after advertisement for not less than two (2) consecutive**
36 **weeks in a newspaper of general circulation in Marion County,**
37 **Indiana, and in other publications if the authority determines. The**
38 **notice must state the general character of the work and the general**
39 **character of the materials to be furnished, the place where the**
40 **plans and specifications may be examined, and the time and place**
41 **for receiving bids. Each bid must contain the full name of every**
42 **person or company interested in the bid and must be accompanied**



1 by a sufficient bond or certified check on a solvent bank so that if
 2 the bid is accepted a contract will be entered into and the
 3 performance of the bidder's proposal secured. The authority may
 4 reject any and all bids. A bond with good and sufficient surety
 5 approved by the authority is required of all contractors in an
 6 amount equal to at least fifty percent (50%) of the contract price
 7 conditioned upon the faithful performance of the contract.

8 **Sec. 8. (a) The authority may acquire by:**

- 9 (1) department of natural resources transfer;
 10 (2) purchase; or
 11 (3) lease;

12 for nominal or substantial consideration any interest in land,
 13 including existing facilities, adjuncts, and appurtenances, that the
 14 authority considers necessary or convenient for the acquisition,
 15 construction, improvement, or development of a park project.

16 **(b) A park project undertaken by the authority must:**

- 17 (1) comply with:
 18 (A) the master plan for that property; or
 19 (B) the Indiana outdoor recreation plan approved by the
 20 natural resources commission; or
 21 (2) be specifically approved by the natural resources
 22 commission.

23 **Sec. 9. The authority may acquire by appropriation, under**
 24 **Indiana eminent domain law, any interest in land necessary or**
 25 **proper for the construction or the efficient operation of a park**
 26 **project except land used for parks or park facilities owned by the**
 27 **state or a political subdivision of the state. Title to the property**
 28 **shall be taken in the name of the state for the use of the authority.**

29 **Sec. 10. (a) The authority and the department of natural**
 30 **resources may enter into appropriate agreements setting forth the**
 31 **terms and conditions of use of park improvements and the money**
 32 **agreed to be paid at intervals for the use. The department of**
 33 **natural resources is not obligated to continue the use and make**
 34 **payments under the agreement but shall vacate the improvements**
 35 **if it is shown that:**

- 36 (1) the terms and conditions of the use and occupancy; and
 37 (2) the amount to be paid;

38 are unjust and unreasonable considering the value of the
 39 improvements.

40 **(b) In determining just and reasonable amounts to be paid for**
 41 **the use of improvements, the authority shall impose and collect**
 42 **money that in the aggregate will be sufficient to pay the expenses**



1 of operation, maintenance, and repair of the improvements to the
 2 extent that the expenses are not otherwise provided and leave a
 3 balance of net income of revenues from the improvements to pay
 4 the interest on the bonds as the interest is due and accomplish
 5 retirement of the bonds at or before maturity. If the department of
 6 natural resources has made all payments provided in the
 7 agreements, the use of improvements covered by the agreements
 8 and the sites of the improvements revert to the department of
 9 natural resources at the end of the terms of the agreement.

10 Sec. 11. All expenses of the authority incurred in carrying out
 11 this chapter are payable solely from money provided under this
 12 chapter.

13 Sec. 12. The proceeds of the bonds are appropriated for and
 14 shall be used solely for the payment of the cost of the park project
 15 for which the bonds have been issued. The proceeds shall be
 16 disbursed in the manner and under the restrictions, if any, that the
 17 authority provides in the resolution authorizing the issuance of the
 18 bonds or in the trust agreement securing the bonds.

19 Sec. 13. (a) The natural resources commission may levy a
 20 surcharge not exceeding ten percent (10%), as established by the
 21 commission, on any of the following:

- 22 (1) Admission fees.
- 23 (2) Commission rentals.
- 24 (3) Boat registrations.
- 25 (4) Launching fees.
- 26 (5) Mooring fees.

27 (b) The receipts from a surcharge shall be deposited in a special
 28 fund to be used only to pay rent to the authority and for
 29 maintenance of facilities covered by use agreements with the
 30 authority as provided in a use agreement entered into between the
 31 department of natural resources and the authority. The special
 32 fund may be spent for that purpose without appropriation.

33 (c) During the life of a use agreement, a surcharge that has been
 34 imposed may not be rescinded or reduced so that the amount in the
 35 special fund and the receipts for one (1) year are less than one and
 36 two-tenths (1.2) times the anticipated rental payment and
 37 maintenance expense of facilities covered by a use agreement.

38 (d) The money in the special fund does not revert to the state
 39 general fund.

40 Sec. 14. (a) A special revolving fund is created to be used only
 41 for the planning of projects, including the hiring of architects,
 42 engineers, consultants, and other experts and the doing of any



1 work preliminary to the actual construction of a project.

2 (b) The money in the special revolving fund does not revert to
3 the state general fund.

4 (c) The amount of money in the special revolving fund may not
5 exceed five hundred thousand dollars (\$500,000).

6 (d) The authority may do the following:

7 (1) Transfer to the special revolving fund other money in the
8 authority's possession not otherwise committed or needed.

9 (2) Place a gift or grant to the authority not limited in
10 character in the special revolving fund.

11 Sec. 15. (a) Property leased by the authority to another entity
12 other than the department of natural resources, at the termination
13 of the lease or a renewal of the lease, may be leased to the same or
14 other persons upon the terms the authority determines after
15 following the procedure in section 6 of this chapter. If the authority
16 does not lease the property, the property reverts to the control of
17 the department of natural resources for the department's use and
18 operation. The authority may not operate the property.

19 (b) If the authority is entitled to take over the operation of
20 property because of a default in an agreement, the authority may
21 operate the property through the authority's employees or contract
22 with others for the operation of the property. The contract for
23 operation may be with the department of natural resources if the
24 department is not a defaulting party.

25 Chapter 7. Health Facility Financing

26 Sec. 1. The general purpose of this chapter is to provide
27 financing for health facilities and health facility property.

28 Sec. 2. This chapter applies only to health facilities and health
29 facility property and not to any other facilities or projects financed
30 by the authority.

31 Sec. 3. (a) For purposes of this chapter, county commissioner
32 action or approval for the appropriation and expenditure of county
33 tax money shall presuppose and include approval by the county
34 council.

35 (b) A lease entered into by the board of county commissioners
36 with the authority is valid or binding upon the county only if the
37 lease is approved by a majority vote of the county council.

38 Sec. 4. Health facility property financed under this chapter is
39 not subject to any statutory requirement of competitive bidding or
40 other restriction imposed on the procedure for award of contracts
41 or the lease, sale, or other disposition of health facility property
42 with regard to any action taken under this chapter. However, if the



1 prospective lessee or purchaser requests in writing, the authority
2 shall call for the construction bids in a manner determined by the
3 authority with the approval of the lessee or purchaser.

4 **Sec. 5. (a)** The authority has all the powers necessary to carry
5 out and effectuate its public purposes under this chapter, including
6 initiating a program of providing health facility property to be
7 operated by participating providers in health facilities. In
8 furtherance of this objective, the authority may also do one (1) or
9 more of the following:

10 (1) Provide, or cause to be provided by a participating
11 provider, by acquisition, lease, construction, fabrication,
12 repair, restoration, reconditioning, refinancing, or
13 installation, health facility property to be located within a
14 health facility.

15 (2) Lease as lessor any item of health facility property for
16 those rentals and upon the terms and conditions as the
17 authority considers advisable and are not in conflict with this
18 chapter.

19 (3) To charge to and apportion among participating providers
20 its administrative costs and expenses incurred in the exercise
21 of the powers and duties conferred by this chapter and
22 IC 5-1.2-4.

23 (4) Assist, coordinate, and participate with other issuers of tax
24 exempt bonds and public officials in other states in connection
25 with financings or refinancings on behalf of multiple state
26 health facilities. Assistance, coordination, and participation
27 provided under this subdivision may include conducting any
28 hearings required by state or federal law in order for bonds
29 to be issued by public officials in other states if part of the
30 proceeds of the bonds will be used by participating providers
31 in Indiana. Neither the state of Indiana nor the authority, nor
32 any officers, agents, or employees of the state or the authority,
33 are subject to any liability resulting from assistance to or
34 coordination or participation with other issuers of tax exempt
35 bonds under this subsection. Any assistance, coordination, or
36 participation provided under this subsection is given with the
37 understanding that the issuers of tax exempt bonds or
38 borrowers will agree to indemnify and hold harmless the state
39 of Indiana and the authority and their officers, agents, and
40 employees from all claims and liability arising from any
41 action against the state of Indiana or the authority relating to
42 the bonds.



- 1 (5) Employ and enter into agreements with, and delegate to
2 any person as the authority sees fit, the power to manage the
3 routine affairs of the authority, including the originating and
4 processing of any applications from participating providers
5 for the lease or purchase from the authority, or financing,
6 reimbursing, or refinancing by the authority, of health facility
7 property and to service the leases, installment purchase
8 contracts, and loan agreements between the authority and the
9 participating providers.
- 10 (6) Establish eligibility standards for participating providers,
11 without complying with IC 4-22-2. However, these standards
12 have the force of law if the standards are adopted after a
13 public hearing for which notice has been published in a
14 newspaper published in the city of Indianapolis, at least ten
15 (10) days in advance of the hearing.
- 16 (7) Contract with any entity securing the payment of bonds
17 under IC 5-1.2-4-1(a)(10) and IC 5-1.2-4-1(a)(33), authorizing
18 the entity to approve the participating providers that can
19 finance or refinance health facility property with proceeds
20 from the bond issue secured by that entity.
- 21 (8) Lease to a participating provider specific items of health
22 facility property upon terms and conditions that the authority
23 considers proper, to charge and collect rents for the health
24 facility property, to terminate such a lease upon the failure of
25 the lessee to comply with any of its obligations under the lease
26 or otherwise as the lease provides, to include in the lease
27 provisions that the lessee has the option to renew the term of
28 the lease for the periods and at the rents as may be
29 determined by the authority or to purchase any or all of the
30 health facility property to which the lease applies.
- 31 (9) Loan to a participating provider under an installment
32 purchase contract or loan agreement money to finance,
33 reimburse, or refinance the cost of specific items of health
34 facility property and to take back a secured or unsecured
35 promissory note evidencing such a loan and a security interest
36 in the health facility property financed or refinanced with the
37 loan, upon the terms and conditions as the authority considers
38 proper.
- 39 (10) Sell or otherwise dispose of any unneeded or obsolete
40 health facility property under terms and conditions as
41 determined by the authority.
- 42 (11) Maintain, repair, replace, and otherwise improve or



1 cause to be maintained, repaired, replaced, and otherwise
2 improved any health facility property owned by the authority.

3 **(12) Obtain or aid in obtaining property insurance on all**
4 **health facility property owned or financed, or to accept**
5 **payment if any health facility property is damaged or**
6 **destroyed.**

7 **(13) Enter into any agreement, contract, or other instrument**
8 **with respect to any insurance, guarantee, or letter of credit,**
9 **accepting payment in the manner and form as provided in the**
10 **insurance, guarantee, or letter of credit if a participating**
11 **provider defaults, and to assign the insurance, guarantee, or**
12 **letter of credit as security for bonds issued by the authority.**

13 **(b) No part of the revenues or assets of the authority may inure**
14 **to the benefit of or be distributable to its members or officers or**
15 **other private persons. Any net earnings of the authority beyond**
16 **that necessary for retirement of authority indebtedness or to**
17 **implement the public purposes of this chapter inure to the benefit**
18 **of the state. Upon termination or dissolution of the authority, all**
19 **rights and properties of the authority pass to and are vested in the**
20 **state, subject to the rights of lien holders and other creditors.**

21 **Sec. 6. Before exercising any of the powers conferred by section**
22 **5 of this chapter, the authority may:**

23 **(1) require that the lease, installment purchase contract, or**
24 **loan agreement involved be insured by a loan insurer, be**
25 **guaranteed by a loan guarantor, or be secured by a letter of**
26 **credit; and**

27 **(2) require any other type of security from the participating**
28 **providers that the authority considers reasonable and**
29 **necessary.**

30 **Sec. 7. (a) The authority may issue, sell, and deliver its bonds, in**
31 **accordance with IC 5-1.2-4 and this chapter, for the purpose of**
32 **paying for or making loans to participating providers for the**
33 **financing, reimbursing, or refinancing of all or any part of the cost**
34 **of health facility property, to finance the acquisition of health**
35 **facility property for lease or sale to participating providers, and**
36 **any other purposes authorized by this chapter.**

37 **(b) The authority may provide for the issuance of bonds of the**
38 **authority for the purpose of refunding any bonds of the authority**
39 **then outstanding, including the payment of any redemption**
40 **premium on these bonds and any interest accrued or to accrue to**
41 **the earliest or any subsequent date of redemption, purchase or**
42 **maturity of these bonds, and, if considered advisable by the**



1 authority, for the additional purpose of paying all or any part of
2 the cost of health facility property.

3 (c) The proceeds of any bonds issued for the purpose of
4 refunding outstanding bonds may, in the discretion of the
5 authority, be applied to the purchase or retirement at maturity or
6 redemption of the outstanding bonds either on their earliest or any
7 subsequent redemption date or upon the purchase or at the
8 maturity of the bonds and may, pending such an application, be
9 placed in escrow to be applied to the purchase or retirement at
10 maturity or redemption on the date as may be determined by the
11 authority. Subject to the provisions of any trust indenture to the
12 contrary, any of the escrowed proceeds, pending such a use, may
13 be invested and reinvested in obligations as are determined by the
14 authority to assure the prompt payment of the principal and
15 interest and redemption premium, if any, on the outstanding bonds
16 to be so refunded. The interest, income, and profits, if any, earned
17 or realized on such an investment may also be applied to the
18 payment of the outstanding bonds to be so refunded. Only after the
19 terms of the escrow have been fully satisfied and carried out, any
20 balance of the proceeds and interest, income, and profits, if any,
21 earned or realized on the investments shall be returned to the
22 authority or the participating providers for use by them in any
23 lawful manner. All the bonds are subject to this chapter in the
24 same manner and to the same extent as other bonds issued under
25 this chapter.

26 (d) The proceeds of the bonds (other than refunding bonds) of
27 each issue shall be used for the payment of all or part of the cost of,
28 or for the making of a loan in the amount of all or part of the cost
29 of, the health facility property for which the bonds have been
30 authorized and, at the option of the authority, for the deposit to a
31 reserve fund or reserve funds for the bonds. However, the
32 authority may be paid, out of money from the proceeds of the sale
33 and delivery of its bonds issued in accordance with this chapter, all
34 of the authority's out-of-pocket expenses and costs in connection
35 with the issuance, sale, and delivery of the bonds, and the costs of
36 obtaining insurance, guarantees, and letters of credit securing
37 payment of the bonds and the lease and the loan and installment
38 purchase payments, plus an amount equal to the compensation
39 paid to any employees of the authority for the time those employees
40 have spent on activities relating to the issuance, sale, and delivery
41 of the bonds. Bond proceeds shall be disbursed in the manner and
42 under the restrictions determined by the authority.



1 **Sec. 8. (a).** Any bond resolution or related trust indenture,
2 indenture of mortgage, or deed of trust may contain provisions,
3 which must be a part of the contract with the holders of the bonds
4 to be authorized, as to pledging or assigning the revenues
5 generated by the health facility property, pledging or assigning the
6 notes and mortgage, lease, or other security given by the
7 participating providers whose health facility property has been
8 financed with the proceeds of the bonds or other specified revenues
9 or property of the authority.

10 **Sec. 9.** Bonds of the authority issued to finance or refinance a
11 health facility or health facility property may also be secured by
12 and payable from:

13 (1) a pooling of leases whereby the authority may assign its
14 rights, as lessor, and pledge rents under two (2) or more leases
15 of health facility property with two (2) or more participating
16 providers, as lessees; or

17 (2) a pooling of notes and mortgages or other security
18 instruments whereby the authority may assign its rights as
19 payee or secured party and pledge the revenues under two (2)
20 or more notes and loan agreements from two (2) or more
21 participating providers;

22 upon the terms as may be provided for in bond resolutions or other
23 instruments under which the bonds are issued.

24 **Sec. 10.** All expenses incurred in carrying out this chapter shall
25 be payable solely from funds provided under this chapter.

26 **Sec. 11.** Any holder of bonds or any coupons appertaining to the
27 bonds, and the trustee under any trust agreement or resolution
28 authorizing the issuance of the bonds, except to the extent the
29 rights given in this chapter may be restricted by the trust
30 agreement or resolution, may, either at law or in equity, by suit,
31 action, mandamus, or other proceeding, protect and enforce any
32 and all rights under the laws of Indiana, or under the trust
33 agreement resolution, or under any other contract executed by the
34 authority under this chapter, and enforce and compel the
35 performance of all duties required by this chapter or by the
36 agreement or resolution to be performed by the authority or by
37 any officer of the authority.

38 **Sec. 12.** All property acquired or held by the authority under
39 this chapter is declared to be public property used for public and
40 governmental purposes, and all property, income from the
41 property and bonds issued under this chapter, interest payable on
42 the bonds and income derived from the bonds, are exempt from all



1 taxes, direct or indirect, imposed by the state, any county, any city,
2 or any political subdivision of the state.

3 **Sec. 13. Nothing in this chapter may be construed as a**
4 **restriction or limitation upon any powers which the authority**
5 **might otherwise have under any other law of this state, and this**
6 **chapter is cumulative to these powers. This chapter shall be**
7 **construed to provide a complete, additional, and alternative**
8 **method for the doing of the things authorized, and shall be**
9 **construed as supplemental to powers conferred by any other laws.**
10 **The adoption by the authority of bylaws and rules, and the**
11 **issuance of bonds by the authority under this chapter need not**
12 **comply with the requirements of any other state laws applicable to**
13 **the adoption of bylaws and rules and the issuance of bonds, notes,**
14 **and other obligations. No proceedings, notice, or approval is**
15 **required for the issuance of any bonds or any instrument or the**
16 **security for the bonds or instruments, or for the proper conduct of**
17 **the authority's business, affairs, or operations, except as provided**
18 **in this chapter.**

19 **Sec. 14. (a) A county may lease land and buildings, including the**
20 **necessary equipment and appurtenances, from the authority for**
21 **hospital purposes. No lease on a particular building shall be**
22 **entered into for a period of more than forty (40) years. However,**
23 **a lease is renewable for less than forty (40) years.**

24 **(b) A lease entered into by a county may require the funding of**
25 **a reserve fund for the benefit of the authority or the authority's**
26 **assigns. To assure the maintenance of the required reserve amount**
27 **in any reserve fund, the county council may appropriate for**
28 **deposit in the reserve fund the sum certified by the county fiscal**
29 **officer to the county council that is necessary to restore the reserve**
30 **fund to an amount equal to the required reserve amount. The**
31 **county fiscal officer shall annually before July 1 prepare and**
32 **deliver a certificate to the county council stating the sum required**
33 **to restore the reserve fund to the appropriate reserve amount.**
34 **Nothing in this subsection creates a debt or liability of the county**
35 **to make an appropriation.**

36 **(c) All amounts received because of money appropriated by the**
37 **county to a reserve fund must be held by the authority under the**
38 **lease and applied in accordance with the lease.**

39 **Sec. 15. A county may, in anticipation of the construction,**
40 **erection, or renovation of a building (including the necessary**
41 **equipment and appurtenances), make and enter into a lease with**
42 **the authority before the actual acquisition of a site and the**



1 construction, erection, or renovation of the building. The lease
 2 shall not provide for the payment of any lease rental by the lessee
 3 until the building is ready for occupancy. However, if a building is
 4 to be acquired and renovated under this chapter, a county may, in
 5 anticipation of the acquisition and renovation, make and enter into
 6 a lease upon terms and conditions that are agreed upon by the
 7 county and the authority, including:

8 (1) terms and conditions upon which the county may continue
 9 to operate the building until completion of the renovation;
 10 and

11 (2) the payment of a lease rental by the lessee during the
 12 period of renovation.

13 **Sec. 16. (a) Any lease executed under section 9 or 10 of this**
 14 **chapter may provide for the payment of the lease rental in any one**
 15 **(1) of the following ways as established in the lease:**

16 (1) Entirely from the levy of taxes.

17 (2) Entirely from the net revenues of the hospital of which the
 18 leased building is a part.

19 (3) In part from the levy of taxes and in part from the net
 20 revenues described in subdivision (2).

21 (b) If any lease provides for the payment of lease rental in whole
 22 or in part from net revenues of the hospital, the lease may also
 23 provide that the county and the board of trustees or board of
 24 managers of the hospital set aside and hold as a reserve for this
 25 purpose excess net revenues over and above the amount required
 26 to pay lease rental payable from net revenues. The reserve fund
 27 may not exceed an amount equal to the amount of lease rental
 28 payable from net revenues for two (2) years. The reserve fund shall
 29 be held and used only for the purpose of paying lease rental
 30 payable from net revenues, if the net revenues at any time are
 31 insufficient to pay lease rentals. The amount in the reserve fund
 32 may be invested in the manner and to the extent provided in the
 33 lease. All interest or other income from the investment shall
 34 become part of the reserve fund unless the reserve fund contains
 35 the maximum amount required to be in the reserve fund. The
 36 following apply if the reserve fund contains the maximum amount
 37 required to be in the reserve fund:

38 (1) If any of the lease rental is payable from taxes, the interest
 39 or other income shall be transferred to the fund to be used for
 40 the payment of the lease rental provided to be paid from
 41 taxes.

42 (2) If none of the lease rental is payable from taxes, the



1 interest or other income shall become a part of the reserve
2 fund.

3 **Sec. 17. In addition to the ways specified in section 11 of this**
4 **chapter for the payment of lease rental, any lease executed under**
5 **this chapter may provide for the payment of lease rental from a**
6 **cumulative building fund established by the lessee under**
7 **IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal). Part or all of a**
8 **cumulative building fund and the tax levied for that cumulative**
9 **building fund may be committed and pledged to the payment of the**
10 **lease rental. To the extent that the amount committed and pledged**
11 **is insufficient to pay the lease rental, the lease shall provide that**
12 **any remaining lease rental shall be paid entirely from the net**
13 **revenues of the hospital of which the leased building is a part. So**
14 **long as the lease remains in effect:**

15 (1) any amount of cumulative building fund so committed and
16 pledged may not be expended by the lessee for any other
17 purpose; and

18 (2) the tax levy committed and pledged for the cumulative
19 building fund may not be reduced or rescinded by the county
20 council.

21 **Notwithstanding any other provision of this chapter, if a lease**
22 **provides for payment of lease rental under this section, no**
23 **approval of the county council is required for the lease, the terms**
24 **and conditions of the lease, or the sale of the land by the county to**
25 **the authority under this chapter.**

26 **Sec. 18. (a) When the authority, the board of trustees or board**
27 **of managers of the hospital, the board of commissioners of the**
28 **county, and a majority of the county council have agreed upon the**
29 **terms and conditions of any lease proposed to be entered into**
30 **under section 14 or 15 of this chapter, and before the final**
31 **execution of the lease, the county auditor shall give notice by**
32 **publication of a public hearing to be held in the county by the**
33 **board of commissioners. The hearing shall take place on a day not**
34 **earlier than ten (10) days after the publication of the notice. The**
35 **notice of the hearing shall be published one (1) time in a newspaper**
36 **of general circulation printed in the English language and**
37 **published in the county. The notice shall do the following:**

38 (1) Name the day, place, and hour of the hearing.

39 (2) Set forth a brief summary of the principal terms of the
40 lease agreed upon, including the character and location of the
41 property to be leased, the lease rental to be paid, and the
42 number of years the contract is to be in effect.



1 (3) State a location where the proposed lease, drawings, plans,
2 specifications, and estimates may be examined.

3 The proposed lease and the drawings, plans, specifications, and
4 estimates of construction cost for the building shall be open to
5 inspection by the public during the ten (10) day period and at the
6 hearing. All interested persons shall have a right to be heard at the
7 hearing on the necessity for the execution of the lease and whether
8 the lease rental under the lease is fair and reasonable. The hearing
9 may be adjourned to a later date with the place of the hearing fixed
10 before adjournment. Following the hearing, the board of
11 commissioners may either authorize the execution of the lease as
12 originally agreed upon or may make modifications that are agreed
13 upon by the authority, the board of trustees or board of managers
14 of the hospital, and the county council. The authorization shall be
15 by an order that is entered in the official records of the board of
16 commissioners. The lease contract shall be executed on behalf of
17 the county by the board of commissioners.

18 (b) If the execution of the lease as originally agreed upon or as
19 modified by agreement is authorized, notice of the signing of the
20 lease shall be given on behalf of the county by publication one (1)
21 time in a newspaper of general circulation printed in the English
22 language and published in the county. Except as provided in
23 subsection (d), ten (10) or more taxpayers in the county whose tax
24 rate will be affected by the proposed lease and who may be of the
25 opinion that no necessity exists for the execution of the lease or that
26 the lease rental under the lease is not fair and reasonable may file
27 a petition in the office of the county auditor, within thirty (30) days
28 after publication of notice of the execution of the lease, that sets
29 forth the taxpayers' objections and facts supporting those
30 objections. Upon the filing of a petition, the county auditor shall
31 immediately certify a copy of the petition together with any other
32 data as may be necessary in order to present the questions involved
33 to the department of local government finance. Upon receipt of the
34 certified petition and information, the department of local
35 government finance shall fix a time and place in the affected county
36 for the hearing of the matter that is not less than five (5) or more
37 than fifteen (15) days after receipt. Notice of the hearing shall be
38 given by the department of local government finance to the board
39 of county commissioners and to the first ten (10) taxpayer
40 petitioners upon the petition by certified mail sent to the addresses
41 listed on the petition at least five (5) days before the date of the
42 hearing.



1 (c) No action to contest the validity of the lease or to enjoin the
 2 performance of any of the terms and conditions of the lease shall
 3 be instituted at any time later than thirty (30) days after
 4 publication of notice of the execution of the lease, or, if an appeal
 5 has been taken to the department of local government finance,
 6 within thirty (30) days after the decision of the department.

7 (d) The authority for taxpayers to object to a proposed lease
 8 under subsection (b) does not apply if the authority complies with
 9 the procedures for the issuance of bonds and other evidence of
 10 indebtedness described in IC 6-1.1-20.

11 Sec. 19. (a) A lease under this chapter may provide that the
 12 lessee has an option to renew the lease for a like or lesser term, on
 13 the conditions that are provided in the lease. A lease shall contain
 14 an option to purchase:

15 (1) at any time after ten (10) years from the execution of the
 16 lease and before the expiration of the term of lease on the date
 17 fixed in the lease; and

18 (2) at a price equal to:

19 (A) the amount required to enable the authority to redeem
 20 all outstanding securities payable out of the rentals
 21 provided for in the lease, all premiums payable on the
 22 redemption, and accrued and unpaid interest; and

23 (B) all other expenses, indebtedness, and obligations of the
 24 authority attributable to the acquisition, construction,
 25 renovation, and leasing of the building.

26 (b) A lease may not provide or be construed to provide that the
 27 county is under any obligation to purchase the leased building or
 28 under any obligation with respect to any creditor or bondholder of
 29 the authority.

30 (c) A county exercising an option to purchase may issue general
 31 obligation bonds for the purpose of procuring funds with which to
 32 pay the purchase price of the building. The general obligation
 33 bonds shall be authorized, issued, and sold in the manner provided
 34 by law for the authorization, issuance, and sale of general
 35 obligation bonds of the county for other purposes.

36 Sec. 20. On behalf of the authority, the board of directors or
 37 board of managers of the hospital shall, before the execution of a
 38 lease, submit to and receive the approval of the board of
 39 commissioners of the county of the plans, specifications, and
 40 estimates of cost for the building or renovation. The plans and
 41 specifications shall be submitted to and approved by the state
 42 board of health, the division of fire and building safety, and other



1 state agencies that are required by law to pass on plans and
2 specifications for public buildings.

3 **Sec. 21. A county desiring to have a building erected or**
4 **renovated on land owned or to be acquired by the county may sell**
5 **that land or building to the authority. Before the sale may take**
6 **place, the county commissioners shall file a petition with the circuit**
7 **court, superior court, or probate court of the county requesting the**
8 **appointment of:**

9 (1) one (1) disinterested freeholder of the county as an
10 appraiser; and

11 (2) two (2) disinterested appraisers licensed under IC 25-34.1;
12 who are residents of Indiana to determine the fair market value of
13 the land or building. One (1) of the appraisers described under
14 subdivision (2) must reside not more than fifty (50) miles from the
15 land or building. Upon appointment, the appraisers shall fix the
16 fair market value of the land or building and shall report that
17 value within two (2) weeks after the date of their appointment. The
18 county may then sell the land or building to the authority for an
19 amount not less than the amount fixed by the appraisers as the fair
20 market value. The amount shall be paid in cash upon delivery of
21 the deed by the county to the authority. If a cumulative building
22 fund exists at the time of the sale, the proceeds from the sale shall
23 be placed in that fund. If a cumulative building fund does not exist
24 at the time of the sale, the proceeds from the sale shall be paid into
25 the county hospital fund with the principal of and interest on the
26 fund to be used solely by the county hospital for the purposes set
27 forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1,
28 1993). A sale of land or a building by a county to the authority shall
29 be authorized by the board of commissioners by an order that shall
30 be entered in the official records of the board. The deed shall be
31 executed on behalf of the county by the board of county
32 commissioners.

33 **Sec. 22. A county and an authority that have entered into, or**
34 **propose to enter into, a lease under this chapter may enter into**
35 **party wall agreements or other agreements concerning the**
36 **attaching of an addition to a hospital building, if the agreement is:**

37 (1) approved by the board of trustees or board of managers of
38 the hospital; and

39 (2) recorded in the office of the recorder of the county in
40 which the hospital is located.

41 **An agreement may provide for an easement or license to construct**
42 **a part of an addition over or above the existing hospital building.**



1 **Chapter 8. Educational Facility Financing**

2 **Sec. 1. The general purposes of this chapter are the following:**

3 (1) To provide financing for educational facility projects.

4 (2) To provide a measure of assistance and an alternative
5 method to enable nonprofit colleges or universities in Indiana
6 to refund or refinance outstanding indebtedness incurred by
7 nonprofit colleges or universities in Indiana for the
8 renovation, construction, acquisition, or equipping of
9 educational facilities.

10 (3) To establish liability or other loss insurance reserves or to
11 contribute those insurance reserves or other capital to a risk
12 retention group to provide insurance coverage against
13 liability claims or other losses.

14 (4) To provide the needed additional educational facilities for
15 the public benefit and good.

16 **Sec. 2. This chapter applies only to educational facilities and not**
17 **to any other facilities financed by the authority.**

18 **Sec. 3. Except as otherwise expressly provided in this chapter,**
19 **none of the powers granted to the authority under this chapter are**
20 **subject to the supervision or regulation or require the approval or**
21 **consent of:**

22 (1) any municipality or political subdivision;

23 (2) any department, division, commission, board, body,
24 bureau, official, or agency of any municipality or political
25 subdivision; or

26 (3) the state.

27 **Sec. 4. (a) The authority may determine the location and**
28 **character of any educational facility project to be financed under**
29 **this chapter.**

30 (b) The authority may construct, reconstruct, remodel,
31 maintain, manage, enlarge, alter, add to, repair, operate, lease as
32 lessee or lessor, regulate any educational facility project, or enter
33 into contracts for any purpose stated in this section.

34 (c) The authority may designate a nonprofit college or
35 university as the authority's agent for purposes of this section.

36 **Sec. 5. The authority:**

37 (1) may require that the rates, rents, fees, or charges
38 established by a nonprofit college or university are sufficient
39 to discharge the institution's obligations to the authority; but

40 (2) has no other jurisdiction over the rates, rents, fees, or
41 charges.

42 **Sec. 6. The authority may:**



1 (1) establish rules for the use of an educational facility project
2 or any part of an educational facility project; and

3 (2) designate a nonprofit college or university as the
4 authority's agent to establish rules for the use of an
5 educational facility project undertaken for that nonprofit
6 college or university.

7 Sec. 7. (a) The authority may make loans to any nonprofit
8 college or university for the cost of an educational facility project,
9 including the establishment of liability or other loss insurance
10 reserves or the contribution of those reserves to a risk retention
11 group for the purpose of providing insurance coverage against
12 liability claims or other losses in accordance with an agreement
13 between the authority and the nonprofit college or university.

14 (b) A loan authorized under this section may not exceed the total
15 cost of the educational facility project as determined by the
16 nonprofit college or university and approved by the authority.

17 Sec. 8. (a) The authority may make loans to a nonprofit college
18 or university to refund outstanding obligations or advances issued,
19 made, or given by the nonprofit college or university for the cost of
20 an educational facility project, including the establishment of
21 liability or other loss insurance reserves or the contribution of
22 those reserves to a risk retention group to provide insurance
23 coverage against liability claims or other losses.

24 (b) The authority may issue bonds and make loans to a
25 nonprofit college or university to refinance indebtedness incurred
26 or to reimburse advances made for educational facility projects
27 undertaken before the date of the bond issue whenever the
28 authority finds that the financing is in the public interest and:

29 (1) alleviates a financial hardship upon the nonprofit college
30 or university;

31 (2) results in a lesser cost of education; or

32 (3) enables the nonprofit college or university to offer greater
33 security for a loan or loans to finance a new educational
34 facility project or educational facility projects or to effect
35 savings in interest costs or more favorable amortization
36 terms.

37 Sec. 9. The authority may charge to and apportion among
38 nonprofit colleges or universities the authority's administrative
39 costs and expenses incurred in the exercise of the powers and
40 duties conferred by this chapter.

41 Sec. 10. (a) The authority may, for financing purposes, combine
42 an educational facility project or educational facility projects and



1 some or all future educational facility projects of any nonprofit
2 college or university or nonprofit colleges or universities if:

3 (1) the authority obtains the consent of all of the nonprofit
4 colleges or universities that are involved, or, when financing
5 loans for the funding of liability or other loss insurance
6 reserves or for the providing of those reserves or other capital
7 to be contributed to a risk retention group, the authority
8 obtains the consent of all of the eligible members that are
9 involved; and

10 (2) the money set aside in any fund or funds pledged for any
11 series of bonds or issue of bonds is held for the sole benefit of
12 a series or issue separate and apart from the money pledged
13 for any other series or issue of bonds of the authority.

14 (b) To facilitate the combining of educational facility projects,
15 bonds may be issued in one (1) or more series under one (1) or
16 more resolutions or trust agreements and be:

17 (1) fully open ended, thus providing for unlimited issuance of
18 additional series; or

19 (2) partially open ended, limited as to additional series;
20 all in the discretion of the authority.

21 (c) Notwithstanding any provision of this chapter, the authority
22 may permit a nonprofit college or university to substitute one (1)
23 or more educational facilities of similar value (as determined by an
24 independent appraiser satisfactory to the authority) as security for
25 any educational facility financed under this chapter on the terms
26 and conditions that the authority may prescribe.

27 Sec. 11. The authority may mortgage all or any part of:

28 (1) any educational facility project and any other educational
29 facilities conveyed to the authority for an educational
30 purpose; and

31 (2) the site or sites of the facilities, whether presently owned
32 or subsequently acquired;

33 for the benefit of the holders of the bonds of the authority issued to
34 finance an educational facility project or any portion of an
35 educational facility project or issued to refund or refinance
36 outstanding indebtedness of a nonprofit college or university as
37 permitted by this chapter.

38 Sec. 12. The authority may join in a risk retention group with
39 state educational institutions or any nonprofit college or university.

40 Sec. 13. All expenses incurred in carrying out this chapter are
41 payable solely from funds provided under the authority of this
42 chapter.



1 **Sec. 14. The authority shall promptly take any action and**
2 **execute any deeds and conveyances necessary and required to**
3 **convey the title to an educational facility project or educational**
4 **facility projects to the appropriate nonprofit college or university**
5 **whenever:**

- 6 **(1) the principal of and interest on bonds of the authority**
7 **issued to finance the cost of an educational facility project or**
8 **educational facility projects for a nonprofit college or**
9 **university, including any refunding bonds issued to refund**
10 **and refinance the bonds, have been fully paid and retired; or**
11 **(2) adequate provision has been made to fully pay and retire**
12 **bonds of the authority issued to finance the cost of an**
13 **educational facility project or educational facility projects for**
14 **a nonprofit college or university, all other conditions of the**
15 **bond resolution have been satisfied, and the lien created by**
16 **the bond resolution has been released in accordance with the**
17 **provisions of the bond resolution.**

18 **Sec. 15. Any income received from the investment of reserves or**
19 **sinking funds must be applied in reduction of the rentals or other**
20 **amounts paid by the nonprofit college or university or nonprofit**
21 **colleges or universities for whose educational facility project or**
22 **educational facility projects the reserves or sinking funds were**
23 **created. Funds held as reserves or sinking funds when invested**
24 **must be allocated to a specific educational facility project or**
25 **educational facility projects of the institution for which the fund**
26 **was created, and the income from the investment must be used to**
27 **reduce the bonded indebtedness attributable to the educational**
28 **facility project or educational facility projects.**

29 **Sec. 16. (a) In connection with any lease entered into between**
30 **the authority and any nonprofit college or university, the authority**
31 **shall fix, revise, charge, and collect rents for the use of each**
32 **educational facility project and contract with any person,**
33 **partnership, association, limited liability company, or corporation,**
34 **or other body, public or private, with respect to the educational**
35 **facility project.**

36 **(b) Each lease entered into by the authority with a nonprofit**
37 **college or university must provide that the rents or other money**
38 **payable by the nonprofit college or university is sufficient at all**
39 **times:**

- 40 **(1) to pay the private institution's share of the administrative**
41 **costs and expenses of the authority;**
42 **(2) to pay the principal of, the premium (if any), and the**



1 interest on outstanding bonds of the authority issued in
 2 respect of the educational facility project as the bonds become
 3 due and payable; and

4 (3) to create and maintain reserves that may be required or
 5 provided for in the bond resolution relating to the bonds of
 6 the authority.

7 (c) The authority shall pledge the revenues derived and to be
 8 derived from an educational facility project for the purposes
 9 specified in subsection (b).

10 Sec. 17. Except as provided in IC 21-36-2, an educational facility
 11 project is not subject to any statutory requirement of competitive
 12 bidding or other restriction imposed on the procedure for award
 13 of contracts or the lease, sale, or other disposition of property with
 14 regard to any action taken under authority of this chapter. If,
 15 however, the prospective lessee makes a request in writing, the
 16 authority shall call for the construction bids in the manner
 17 determined by the authority with the approval of the lessee.

18 Sec. 18. Notwithstanding any other provision of this chapter, the
 19 authority may:

20 (1) finance the cost of an educational facility or refund
 21 outstanding indebtedness of a nonprofit college or university,
 22 as authorized under section 8 of this chapter; or

23 (2) finance the establishment of liability or other loss
 24 insurance reserves or the contribution of reserves or other
 25 capital to a risk retention group to provide insurance
 26 coverage against liability claims or other losses;

27 by issuing the authority's bonds for the purpose of loaning the
 28 proceeds to a nonprofit college or university for the cost of a
 29 project or to refund or refinance outstanding indebtedness or
 30 reimburse advances made in connection with a project in
 31 accordance with an agreement between the authority and the
 32 institution and in exchange for the institution's promissory note or
 33 notes.

34 Sec. 19. (a) Any promissory notes received under section 18 of
 35 this chapter:

36 (1) must have the same principal amounts, maturities, and
 37 interest rates as the bonds being issued;

38 (2) may be secured by a first mortgage lien on the educational
 39 facility being financed or by a first mortgage lien on or
 40 security interest in other real or personal property or funds
 41 acceptable to the authority subject to any exceptions that the
 42 authority may approve and created by a mortgage instrument



1 or security agreement satisfactory to the authority; and

2 (3) may be insured or guaranteed by others.

3 (b) Any bonds described in section 18 of this chapter must be
4 payable solely out of the payments to be made on the promissory
5 notes and under the corresponding agreement. Any bonds
6 described in section 18 of this chapter may not exceed in principal
7 amount the cost of the educational facility, as determined by the
8 nonprofit college or university, or the necessary amount of these
9 liability or other loss insurance reserves, and approved by the
10 authority.

11 Sec. 20. If an educational facility is financed and mortgaged
12 under sections 18 and 19 of this chapter:

13 (1) the title to the facility must remain in the nonprofit college
14 or university owning the facility, subject to the lien of the
15 mortgage securing the promissory notes then being
16 purchased; and

17 (2) there may not be a lease of the facility between the
18 authority and the institution.

19 Sec. 21. Section 14 of this chapter does not apply to any
20 educational facility or any liability or loss insurance reserves
21 financed under this section and sections 18 through 20 of this
22 chapter. However, the authority shall return the promissory notes
23 purchased through the issuance of bonds to the nonprofit college
24 or university issuing the promissory notes when:

25 (1) the bonds have been fully paid and retired or adequate
26 provision has been made to pay and retire the bonds fully;

27 (2) all other conditions of the trust agreement or indenture
28 creating the bonds have been satisfied; and

29 (3) the lien has been released in accordance with the
30 provisions of the instrument creating the lien.

31 Chapter 9. Economic Development Projects

32 Sec. 1. The general purpose of this chapter is to provide
33 financing for economic development projects.

34 Sec. 2. This chapter applies only to economic development
35 projects and not to any other facilities or projects financed by the
36 authority.

37 Sec. 3. The authority may, instead of a private sale or leasing as
38 authorized by IC 5-1.2-4-1(a) or a financing of an economic
39 development project under section 12 of this chapter, decide to
40 hold a public offering under this chapter for the sale or leasing of
41 any land or interests in land, building improvements, structures,
42 personal property, and franchises and patents acquired by the



1 authority under this article for an economic development project.
2 If the authority decides to hold a public offering for the sale or
3 leasing of any property or interests acquired for an economic
4 development project, the offering shall be made in accordance with
5 this chapter.

6 Sec. 4. Before offering for sale or lease to the public any
7 property or interests acquired for an economic development
8 project, the authority shall prepare an offering sheet showing the
9 property or interests to be offered and copies of the offering sheets
10 shall be furnished to prospective buyers or lessees. Maps and plats
11 of the property and any additional information considered
12 appropriate by the authority shall also be kept available for
13 inspection at the office of the authority.

14 Sec. 5. The authority shall publish a notice of the offering in
15 accordance with IC 5-3-1. The notice must state that at a
16 designated time the authority will open and consider written offers
17 for the purchase or lease of the property or interests being offered.
18 In giving the notice, it is not necessary to describe specifically the
19 property or interests or to specify the exact terms of the
20 disposition, but the notice must state the general location of the
21 property or interests and call attention generally to any
22 requirements or limitations that the authority may establish in
23 respect to the economic development project.

24 Sec. 6. At the time fixed in the notice, the authority shall open
25 and consider any offers received. All offers received shall be
26 opened at public meetings of the authority and shall be kept open
27 for public inspection.

28 Sec. 7. The authority may reject any or all bids or may make
29 awards to the highest and best bidder or bidders. In determining
30 the highest and best bids, the authority may take into consideration
31 the following:

32 (1) The size and character of the improvements for the
33 economic development project as proposed by the bidder to
34 be made on the property and the terms and conditions of the
35 consideration offered by the bidder.

36 (2) The bidder's plans and ability to carry out the economic
37 development project with reasonable promptness.

38 (3) Whether the property and interests to be acquired by the
39 bidder will be leased or released for the economic
40 development project.

41 (4) The nature and extent of any obligations to be undertaken
42 by the authority in conjunction with the improvement of the



1 property or interests to be acquired for the economic
2 development project as proposed by the bidder.

3 (5) The potential impact of the bidder's proposal on the
4 creation of new employment or the retention of existing
5 employment resulting from the economic development
6 project.

7 (6) The potential impact of the bidder's proposal to attract or
8 establish a major new business enterprise or to retain or
9 expand a significant existing business enterprise that will
10 provide or preserve gainful employment for the citizens of the
11 state.

12 (7) The economic benefits to the state and its citizens that will
13 result from the economic development project, as proposed by
14 the bidder, including the dollar volume of new or preserved
15 wages and salaries, increases in or preservation of state and
16 local government tax revenues, the incremental economic
17 benefits to the citizens of the state, the state, and local
18 governmental units potentially resulting from the economic
19 development project as proposed by the bidder, and any other
20 direct or indirect economic benefit to the state and its citizens
21 resulting from the economic development project as proposed
22 by the bidder.

23 (8) The potential impact and benefit to the state and its
24 citizens of the economic development project as proposed by
25 the bidder from the standpoint of both human and economic
26 welfare.

27 **Sec. 8.** In making an award to the highest and best bidder as
28 provided in section 7 of this chapter, the authority shall determine
29 whether in its judgment the potential benefits to the state and its
30 citizens of the economic development project as proposed by the
31 bidder exceed the direct costs to the authority of acquiring the
32 property and interests being offered for sale or lease for the
33 economic development project less any sums to be paid by the
34 successful bidder pursuant to its bid. The authority's judgment
35 concerning this determination shall be based on the economic
36 studies, analyses, and projections that the authority determines are
37 reasonably necessary. The authority's determination is final and
38 conclusive.

39 **Sec. 9.** The authority may contract with a bidder concerning any
40 of the factors listed in section 7 of this chapter, and the contract
41 may provide for the deposit of surety bonds, the making of good
42 faith deposits, liquidated damages, the right of reversion or



1 repurchase, or other rights and remedies if the bidder fails to
2 comply with the contract.

3 **Sec. 10.** After the opening, consideration, and determination of
4 the written offers filed in response to the notice, the authority may
5 dispose of all or part of the remaining available property or
6 interests for any approved use, either at public sale or by private
7 negotiation carried on by the authority, its regular employees, or
8 real estate experts employed for that purpose. For a period of
9 thirty (30) days after the opening of the written offers and
10 determination on them, no sale, exchange, or lease may be made on
11 terms less than that shown on the offering sheet, but after that
12 period the authority may adjust the offering terms the authority
13 considers necessary to further the economic development project.

14 **Sec. 11.** An action to contest the validity of any sale or lease
15 awarded and approved by the authority under this section may not
16 be commenced more than thirty (30) days following the authority's
17 adoption of a resolution designating the successful bidder or
18 bidders and stating and approving the basic terms and conditions
19 of the sale or lease.

20 **Sec. 12.** The authority may enter into negotiations with one (1)
21 or more persons concerning the terms and conditions of financing
22 agreements for economic development projects. The authority shall
23 consider whether a proposed economic development project may
24 have an adverse competitive effect on similar economic
25 development projects already constructed or operating in the local
26 governmental unit where the economic development project will be
27 located. Preliminary expenses in connection with negotiations
28 under this section may be paid from:

- 29 (1) money furnished by the proposed user or developer;
- 30 (2) money made available by the state or federal government,
31 or by any of their departments or agencies; or
- 32 (3) money of the authority.

33 **Sec. 13.** The authority shall prepare a report that:

- 34 (1) briefly describes the proposed economic development
35 project;
- 36 (2) estimates the number and expense of public works or
37 services that would be made necessary or desirable by the
38 proposed economic development project, including public
39 ways, schools, water, sewers, street lights, and fire protection;
- 40 (3) estimates the total costs of the proposed economic
41 development project;
- 42 (4) for an economic development project that is not



1 exclusively either a pollution control facility or an educational
 2 facility project, estimates the number of jobs and the payroll
 3 to be created or saved by the project;

4 (5) for educational facility projects, describes how the project
 5 promotes the educational enrichment (including cultural,
 6 intellectual, scientific, or artistic opportunities) of the people
 7 of the state; and

8 (6) for pollution control facilities, describes the facilities and
 9 how they will abate, reduce, or prevent pollution.

10 The report shall be submitted to the executive director or chair of
 11 the plan commission, if any, having jurisdiction over the economic
 12 development project and, if the number of new jobs estimated
 13 exceeds one hundred (100), to the superintendent of the school
 14 corporation where the economic development project will be
 15 located. The executive director or chair of the plan commission and
 16 the school superintendent may formulate their written comments
 17 concerning the report and transmit their comments, if any, to the
 18 authority within five (5) days after the receipt of the report.

19 Sec. 14. The authority shall hold a public hearing, which may be
 20 conducted by the authority, or any officer, member, or agent
 21 designated by the authority, on the proposed financing agreement
 22 for the economic development project, after giving notice by
 23 publication in one (1) newspaper of general circulation in the city,
 24 town, or county where the economic development project is to be
 25 located at least ten (10) days in advance of this public hearing.

26 Sec. 15. If the authority finds that the economic development
 27 project will be of benefit to the health, safety, morals, and general
 28 welfare of the area where the economic development project is to
 29 be located, and complies with the purposes and provisions of this
 30 chapter, the authority may by resolution approve the proposed
 31 financing agreement.

32 Sec. 16. A financing agreement approved under this chapter
 33 must provide for payments in an amount sufficient to pay the
 34 principal of, premium for (if any), and interest on the bonds
 35 authorized for the financing of the economic development project.
 36 However, interest payments for the anticipated construction
 37 period, plus a period of not more than one (1) year, may be funded
 38 in the bond issue.

39 Sec. 17. The term of a financing agreement may not exceed fifty
 40 (50) years from the date of any bonds issued under the financing
 41 agreement. However, a financing agreement does not terminate
 42 after fifty (50) years if a default under that financing agreement



1 remains uncured, unless the termination is authorized by the terms
2 of the financing agreement.

3 **Sec. 18. If the authority retains an interest in the economic**
4 **development project, the financing agreement must require the**
5 **user or the developer to pay all costs of maintenance, repair, taxes,**
6 **assessments, insurance premiums, trustee's fees, and any other**
7 **expenses relating to the economic development projects, so that the**
8 **authority will not incur any expenses on account of the economic**
9 **development projects other than those that are covered by the**
10 **payments provided for in the financing agreement.**

11 **Sec. 19. The authority may initiate programs for financing**
12 **economic development projects for developers and users in Indiana**
13 **through the issuance of bonds under this article. In furtherance of**
14 **this objective, the authority may do any of the following:**

15 (1) Establish eligibility standards for developers and users,
16 without complying with IC 4-22-2. However, these standards
17 have the force of law if the standards are adopted after a
18 public hearing for which notice has been given by publication
19 under IC 5-3-1.

20 (2) Contract with any entity securing the payment of bonds
21 issued under this chapter and authorizing the entity to
22 approve the developers and users that can finance or
23 refinance economic development projects with proceeds from
24 the bond issue secured by that entity.

25 (3) Lease to a developer or user economic development
26 projects upon terms and conditions that the authority
27 considers proper and, with respect to the lease:

28 (A) charge and collect rents;

29 (B) terminate the lease upon the failure of the lessee to
30 comply with any of its obligations under the lease or
31 otherwise as the lease provides; and

32 (C) include in the lease provisions that the lessee has the
33 option to renew the term of the lease for those periods and
34 at those rents as may be determined by the authority or to
35 purchase any or all of the economic development projects
36 to which the lease applies.

37 (4) Lend money, upon terms and conditions as the authority
38 considers proper, to a developer or user under an installment
39 purchase contract or loan agreement to:

40 (A) finance, reimburse, or refinance the cost of an
41 economic development project; and

42 (B) take back a secured or unsecured promissory note



- 1 evidencing such a loan or a security interest in the
2 economic development project financed or refinanced with
3 the loan.
- 4 **(5) Sell or otherwise dispose of any unneeded or obsolete**
5 **economic development project under terms and conditions**
6 **determined by the authority.**
- 7 **(6) Maintain, repair, replace, and otherwise improve or cause**
8 **to be maintained, repaired, replaced, and otherwise improved**
9 **any economic development project owned by the authority.**
- 10 **(7) Require any type of security that the authority considers**
11 **reasonable and necessary.**
- 12 **(8) Obtain or aid in obtaining property insurance on all**
13 **economic development projects owned or financed, or accept**
14 **payment if any economic development project property is**
15 **damaged or destroyed.**
- 16 **(9) Enter into any agreement, contract, or other instrument**
17 **with respect to any insurance, guarantee, letter of credit, or**
18 **other form of credit enhancement, accepting payment in the**
19 **manner and form as provided in the instrument if a developer**
20 **or user defaults, and assign the insurance, guarantee, letter of**
21 **credit, or other form of credit enhancement as security for**
22 **bonds issued by the authority.**
- 23 **(10) Finance for eligible developers and users in connection**
24 **with an economic development project:**
- 25 **(A) the cost of their economic development projects; and**
26 **(B) in the case of a program funded from the proceeds of**
27 **taxable bonds, working capital associated with the**
28 **operation of the economic development project;**
29 **in amounts determined to be appropriate by the authority.**
- 30 **(11) Issue bonds to fund a program for financing multiple,**
31 **identified or unidentified economic development projects if**
32 **the authority finds that issuance of the bonds will be of benefit**
33 **to the health, safety, morals, or general welfare of the state**
34 **and complies with the purposes and provisions of this article**
35 **by promoting a substantial likelihood for one (1) or more of**
36 **the following:**
- 37 **(A) Creating opportunities for gainful employment.**
38 **(B) Creating business opportunities.**
39 **(C) Educational enrichment (including cultural,**
40 **intellectual, scientific, or artistic opportunities).**
41 **(D) The abatement, reduction, or prevention of pollution.**
42 **(E) The removal or treatment of any substances in**



1 materials being processed that would otherwise cause
2 pollution when used.

3 The authority may by resolution approve the proposed taxable
4 bond issue.

5 Sec. 20. As each unidentified economic development project is
6 identified for possible funding from a program under section
7 19(11) of this chapter, the requirements of sections 12, 13, 14, 15,
8 and 16 of this chapter shall be complied with as a condition
9 precedent to entering into a financing agreement for the funding
10 of the economic development project.

11 Sec. 21. Bonds issued to fund a program under this chapter are
12 not in any respect a general obligation of the state, nor are they
13 payable in any manner from revenues raised by taxation.

14 Sec. 22. Any resolution adopted to authorize the issuance of
15 taxable bonds to fund a program under section 19(11) of this
16 chapter may provide that the bonds are payable solely from:

17 (1) revenues and receipts derived from the various financing
18 agreements; or

19 (2) the payments made under any other agreements to secure
20 the obligations of the developers, users, related persons, or the
21 authority.

22 Sec. 23. (a) The authority may invest in, purchase or make
23 commitments to invest in or purchase, and take assignments or
24 make commitments to take assignments of, loans made for the
25 acquisition, construction, installation, rehabilitation, or purchase
26 of economic development projects.

27 (b) Before investment, purchase, assignment, or commitment,
28 the lender shall certify that the proceeds of the authority's bonds
29 will be used to make loans to provide financing for economic
30 development projects, or pending the making of the loan, invested
31 in short term obligations complying with the requirements of this
32 article.

33 (c) The authority shall purchase a loan at a purchase price equal
34 to the outstanding principal balance, but the authority may require
35 a discount from the principal balance or make a payment of a
36 premium to effect a fair rate of return for the lender, as
37 determined by the rate of return on comparable investments under
38 market conditions existing at the time of purchase.

39 (d) In addition to the payment of the outstanding principal
40 balance, the authority shall pay the accrued interest due on the
41 loan, on the date the loan is delivered against payment for the loan
42 or on another date as may be established by agreement between the



1 authority and the selling lender.

2 Sec. 24. Before exercising any of the powers authorized in
3 section 23 of this chapter, the authority shall require the lender to
4 certify and agree that:

5 (1) the loan is, or, if the loan has not been made, will be, at the
6 time of making, in all respects a prudent investment; and

7 (2) the lender will make the loan and sell the loan to the
8 authority within a reasonable period of time.

9 Sec. 25. Before exercising any of the powers conferred by
10 section 23 of this chapter, the authority may:

11 (1) require that the loan involved be insured by a loan insurer
12 or be guaranteed by a loan guarantor;

13 (2) require any type of security that the authority considers
14 reasonable and necessary; or

15 (3) authorize the reservation of funds by lenders in the
16 amount and subject to conditions as the authority considers
17 reasonable and necessary under this chapter.

18 Sec. 26. (a) The authority has the power to issue, from time to
19 time, bonds to renew or to pay bonds, including the interest on
20 these bonds, if these bonds have been issued to finance projects that
21 constitute economic development projects, and whenever the
22 authority considers refunding expedient, to refund any bonds by
23 the issuance of new bonds, whether the bonds to be refunded have
24 or have not matured, and to issue bonds partly to refund
25 outstanding bonds and partly for any other of its corporate
26 purposes as long as the bonds to be refunded were issued to finance
27 projects that constitute economic development projects.

28 (b) With respect to any bonds issued under this chapter, the
29 cumulative terms of refunding bonds may not exceed fifty (50)
30 years.

31 (c) Refunding bonds issued under this section are payable solely
32 from revenues and receipts derived from:

33 (1) financing agreements with the users or developers of the
34 facilities originally financed by the outstanding bonds, or
35 related persons; or

36 (2) payments made under guaranty agreements by developers,
37 users, or related persons.

38 The financing agreements or guaranties may be new financing
39 agreements or guaranties or amendments of the original financing
40 agreements or guaranties.

41 (d) Sections 13 and 15 of this chapter do not apply to the
42 issuance of refunding bonds under this section.



1 **Sec. 27. (a) Property owned by the authority and leased to a**
 2 **person for an economic development project is not public property.**

3 **(b) Any economic development project financed by a loan under**
 4 **the authority of this chapter is not public property and is not**
 5 **exempt from any taxes of this state, or any county, city, or other**
 6 **political subdivision of this state, except for pollution control**
 7 **equipment.**

8 **(c) The property and the economic development project are**
 9 **subject to all taxes of this state or any county, city, or other**
 10 **political subdivision of this state in the same manner and subject**
 11 **to the same exemptions that apply to all persons.**

12 **Chapter 10. Wastewater and Drinking Water Revolving Loan**
 13 **Programs**

14 **Sec. 1. At the request of the department of environmental**
 15 **management, the authority shall carry out the programs**
 16 **established under this chapter.**

17 **Sec. 2. The following programs are established:**

18 **(1) The wastewater revolving loan program.**

19 **(2) The drinking water revolving loan program.**

20 **Sec. 3. (a) The following funds are established:**

21 **(1) The drinking water revolving loan fund (referred to in this**
 22 **chapter as the "drinking water SRF fund" or "fund").**

23 **(2) The wastewater revolving loan fund (referred to in this**
 24 **chapter as the "wastewater SRF fund" or "fund").**

25 **(b) The authority shall administer, hold, and manage each fund.**

26 **(c) Except as provided in the federal Clean Water Act or the**
 27 **federal Safe Drinking Water Act, the cost of administering either**
 28 **fund or program may be paid from the appropriate fund or from**
 29 **other money.**

30 **(d) All money accruing to each fund and money allotted to the**
 31 **state under federal law is appropriated continuously for the**
 32 **purposes specified in this chapter.**

33 **(e) Money in the each fund does not revert to the state general**
 34 **fund at the end of a state fiscal year.**

35 **Sec. 4. Each fund is established to provide money for loans and**
 36 **other financial assistance under this chapter to or for the benefit**
 37 **of participants, including forgiveness of principal if allowed under**
 38 **federal law.**

39 **Sec. 5. (a) The general assembly may appropriate money to**
 40 **either fund.**

41 **(b) Grants or gifts of money to either fund from the federal**
 42 **government or other sources and the proceeds of the sale of:**



1 (1) gifts to either fund; and
 2 (2) loans and other financial assistance, as provided in
 3 sections 11 through 15 of this chapter;
 4 shall be deposited in the appropriate fund.

5 (c) Repayments of loans and other financial assistance from
 6 either fund, including interest, premiums, and penalties, shall be
 7 deposited in the appropriate fund.

8 Sec. 6. (a) The authority shall invest the money in each fund in
 9 accordance with an investment policy adopted by the authority.
 10 Interest, premiums, gains, or other earnings from the investments
 11 shall be credited to and deposited in the appropriate fund.

12 (b) As an alternative to subsection (a), the authority may invest
 13 or cause to be invested all or a part of each fund in a fiduciary
 14 account or accounts with a trustee that is a financial institution.
 15 Notwithstanding any other law, any investment may be made by
 16 the trustee in accordance with one (1) or more trust agreements or
 17 indentures. A trust agreement or indenture may permit
 18 disbursements by the trustee to:

19 (1) a participant;

20 (2) the authority; or

21 (3) any person to which the authority or a participant is
 22 obligated, as provided in the trust agreement or indenture.

23 Sec. 7. (a) Money in the wastewater SRF fund may be used for
 24 wastewater collection and treatment systems.

25 (b) Money in the drinking water SRF fund may be used for
 26 public water systems that will facilitate compliance with national
 27 primary drinking water regulations applicable to public water
 28 systems under the federal Safe Drinking Water Act or otherwise
 29 significantly further the health protection objectives of the federal
 30 Safe Drinking Water Act.

31 (c) Money in each fund may be used to do the following:

32 (1) Provide loans or other financial assistance to participants
 33 for the:

34 (A) planning;

35 (B) designing;

36 (C) construction;

37 (D) renovation;

38 (E) improvement;

39 (F) expansion; or

40 (G) any combination of clauses (A) through (F);

41 for the purposes described in subsections (a) and (b),
 42 including other activities necessary or convenient to complete



- 1 these tasks.
- 2 **(2) Pay the cost of administering each fund and program.**
- 3 **(3) Any purpose eligible for assistance under the federal Clean**
- 4 **Water Act or the federal Safe Drinking Water Act.**
- 5 **(4) Conduct all other activities that are allowed by the federal**
- 6 **Clean Water Act or the federal Safe Drinking Water Act.**
- 7 **Sec. 8. The authority may develop and implement a strategy to**
- 8 **assist participants in acquiring and maintaining technical,**
- 9 **managerial, and financial capacity as contemplated by the federal**
- 10 **Clean Water Act or the federal Safe Drinking Water Act.**
- 11 **Sec. 9. This chapter does not require the authority to provide a**
- 12 **loan or other financial assistance to any participant to the extent**
- 13 **the authority determines the loan or financial assistance is not in**
- 14 **the best interests of the wastewater or drinking water program and**
- 15 **the authority.**
- 16 **Sec. 10. The authority may contract with the department of**
- 17 **environmental management or any other entity or person for**
- 18 **assistance in administering the wastewater or drinking water**
- 19 **program and the wastewater SRF fund or drinking water SRF**
- 20 **fund and in carrying out the purposes of this chapter.**
- 21 **Sec. 11. For the purposes of this chapter, the authority shall do**
- 22 **the following:**
- 23 **(1) Administer, hold, and manage all aspects of each fund and**
- 24 **the wastewater or drinking water program, and any related**
- 25 **fund or account the authority creates under this chapter.**
- 26 **(2) Be the point of contact in relations with the United States**
- 27 **Environmental Protection Agency.**
- 28 **(3) Prepare and provide wastewater or drinking water**
- 29 **program information.**
- 30 **(4) Ensure that each proposed financial assistance agreement**
- 31 **meets the environmental and technical aspects of the**
- 32 **wastewater or drinking water program.**
- 33 **(5) Periodically inspect project design and construction to**
- 34 **determine compliance with the following:**
- 35 **(A) This chapter.**
- 36 **(B) The federal Clean Water Act or the federal Safe**
- 37 **Drinking Water Act.**
- 38 **(C) Construction plans and specifications.**
- 39 **(6) Negotiate the negotiable aspects of each financial**
- 40 **assistance agreement.**
- 41 **(7) Manage any payment systems through which the state**
- 42 **receives grant payments from the federal government for the**



1 wastewater or drinking water program and disbursements to
2 the wastewater SRF fund or drinking water SRF fund.

3 (8) Prepare annual reports concerning each fund and
4 program.

5 (9) Be the point of contact with participants and other
6 interested persons in preparing and providing wastewater or
7 drinking water program information.

8 (10) Prepare or cause to be prepared each financial assistance
9 agreement.

10 (11) Sign each financial assistance agreement.

11 (12) Conduct or cause to be conducted an evaluation as to the
12 financial ability of each participant to pay the loan or other
13 financial assistance and other obligations evidencing the loans
14 or other financial assistance, if required to be paid, and
15 comply with the financial assistance agreement.

16 Sec. 12. The authority may provide services to a participant in
17 connection with a loan or other financial assistance, including
18 advisory and other services.

19 Sec. 13. (a) In connection with the wastewater or drinking water
20 program, the authority may:

21 (1) charge a fee for services provided;

22 (2) charge a fee for costs and services incurred in the review
23 or consideration of an application for a proposed loan or
24 other financial assistance to or for the benefit of a participant
25 under this chapter, regardless of whether the application is
26 approved or rejected; and

27 (3) charge a fee (or cause interest on a loan made from the
28 wastewater SRF fund or drinking water SRF fund to be so
29 designated) in any manner allowed by the federal Clean
30 Water Act or the federal Safe Drinking Water Act.

31 (b) A participant may pay fees charged under this section. If
32 directed by the authority, a fee charged under this section may be
33 instead of all or a portion of a scheduled interest payment.

34 (c) Fees shall be held and applied by the authority in any
35 manner allowed by the federal Clean Water Act or the federal Safe
36 Drinking Water Act.

37 Sec. 14. (a) The authority shall use a priority ranking system in
38 making loans or other financial assistance from each fund.

39 (b) The authority, in consultation with other state agencies the
40 authority determines to be appropriate, shall develop the priority
41 ranking system to achieve optimum water quality consistent with
42 federal primary drinking water regulations and health protection



1 objectives of the federal Safe Drinking Water Act, the water
2 quality goals of the state, and the federal Clean Water Act.

3 **Sec. 15. (a) The authority may make loans or provide other**
4 **financial assistance from each fund to or for the benefit of a**
5 **participant for the following:**

6 (1) Establish guaranties, reserves, or sinking funds, including
7 guaranties, reserves, or sinking funds to secure and pay, in
8 whole or in part, loans or other financial assistance made
9 from sources other than the wastewater SRF fund or drinking
10 water SRF fund (including financial institutions) for a
11 purpose permitted by this chapter.

12 (2) Provide interest subsidies.

13 (3) Pay financing charges, including interest on the loan or
14 other financial assistance during construction and for a
15 reasonable period after the completion of construction.

16 (b) The authority shall establish the terms and conditions that
17 the authority considers necessary or convenient to:

18 (1) make loans; or

19 (2) provide other financial assistance under this chapter.

20 (c) Notwithstanding any other law, the authority may establish
21 and implement requirements that:

22 (1) apply to loans and other financial assistance to be made to
23 participants that are not political subdivisions; and

24 (2) are different from, or in addition to, requirements that
25 apply to loans and financial assistance made to political
26 subdivisions.

27 **Sec. 16. A participant receiving a loan or other financial**
28 **assistance from the wastewater SRF fund or drinking water SRF**
29 **fund shall enter into a financial assistance agreement. A financial**
30 **assistance agreement related to the wastewater or drinking water**
31 **program is a valid, binding, and enforceable agreement of the**
32 **participant.**

33 **Sec. 17. The authority may sell or pledge loans or evidence of**
34 **other financial assistance and other obligations of participants to**
35 **the extent allowed by the federal Clean Water Act or the federal**
36 **Safe Drinking Water Act.**

37 **Sec. 18. (a) The authority may pledge loans or evidence of other**
38 **financial assistance and other obligations of participants**
39 **evidencing the loans or other financial assistance from the**
40 **wastewater SRF fund or drinking water SRF fund to secure:**

41 (1) other loans or financial assistance from the wastewater
42 SRF fund or drinking water SRF fund to or for the benefit of



1 participants; or
 2 (2) other loans or financial assistance from the supplemental
 3 fund to or for the benefit of participants;
 4 to the extent allowed by the federal Safe Drinking Water Act or the
 5 federal Clean Water Act.

6 (b) The authority must approve the terms of a pledge under this
 7 section.

8 (c) Notwithstanding any other law, a pledge of property made
 9 by the authority under this section, is binding from the time the
 10 pledge is made. Revenues, other money, or other property pledged
 11 and that is received after the pledge are immediately subject to the
 12 lien of the pledge without any other act. The lien of a pledge is
 13 binding against all parties having claims of any kind in tort,
 14 contract, or otherwise against:

- 15 (1) the drinking water SRF fund;
- 16 (2) the wastewater SRF fund; or
- 17 (3) the authority;

18 regardless of whether the parties have notice of any lien.

19 (d) A resolution, an indenture, or other instrument by which a
 20 pledge is created does not have to be filed or recorded, except in
 21 the records of the authority.

22 (e) Action taken to:

- 23 (1) enforce a pledge under this section; and
- 24 (2) realize the benefits of the pledge;

25 is limited to the property pledged.

26 (f) A pledge under this section does not create a liability or
 27 indebtedness of the state.

28 Sec. 19. (a) The authority shall establish the interest rate or
 29 parameters for establishing the interest rate on each loan made
 30 under this chapter, including parameters for establishing the
 31 amount of interest subsidies.

32 (b) The authority, in setting the interest rate or parameters for
 33 establishing the interest rate on each loan, may take into account
 34 the following:

- 35 (1) Credit risk.
- 36 (2) Environmental, water quality, and health protection.
- 37 (3) Affordability.
- 38 (4) Other fiscal factors the authority considers relevant,
 39 including the wastewater or drinking water program's cost of
 40 funds and whether the financial assistance provided to a
 41 particular participant is taxable or tax exempt under federal
 42 law.



1 Based on the factors set forth in subdivisions (1) through (4), more
 2 than one (1) interest rate may be established and used for loans or
 3 other financial assistance to different participants or for different
 4 loans or other financial assistance to the same participants.

5 Sec. 20. The authority shall require a participant receiving a
 6 loan or other financial assistance under this chapter to establish
 7 under applicable law and maintain sufficient user charges or other
 8 charges, fees, taxes, special assessments, or revenues available to
 9 the participant to:

10 (1) operate and maintain the public water or wastewater
 11 collection and treatment system; and

12 (2) pay the obligations of the public water system.

13 Sec. 21. The authority may adopt guidelines, without complying
 14 with IC 4-22-2, to govern the administration of this chapter.

15 Sec. 22. (a) As an alternative to making loans or providing other
 16 financial assistance to participants, the authority may use the
 17 money in either fund to provide a leveraged loan program and
 18 other financial assistance programs allowed by the federal Clean
 19 Water Act or the federal Safe Drinking Water Act to or for the
 20 benefit of participants, including using money in the wastewater
 21 SRF fund or drinking water SRF fund to enhance the obligations
 22 of participants issued for the purposes of this chapter by:

23 (1) granting money to:

24 (A) be deposited in:

25 (i) a capital fund or reserve fund established under
 26 IC 5-1.2-4 or another statute or a trust agreement or
 27 indenture as contemplated by this chapter; or

28 (ii) an account established within a fund described in
 29 item (i); or

30 (B) provide interest subsidies;

31 (2) paying bond insurance premiums, reserve insurance
 32 premiums, or credit enhancement, liquidity support,
 33 remarketing, or conversion fees, or other similar fees or costs
 34 for obligations of a participant or for bonds issued by the
 35 authority, if credit market access is improved or interest rates
 36 are reduced; or

37 (3) guaranteeing all or a part of obligations issued by
 38 participants or bonds issued by the authority.

39 (b) A guarantee of obligations or bonds under subsection (a)(3)
 40 must be limited to money in the wastewater SRF fund or drinking
 41 water SRF fund and the supplemental fund. A guarantee under
 42 subsection (a)(3) does not create a liability or indebtedness of the



1 state.

2 **Sec. 23.** Notwithstanding any other law, and to the extent
3 allowed by the federal Clean Water Act or the federal Safe
4 Drinking Water Act, money in the wastewater SRF fund or
5 drinking water SRF fund, together with loan repayments to be
6 deposited in the wastewater SRF fund or drinking water SRF fund,
7 may be used to establish a leveraged loan program or other
8 financial assistance programs established in connection with the
9 wastewater SRF fund or drinking water SRF fund.

10 **Chapter 11. Supplemental Drinking Water and Wastewater**
11 **Assistance Program**

12 **Sec. 1.** At the request of the department of environmental
13 management, the authority shall carry out the program established
14 under this chapter.

15 **Sec. 2.** The supplemental drinking water and wastewater
16 assistance program (referred to in this chapter as "program") is
17 established.

18 **Sec. 3. (a)** The supplemental drinking water and wastewater
19 assistance fund (referred to in this chapter as "fund") is
20 established.

21 **(b)** The authority shall administer, hold, and manage the
22 supplemental fund.

23 **(c)** The cost of administering the supplemental fund may be paid
24 from money in the supplemental fund.

25 **(d)** All money accruing to the supplemental fund is appropriated
26 continuously for the purposes specified in this chapter.

27 **(e)** Money in the supplemental fund does not revert to the state
28 general fund at the end of a state fiscal year.

29 **Sec. 4. (a)** The general assembly may appropriate money to the
30 supplemental fund.

31 **(b)** Grants or gifts of money to the supplemental fund and
32 proceeds of the sale of:

33 **(1)** gifts to the supplemental fund; and

34 **(2)** loans and other financial assistance, as provided in this
35 chapter;

36 shall be deposited in the supplemental fund.

37 **(c)** Repayments of loans and other financial assistance from the
38 supplemental fund, including interest, premiums, and penalties,
39 shall be deposited in the supplemental fund.

40 **Sec. 5. (a)** The authority shall invest the money in the
41 supplemental fund in accordance with an investment policy
42 adopted by the authority. Interest, premiums, gains, or other



1 earnings from the investments shall be credited to and deposited in
2 the supplemental fund.

3 (b) As an alternative to subsection (a), the authority may invest
4 or cause to be invested all or a part of the supplemental fund in a
5 fiduciary account or accounts with a trustee that is a financial
6 institution. Notwithstanding any other law, any investment may be
7 made by the trustee in accordance with one (1) or more trust
8 agreements or indentures. A trust agreement or indenture may
9 permit disbursements by the trustee to the authority, a participant,
10 or any other person as provided in the trust agreement or
11 indenture.

12 Sec. 6. Money in the supplemental fund may be used to do the
13 following:

14 (1) Provide grants, loans, or other financial assistance to or
15 for the benefit of participants for the planning, designing,
16 acquisition, construction, renovation, improvement, or
17 expansion of the following:

18 (A) A public water system, whether or not those other
19 activities are allowed by the federal Clean Water Act or
20 the federal Safe Drinking Water Act.

21 (B) A wastewater or storm water collection and treatment
22 system.

23 The money may be used to pay for other activities necessary
24 or convenient to complete these tasks, regardless of whether
25 those other activities are allowed by the federal Clean Water
26 Act or the federal Safe Drinking Water Act.

27 (2) Provide grants, loans, or other financial assistance to
28 political subdivisions for tasks associated with the
29 development and preparation of:

30 (A) long term control plans;

31 (B) use attainability analyses; and

32 (C) storm water management programs.

33 (3) Provide interest subsidies.

34 (4) Establish guaranties, reserves, or sinking funds, including
35 guaranties, reserves, or sinking funds to secure and pay, in
36 whole or in part, loans or other financial assistance made
37 from sources other than the supplemental fund (including
38 financial institutions) for a purpose allowed by subdivision
39 (1).

40 (5) Pay financing charges, including interest on the loan or
41 other financial assistance during construction and for a
42 reasonable period after the completion of construction.



- 1 **(6) Pay the cost of administering the supplemental fund and**
- 2 **the supplemental program.**
- 3 **(7) Conduct all other activities that are allowed by the federal**
- 4 **Clean Water Act or the federal Safe Drinking Water Act.**
- 5 **Sec. 7. The authority shall develop criteria to make or provide**
- 6 **grants, loans, or other financial assistance from the supplemental**
- 7 **fund.**
- 8 **Sec. 8. The authority must establish the terms and conditions**
- 9 **that the authority considers necessary or convenient to make**
- 10 **grants or loans or provide other financial assistance under this**
- 11 **chapter.**
- 12 **Sec. 9. This chapter does not require the authority to provide a**
- 13 **loan or other financial assistance to any participant to the extent**
- 14 **the authority determines loan or financial assistance is not in the**
- 15 **best interests of the supplemental program and the authority.**
- 16 **Sec. 10. A participant receiving a grant, loan, or other financial**
- 17 **assistance from the supplemental fund shall enter into a financial**
- 18 **assistance agreement. A financial assistance agreement related to**
- 19 **the supplemental program is a valid, binding, and enforceable**
- 20 **agreement of the participant.**
- 21 **Chapter 12. Indiana Brownfields Program**
- 22 **Sec. 1. At the request of the department of environmental**
- 23 **management, the authority shall carry out the program established**
- 24 **under this chapter.**
- 25 **Sec. 2. The Indiana brownfields program is established to assist**
- 26 **in the remediation of brownfields to encourage the rehabilitation,**
- 27 **redevelopment, and reuse of real property by providing grants,**
- 28 **loans, forgivable loans, awards of professional services, or other**
- 29 **financial assistance to or for the benefit of political subdivisions to**
- 30 **conduct any of the following activities:**
- 31 **(1) Identification and acquisition of brownfields within a**
- 32 **political subdivision as suitable candidates for redevelopment.**
- 33 **(2) Environmental assessment of identified brownfields,**
- 34 **including assessment of petroleum and hazardous substances**
- 35 **contamination, and other activities necessary or convenient to**
- 36 **complete the environmental assessments.**
- 37 **(3) Remediation activities conducted on brownfields,**
- 38 **including:**
- 39 **(A) remediation of petroleum and hazardous substances**
- 40 **contamination; and**
- 41 **(B) other activities necessary or convenient to complete**
- 42 **remediation activities conducted on brownfields, including**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

clearance of real property.

(4) Other activities in conjunction with assessment and remediation activities necessary or convenient to prepare a brownfield for redevelopment.

Sec. 3. (a) The Indiana brownfields fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of political subdivisions under this chapter. The authority shall administer, hold, and manage the environmental remediation fund.

(b) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(c) Expenses of administering the Indiana brownfields fund shall be paid from money in the Indiana brownfields fund.

(d) The Indiana brownfields fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Grants and gifts intended for deposit in the Indiana brownfields fund.
- (3) Repayments of loans and other financial assistance from the Indiana brownfields fund, including premiums, interest, and penalties.
- (4) Proceeds from the sale of loans and other financial assistance under section 7 of this chapter.
- (5) Interest, premiums, gains, or other earnings on the Indiana brownfields fund.
- (6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).
- (7) Fees collected under section 6 of this chapter.
- (8) Money transferred from the underground petroleum storage tank excess liability trust fund under IC 13-23-7 for the purpose of environmental assessment and remediation on a property containing at least one (1) underground storage tank.
- (9) Money transferred from the petroleum trust fund under IC 13-23-12-4(1) for the purpose of corrective actions that involve releases of regulated substances from underground storage tanks and are ineligible to receive funds from the underground petroleum storage tank excess liability trust fund under IC 13-23-7.

(e) The authority shall invest the money in the Indiana brownfields fund not currently needed to meet the obligations of the environmental remediation fund in accordance with an investment policy adopted by the authority. Interest, premiums,



1 gains, or other earnings from the investments shall be credited to
2 and deposited in the Indiana brownfields fund.

3 (f) As an alternative to subsection (e), the authority may invest
4 or cause to be invested all or a part of the environmental
5 remediation fund in a fiduciary account or accounts with a trustee
6 that is a financial institution. Notwithstanding any other law, any
7 investment may be made by the trustee in accordance with one (1)
8 or more trust agreements or indentures. A trust agreement or
9 indenture may allow disbursements by the trustee to the authority,
10 a participant, or any other person as provided in the trust
11 agreement or indenture.

12 Sec. 4. (a) The authority shall do the following under this
13 chapter:

14 (1) Be responsible for the management of all aspects of the
15 Indiana brownfields program.

16 (2) Prepare and provide program information.

17 (3) Negotiate the negotiable aspects of each financial
18 assistance agreement.

19 (4) Sign each financial assistance agreement.

20 (5) Review each proposed project and financial assistance
21 agreement to determine if the project meets the credit,
22 economic, or fiscal criteria established by guidelines of the
23 authority.

24 (6) Periodically inspect or cause to be inspected projects to
25 determine compliance with this chapter.

26 (7) Conduct or cause to be conducted an evaluation
27 concerning the financial ability of a private individual or
28 entity, nonprofit entity, or political subdivision to:

29 (A) pay a loan or other financial assistance and other
30 obligations evidencing loans or other financial assistance,
31 if required to be paid; and

32 (B) otherwise comply with terms of the financial assistance
33 agreement.

34 (8) Evaluate or cause to be evaluated the technical aspects of
35 the private individual or entity, nonprofit entity, or political
36 subdivision's:

37 (A) environmental assessment of potential brownfield
38 properties;

39 (B) proposed remediation; and

40 (C) remediation activities conducted on brownfield
41 properties.

42 (9) Inspect or cause to be inspected remediation activities



- 1 **conducted under this chapter.**
- 2 **(10) Act as a liaison to the United States Environmental**
- 3 **Protection Agency regarding the Indiana brownfields**
- 4 **program.**
- 5 **(11) Be a point of contact for private entities, nonprofit**
- 6 **entities, and political subdivisions concerning questions about**
- 7 **the Indiana brownfields program.**
- 8 **(12) Enter into memoranda of understanding, as necessary,**
- 9 **with the department of environmental management and the**
- 10 **budget agency concerning the administration and**
- 11 **management of the Indiana brownfields fund and the Indiana**
- 12 **brownfields program.**
- 13 **(b) The authority may do the following under this chapter:**
- 14 **(1) Undertake activities to make private environmental**
- 15 **insurance products available to encourage and facilitate the**
- 16 **cleanup and redevelopment of brownfield properties.**
- 17 **(2) Enter into agreements with private entities, nonprofit**
- 18 **entities, and political subdivisions to manage any of the**
- 19 **following conducted on brownfield properties:**
- 20 **(A) Environmental assessment activities.**
- 21 **(B) Environmental remediation activities.**
- 22 **(C) Demolition and clearance activities.**
- 23 **(c) The authority may:**
- 24 **(1) negotiate with;**
- 25 **(2) select; and**
- 26 **(3) contract with;**
- 27 **one (1) or more insurers to provide insurance products as**
- 28 **described in subsection (b)(1).**
- 29 **(d) The authority may:**
- 30 **(1) negotiate with;**
- 31 **(2) select; and**
- 32 **(3) contract with;**
- 33 **one (1) or more environmental consultants to undertake the**
- 34 **activities described in subsection (b)(2) for the benefit of private**
- 35 **entities, nonprofit entities, and political subdivisions.**
- 36 **(e) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the**
- 37 **authority is not liable for any contamination addressed by the**
- 38 **authority under an agreement under subsection (b)(2) unless**
- 39 **existing contamination on the brownfield is exacerbated due to**
- 40 **gross negligence or intentional misconduct by the authority.**
- 41 **(f) For purposes of subsection (e), reckless, willful, or wanton**
- 42 **misconduct constitutes gross negligence.**



1 (g) The authority is entitled to the same governmental immunity
 2 afforded a political subdivision under IC 34-13-3-3(22) for any act
 3 taken to investigate or remediate hazardous substances, petroleum,
 4 or other pollutants associated with a brownfield under an
 5 agreement under subsection (b)(2).

6 (h) This chapter does not require the authority to provide a loan
 7 or other financial assistance to any private individual or entity,
 8 nonprofit entity, or political subdivision to the extent the authority
 9 determines that providing the loan or other financial assistance is
 10 not in the best interests of the Indiana brownfields program and
 11 the authority.

12 **Sec. 5. The authority may do the following:**

13 (1) **Employ:**

14 (A) **fiscal consultants;**

15 (B) **environmental consultants;**

16 (C) **engineers;**

17 (D) **bond counsel;**

18 (E) **other special counsel;**

19 (F) **accountants; and**

20 (G) **any other consultants, employees, and agents;**

21 **that the authority considers necessary to carry out the**
 22 **purposes of this chapter.**

23 (2) **Fix and pay the compensation of persons employed under**
 24 **subdivision (1) from money available in the Indiana**
 25 **brownfields fund or otherwise made available for the Indiana**
 26 **brownfields program.**

27 (3) **Provide services to a private individual or entity, nonprofit**
 28 **entity, or political subdivision in connection with a loan or**
 29 **other financial assistance, including advisory and other**
 30 **services.**

31 **Sec. 6. (a) The authority may provide services to a person (as**
 32 **defined in IC 13-11-2-158(a)) in connection with financial**
 33 **assistance, technical assistance, and liability clarification, and may**
 34 **assess and collect a fee for:**

35 (1) **services provided to offset the costs of providing the**
 36 **services; and**

37 (2) **costs and services incurred in the review or consideration**
 38 **of an application for a proposed loan or other financial**
 39 **assistance to or for the benefit of a political subdivision under**
 40 **this chapter, regardless of whether the application is**
 41 **approved or rejected.**

42 (b) **A political subdivision may pay fees charged under this**



- 1 section.
- 2 (c) The authority shall adopt guidelines for the assessment and
3 collection of fees under this section.
- 4 (d) Fees collected under this section shall be deposited in the
5 Indiana brownfields fund.
- 6 Sec. 7. The authority shall use a priority ranking system in
7 making loans and providing other financial assistance under this
8 chapter based on the following:
- 9 (1) Socioeconomic distress in an area, as determined by the
10 poverty level and unemployment rate in the area.
- 11 (2) The technical evaluation under section 4(a)(8)(A),
12 4(a)(8)(B), and 4(a)(8)(C) of this chapter.
- 13 (3) Other factors determined by the authority, including the
14 following:
- 15 (A) The number and quality of jobs that would be
16 generated by a project.
- 17 (B) Housing, recreational, and educational needs of
18 communities.
- 19 (C) Any other factors the authority determines will assist
20 in the implementation of this chapter.
- 21 Sec. 8. (a) A loan or other financial assistance must be used for
22 at least one (1) of the purposes under section 2 of this chapter and
23 may be used for any of the following purposes:
- 24 (1) To:
- 25 (A) establish guaranties, reserves, or sinking funds,
26 including guaranties, reserves, or sinking funds to secure
27 and pay, in whole or in part, loans or other financial
28 assistance made from sources other than the Indiana
29 brownfields fund (including financial institutions) for a
30 purpose allowed by this chapter; or
- 31 (B) provide interest subsidies.
- 32 (2) To pay financing charges, including interest on the loan or
33 other financial assistance during remediation and for a
34 reasonable period after the completion of remediation.
- 35 (3) To pay consultant, advisory, and legal fees, and any other
36 costs or expenses resulting from:
- 37 (A) the assessment, planning, or remediation of a
38 brownfield; or
- 39 (B) the loan or other financial assistance.
- 40 (b) The authority shall establish the interest rate or parameters
41 for establishing the interest rate on each loan made under this
42 chapter, including parameters for establishing the amount of



- 1 interest subsidies.
- 2 (c) The authority, in setting the interest rate or parameters for
- 3 establishing the interest rate on each loan, may take into account
- 4 the following:
- 5 (1) Credit risk.
- 6 (2) Environmental, water quality, and health protection.
- 7 (3) Affordability.
- 8 (4) Other fiscal factors the authority considers relevant,
- 9 including the Indiana brownfields program's cost of funds
- 10 and whether the financial assistance provided to or for the
- 11 benefit of a particular political subdivision is taxable or tax
- 12 exempt under federal law.
- 13 Based on the factors set forth in subdivisions (1) through (4), more
- 14 than one (1) interest rate may be established and used for loans or
- 15 other financial assistance to or for the benefit of different political
- 16 subdivisions or for different loans or other financial assistance to
- 17 or for the benefit of the same political subdivision.
- 18 (d) Before a private individual or entity, nonprofit entity, or
- 19 political subdivision may receive a loan or other financial
- 20 assistance, including grants, from the Indiana brownfields fund,
- 21 the private individual or entity, nonprofit entity, or political
- 22 subdivision must submit the following:
- 23 (1) Documentation of community and neighborhood comment
- 24 concerning the use of a brownfield on which remediation
- 25 activities will be undertaken after remediation activities are
- 26 completed.
- 27 (2) A plan for repayment of the loan or other financial
- 28 assistance, if applicable.
- 29 (3) An approving opinion of a nationally recognized bond
- 30 counsel if required by the authority.
- 31 (4) A summary of the environmental objectives of the
- 32 proposed project.
- 33 (e) A private individual or entity, nonprofit entity, or political
- 34 subdivision that receives a loan or other financial assistance from
- 35 the Indiana brownfields fund shall enter into a financial assistance
- 36 agreement. A financial assistance agreement related to the Indiana
- 37 brownfields program is a valid, binding, and enforceable
- 38 agreement of the private individual or entity, nonprofit entity, or
- 39 political subdivision.
- 40 (f) The authority may sell or assign:
- 41 (1) loans or evidence of other financial assistance; and
- 42 (2) other obligations of the private individuals or entities,



1 **nonprofit entities, or political subdivisions evidencing the**
 2 **loans or other financial assistance from the environmental**
 3 **remediation fund;**

4 **at any price and on terms acceptable to the authority. Proceeds of**
 5 **sales or assignments under this subsection shall be deposited in the**
 6 **Indiana brownfields fund. A sale or an assignment under this**
 7 **subsection does not create a liability or an indebtedness of the state**
 8 **or the authority except, in the case of the authority, strictly in**
 9 **accordance with the sale or assignment terms.**

10 **(g) The authority may pledge loans or evidence of other**
 11 **financial assistance and other obligations of private individuals or**
 12 **entities, nonprofit entities, or political subdivisions evidencing the**
 13 **loans or other financial assistance from the environmental**
 14 **remediation fund to secure other loans or financial assistance from**
 15 **the environmental remediation fund to or for the benefit of**
 16 **political subdivisions. The terms of a pledge under this subsection**
 17 **must be approved by the budget agency. Notwithstanding any**
 18 **other law, a pledge of property made by the authority and**
 19 **approved by the budget agency under this subsection is binding**
 20 **from the time the pledge is made. Revenues, other money, or other**
 21 **property pledged and then received are immediately subject to the**
 22 **lien of the pledge without any further act. The lien of a pledge is**
 23 **binding against all parties having claims of any kind in tort,**
 24 **contract, or otherwise against the authority, a trustee, or the**
 25 **Indiana brownfields fund, regardless of whether the parties have**
 26 **notice of a lien. A resolution, an indenture, or other instrument by**
 27 **which a pledge is created is not required to be filed or recorded,**
 28 **except in the records of the authority. An action taken to enforce**
 29 **a pledge under this subsection and to realize the benefits of the**
 30 **pledge is limited to the property pledged. A pledge under this**
 31 **subsection does not create a liability or an indebtedness of the state**
 32 **or the authority except, in the case of the authority, strictly in**
 33 **accordance with the pledge terms.**

34 **Sec. 9. The authority may adopt guidelines without complying**
 35 **with IC 4-22-2 to govern the administration of this chapter.**

36 **Sec. 10. (a) As an alternative to making loans or providing other**
 37 **financial assistance to private individuals or entities, nonprofit**
 38 **entities, or political subdivisions, the authority may use the money**
 39 **in the Indiana brownfields fund to provide a leveraged loan**
 40 **program and other financial assistance programs to or for the**
 41 **benefit of political subdivisions, including using money in the**
 42 **Indiana brownfields fund to enhance a private individual or**



1 entity's, nonprofit entity's, or political subdivision's obligations
2 under this chapter by:

3 (1) granting money to:

4 (A) be deposited in:

5 (i) a capital fund or reserve fund established under
6 IC 5-1.2-4 or another law, including this chapter; or

7 (ii) any account established within the environmental
8 remediation fund; or

9 (B) provide interest subsidies;

10 (2) paying bond insurance premiums, reserve insurance
11 premiums, or credit enhancement, liquidity support,
12 remarketing, or conversion fees, or other similar fees or costs
13 for obligations of a political subdivision or for bonds or other
14 obligations issued by a trustee that is a financial institution for
15 a grantor trust or the authority if credit market access is
16 improved or interest rates are reduced; or

17 (3) guaranteeing all or a part of obligations issued by political
18 subdivisions or of bonds or other obligations issued by a
19 trustee that is a financial institution for a grantor trust or the
20 authority.

21 (b) The authority may enter into any agreements with:

22 (1) a trustee that is a financial institution for a grantor trust;
23 or

24 (2) private individuals or entities, nonprofit entities, or
25 political subdivisions;

26 to carry out this chapter.

27 (c) A guarantee of obligations or bonds under subsection (a)(3)
28 must be limited to money in the Indiana brownfields fund. A
29 guarantee under subsection (a)(3) does not create a liability or an
30 indebtedness of the state or of the authority except, in the case of
31 the authority, strictly in accordance with the guarantee terms.

32 (d) Notwithstanding any other law, the authority is considered
33 a qualified entity for purposes of IC 5-1.5.

34 Sec. 11. (a) Notwithstanding any other law and in addition to
35 any other law, including this article, the authority may issue,
36 guarantee, and sell its revenue bonds, notes, and other obligations
37 and guarantee loans and other financial assistance in connection
38 with the Indiana brownfields program and the Indiana brownfields
39 fund. The revenue bonds, notes, and other obligations must be
40 issued in accordance with a resolution of the authority on terms or
41 within parameters established by the authority, and proceeds must
42 be used to carry out one (1) or more of the purposes of this chapter.



1 **(b) Compliance with this section constitutes full authority for**
 2 **the authority to issue and guarantee its revenue bonds, notes, and**
 3 **other obligations, to guarantee loans and other financial assistance,**
 4 **and to sell the revenue bonds, notes, and other obligations at public**
 5 **or private negotiated sale on terms or within parameters**
 6 **established by the authority. The authority is not required to**
 7 **comply with any other law applicable to the authorization,**
 8 **approval, issuance, guarantee, and sale of its revenue bonds, notes,**
 9 **and other obligations and guarantee loans and other financial**
 10 **assistance. The revenue bonds, notes, and other obligations,**
 11 **including guarantees, issued by the authority in connection with**
 12 **the Indiana brownfields program and the Indiana brownfields**
 13 **fund are valid and binding obligations of the authority and are**
 14 **enforceable in accordance with their terms and payable solely from**
 15 **the sources specified in the resolution authorizing their issuance,**
 16 **guarantee, and sale. The authority's revenue bonds, notes, and**
 17 **other obligations, including guarantees, do not create a liability or**
 18 **debt of the state.**

19 **Sec. 12. (a) The authority may deposit appropriations or other**
 20 **money received under this chapter (or IC 13-19-5, before its**
 21 **repeal) after June 30, 1999, into an account of the environmental**
 22 **remediation fund. The authority may use money deposited in the**
 23 **account to award financial assistance, including forgivable loans,**
 24 **to or for the benefit of a political subdivision, and awards of**
 25 **professional services to private individuals or entities, nonprofit**
 26 **entities, and political subdivisions for remediation or other**
 27 **brownfield redevelopment activities. The authority shall, in the**
 28 **manner provided by section 9 of this chapter, adopt guidelines to**
 29 **establish a political subdivision's eligibility for a forgivable loan.**
 30 **The guidelines may provide priority for projects based on the**
 31 **funding source.**

32 **(b) The financial assistance agreement for a project to be**
 33 **financed with a forgivable loan must specify economic development**
 34 **or redevelopment goals for the project that must be achieved**
 35 **before the political subdivision will be released from its obligation**
 36 **to repay the forgivable loan.**

37 **Chapter 13. Flood Control Program**

38 **Sec. 1. At the request of the department of natural resources,**
 39 **the authority shall carry out the program established under this**
 40 **chapter.**

41 **Sec. 2. (a) The flood control program is established.**

42 **(b) The flood control fund is created to provide money for loans**



1 and financial assistance to or for the benefit of participants under
2 this chapter as part of the flood control program.

3 (c) The flood control fund must be used exclusively for the
4 purposes of this chapter.

5 (d) The authority shall hold the flood control fund in the name
6 of the authority. The authority shall administer the flood control
7 fund in the manner provided by IC 5-1.2-4 and this chapter.

8 (e) Money in the flood control fund does not revert to the state
9 general fund.

10 Sec. 3. Loans and financial assistance may be made from the
11 flood control fund to participants in the manner provided by
12 IC 5-1.2-4 and this chapter.

13 Sec. 4. The authority may make an approved loan or provide
14 other financial assistance from the flood control fund to a
15 participant. The money loaned or provided must be used by the
16 participant only for the purpose of undertaking approved
17 assistance.

18 Sec. 5. The authority may make an approved loan or provide
19 other financial assistance from the flood control fund to a
20 participant for an eligible activity only if:

- 21 (1) the eligible activity is authorized and approved by
22 ordinance or resolution enacted by the governing board of the
23 participant; and
24 (2) the assistance has been approved by the authority.

25 Sec. 6. (a) The authority shall authorize the making of a loan or
26 providing other financial assistance to a participant under this
27 chapter subject to the following:

- 28 (1) An application for the loan or other financial assistance to
29 undertake an eligible activity has been submitted by the
30 participant to the authority in the manner and form that the
31 authority directs. The application must state the following:
32 (A) The need for the requested eligible activity and the
33 need for the loan or other financial assistance for
34 undertaking the requested eligible activity.
35 (B) A detailed description of the requested eligible activity.
36 (C) An engineering estimate of the cost of the requested
37 eligible activity.
38 (D) The amount of the loan or other financial assistance
39 considered to be needed.
40 (E) Other information that is requested by the authority.
41 (2) By entering into a financial assistance agreement, the
42 authority determines that the eligible activity for which the



1 approved assistance is provided will preserve, protect, or
2 benefit the health, safety, and general welfare of the
3 inhabitants of the participant's jurisdiction and the citizens of
4 the state.

5 (3) The participant agrees and furnishes assurance,
6 satisfactory to the authority, that after completion, the
7 participant will operate and maintain the eligible activity
8 receiving approved assistance.

9 (b) This chapter does not require the authority to provide a loan
10 or other financial assistance to any participant to the extent it
11 determines that providing the loan or other financial assistance is
12 not in the best interests of the flood control program and the
13 authority.

14 Sec. 7. (a) The participant:

15 (1) shall undertake and complete work related to the eligible
16 activity receiving approved assistance; and

17 (2) may provide labor, equipment, and materials from any
18 source available to the participant related to the eligible
19 activity receiving approved assistance.

20 (b) The authority may do the following:

21 (1) Evaluate the participation of the participant in the
22 accomplishment of the eligible activity receiving approved
23 assistance.

24 (2) Require a contribution by the participant toward the total
25 cost of the eligible activity receiving approved assistance.

26 (c) Any participation required under this section shall be
27 supervised by the governing board of the participant.

28 Sec. 8. (a) The authority shall use a priority ranking system in
29 making loans or providing other financial assistance from the flood
30 control fund. The authority, in consultation with other state
31 agencies the authority determines to be appropriate, shall develop
32 the priority ranking system to achieve the purposes of this chapter.

33 (b) If an emergency demands immediate relief from actual or
34 threatened flood damage, the application made by a participant for
35 a loan or financial assistance may be considered regardless of a
36 previous priority rating ascribed to the applicant.

37 Sec. 9. (a) The authority shall establish the interest rate or
38 parameters for establishing the interest rate on each loan and other
39 financial assistance made under this chapter, including parameters
40 for establishing the amount of interest subsidies.

41 (b) The authority, in setting the interest rate or parameters for
42 establishing the interest rate on each loan and other financial



1 assistance, may take the following into account:

- 2 (1) Credit risk.
 3 (2) Environmental enforcement and protection.
 4 (3) Affordability.
 5 (4) Other fiscal factors the authority considers relevant,
 6 including the program's cost of flood control funds and
 7 whether the financial assistance provided to a particular
 8 participant is taxable or tax exempt under federal law.

9 Based on the factors set forth in subdivisions (1) through (4), more
 10 than one (1) interest rate may be established and used for loans and
 11 other financial assistance to different participants or for different
 12 loans and other financial assistance to the same participants.

13 Sec. 10. A participant receiving a loan or other financial
 14 assistance from the flood control fund shall enter into a financial
 15 assistance agreement with the authority. A financial assistance
 16 agreement related to the flood control program is a valid, binding,
 17 and enforceable agreement on the participant.

18 Sec. 11. A participant receiving a loan or other financial
 19 assistance under:

- 20 (1) this chapter;
 21 (2) IC 13-2-23 (before its repeal); or
 22 (3) IC 14-28-5 (before its repeal);

23 may levy an annual tax on personal and real property located
 24 within the geographical limits of the participant for flood control
 25 purposes. The tax is in addition to any other tax authorized by law
 26 to be levied for flood control purposes. The tax shall be levied at
 27 the rate that will produce sufficient revenue to pay the annual
 28 installment and interest on a loan or other financial assistance
 29 made under this chapter, under IC 13-2-23 (before its repeal), or
 30 under IC 14-28-5 (before its repeal). The tax at the rate authorized
 31 in this section is in addition to the maximum annual rates
 32 prescribed by law.

33 Sec. 12. If a participant fails to make a payment to the flood
 34 control fund or any other payment required by this chapter, under
 35 IC 13-2-23 (before its repeal), or under IC 14-28-5 (before its
 36 repeal) or is in any way indebted to the flood control fund for an
 37 amount incurred or accrued, the state may recover the amount
 38 through any of the following:

- 39 (1) The state may, through the attorney general and on behalf
 40 of the authority, file a suit in the circuit or a superior court
 41 with jurisdiction in the county in which the participant is
 42 located to recover the amount that the participant owes the



1 flood control fund.

2 (2) The auditor of state may, after a sixty (60) day written
3 notice to the participant, withhold the payment and
4 distribution of state money that the defaulting participant is
5 entitled to receive under Indiana law.

6 (3) For a special taxing district, upon certification by the
7 auditor of state after a sixty (60) day written notice to the
8 special taxing district, the auditor of each county containing
9 land within the special taxing district shall withhold collected
10 tax money for the special taxing district and remit the
11 withheld tax money to the auditor of state. The auditor of
12 state shall make a payment to the flood control fund in the
13 name of the special taxing district. Upon elimination of the
14 delinquency payment, the auditor of state shall certify the fact
15 to the auditors of the counties involved and any additional
16 withheld tax money shall be released to the special taxing
17 district.

18 **Chapter 14. Water Infrastructure Assistance Program**

19 **Sec. 1.** At the request of the department of environmental
20 management, the authority shall carry out the program established
21 under this chapter.

22 **Sec. 2.** The water infrastructure assistance program is
23 established.

24 **Sec. 3. (a)** The water infrastructure assistance fund is
25 established as a source of money for grants, loans, and other
26 financial assistance to, or for the benefit of, participants in the
27 program.

28 **(b)** The fund shall be administered, held, and managed by the
29 authority.

30 **(c)** The authority shall invest or cause to be invested all or a part
31 of the fund, pursuant to the authority's investment policy, in a
32 fiduciary account or accounts with a trustee that is a financial
33 institution. Notwithstanding any other law, any investment under
34 this subsection may be made by the trustee in accordance with one
35 (1) or more trust agreements or indentures. A trust agreement or
36 indenture referred to in this subsection may permit disbursements
37 by the trustee to the authority, the department, the budget agency,
38 a participant, or any other person as provided in the trust
39 agreement or indenture.

40 **(d)** The fund consists of the following:

41 **(1)** Fees and other amounts received by the state, paid by the
42 treasurer of state to the authority upon warrants issued by the



- 1 **auditor of state, and deposited in the fund.**
- 2 **(2) Appropriations to the fund from the general assembly.**
- 3 **(3) Grants and gifts of money to the fund.**
- 4 **(4) Proceeds of the sale of:**
 - 5 **(A) gifts to the fund; and**
 - 6 **(B) loans, evidences of other financial assistance, and other**
 - 7 **obligations evidencing the loans or other financial**
 - 8 **assistance, as provided in sections 5 through 9 of this**
 - 9 **chapter.**
- 10 **(5) Repayments of loans and other financial assistance from**
- 11 **the fund, including interest, premiums, and penalties.**
- 12 **(e) Fees and other amounts received by the state pursuant to law**
- 13 **concerning the funding of the water infrastructure assistance fund**
- 14 **shall be paid monthly by the treasurer of state to the authority**
- 15 **upon warrants issued by the auditor of state and deposited in the**
- 16 **fund.**
- 17 **(f) The expenses of administering the fund shall be paid from**
- 18 **money in the fund.**
- 19 **(g) Money in the fund at the end of a state fiscal year does not**
- 20 **revert to the state general fund.**
- 21 **Sec. 4. Money in the water infrastructure assistance fund may**
- 22 **be used to do the following:**
 - 23 **(1) Provide grants, loans, and other financial assistance to or**
 - 24 **for the benefit of participants for:**
 - 25 **(A) the planning, designing, acquisition, construction,**
 - 26 **renovation, improvement, or expansion of public water**
 - 27 **systems; and**
 - 28 **(B) other activities necessary or convenient to complete the**
 - 29 **tasks referred to in clause (A) whether or not the other**
 - 30 **activities are permitted by the federal Clean Water Act or**
 - 31 **the federal Safe Drinking Water Act.**
 - 32 **(2) Provide grants, loans, or other financial assistance to or**
 - 33 **for the benefit of participants for:**
 - 34 **(A) the planning, designing, acquisition, construction,**
 - 35 **renovation, improvement, or expansion of wastewater or**
 - 36 **storm water collection and treatment systems; and**
 - 37 **(B) other activities necessary or convenient to complete the**
 - 38 **tasks referred to in clause (A) whether or not the other**
 - 39 **activities are permitted by the federal Clean Water Act or**
 - 40 **the federal Safe Drinking Water Act.**
 - 41 **(3) Provide grants to political subdivisions for tasks associated**
 - 42 **with the development and preparation of:**



- 1 (A) long term control plans;
- 2 (B) use attainability analyses; and
- 3 (C) storm water management programs.
- 4 (4) Undertake tasks associated with the development and
- 5 preparation of water, wastewater, and storm water
- 6 infrastructure and resource analyses.
- 7 (5) Conduct all other activities that are permitted by the
- 8 federal Clean Water Act or the federal Safe Drinking Water
- 9 Act.
- 10 Sec. 5. The authority shall adopt guidelines to establish criteria
- 11 for the making of grants, loans, and other financial assistance from
- 12 the water infrastructure assistance fund.
- 13 Sec. 6. (a) The making of grants and loans and the providing of
- 14 other financial assistance from the water infrastructure assistance
- 15 fund to or for the benefit of participants under this chapter are
- 16 subject to the following conditions:
- 17 (1) A grant, loan, or other financial assistance may be used:
- 18 (A) for:
- 19 (i) the planning, designing, acquiring, constructing,
- 20 renovating, improving, or expanding of public water
- 21 systems; and
- 22 (ii) other activities necessary or convenient to the
- 23 completion of the tasks referred to in item (i);
- 24 (B) to:
- 25 (i) establish guaranties, reserves, or sinking funds,
- 26 including guaranties, reserves, or sinking funds to secure
- 27 and pay, in whole or in part, loans or other financial
- 28 assistance made from sources other than the fund
- 29 (including financial institutions), for a purpose permitted
- 30 by clause (A); or
- 31 (ii) provide interest subsidies;
- 32 (C) to pay financing charges, including interest on the loan
- 33 during construction and for a reasonable period after the
- 34 completion of construction; or
- 35 (D) to pay the following:
- 36 (i) Consultant, advisory, and legal fees.
- 37 (ii) Other costs or expenses necessary or incident to the
- 38 making of grants, loans, or other financial assistance or
- 39 the administration of the fund or the program.
- 40 (2) A grant may be used for tasks associated with the
- 41 development and preparation of water infrastructure and
- 42 resource analyses.



- 1 **(3) The authority must establish the terms and conditions that**
 2 **the authority considers necessary or convenient to the making**
 3 **of grants or loans or providing of other financial assistance**
 4 **under this chapter.**
- 5 **(b) In addition to exercising its powers under subsection (a), the**
 6 **authority may also make grants or loans or provide other financial**
 7 **assistance from the fund to or for the benefit of a participant under**
 8 **the following conditions:**
- 9 **(1) A grant, loan, or other financial assistance may be used:**
 10 **(A) for planning, designing, acquiring, constructing,**
 11 **renovating, improving, or expanding wastewater or storm**
 12 **water collection and treatment systems, and other**
 13 **activities necessary or convenient to the completion of**
 14 **these tasks;**
 15 **(B) to:**
 16 **(i) establish guaranties, reserves, or sinking funds,**
 17 **including guaranties, reserves, or sinking funds to secure**
 18 **and pay, in whole or in part, loans or other financial**
 19 **assistance made from sources other than the water**
 20 **infrastructure assistance fund (including financial**
 21 **institutions), for a purpose permitted by clause (A); or**
 22 **(ii) provide interest subsidies;**
 23 **(C) to pay financing charges, including interest on the loan**
 24 **during construction and for a reasonable period after the**
 25 **completion of construction; or**
 26 **(D) to pay:**
 27 **(i) consultant, advisory, and legal fees; and**
 28 **(ii) other costs or expenses necessary or incident to the**
 29 **grant, loan, or other financial assistance or the**
 30 **administration of the water infrastructure assistance**
 31 **fund or the infrastructure program.**
- 32 **(2) A grant may be used for tasks associated with the**
 33 **development and preparation of:**
 34 **(A) long term control plans;**
 35 **(B) use attainability analyses;**
 36 **(C) storm water management programs; or**
 37 **(D) other wastewater or storm water infrastructure and**
 38 **resource analyses.**
- 39 **(3) The authority must establish the terms and conditions that**
 40 **the authority considers necessary or convenient to the making**
 41 **of grants or loans or providing of other financial assistance**
 42 **under this chapter.**



1 **Sec. 7. (a) An application for a grant, loan, or other financial**
 2 **assistance from the water infrastructure assistance fund must be**
 3 **accompanied by all papers and opinions required by the authority.**

4 **(b) The authority may require that an application for a loan or**
 5 **other financial assistance from the water infrastructure assistance**
 6 **fund be accompanied by the following:**

7 **(1) A certification and guarantee of signatures.**

8 **(2) A certification that, as of the date of the loan or other**
 9 **financial assistance, no litigation is pending challenging the**
 10 **validity of or entry into:**

11 **(A) the grant, loan, or other financial assistance; or**

12 **(B) any security for the loan or other financial assistance.**

13 **(3) Any other certifications, agreements, security, or**
 14 **requirements that the authority requests.**

15 **(4) An approving opinion of nationally recognized bond**
 16 **counsel.**

17 **Sec. 8. A participant receiving a grant, loan, or other financial**
 18 **assistance from the water infrastructure assistance fund shall enter**
 19 **into a financial assistance agreement with the authority. A**
 20 **financial assistance agreement entered into under this section is a**
 21 **valid, binding, and enforceable agreement of the participant.**

22 **Sec. 9. (a) The authority may sell loans, evidences of other**
 23 **financial assistance, and other obligations evidencing the loans or**
 24 **other financial assistance from the water infrastructure assistance**
 25 **fund:**

26 **(1) periodically;**

27 **(2) at any price; and**

28 **(3) on terms acceptable to the authority.**

29 **(b) Proceeds of sales under subsection (a) shall be deposited in:**

30 **(1) the water infrastructure assistance fund;**

31 **(2) the wastewater revolving loan fund established by**
 32 **IC 5-1.2-10;**

33 **(3) the drinking water revolving loan fund established by**
 34 **IC 5-1.2-10; or**

35 **(4) the supplemental drinking water and wastewater**
 36 **assistance fund established by IC 5-1.2-11;**

37 **at the direction of the authority.**

38 **Sec. 10. (a) The authority may pledge loans, evidences of other**
 39 **financial assistance, and other obligations evidencing the loans or**
 40 **other financial assistance from the water infrastructure assistance**
 41 **fund to secure other loans or financial assistance from:**

42 **(1) the water infrastructure assistance fund;**



- 1 (2) the wastewater revolving loan fund established by
- 2 IC 5-1.2-10;
- 3 (3) the drinking water revolving loan fund established by
- 4 IC 5-1.2-10; or
- 5 (4) the supplemental drinking water and wastewater
- 6 assistance fund established by IC 5-1.2-11;
- 7 for the benefit of participants.

8 (b) The terms of a pledge under this section must be acceptable
9 to the authority.

10 (c) Notwithstanding any other law, a pledge of property made
11 by the authority under this section is binding from the time the
12 pledge is made. Revenues, other money, or other property pledged
13 and thereafter received are immediately subject to the lien of the
14 pledge without any further act. The lien of a pledge is binding
15 against all parties having claims of any kind in tort, contract, or
16 otherwise against:

- 17 (1) the authority;
- 18 (2) the budget agency; or
- 19 (3) the water infrastructure assistance fund;

20 regardless of whether the parties have notice of any lien.

21 (d) A resolution, an indenture, or another instrument by which
22 a pledge is created under this section does not have to be filed or
23 recorded, except in the records of the authority.

24 (e) Action taken to:

- 25 (1) enforce a pledge made under this section; and
- 26 (2) realize the benefits of the pledge;

27 is limited to the property pledged.

28 (f) A pledge under this section does not create a liability or
29 indebtedness of the state.

30 Sec. 11. Not later than August 1 of each odd-numbered year
31 through 2021, the public finance director shall prepare for the
32 budget committee established by IC 4-12-1-3 and the legislative
33 council a report that includes the following:

- 34 (1) Information concerning the financial assistance made
35 available to participants from the water infrastructure
36 assistance fund during the two (2) most recent fiscal years.
- 37 (2) Any other information requested by the budget committee
38 and the legislative council.

39 The report must be submitted in an electronic format under
40 IC 5-14-6.

41 Chapter 15. Local Transportation Infrastructure Program
42 Sec. 1. At the request of the department of transportation, the



1 authority shall carry out this chapter.

2 Sec. 2. The authority may establish local transportation
3 infrastructure revolving funds for the purpose of providing funds
4 to participants for local transportation infrastructure projects. A
5 separate fund may be established for any purpose listed in section
6 8(a) of this chapter. Each fund shall be administered by the
7 authority.

8 Sec. 3. (a) In administering a fund, the authority shall do the
9 following:

10 (1) Monitor applicable infrastructure finance needs and the
11 availability and cost of capital.

12 (2) Provide financial management of investment pools and
13 financial services associated with loans.

14 (3) Explore and evaluate capital financing techniques.

15 (4) Explore methods for the state to enhance the credit quality
16 of bond issues of participants at a minimum cost to the state.

17 (b) The Indiana department of transportation, the department
18 of environmental management, and any other appropriate state
19 agency, department, or instrumentality, in consultation with the
20 authority, shall advise participants on methods for financing
21 infrastructure.

22 (c) The authority shall annually present a report to the budget
23 committee and the budget agency that describes the projects
24 funded under this chapter during the year.

25 Sec. 4. Subject to the written procedures developed by the
26 authority under section 7 of this chapter, the authority may do the
27 following:

28 (1) Accept money from any agency, department, or
29 instrumentality of the United States, the state, or another state
30 for deposit in a fund.

31 (2) Issue bonds and deposit proceeds in a fund.

32 (3) Loan money to a participant.

33 (4) Use the money in a fund:

34 (A) for debt financing;

35 (B) for grants;

36 (C) for loan guarantees;

37 (D) to manage leveraged loan programs for new
38 construction of local transportation infrastructure projects
39 through recapitalization of funds;

40 (E) to refinance and purchase participant debt;

41 (F) to guarantee participant loans;

42 (G) to make bond and debt service reserve insurance



1 payments;
2 (H) to guarantee debt service reserve funds; and
3 (I) to provide other financial assistance;
4 to or for a participant.
5 (5) Deposit loan repayments by a participant in a fund.
6 Sec. 5. (a) If the authority uses bond proceeds to loan money to
7 or purchase bonds of a participant, the authority may, by the
8 resolution approving the bonds, provide that subsection (b) is
9 applicable to the participant.
10 (b) Notwithstanding any other law, to the extent that any
11 department or agency of the state, including the treasurer of state,
12 is the custodian of money payable to the participant (other than for
13 goods or services provided by the participant), at any time after
14 written notice to the department or agency head from the authority
15 that the participant is in default on the payment of principal of or
16 interest on the bonds then held or owned by or arising from an
17 agreement with the authority, the department or agency shall
18 withhold the payment of that money from that participant and pay
19 over the money to the authority for the purpose of paying the
20 principal of and interest on the related bonds. However, the
21 withholding of payment from the participant and payment to the
22 authority under this section must not adversely affect the validity
23 of the bonds in default.
24 Sec. 6. (a) If the authority finds that the local transportation
25 infrastructure project:
26 (1) will be of benefit to the health, safety, morals, and general
27 welfare of the area where the local transportation
28 infrastructure project is to be located; and
29 (2) complies with the purposes and provisions of this chapter;
30 the authority may by resolution approve the proposed financing
31 agreement.
32 (b) A financial assistance agreement approved under this section
33 in connection with bonds must provide for payments in an amount
34 sufficient to pay the principal of, premium (if any), and interest on
35 the bonds issued for the financing of the local transportation
36 infrastructure project. Interest payments for the anticipated
37 construction period, plus a period of not more than one (1) year,
38 may be funded in the bond issue. The term of a financial assistance
39 agreement may not exceed twenty (20) years from the date of any
40 bonds issued under the financial assistance agreement. However,
41 a financial assistance agreement does not terminate after twenty
42 (20) years if a default under that financing agreement remains



1 **uncured, unless the termination is authorized by the terms of the**
2 **financial assistance agreement.**
3 **(c) The authority may do any of the following:**
4 **(1) Establish eligibility standards for a participant and local**
5 **infrastructure projects, without complying with IC 4-22-2.**
6 **However, these standards have the force of law if the**
7 **standards are adopted after a public hearing for which notice**
8 **has been given by publication under IC 5-3-1.**
9 **(2) Contract with any entity securing, in whole or in part, the**
10 **payment of bonds issued under this chapter and authorizing**
11 **the entity to approve the participant that can finance or**
12 **refinance local transportation infrastructure projects with**
13 **proceeds from the bond issue secured by that entity.**
14 **(3) Finance for participants in connection with their local**
15 **infrastructure projects:**
16 **(A) the cost of their local transportation infrastructure**
17 **projects, including costs of planning, designing, feasibility**
18 **studies, construction, expansion, renovation, or**
19 **improvement;**
20 **(B) capitalized interest for the anticipated construction**
21 **period plus one (1) year; and**
22 **(C) in the case of a program funded from the proceeds of**
23 **taxable bonds or sources other than tax exempt bonds,**
24 **working capital associated with the operation of such local**
25 **infrastructure projects;**
26 **in amounts determined to be appropriate by the authority.**
27 **(d) The authority may provide financial assistance to**
28 **participants in the form of forgiveness of principal of a loan.**
29 **Sec. 7. (a) The authority shall establish a written procedure, in**
30 **coordination with a state agency, department, or instrumentality**
31 **providing funds under section 4(1) of this chapter and for**
32 **allocating money to projects described in section 8 of this chapter.**
33 **(b) The procedure established under this section must include**
34 **at least the following:**
35 **(1) An application procedure to identify projects that qualify**
36 **for funding.**
37 **(2) Criteria for establishing priority of projects.**
38 **(3) Procedures for selecting projects.**
39 **(4) Procedures for reporting the results of the selection**
40 **process and the status of projects to the budget committee.**
41 **(c) To apply for a loan or other financial assistance from a fund,**
42 **a participant must submit an application that contains at least the**



- 1 following information:
- 2 (1) A description of the infrastructure for which the loan or
- 3 other financial assistance is sought.
- 4 (2) An estimate of the cost of constructing or improving the
- 5 infrastructure, including the cost of designing the
- 6 infrastructure.
- 7 (3) Any other information required by the authority in
- 8 accordance with the procedure established under this section.
- 9 Sec. 8. (a) A loan of proceeds of the authority's bonds or a loan
- 10 or other financial assistance from a fund must be used by a
- 11 participant to establish or improve highways, roads, streets,
- 12 bridges, or any other public way, and public mass transportation
- 13 systems.
- 14 (b) Financial assistance from the fund must be made in
- 15 conjunction with the adoption of a resolution by a participant that
- 16 sets forth the participant's commitment of revenues or other
- 17 money or property to the infrastructure project for which the
- 18 financial assistance is made.
- 19 Sec. 9. (a) A loan from a fund may:
- 20 (1) not have a term of more than twenty (20) years;
- 21 (2) provide for amortization to begin not later than one (1)
- 22 year after construction of the project ends; and
- 23 (3) have an interest rate established by the authority in
- 24 accordance with subsection (c).
- 25 (b) Unless otherwise provided by the procedure established by
- 26 the authority under section 7 of this chapter, a participant that
- 27 receives financial assistance from the fund shall enter into a
- 28 financing agreement. A financing agreement is a valid, binding,
- 29 and enforceable agreement of the participant.
- 30 (c) The authority, in setting the interest rate or parameters for
- 31 establishing the interest rate on each loan, may take into account
- 32 the following:
- 33 (1) Credit risk.
- 34 (2) Affordability.
- 35 (3) Other fiscal factors the authority considers relevant,
- 36 including the program's cost of funds.
- 37 Based on the factors set forth in subdivisions (1) through (3), more
- 38 than one (1) interest rate may be established and used for loans to
- 39 different participants or for different loans or other financial
- 40 assistance to the same participants.
- 41 Sec. 10. The expenses of administering a fund shall be paid from
- 42 money in that fund.



1 **Sec. 11. The authority may invest money in funds as provided in**
2 **IC 5-1.2-4-1(a)(17) and IC 5-1.2-4-1(a)(41).**

3 **Sec. 12. Money in any fund at the end of a state fiscal year does**
4 **not revert to the state general fund.**

5 **Sec. 13. The following apply to bonds issued under this chapter**
6 **for local transportation infrastructure projects:**

- 7 (1) **IC 5-1.2-1-2.**
- 8 (2) **IC 5-1.2-4-7 through IC 5-1.2-4-16.**
- 9 (3) **IC 5-1.2-4-19 through IC 5-1.2-4-20.**
- 10 (4) **IC 5-1.2-4-23.**
- 11 (5) **IC 5-1.2-4-24.**
- 12 (6) **IC 5-1.2-4-26 through IC 5-1.2-4-28.**

13 **Sec. 14. The authority may fix and pay the compensation of**
14 **persons employed for purposes of this chapter from money:**

- 15 (1) **available in a fund; or**
- 16 (2) **otherwise made available for the program.**

17 **Sec. 15. A participant may pay fees charged by the authority to**
18 **carry out this chapter.**

19 **Chapter 16. Bond Ceiling**

20 **Sec. 1. The purpose of this chapter is to allocate the volume cap**
21 **under Section 146 of the Internal Revenue Code.**

22 **Sec. 2. (a) The allocation formula established by Section 146(b)**
23 **and Section 146(c) of the Internal Revenue Code for the volume**
24 **cap established for Indiana is supplanted under the authority**
25 **granted by Section 146(e) of the Internal Revenue Code.**

26 **(b) All amounts of the volume cap are annually allocated to the**
27 **state. Thereafter all amounts of the volume cap are assigned from**
28 **the state to other issuers as provided in this chapter.**

29 **Sec. 3. (a) The volume cap shall be allocated annually among**
30 **categories of bonds in accordance with section 4 of this chapter.**

31 **Those categories are as follows:**

- 32 (1) **Bonds issued by the authority.**
- 33 (2) **Bonds issued by the IHCDA.**
- 34 (3) **Bonds issued by the ISMEL.**
- 35 (4) **Bonds issued by local units or any other issuers not**
36 **specifically referred to in this section whose bonds are or may**
37 **become subject to the volume cap for projects described in:**
 - 38 (A) **Division A - Agricultural, Forestry, and Fishing;**
 - 39 (B) **Division B - Mining;**
 - 40 (C) **Division C - Construction;**
 - 41 (D) **Division D - Manufacturing;**
 - 42 (E) **Division E - Transportation; and**



1 and to promote the health and well-being of the residents of
 2 Indiana by promoting the public purposes served by the bond
 3 categories then subject to the volume cap.

4 (e) The governor may, by executive order, establish for a year
 5 a different dollar amount for the volume cap, different bond
 6 categories, and different allocations among the bond categories
 7 than those set forth in or established under this section and section
 8 3 of this chapter if it becomes necessary to adopt a different volume
 9 cap and bond category allocation system in order to allow
 10 maximum usage of the volume cap among the bond categories then
 11 subject to the volume cap and to promote the health, welfare, and
 12 well-being of the residents of Indiana by promoting the public
 13 purposes served by the bond categories then subject to the volume
 14 cap.

15 Sec. 5. The authority shall determine the allocation of any
 16 special volume cap in accordance with the federal act authorizing
 17 the special volume cap.

18 Sec. 6. (a) At 5 p.m. on December 20 of each year, all categories
 19 established by section 3 of this chapter are eliminated and any
 20 remaining amounts in those categories shall be placed in a single
 21 noncategorized state pool.

22 (b) After 5 p.m. on December 20 of each year, applications for
 23 a grant of volume cap shall be granted from the single
 24 noncategorized state pool. These applications shall be granted in
 25 the order of priority established in the guidelines adopted under
 26 section 7 of this chapter.

27 Sec. 7. (a) Notwithstanding IC 5-15-5.1, the authority has the
 28 sole authority to prescribe and furnish forms used in the
 29 administration of this chapter.

30 (b) The authority may adopt guidelines, without complying with
 31 IC 4-22-2, to govern the administration of this chapter. The
 32 guidelines may establish procedures, criteria, and conditions for
 33 each category of bonds identified in sections 3 and 4 of this chapter.
 34 However, the guidelines may not be inconsistent with the
 35 requirements of Section 146 of the Internal Revenue Code.

36 Sec. 8. To qualify for a grant of volume cap, an applicant must
 37 do the following:

- 38 (1) Apply for the grant in conformity with the procedures
 39 established by the authority.
- 40 (2) Provide the information reasonably requested by the
 41 authority to carry out this chapter.
- 42 (3) Meet the criteria established by the authority for the



1 category of bond for which the application is filed.
 2 (4) Pay the fees established by the authority.
 3 **Sec. 9. The authority shall establish a written:**
 4 (1) application procedure for the granting of a portion of the
 5 volume cap to an applicant; and
 6 (2) procedure for filing carryforward elections.
 7 **Sec. 10. The authority shall establish written criteria for the**
 8 **selection of grant applications from among the applicants that**
 9 **qualify for the grant under section 8 of this chapter. The criteria**
 10 **must promote the health and well-being of the residents of Indiana**
 11 **by promoting the public purposes served by each of the bond**
 12 **categories subject to the volume cap.**
 13 **Sec. 11. The authority may establish conditions for the**
 14 **termination of a grant of volume cap. The conditions may include**
 15 **requirements such as the following:**
 16 (1) That the amount of volume cap granted may not be
 17 substantially higher than the amount of actual bonds issued.
 18 (2) That the issuer issue bonds within the time specified by the
 19 authority.
 20 SECTION 25. IC 5-1.3 IS ADDED TO THE INDIANA CODE AS
 21 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
 22 PASSAGE]:
 23 **ARTICLE 1.3. LEASE FINANCING FOR RAIL PROJECTS**
 24 **FOR THE NORTHWEST INDIANA REGIONAL**
 25 **DEVELOPMENT AUTHORITY AND THE NORTHERN**
 26 **INDIANA COMMUTER TRANSPORTATION DISTRICT**
 27 **Chapter 1. Legislative Findings of Fact**
 28 **Sec. 1. (a) The general assembly makes the following findings of**
 29 **fact:**
 30 (1) The communities in northwest Indiana face unique and
 31 distinct challenges and opportunities related to transportation
 32 and economic development that are different in scope and
 33 type than those faced by other communities in Indiana.
 34 (2) The general assembly routinely appropriates money to
 35 communities throughout the state based on its policy
 36 determinations with regard to local need, and has previously
 37 authorized appropriations for the development and
 38 improvement of the commuter rail system in northwest
 39 Indiana.
 40 (3) It is necessary to serve the public interest and to provide
 41 for the public welfare by adopting this article for the purposes
 42 described in this article.



1 (b) Any bonds, leases, or obligations entered into under this
 2 article by the IFA do not constitute an indebtedness of the state
 3 within the meaning or application of any constitutional or
 4 statutory provision, prohibition, or limitation.

5 Sec. 2. This article provides an additional and alternative
 6 method for doing the things authorized by this article, and is
 7 supplemental and additional to powers conferred by other laws
 8 and not in derogation of any other powers.

9 Sec. 3. This article is necessary for the welfare of the state and
 10 its inhabitants and shall be liberally construed to effect the
 11 purposes of this article. If any other law or rule is inconsistent with
 12 this article, this article is controlling as to the financing,
 13 acquisition, or construction undertaken under this article.

14 Sec. 4. This article contains full and complete authorization for
 15 leases between the IFA and:

- 16 (1) the NWIRDA;
- 17 (2) the NICTD;
- 18 (3) a unit;
- 19 (4) a political subdivision; or
- 20 (5) a governmental entity;

21 for a rail project. No law, procedure, proceedings, publications,
 22 notices, consents, approvals, orders, or acts by the IFA, the
 23 NWIRDA, or the NICTD or any other officer, department, agency,
 24 or instrumentality of the state, any unit, political subdivision, or
 25 governmental entity is required to enter into any lease, except as
 26 prescribed in this article.

27 Sec. 5. (a) This article:

- 28 (1) applies to:
- 29 (A) the IFA;
- 30 (B) the NWIRDA; and
- 31 (C) the NICTD;

32 only when acting for the purposes set forth in this article; and

33 (2) does not apply to:

- 34 (A) the IFA;
- 35 (B) the NWIRDA; or
- 36 (C) the NICTD;

37 when acting under any other statute for any other purpose.

38 (b) This article does not apply to a transit development district
 39 established by the NWIRDA under IC 36-7.5-4.5.

40 Sec. 6. When acting pursuant to powers specifically granted in
 41 this article, the IFA, the NWIRDA, and the NICTD are not
 42 required to comply with any other state statute or law unless it is



1 required by this article.
 2 **Sec. 7.** The IFA, the NWIRDA, and the NICTD may do all
 3 things necessary or proper to carry out this article.
 4 **Sec. 8. (a)** An action to contest the validity of any action taken
 5 under this article may not be brought after the fifteenth day
 6 following the date the resolution of:
 7 (1) the IFA;
 8 (2) the NWIRDA; or
 9 (3) the NICTD;
 10 is adopted approving the action taken, provided the applicable
 11 statutory procedures have been completed.
 12 **(b)** If an action challenging an action taken under this article is
 13 not brought within the time prescribed by this section, the lease,
 14 contract, bonds, notes, obligations, or other action taken shall be
 15 conclusively presumed to be fully authorized and valid under the
 16 laws of the state and any person is estopped from further
 17 questioning the authorization, validity, execution, delivery, or
 18 issuance of the lease, contract, bonds, notes, obligations, or other
 19 action.
 20 **Chapter 2. Definitions**
 21 **Sec. 1.** The definitions in this chapter apply throughout this
 22 article.
 23 **Sec. 2. "Bonds"** refers to bonds of:
 24 (1) the IFA issued under IC 5-1.3-6; or
 25 (2) the NWIRDA issued under IC 5-1.3-6.
 26 **Sec. 3. "Capitalized interest"** means interest cost on bonds or
 27 notes before and during the period of construction of the rail
 28 project for which the bonds or notes were issued, and for a period
 29 not to exceed two (2) years after completion of construction.
 30 **Sec. 4. "Construction"** means constructing, acquiring,
 31 renovating, rehabilitating, reconstructing, improving, extending,
 32 and equipping a rail project.
 33 **Sec. 5. "Costs"** as applied to any rail project, includes any item
 34 or cost incurred in the construction of a rail project, including:
 35 (1) the cost of construction;
 36 (2) the cost of acquisition of all land, rights-of-way, property,
 37 rights, easements, and any other legal or equitable interests
 38 acquired by the IFA for the construction, including the cost of
 39 any relocations incident to the acquisition;
 40 (3) the cost of demolishing or removing any buildings,
 41 structures, or improvements on property acquired by the IFA,
 42 including the cost of:



- 1 (A) acquiring any property to which the buildings,
- 2 structures, or improvements may be moved; or
- 3 (B) acquiring any property that may be exchanged for
- 4 property acquired by the IFA, the NWIRDA, or the
- 5 NICTD;
- 6 (4) financing charges;
- 7 (5) costs of issuance of bonds or notes, including costs of credit
- 8 enhancement, such as bond or note insurance;
- 9 (6) remarketing or conversion fees;
- 10 (7) discounts resulting from the purchase price of the bonds
- 11 or notes being less than par;
- 12 (8) capitalized interest;
- 13 (9) the cost of funding any reserves to secure the payment of
- 14 bonds or notes;
- 15 (10) engineering, financial, trust and legal expenses, costs of
- 16 plans, specifications, surveys, estimates, and any necessary
- 17 feasibility studies;
- 18 (11) administrative expenses of the IFA, the NWIRDA, or the
- 19 NICTD relating to any rail project financed by bonds or
- 20 notes;
- 21 (12) refunding any interim financing entered into by the IFA,
- 22 the NWIRDA, or the NICTD;
- 23 (13) reimbursement of the IFA, the NWIRDA, or the NICTD
- 24 for:
- 25 (A) any cost, obligation, or expense incurred by the IFA, the
- 26 NWIRDA, or the NICTD relating to a rail project;
- 27 (B) advances relating to a rail project from the IFA to the
- 28 NWIRDA or the NICTD or from the NWIRDA to the
- 29 NICTD for surveys, borings, preparation of plans and
- 30 specifications, or engineering services; or
- 31 (C) any other cost of construction incurred by the NWIRDA
- 32 or the NICTD that was paid from advances;
- 33 (14) other expenses necessary or incident to determining the
- 34 feasibility or practicability of constructing, operating, and
- 35 maintaining any rail project; and
- 36 (15) other expenses the IFA finds necessary or incident to the
- 37 construction of the rail project, the financing of the
- 38 construction, and the placing of the rail project in operation.

39 Sec. 6. "IFA" refers to the Indiana finance authority established
 40 by IC 5-1.2-3.

41 Sec. 7. "NICTD" refers to the northern Indiana commuter
 42 transportation district established under IC 8-5-15.



1 **Sec. 8. "Notes"** refers to notes of the IFA or the NWIRDA issued
 2 under IC 5-1.3-6 and includes any evidences of indebtedness of the
 3 IFA or the NWIRDA but does not include bonds.

4 **Sec. 9. "NWIRDA"** refers to the northwest Indiana regional
 5 development authority established under IC 36-7.5-2-1.

6 **Sec. 10. "Obligations"** means bonds, loan contracts, notes, bond
 7 anticipation notes, commercial paper, leases, lease-purchases,
 8 installment purchases, certificates of participation in agreements
 9 or programs, other evidences of indebtedness, or other agreements
 10 or purchasing programs.

11 **Sec. 11. "Person"** means any individual, entity, or organization
 12 of any kind.

13 **Sec. 12. "Political subdivision"** has the meaning set forth in
 14 IC 36-1-2-13, but does not include a township.

15 **Sec. 13. "Property owner"** means all individuals,
 16 copartnerships, associations, governmental units or entities,
 17 corporations, limited liability companies, or other legal entities
 18 having any title or interest in any land, rights-of-way, property,
 19 rights, easements, or legal or equitable interests that may be
 20 acquired by the IFA, the NWIRDA, or the NICTD. The term
 21 includes the NWIRDA, the NICTD, a unit, or a political
 22 subdivision.

23 **Sec. 14. "Rail project"** refers only to a rail project as defined in
 24 IC 36-7.5-1-13.5 and includes all land, rights-of-way, property,
 25 rights, easements, materials, and legal or equitable interests that
 26 may be acquired by the IFA, the NWIRDA, or the NICTD for the
 27 construction of the rail project. The term includes, but is not
 28 limited to, any construction, equipment, rail track, embankments,
 29 rights of way, sidings, passenger stations or platforms, parking
 30 lots, overpasses, railroad bridges, ancillary structures and related
 31 safety systems equipment and technology, or other item that the
 32 IFA, the NWIRDA, or the NICTD considers necessary or desirable
 33 for the construction and operation of a rail project under this
 34 article.

35 **Sec. 15. "Unit"** has the meaning set forth in IC 36-1-2-23, but
 36 does not include a township.

37 **Chapter 3. General Provisions**

38 **Sec. 1. (a)** The IFA may contract with the NWIRDA or the
 39 NICTD for construction, ownership, maintenance, and operation
 40 of rail projects.

41 **(b)** The NWIRDA may contract with the NICTD for
 42 construction, ownership, maintenance, and operation of rail



1 projects.

2 **Sec. 2. The IFA and the NWIRDA may finance rail projects in**
3 **accordance with this article.**

4 **Sec. 3. (a) The IFA may exercise any powers provided under this**
5 **article in participation or cooperation with any governmental**
6 **entity, including the NWIRDA, the NICTD, a unit, or a political**
7 **subdivision, and enter into any contracts to facilitate that**
8 **participation or cooperation.**

9 **(b) The NWIRDA may exercise any powers provided under this**
10 **article in participation or cooperation with any governmental**
11 **entity, including the IFA, the NICTD, a unit, or a political**
12 **subdivision, and enter into any contracts to facilitate that**
13 **participation or cooperation.**

14 **Sec. 4. (a) The IFA may pay or reimburse the cost of**
15 **construction of a rail project or of owning or leasing a rail project**
16 **from any money available to the IFA under this article or any**
17 **other law.**

18 **(b) The NWIRDA may pay or reimburse the cost of**
19 **construction of a rail project or of owning or leasing a rail project**
20 **from any money available to the NWIRDA under this article or**
21 **any other law.**

22 **(c) The NICTD may pay or reimburse the cost of construction**
23 **of a rail project or of owning or leasing a rail project from any**
24 **funds available to the NICTD under this article or any other law.**

25 **Sec. 5. The IFA, the NWIRDA, or the NICTD may sell, transfer,**
26 **lease as lessor, or otherwise convey any land, rights-of-way,**
27 **property, rights, easements, or legal or equitable interest the IFA,**
28 **the NWIRDA, or the NICTD considers necessary or convenient for**
29 **carrying out the provisions of this article, including disposal of**
30 **unused or surplus property.**

31 **Sec. 6. The IFA, the NWIRDA, or the NICTD may acquire by**
32 **purchase, whenever the IFA, the NWIRDA, or the NICTD**
33 **considers a purchase expedient, or lease as lessee, any land,**
34 **rights-of-way, property, rights, easements, or other legal or**
35 **equitable interests as the IFA, the NWIRDA, or the NICTD**
36 **considers necessary or convenient for the construction and**
37 **operation of any rail project. A purchase or lease under this section**
38 **shall be made upon the terms and at the price agreed upon between**
39 **the purchaser or lessee, the IFA, and the property owner. The**
40 **purchaser shall take title to the property, unless the purchaser is**
41 **the IFA, in which case the IFA shall take title to the property in the**
42 **name of the state.**



1 **Sec. 7.** The IFA, the NWIRDA, or the NICTD (each entity
 2 referred to in this section as the "contracting party") may make
 3 and enter into all contracts and agreements necessary or incidental
 4 to the performance of its duties and the execution of its powers
 5 under this article. These contracts or agreements are not subject
 6 to any approvals other than the approval of the contracting party
 7 and may be for any term of years and contain any terms that are
 8 considered reasonable by the contracting party.

9 **Sec. 8.** The IFA, the NWIRDA, or the NICTD (each entity
 10 referred to in this section as the "grantee") may receive and accept
 11 from any federal or state agency grants for or in aid of the
 12 construction of any rail project and repay any grant to the grantee
 13 from a federal agency if the repayment is necessary to free the
 14 grantee from restrictions that the grantee determines to be in the
 15 public interest to remove, or otherwise required by the terms of the
 16 grant. Any repayment under this section shall be made from funds
 17 available to the grantee at the time the repayment is required and
 18 shall be made in a way that does not impair any contract between
 19 the grantee and the owners of its bonds or notes or any lease of the
 20 grantee.

21 **Sec. 9.** The IFA, the NWIRDA, or the NICTD may accept gifts,
 22 devises, bequests, grants, appropriations, revenue sharing, other
 23 financing and assistance, and any other aid from any source and
 24 agree to and comply with conditions attached to the aid.

25 **Sec. 10.** The IFA, the NWIRDA, or the NICTD may accept the
 26 transfer of any rail project to it.

27 **Sec. 11.** The IFA, the NWIRDA, or the NICTD may:

28 (1) in the manner provided by IC 32-24; or

29 (2) as otherwise required for a railroad federal aid project
 30 funded in any part under 49 U.S.C. 103, et seq.;

31 acquire by appropriation any land, rights-of-way, property, rights,
 32 easements, or other legal or equitable interests necessary or
 33 convenient for the construction or the efficient operation of any
 34 rail project. However, compensation for the property taken shall
 35 first be made in money as provided by IC 32-24 or as otherwise
 36 required for a railroad federal aid project funded in any part
 37 under 49 U.S.C. 103, et seq.

38 **Sec. 12. (a)** The state, acting through the governor, may convey,
 39 transfer, lease, or sell, with or without consideration, real property
 40 of any nature (including buildings, structures, improvements, land,
 41 rights-of-way, easements, and legal or equitable interests), title to
 42 which is held in the name of the state, to the IFA, without being



1 required to advertise or solicit bids or proposals, in order to
2 accomplish the governmental purposes of this article.

3 (b) A unit, acting through the unit's executive, may convey,
4 transfer, lease, or sell, with or without consideration, real property
5 of any nature (including buildings, structures, improvements, land,
6 rights-of-way, easements, and legal or equitable interests), title to
7 which is held in the name of the unit, to the IFA, without being
8 required to advertise or solicit bids or proposals in order to
9 accomplish the governmental purposes of this article.

10 (c) A political subdivision, acting through the political
11 subdivision's legislative body, may convey, transfer, lease, or sell,
12 with or without consideration, real property of any nature
13 (including buildings, structures, improvements, land,
14 rights-of-way, easements, and legal or equitable interests), title to
15 which is held in the name of the political subdivision, to the IFA,
16 without being required to advertise or solicit bids or proposals in
17 order to accomplish the governmental purposes of this article.

18 (d) The NICTD, acting through its board of trustees, may
19 convey, transfer, lease, or sell, with or without consideration, real
20 property of any nature (including buildings, structures,
21 improvements, land, rights-of-way, easements, and legal or
22 equitable interests), title to which is held in the name of the
23 NICTD, to the IFA, without being required to advertise or solicit
24 bids or proposals in order to accomplish the governmental
25 purposes of this article.

26 (e) The NWIRDA, acting through its board, may convey,
27 transfer, lease, or sell, with or without consideration, real property
28 of any nature (including buildings, structures, improvements, land,
29 rights-of-way, easements, and legal or equitable interests), title to
30 which is held in the name of the NWIRDA, to the IFA, without
31 being required to advertise or solicit bids or proposals in order to
32 accomplish the governmental purposes of this article.

33 Sec. 13. All property of the IFA, the NWIRDA, or the NICTD
34 constituting a rail project is public property devoted to an essential
35 public and governmental function and purpose and is exempt from
36 all taxes and special assessments of the state or any political
37 subdivision.

38 Sec. 14. (a) Notwithstanding IC 36-7.5-2-8, the NWIRDA and
39 the NICTD may utilize and may comply with the provisions of:

- 40 (1) IC 5-16;
41 (2) IC 5-23;
42 (3) IC 5-30;



- 1 (4) IC 5-32;
 2 (5) IC 36-1-12; or
 3 (6) any combination of the statutes listed in subdivisions (1)
 4 through (5) as determined by the NWIRDA or the NICTD,
 5 whichever is appropriate;

6 when financing, acquiring and constructing a rail project under
 7 this article.

8 (b) The NWIRDA and the NICTD may contract to finance,
 9 acquire, and construct a rail project in accordance with this
 10 section.

11 Chapter 4. Contracts

12 Sec. 1. (a) The IFA, the NWIRDA, and the NICTD are
 13 responsible for the construction, leasing, and ownership of rail
 14 projects. With respect to and for the construction of each rail
 15 project, the IFA and the NWIRDA or the NICTD may enter into
 16 a contract for the purposes set forth in this chapter. The IFA, the
 17 NWIRDA, and the NICTD may enter into a separate contract for
 18 each rail project or a master contract for several rail projects.

19 (b) The IFA, the NWIRDA, and the NICTD have all the powers
 20 necessary and incidental to carry out the terms and conditions of
 21 contracts under this chapter.

22 Sec. 2. A contract may include the following:

- 23 (1) Provisions for payment by the IFA to the NWIRDA and
 24 the NICTD of all costs incurred by the NWIRDA or the
 25 NICTD in the performance of the contracts, including all costs
 26 of construction, salaries, wages, and associated costs of
 27 NWIRDA or NICTD personnel attributable to performance
 28 of the contract.
 29 (2) Other terms and conditions that the IFA, the NWIRDA,
 30 and the NICTD consider appropriate.

31 Chapter 5. Leases

32 Sec. 1. (a) In addition to its other powers, the IFA may enter
 33 into a lease or leases with the NWIRDA under this chapter for any
 34 or all of the purposes set forth in this article.

35 (b) The IFA and the NWIRDA have all the powers necessary
 36 and incidental to carry out the terms and conditions of leases under
 37 this chapter.

38 (c) If the IFA and the NWIRDA decide to enter into a lease
 39 under this chapter, the IFA and the NWIRDA may enter into a
 40 separate lease for each rail project or may enter into one (1) or
 41 more master leases for several rail projects.

42 Sec. 2. (a) If lease rental payments under a lease from the IFA



1 to the NWIRDA are payable in whole or in part from state
2 appropriations, a lease entered into under this chapter must
3 include the following:

4 (1) A statement that the term of the lease is for a period
5 coextensive with the biennium used for state budgetary and
6 appropriation purposes with a fractional period when the
7 lease begins, if necessary.

8 (2) A statement that the term of the lease may be extended
9 from biennium to biennium, with the extensions not to exceed
10 a cumulative lease term of forty (40) years, unless either the
11 IFA or the NWIRDA gives notice of no extension at least six
12 (6) months before the end of a biennium, in which event the
13 lease expires at the end of the biennium in which the notice is
14 given.

15 (3) A provision stating plainly that the lease does not
16 constitute an indebtedness of the state within the meaning or
17 application of any constitutional or statutory provision,
18 prohibition, or limitation, and if lease rental payments are
19 payable in whole or in part from state appropriations, that
20 lease rentals are payable by the NWIRDA solely from biennial
21 appropriations, and that the lease is for the actual use or
22 availability for use of rail projects provided by the IFA, with
23 payment commencing no earlier than the time the use or
24 availability or partial use or availability commences.

25 (4) Provisions requiring the NWIRDA to pay rent at times
26 and in amounts sufficient to pay in full:

27 (A) the debt service payable under the terms of any bonds
28 or notes issued by the IFA and outstanding with respect to
29 any rail project, including any required additions to
30 reserves for the bonds or notes maintained by the IFA; and
31 (B) additional rent as provided by the lease.

32 (5) Provisions requiring the NWIRDA to operate and
33 maintain the rail project or rail projects or to cause the rail
34 project or rail projects to be operated and maintained during
35 the term of the lease.

36 (6) A provision in each master lease for two (2) or more rail
37 projects requiring that each rail project added to the master
38 lease shall be covered by a supplemental lease describing the
39 particular rail project, stating the additional rent payable,
40 and providing that all lease covenants, including the
41 obligation to pay the original and additional rent under any
42 supplement, shall be unitary and include all rail projects



1 covered, whether by the master lease or a supplemental lease.
 2 (7) Provisions permitting the NWIRDA to pay lease rentals
 3 solely from available revenues from the fund established
 4 under IC 36-7.5-4-1 without providing for consideration of
 5 state appropriations.
 6 (b) A lease entered into under this chapter may contain other
 7 terms and conditions that the IFA and the NWIRDA consider
 8 appropriate.
 9 (c) If lease rental payments under a lease from the IFA to the
 10 NWIRDA are payable in whole or in part from state
 11 appropriations, the NWIRDA shall request an appropriation for
 12 payment of lease rentals on any lease entered into under this
 13 chapter in writing at a time sufficiently in advance of the date for
 14 payment of the lease rentals.
 15 (d) If lease rental payments under a lease from the IFA to the
 16 NWIRDA are payable in whole or in part from state
 17 appropriations, and the NWIRDA fails at any time to pay to the
 18 IFA when due any lease rentals on any lease under this section, the
 19 chairperson of the IFA shall immediately:
 20 (1) report the unpaid amount in writing to the governor and,
 21 in an electronic format under IC 5-14-6, to the general
 22 assembly; and
 23 (2) notify the treasurer of state that the NWIRDA has failed
 24 to pay lease rentals when due.
 25 The treasurer of state, upon being notified of the failure, shall pay
 26 the unpaid lease rental obligations that are due from money in the
 27 possession of the state that would otherwise be available for
 28 distribution to the NWIRDA under any other law, deducting the
 29 payment from the amount distributed.
 30 (e) A lease entered into under this chapter must state the term
 31 of the lease, which may not exceed forty (40) years.
 32 **Sec. 3.** The NWIRDA may sell, transfer, or convey by any means
 33 any rail project to the IFA through negotiation of a lease. The
 34 NWIRDA may lease any existing rail project system or property
 35 under its control to the IFA for construction of a rail project. The
 36 rail project may be leased back to the NWIRDA.
 37 **Sec. 4.** The NWIRDA shall pay lease rentals for leases entered
 38 into under this chapter and securing bonds issued under IC 5-1.3-6
 39 from revenues deposited in a separate fund established under
 40 36-7.5-4-1.
 41 **Sec. 5.** (a) Before a lease may be entered into by the NWIRDA
 42 under this chapter, the NWIRDA must find that the lease rental



- 1 provided for is fair and reasonable.
- 2 (b) A lease of a rail project from the IFA to the NWIRDA:
- 3 (1) may not have a term exceeding forty (40) years;
- 4 (2) may not require payment of lease rentals for a newly
- 5 constructed rail project or for improvements to an existing
- 6 rail project until the rail project or improvements to the rail
- 7 project have been completed and are ready for availability or
- 8 use or for partial availability or use;
- 9 (3) may contain provisions:
- 10 (A) allowing the NWIRDA to continue to operate an
- 11 existing rail project or cause an existing rail project to be
- 12 operated until completion of the acquisition, improvements,
- 13 reconstruction, or renovation of that rail project or any
- 14 other rail project; and
- 15 (B) requiring payment of lease rentals for land, for an
- 16 existing rail project being used, reconstructed, or
- 17 renovated, or for any other existing rail project;
- 18 (4) may contain an option to renew the lease for the same or
- 19 shorter term on the conditions provided in the lease;
- 20 (5) must contain an option for the NWIRDA to purchase the
- 21 rail project upon the terms stated in the lease during the term
- 22 of the lease for a price equal to the amount required to pay all
- 23 indebtedness incurred on account of the rail project, including
- 24 indebtedness incurred for the refunding of that indebtedness;
- 25 (6) may be entered into before acquisition or construction of
- 26 a rail project;
- 27 (7) may provide that the NWIRDA must agree to:
- 28 (A) pay or cause to be paid, any taxes and assessments on
- 29 the rail project;
- 30 (B) maintain or cause to be maintained, insurance on the
- 31 rail project for the benefit of the NWIRDA;
- 32 (C) assume or cause to be assumed, responsibility for
- 33 utilities, repairs, alterations, and any costs of operation; and
- 34 (D) pay or cause to be paid, a deposit or series of deposits to
- 35 the IFA from any funds legally available to the NWIRDA
- 36 before the commencement of the lease to secure the
- 37 performance of the NWIRDA's obligations under the lease;
- 38 (8) must provide that the lease rental payments by the
- 39 NWIRDA shall be made from the fund established under
- 40 IC 36-7.5-4-1 and may provide that the lease rental payments
- 41 by the NWIRDA shall be made from:
- 42 (A) net revenues of the rail project;



1 **(B) any other funds available to the NWIRDA; or**
 2 **(C) both sources described in clauses (A) and (B);**
 3 **(9) must provide that the IFA is not responsible for the**
 4 **operation and maintenance of the rail project or rail projects**
 5 **upon completion of construction; and**
 6 **(10) does not create a debt of the:**
 7 **(A) IFA;**
 8 **(B) NWIRDA; or**
 9 **(C) state;**
 10 **within the meaning or application of any constitutional or**
 11 **statutory provision, prohibition, or limitation.**
 12 **Sec. 6. This chapter contains full and complete authority for**
 13 **leases between the IFA and the NWIRDA. No law, procedure,**
 14 **proceedings, publications, notices, consents, approvals, orders, or**
 15 **acts by the IFA or the NWIRDA or any other officer, department,**
 16 **agency, or instrumentality of the state or any political subdivision**
 17 **is required to enter into any lease, except as prescribed in this**
 18 **article.**
 19 **Sec. 7. (a) The NWIRDA may lease for a nominal lease rental,**
 20 **or sell to the IFA, one (1) or more rail projects or portions of a rail**
 21 **project or land upon which a rail project is located or is to be**
 22 **constructed.**
 23 **(b) Any lease of all or a portion of a rail project by the**
 24 **NWIRDA to the IFA must be for a term equal to the term of the**
 25 **lease of that rail project back to the NWIRDA.**
 26 **(c) The NWIRDA may sell property to the IFA for the amount**
 27 **the NWIRDA determines to be in the best interest of the NWIRDA.**
 28 **The IFA may pay that amount from the proceeds of bonds of the**
 29 **IFA.**
 30 **Sec. 8. If the NWIRDA exercises its option to purchase leased**
 31 **property, the NWIRDA may issue its bonds as authorized by**
 32 **statute.**
 33 **Sec. 9. This chapter contains full and complete authority for**
 34 **ground, operating, or maintenance leases of any kind between the**
 35 **NWIRDA and the NICTD. No law, procedure, proceedings,**
 36 **publications, notices, consents, approvals, orders, or acts by the**
 37 **NWIRDA or the NICTD or any other officer, department, agency,**
 38 **or instrumentality of the state or any political subdivision is**
 39 **required to enter into any lease, except as prescribed in this article.**
 40 **Sec. 10. The IFA shall certify to the NWIRDA and the NICTD**
 41 **that all bonds, notes issued, and leases or other obligations entered**
 42 **into with respect to the rail projects have been paid to their final**



1 maturity. At that time, the rail project or rail projects shall be
 2 transferred to the NICTD and neither the IFA or the NWIRDA
 3 shall have any further obligation with respect to the rail project or
 4 rail projects.

5 **Chapter 6. Bonds and Notes**

6 **Sec. 1. (a)** Except as provided in sections 2 and 6 of this chapter,
 7 the IFA may, by resolution, issue and sell bonds or notes of the IFA
 8 to provide funding to carry out the provisions of this article with
 9 respect to the construction of a rail project or rail projects or the
 10 refunding of any bonds or notes, together with any reasonable costs
 11 associated with a refunding.

12 **(b)** Except as provided in sections 2 and 6 of this chapter, the
 13 NWIRDA may, by resolution, issue and sell bonds or notes of the
 14 NWIRDA to provide funding to carry out the provisions of this
 15 article with respect to the construction of a rail project or rail
 16 projects or the refunding of any bonds or notes, together with any
 17 reasonable costs associated with a refunding.

18 **Sec. 2. (a)** Before the issuance of bonds or notes, the IFA must
 19 receive the approval of the budget agency.

20 **(b)** Before the issuance of bonds or notes, the IFA or the
 21 NWIRDA shall identify the rail project or rail projects to be
 22 financed from the proceeds of the bonds or notes.

23 **Sec. 3. (a)** Before issuing a series of bonds or notes, the IFA or
 24 the NWIRDA shall publish a notice of its determination to issue the
 25 bonds or notes. The notice shall be published one (1) time in two (2)
 26 newspapers published and of general circulation in the area where
 27 the rail project is located.

28 **(b)** An action to contest the validity of:

29 **(1)** any contract related to the bonds or notes entered into by
 30 or among the IFA, the NWIRDA, or the NICTD before the
 31 bonds or notes are issued;

32 **(2)** any lease related to the bonds or notes entered into by or
 33 among the IFA, the NWIRDA, or the NICTD before the bonds
 34 or notes are issued to secure a series of bonds or notes; or

35 **(3)** a series of bonds or notes issued by the IFA or the
 36 NWIRDA;

37 may not be brought after the fifteenth day following publication of
 38 the notice required by subsection (a).

39 **(c)** If a lease or contract is entered into under this chapter after
 40 bonds or notes relating to the lease or contract are issued, the IFA
 41 may publish notice of execution of the lease or contract as set forth
 42 in subsection (a). An action to contest the validity of such a lease or



1 contract may not be brought after the fifteenth day following
2 publication of the notice.

3 **Sec. 4. (a) The bonds or notes of the IFA:**

4 (1) shall be executed by the manual or facsimile signature of
5 the chairperson or vice chairperson of the IFA;

6 (2) shall be attested by the manual or facsimile signature of
7 the public finance director for the IFA;

8 (3) shall be imprinted or impressed with the seal of the IFA by
9 any means;

10 (4) may be authenticated by a trustee, registrar, or paying
11 agent; and

12 (5) constitute valid and binding obligations of the IFA, even if
13 the chairperson, vice chairperson, or public finance director
14 whose manual or facsimile signature appears on the bonds or
15 notes no longer holds that office.

16 **(b) The bonds or notes of the NWIRDA:**

17 (1) shall be executed by the manual or facsimile signature of
18 the chairperson or vice chairperson of the NWIRDA;

19 (2) shall be attested by the manual or facsimile signature of
20 the secretary-treasurer of the NWIRDA;

21 (3) may be authenticated by a trustee, registrar, or paying
22 agent; and

23 (4) constitute valid and binding obligations of the NWIRDA,
24 even if the chairperson, vice chairperson, or
25 secretary-treasurer whose manual or facsimile signature
26 appears on the bonds or notes no longer holds that office.

27 **Sec. 5.** The bonds or notes, when issued, have all the qualities of
28 negotiable instruments, subject to provisions for registration,
29 under IC 26 and are incontestable in the hands of a bona fide
30 purchaser or owner of the bonds or notes for value.

31 **Sec. 6.** The bonds or notes may be sold by the IFA or the
32 NWIRDA at a public or a negotiated sale at a time or times
33 determined by the IFA or the NWIRDA and at a premium or
34 discount as determined by the IFA or NWIRDA. In determining
35 the amount of bonds or notes to be issued and sold, the IFA or the
36 NWIRDA may include the costs of construction or of refunding
37 bonds or notes, including reasonable debt service reserves, and all
38 other expenses necessary or incident to the construction of the rail
39 project, a refunding, or the issuance of the bonds or notes.

40 **Sec. 7.** The proceeds of the bonds or notes are appropriated for
41 the purpose for which the bonds or notes may be issued and the
42 proceeds shall be deposited and disbursed in accordance with any



1 provisions and restrictions that the IFA or the NWIRDA may
 2 provide in the resolution or trust agreement authorizing the
 3 issuance of the bonds or notes. The maturities of the bonds or
 4 notes, the rights of the owners, and the rights, duties, and
 5 obligations of the IFA and the NWIRDA, as applicable, are
 6 governed in all respects by this article and the resolution or trust
 7 agreement.

8 **Sec. 8. The bonds or notes:**

9 (1) constitute the corporate obligations of the IFA or the
 10 NWIRDA;

11 (2) do not constitute an indebtedness of the state within the
 12 meaning or application of any constitutional provision,
 13 prohibition, or limitation; and

14 (3) are payable solely as to both principal and interest from:

15 (A) the revenues from a lease to the NWIRDA, if any;

16 (B) other available revenues, if any;

17 (C) proceeds of bonds or notes, if any; or

18 (D) investment earnings on proceeds of bonds or notes.

19 **Sec. 9. The provisions of this article and the covenants and**
 20 **undertakings of the IFA or the NWIRDA as expressed in any**
 21 **proceedings preliminary to or in connection with the issuance of**
 22 **the bonds or notes may be enforced, subject to the provisions of**
 23 **any resolution or trust agreement, by a bond or note owner by**
 24 **action for injunction or mandamus against the IFA or the**
 25 **NWIRDA or any officer, agent, or employee of the IFA or the**
 26 **NWIRDA. However, no action for monetary judgment may be**
 27 **brought against the state for any violations of this article or for**
 28 **payment of the bonds or notes of the IFA or the NWIRDA.**

29 **Sec. 10. (a) All bonds or notes issued under this article by the**
 30 **IFA are issued by a body corporate and politic of this state, but not**
 31 **a state agency, and for an essential public and governmental**
 32 **purpose. The bonds and notes, the interest on the bonds and notes,**
 33 **the proceeds received by an owner from the sale of the bonds or**
 34 **notes to the extent of the owner's cost of acquisition, proceeds**
 35 **received upon redemption for maturity, proceeds received at**
 36 **maturity, and the receipt of the interest and proceeds are exempt**
 37 **from taxation for all purposes except the financial institutions tax**
 38 **imposed under IC 6-5.5.**

39 **(b) All bonds or notes issued under this article by the NWIRDA**
 40 **are issued by a body corporate and politic. The bonds and notes,**
 41 **the interest on the bonds and notes, the proceeds received by an**
 42 **owner from the sale of the bonds or notes to the extent of the**



1 owner's cost of acquisition, proceeds received upon redemption for
2 maturity, proceeds received at maturity, and the receipt of the
3 interest and proceeds are exempt from taxation for all purposes
4 except the financial institutions tax imposed under IC 6-5.5.

5 **Sec. 11.** Notwithstanding any other law, all financial institutions,
6 investment companies, insurance companies, insurance
7 associations, executors, administrators, guardians, trustees, and
8 other fiduciaries may legally invest sinking funds or other money
9 belonging to them or within their control in bonds or notes issued
10 under this chapter.

11 **Sec. 12.** Bonds or notes issued under this chapter are exempt
12 from the registration requirements of IC 23-19 and any other state
13 securities registration statutes.

14 **Sec. 13.** A pledge of lease rentals, proceeds of bonds or notes,
15 investment earnings on those proceeds, or other money pledged by
16 the IFA or the NWIRDA is binding from the time the pledge is
17 made. Lease rentals, proceeds of bonds or notes, investment
18 earnings on those proceeds, or other money pledged by the IFA or
19 the NWIRDA and received after the pledge by the IFA or the
20 NWIRDA or its trustee or fiduciary is immediately subject to the
21 lien of the pledge without any further act, and the lien of the pledge
22 is binding against all parties having claims of any kind in tort,
23 contract, or otherwise against the IFA, regardless of whether the
24 parties have notice of the lien. A resolution, trust agreement, or
25 any other instrument by which a pledge is created is required to be
26 filed or recorded only in the records of the IFA.

27 **Sec. 14. (a)** The IFA may obtain from the NWIRDA or agency
28 of the state or of the United States, or from a nongovernmental
29 insurer, available insurance or guaranty for the payment or
30 repayment of interest or principal, or both, or any part of interest
31 or principal, or any debt service reserve funds, on bonds or notes
32 issued by the IFA, or on securities purchased or held by the IFA.

33 **(b)** The NWIRDA may obtain from the IFA or agency of the
34 state or of the United States, or from a nongovernmental insurer,
35 available insurance or guaranty for the payment or repayment of
36 interest or principal, or both, or any part of interest or principal,
37 or any debt service reserve funds, on bonds or notes issued by the
38 NWIRDA, or on securities purchased or held by the NWIRDA.

39 **Sec. 15.** The IFA or the NWIRDA may enter into agreements
40 with an entity to provide credit enhancement or liquidity support
41 for any bonds or notes issued by the IFA or the NWIRDA, or for
42 any debt service reserves securing any bonds or notes, with terms



1 that are reasonable and proper, in the discretion of the IFA or the
2 NWIRDA, and not in violation of law. The IFA or the NWIRDA
3 may execute and deliver notes to evidence its obligation to make
4 payments under such an agreement, but these notes must conform
5 to this article in all respects.

6 Sec. 16. The IFA or the NWIRDA may enter into agreements or
7 contracts with any financial institution as may be necessary,
8 desirable, or convenient in the opinion of the IFA or the NWIRDA
9 for rendering services in connection with:

- 10 (1) the care, custody, or safekeeping of securities or other
- 11 investments held or owned by the IFA or the NWIRDA;
- 12 (2) the payment or collection of amounts payable as to
- 13 principal or interest; and
- 14 (3) the delivery to the IFA or the NWIRDA of securities or
- 15 other investments purchased or sold by it.

16 The IFA or the NWIRDA may also, in connection with any of the
17 services rendered by a financial institution as to custody and
18 safekeeping of its securities or investments, require security in the
19 form of collateral bonds, surety agreements, or security
20 agreements as, in the opinion of the IFA or the NWIRDA, is
21 necessary or desirable.

22 Sec. 17. (a) In the discretion of the IFA or the NWIRDA, any
23 bonds and notes issued under this chapter may be secured by a
24 trust agreement by and between the IFA or the NWIRDA and a
25 corporate trustee, which may be any trust company or bank having
26 the powers of a trust company in Indiana. Such a trust agreement
27 may also provide for a co-trustee, which may be any trust company
28 or bank in the United States.

29 (b) The trust agreement or the resolution providing for the
30 issuance of the bonds or notes may contain provisions for
31 protecting and enforcing the rights and remedies of the owners of
32 bonds or notes as may be reasonable and proper, in the discretion
33 of the IFA or the NWIRDA, and not in violation of law.

34 (c) The trust agreement or resolution may set forth the rights
35 and remedies of the owners of any bonds or notes of the trustee and
36 may restrict the individual right of action by the owners.

37 (d) Any trust agreement or resolution may contain other
38 provisions that the IFA or the NWIRDA considers reasonable and
39 proper for the security of the owners of bonds or notes.

40 (e) All expenses incurred in carrying out the provisions of the
41 trust agreement or resolution may be paid from money pledged or
42 assigned to the payment of the principal of and interest on bonds



1 or notes or from funds available to the IFA or the NWIRDA.

2 **Sec. 18. (a) The IFA may purchase bonds or notes of the IFA or**
 3 **the NWIRDA out of its funds or money available for the purchase**
 4 **of its own bonds or notes. The IFA may hold, cancel, or resell the**
 5 **bonds or notes subject to, and in accordance with, agreements with**
 6 **owners of its bonds or notes. Unless cancelled, bonds or notes so**
 7 **held shall be considered to be held for resale or transfer and the**
 8 **obligation evidenced by the bonds or notes shall not be considered**
 9 **to be extinguished.**

10 **(b) The NWIRDA may purchase bonds or notes of the IFA or**
 11 **the NWIRDA out of its funds or money available for the purchase**
 12 **of its own bonds or notes. The NWIRDA may hold, cancel, or resell**
 13 **the bonds or notes subject to, and in accordance with, agreements**
 14 **with owners of its bonds or notes. Unless cancelled, bonds or notes**
 15 **so held shall be considered to be held for resale or transfer and the**
 16 **obligation evidenced by the bonds or notes shall not be considered**
 17 **to be extinguished.**

18 **Sec. 19. Funds or money held by the IFA, the NWIRDA, or the**
 19 **NICTD under any trust agreement or resolution may be invested**
 20 **pending disbursement as provided in the trust agreement or the**
 21 **resolution. Such an investment is not restricted by or subject to the**
 22 **provisions of any other law.**

23 SECTION 26. IC 5-1.5-1-8, AS AMENDED BY P.L.232-2007,
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2018]: Sec. 8. "Qualified entity" means:

- 26 (1) a political subdivision (as defined in IC 36-1-2-13);
- 27 (2) a state educational institution;
- 28 (3) a leasing body (as defined in IC 5-1-1-1(a));
- 29 (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- 30 (5) any rural electric membership corporation organized under
- 31 IC 8-1-13;
- 32 (6) any corporation that was organized in 1963 under Acts 1935,
- 33 c. 157 and that engages in the generation and transmission of
- 34 electric energy;
- 35 (7) any telephone cooperative corporation formed under
- 36 IC 8-1-17;
- 37 (8) any commission, authority, or authorized body of any qualified
- 38 entity;
- 39 (9) any organization, association, or trust with members,
- 40 participants, or beneficiaries that are all individually qualified
- 41 entities;
- 42 (10) any commission, authority, or instrumentality of the state;



- 1 (11) any other participant (as defined in ~~IC 13-11-2-151.1~~);
- 2 **IC 5-1.2-2-54**);
- 3 (12) a charter school established under IC 20-5.5 (before its
- 4 repeal) or IC 20-24 that is not a qualified entity under
- 5 IC 5-1.4-1-10;
- 6 (13) a volunteer fire department (as defined in IC 36-8-12-2); or
- 7 (14) a development authority (as defined in IC 36-7.6-1-8).
- 8 SECTION 27. IC 5-1.5-2-2, AS AMENDED BY P.L.235-2005,
- 9 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2018]: Sec. 2. (a) There is established a board of directors to
- 11 govern the bank. The powers of the bank are vested in this board.
- 12 (b) The board is composed of:
- 13 (1) the treasurer of state, who shall be the chairman ex officio;
- 14 (2) the public finance director appointed under ~~IC 4-4-11-9~~;
- 15 **IC 5-1.2-3-6**, who shall be the director ex officio; and
- 16 (3) five (5) directors appointed by the governor.
- 17 (c) Each of the five (5) directors appointed by the governor:
- 18 (1) must be a resident of Indiana;
- 19 (2) must have substantial expertise in the buying, selling, and
- 20 trading of municipal securities, in municipal administration or in
- 21 public facilities management;
- 22 (3) serves for a term of three (3) years and until ~~his~~ **the director's**
- 23 successor is appointed and qualified;
- 24 (4) is eligible for reappointment;
- 25 (5) is entitled to receive the same minimum salary per diem as is
- 26 provided in IC 4-10-11-2.1(b) while performing the director's
- 27 duties. Such a director is also entitled to the same reimbursement
- 28 for traveling expenses and other expenses, actually incurred in
- 29 connection with the director's duties as is provided in the state
- 30 travel policies and procedures, established by the department of
- 31 administration and approved by the budget agency; and
- 32 (6) may be removed by the governor for cause.
- 33 (d) Any vacancy on the board, other than by expiration of term, shall
- 34 be filled by appointment of the governor for the unexpired term only.
- 35 SECTION 28. IC 5-1.5-4-4, AS AMENDED BY P.L.235-2005,
- 36 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2018]: Sec. 4. (a) Bonds or notes of the bank must be
- 38 authorized by resolution of the board, may be issued in one (1) or more
- 39 series, and must:
- 40 (1) bear the date;
- 41 (2) mature at the time or times;
- 42 (3) be in the denomination;



1 (4) be in the form;
 2 (5) carry the conversion or registration privileges;
 3 (6) have the rank or priority;
 4 (7) be executed in the manner;
 5 (8) be payable from the sources in the medium of payment at the
 6 place inside or outside the state; and
 7 (9) be subject to the terms of redemption;
 8 as the resolution of the board or the trust agreement securing the bonds
 9 or notes provides.

10 (b) Except as provided in subsection (e), bonds or notes may be
 11 issued under this article without obtaining the consent of any agency of
 12 the state and without any other proceeding or condition other than the
 13 proceedings or conditions specified in this article.

14 (c) The rate or rates of interest on the bonds or notes may be fixed
 15 or variable. Variable rates shall be determined in the manner and in
 16 accordance with the procedures set forth in the resolution authorizing
 17 the issuance of the bonds or notes. Bonds or notes bearing a variable
 18 rate of interest may be converted to bonds or notes bearing a fixed rate
 19 or rates of interest, and bonds or notes bearing a fixed rate or rates of
 20 interest may be converted to bonds or notes bearing a variable rate of
 21 interest, to the extent and in the manner set forth in the resolution
 22 pursuant to which the bonds or notes are issued. The interest on bonds
 23 or notes may be payable semiannually or annually or at any other
 24 interval or intervals as may be provided in the resolution, or the interest
 25 may be compounded and paid at maturity or at any other times as may
 26 be specified in the resolution.

27 (d) The bonds or notes may be made subject, at the option of the
 28 holders, to mandatory redemption by the bank at the times and under
 29 the circumstances set forth in the authorizing resolution.

30 (e) The bank may not issue bonds for qualified entities described in
 31 IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are
 32 subject to the volume cap (as defined in ~~IC 4-4-11.5-14~~ **IC 5-1.2-2**)
 33 without obtaining the prior approval of the Indiana finance authority.

34 SECTION 29. IC 5-13-4-6 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. "Credit enhancement
 36 obligation" means the obligation of the developers of an ~~industrial~~
 37 **economic** development project under the documents related to the
 38 credit enhancement.

39 SECTION 30. IC 5-13-4-13 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. "~~Industrial~~
 41 **Economic** development obligation" means any loan or lease by a
 42 lender or lessor approved by the board for depositories as responsible



1 and able to service the loan or lease properly, which is used to finance
 2 all or any portion of the cost of an ~~industrial~~ **economic** development
 3 project.

4 SECTION 31. IC 5-13-4-14, AS AMENDED BY P.L.235-2005,
 5 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2018]: Sec. 14. "~~Industrial~~ **Economic** development project"
 7 has the meaning set forth in ~~IC 4-4-10.9-11~~ **IC 5-1.2-2** and includes
 8 mining operations, agricultural operations that involve the processing
 9 of agricultural products, and any other type of business project for
 10 which the Indiana finance authority may make a loan or lease
 11 guarantee.

12 SECTION 32. IC 5-13-12-3, AS AMENDED BY P.L.235-2005,
 13 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2018]: Sec. 3. (a) The board for depositories exercises
 15 essential public functions, and has a perpetual existence. The board has
 16 all powers necessary, convenient, or appropriate to carry out and
 17 effectuate its public and corporate purposes, including but not limited
 18 to the powers to do the following:

- 19 (1) Adopt, amend, and repeal bylaws and rules consistent with
 20 this chapter to regulate its affairs and to effect the powers and
 21 purposes of the board, all without the necessity of adopting a rule
 22 under IC 4-22-2.
- 23 (2) Adopt its budget on a calendar year or fiscal year as it shall
 24 determine.
- 25 (3) Sue and be sued in its own name.
- 26 (4) Have an official seal and alter it at will.
- 27 (5) Maintain an office or offices at a place or places within
 28 Indiana as it may designate.
- 29 (6) Make and execute contracts and all other instruments with
 30 either public or private entities.
- 31 (7) Communicate with the employees of the Indiana finance
 32 authority to the extent reasonably desirable in working on a
 33 guarantee of an ~~industrial~~ **economic** development obligation or
 34 credit enhancement obligation.
- 35 (8) Deposit all uninvested funds of the public deposit insurance
 36 fund in a separate account or accounts in financial institutions that
 37 are designated as depositories to receive state funds under
 38 IC 5-13-9.5. The money in these accounts shall be paid out on
 39 checks signed by the chairman or other officers or employees of
 40 the board as it shall authorize.
- 41 (9) Take any other act necessary or convenient for the
 42 performance of its duties and the exercise of its powers and



- 1 functions under this chapter.
- 2 (b) In enforcing any obligation of the borrower or any other person
3 under the documents evidencing a guarantee, the board may renegotiate
4 the guarantee, modify the rate of interest, term of the industrial
5 development obligation or credit enhancement obligation, payment of
6 any installment of principal or interest, or any other term of any
7 documents, settle any obligation on the security or receipt of property
8 or the other terms as in its discretion it deems advantageous to the
9 public deposit insurance fund, and take any other action necessary or
10 convenient to such enforcement.
- 11 (c) The records of the board for depositories relating to negotiations
12 between it and prospects for ~~industrial~~ **economic** development
13 obligation or credit enhancement obligation guarantees are excepted
14 from the provisions of IC 5-14-3-3.
- 15 SECTION 33. IC 5-13-12-4, AS AMENDED BY P.L.93-2013,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2018]: Sec. 4. (a) The secretary-investment manager shall
18 administer, manage, and direct the affairs and activities of the board
19 under the policies and under the control and direction of the board. In
20 carrying out these duties, the secretary-investment manager has the
21 power to do the following:
- 22 (1) Approve all accounts for salaries and allowable expenses of
23 the board, including, but not limited to:
- 24 (A) the employment of general or special attorneys, consultants,
25 and employees and agents as may be necessary to assist the
26 secretary-investment manager in carrying out the duties of that
27 office and to assist the board in its consideration of applications
28 for a guarantee of an ~~industrial~~ **economic** development
29 obligation or credit enhancement obligation guarantee; and
30 (B) the setting of compensation of persons employed under
31 clause (A).
- 32 (2) Approve all expenses incidental to the operation of the public
33 deposit insurance fund.
- 34 (3) Perform other duties and functions that may be delegated to
35 the secretary-investment manager by the board or that are
36 necessary to carry out the duties of the secretary-investment
37 manager under this chapter.
- 38 (b) The secretary-investment manager shall keep a record of the
39 proceedings of the board, and shall maintain and be custodian of all
40 books, documents, and papers filed with the board, and its official seal.
41 The secretary-investment manager may make copies of all minutes and
42 other records and documents of the board, and may give certificates



1 under seal of the board to the effect that the copies are true copies. All
2 persons dealing with the board may rely upon the certificates.

3 (c) Before July 30, 2013, the auditor of state shall:

4 (1) make the second 2013 distribution from the pension
5 distribution fund to the Indiana public retirement system for
6 deposit in the pension relief fund as required by this section as it
7 existed on June 30, 2013; and

8 (2) transfer all of the balance in the pension distribution fund
9 remaining after the distribution under subdivision (1) to the
10 public deposit insurance fund.

11 SECTION 34. IC 5-13-12-7, AS AMENDED BY P.L.93-2013,
12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2018]: Sec. 7. (a) The board for depositories shall manage and
14 operate the insurance fund. All expenses incident to the administration
15 of the fund shall be paid out of the money accumulated in it subject to
16 the direction of the board for depositories. Money in the fund may not
17 be expended, removed, or transferred from the fund for any purpose
18 other than the following unless the expenditure, the removal, or transfer
19 is first reviewed by the budget committee:

20 (1) Paying expenses of administering the fund.

21 (2) Investing, reinvesting, and exchanging investments as
22 described in subsection (d).

23 (3) Paying claims on insured public deposits under IC 5-13-13.

24 (4) Making payments required by contracts executed under
25 section 3(a)(6) of this chapter.

26 (5) Making deposits of uninvested funds under section 3(a)(8) of
27 this chapter.

28 (6) Paying allowable expenses as provided in section 4 of this
29 chapter.

30 (b) Effective January 1 and July 1 in each year, the board shall
31 before those dates redetermine the amount of the reserve to be
32 maintained by the insurance fund. The establishment or any change in
33 the reserve for losses shall be determined by the board based on
34 information the board considers, including but not limited to capital
35 adequacy, liquidity, and asset quality, and a study to be made or
36 updated by actuaries, economists, or other consultants based on the
37 history of losses, earnings on the funds, conditions of the depositories,
38 economic conditions affecting particular depositories or depositories
39 in general, and any other factors that the board considers relevant in
40 making its determination. The reserve determined by the board must be
41 sufficient to ensure the safekeeping and prompt payment of public
42 funds to the extent they are not covered by insurance of any federal



1 deposit insurance agency.

2 (c) At the end of each biennial period during which depositories
 3 have had public funds on deposit under this chapter and paid the
 4 assessments levied by the board, the board shall compute its receipts
 5 from assessments and all other sources and its expenses and losses and
 6 determine the profit derived from the operation of the fund for the
 7 period. Until the amount of the reserve for losses has been
 8 accumulated, all assessments levied for a biennial period shall be
 9 retained by the fund. The amount of the assessments, if any, levied by
 10 the board shall, to the extent the fund exceeds the reserve for losses at
 11 the end of a biennial period commencing July 1 of each odd-numbered
 12 year, be distributed to the depositories that had public funds on deposit
 13 during the biennial period in which the assessments were paid. The
 14 distribution shall be made to the respective depositories in the
 15 proportion that the total assessments paid by each depository during
 16 that period bears to the total assessments then paid by all depositories.
 17 A distribution to which any closed depository would otherwise be
 18 entitled shall be set off against any claim that the insurance fund may
 19 have against the closed depository.

20 (d) The board may invest, reinvest, and exchange investments of the
 21 insurance fund in excess of the cash working balance in any of the
 22 following:

23 (1) In bonds, notes, certificates, and other valid obligations of the
 24 United States, either directly or, subject to the limitations in
 25 subsection (e), in the form of securities of or other interests in an
 26 open-end no-load management-type investment company or
 27 investment trust registered under the provisions of the Investment
 28 Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

29 (2) In bonds, notes, debentures, and other securities issued by a
 30 federal agency or a federal instrumentality and fully guaranteed
 31 by the United States either directly or, subject to the limitations
 32 in subsection (e), in the form of securities of or other interests in
 33 an open-end no-load management-type investment company or
 34 investment trust registered under the provisions of the Investment
 35 Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

36 (3) In bonds, notes, certificates, and other valid obligations of a
 37 state or of an Indiana political subdivision that are issued under
 38 law, the issuers of which, for five (5) years before the date of the
 39 investment, have promptly paid the principal and interest on their
 40 bonds and other legal obligations.

41 (4) In bonds or other obligations of the Indiana finance authority
 42 issued under ~~IC 4-13.5~~ **IC 5-1.2**.



1 (5) In investments permitted the state under IC 5-13-10.5.

2 (6) In guarantees of ~~industrial~~ **economic** development obligations
3 or credit enhancement obligations, or both, for the purposes of
4 retaining and increasing employment in enterprises in Indiana,
5 subject to the limitations and conditions set out in this
6 subdivision, subsection (e), and section 8 of this chapter. An
7 individual guarantee of the board under this subdivision must not
8 exceed eight million dollars (\$8,000,000).

9 (7) In guarantees of bonds or notes issued under IC 5-1.5-4-1,
10 subject to the limitations and conditions set out in subsection (e)
11 and section 8 of this chapter.

12 (8) In bonds, notes, or other valid obligations of the Indiana
13 finance authority that have been issued in conjunction with the
14 authority's acquisition, development, or improvement of property
15 or other interests for an ~~industrial~~ **economic** development project
16 (as defined in ~~IC 4-4-10.9-11~~) **IC 5-1.2-2**) that the authority has
17 undertaken for the purposes of retaining or increasing
18 employment in existing or new enterprises in Indiana, subject to
19 the limitations in subsection (e).

20 (9) In notes or other debt obligations of counties, cities, and towns
21 that have been issued under IC 6-1.1-39 for borrowings from the
22 industrial development fund under IC 5-28-9 for purposes of
23 retaining or increasing employment in existing or new enterprises
24 in Indiana, subject to the limitations in subsection (e).

25 (10) In bonds or other obligations of the Indiana housing and
26 community development authority.

27 (e) The investment authority of the board under subsection (d) is
28 subject to the following limitations:

29 (1) For investments under subsection (d)(1) and (d)(2), the
30 portfolio of an open-end no-load management-type investment
31 company or investment trust must be limited to:

32 (A) direct obligations of the United States and obligations of a
33 federal agency or a federal instrumentality that are fully
34 guaranteed by the United States; and

35 (B) repurchase agreements fully collateralized by obligations
36 described in clause (A), of which the company or trust takes
37 delivery either directly or through an authorized custodian.

38 (2) Total outstanding investments in guarantees of ~~industrial~~
39 **economic** development obligations and credit enhancement
40 obligations under subsection (d)(6) must not exceed the greater
41 of:

42 (A) ten percent (10%) of the available balance of the insurance



- 1 fund; or
 2 (B) fourteen million dollars (\$14,000,000).
 3 (3) Total outstanding investments in guarantees of bond bank
 4 obligations under subsection (d)(7) must not exceed the greater
 5 of:
 6 (A) twenty percent (20%) of the available balance of the
 7 insurance fund; or
 8 (B) twenty-four million dollars (\$24,000,000).
 9 (4) Total outstanding investments in bonds, notes, or other
 10 obligations of the Indiana finance authority under subsection
 11 (d)(8) may not exceed the greater of:
 12 (A) fifteen percent (15%) of the available balance of the
 13 insurance fund; or
 14 (B) twenty million dollars (\$20,000,000).
 15 However, after June 30, 1988, the board may not make any
 16 additional investment in bonds, notes, or other obligations of the
 17 Indiana finance authority issued under IC 4-4-11 **(before its**
 18 **repeal)**, and the board may invest an amount equal to the
 19 remainder, if any, of:
 20 (i) fifteen percent (15%) of the available balance of the
 21 insurance fund; minus
 22 (ii) the board's total outstanding investments in bonds, notes,
 23 or other obligations of the Indiana finance authority issued
 24 under IC 4-4-11 **(before its repeal)**;
 25 in guarantees of ~~industrial~~ **economic** development obligations or
 26 credit enhancement obligations, or both, as authorized by
 27 subsection (d)(6). In such a case, the outstanding investments, as
 28 authorized by subsection (d)(6) and (d)(8), may not exceed in
 29 total the greater of twenty-five percent (25%) of the available
 30 balance of the insurance fund or thirty-four million dollars
 31 (\$34,000,000).
 32 (5) Total outstanding investments in notes or other debt
 33 obligations of counties, cities, and towns under subsection (d)(9)
 34 may not exceed the greater of:
 35 (A) ten percent (10%) of the available balance of the insurance
 36 fund; or
 37 (B) twelve million dollars (\$12,000,000).
 38 (f) For purposes of subsection (e), the available balance of the
 39 insurance fund does not include the outstanding principal amount of
 40 any fund investment in a corporate note or obligation or the part of the
 41 fund that has been established as a reserve for losses.
 42 (g) All interest and other income earned on investments of the



1 insurance fund and all amounts collected by the board accrue to the
2 fund.

3 (h) Members of the board and any officers or employees of the
4 board are not subject to personal liability or accountability by reason
5 of any investment in any of the obligations listed in subsection (d).

6 SECTION 35. IC 5-13-12-8, AS AMENDED BY P.L.162-2007,
7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 8. (a) The board for depositories, in making the
9 ~~industrial~~ **economic** development obligation or credit enhancement
10 obligation guarantees authorized under section 7(d)(6) of this chapter,
11 shall comply with the following limitations:

12 (1) A guarantee shall be made only of ~~industrial~~ **economic**
13 development obligations or credit enhancement obligations for
14 the purpose of retaining, retaining and expanding, or bringing
15 significant employment into Indiana, as determined by the board
16 under subdivision (3)(A).

17 (2) Each ~~industrial~~ **economic** development obligation or credit
18 enhancement obligation must be guaranteed not only by the board
19 but also by the Indiana economic development corporation
20 created by IC 5-28-3-1. Each guarantee must provide that in the
21 event of a valid claim of loss by the lender, the lessor, or the
22 issuer of the credit enhancement arising under the ~~industrial~~
23 **economic** development obligation or credit enhancement
24 documents, the amount of the loss, up to two million dollars
25 (\$2,000,000), shall first be paid by the industrial development
26 project guaranty fund created by IC 5-28-30-9, and only the
27 remainder of the loss, if any, shall to the extent guaranteed be
28 paid by the public deposit insurance fund. Neither fund is
29 responsible for the amount due from the other under its guarantee.

30 (3) The guarantee of the ~~industrial~~ **economic** development
31 obligation or credit enhancement obligation by the board for
32 depositories must be recommended by the Indiana economic
33 development corporation. Subject to that recommendation, the
34 board for depositories may make the guarantee if it determines:

35 (A) that the guarantee creates a reasonable probability that loss
36 in Indiana employment that would occur will be significantly
37 reduced or that Indiana's employment will be significantly
38 expanded;

39 (B) that the consequent reduction in employment loss or the
40 expansion in employment will enhance the economic stability
41 of the community or communities in the state where the
42 borrower or lessee conducts its business;



- 1 (C) that there is reasonable probability that the ~~industrial~~
 2 **economic** development obligation will be repaid or satisfied or
 3 that the credit enhancement will be satisfied; and
 4 (D) that the ~~industrial~~ **economic** development obligation or
 5 credit enhancement obligation and guarantee are protected
 6 against loss and the borrower or lessee has agreed to pay the
 7 insurance fund a guarantee premium annually as provided in
 8 subdivision (6).
- 9 (4) Protection against loss on the ~~industrial~~ **economic**
 10 development obligation or credit enhancement obligation
 11 guaranteed will be provided:
 12 (A) in loan transactions by:
 13 (i) a valid security agreement;
 14 (ii) mortgage;
 15 (iii) combination of (i) and (ii); or
 16 (iv) other document; and
 17 (B) in lease transactions by the guaranteed party's rights as
 18 owner of the leased property.
- 19 (5) The term of the guarantee must not exceed twenty (20) years.
 20 The amount of the guarantee provided by the board, together with
 21 the corresponding guarantee to be provided by the industrial
 22 development project guaranty fund under subdivision (2), must
 23 not exceed:
 24 (A) the lesser of:
 25 (i) ninety percent (90%) of the unpaid balance of the
 26 obligation; or
 27 (ii) ninety percent (90%) of the appraised fair market value of
 28 the real estate;
 29 if the obligation is backed by real estate;
 30 (B) the lesser of:
 31 (i) seventy-five percent (75%) of the unpaid balance of the
 32 obligation; or
 33 (ii) seventy-five percent (75%) of the appraised fair market
 34 value of the equipment;
 35 if the obligation is backed by equipment; or
 36 (C) a weighted average of the figures derived under clauses
 37 (A)(ii) and (B)(ii) if the obligation is backed by real estate and
 38 equipment.
- 39 (6) The guarantee premium to be received by the public deposit
 40 insurance fund for the guarantee must be at an annual percentage
 41 rate on the outstanding principal amount of the ~~industrial~~
 42 **economic** development obligation or the credit enhancement



1 obligation of not less, in the discretion of the board, than the
 2 market rate for guarantees, mortgage insurance rates, or letters of
 3 credit used for similar purposes at the time the guarantee is made.
 4 However, the annual percentage rate must not exceed two percent
 5 (2%) of the outstanding principal obligation.

6 (b) The following conditions apply to the making of bond bank
 7 obligation guarantees under section 7(d)(7) of this chapter:

8 (1) Each bond bank obligation guaranteed must be secured by a
 9 pledge of securities of a qualified entity (as defined in
 10 IC 5-1.5-1-8) under an indenture of trust requiring an adequate
 11 debt reserve fund.

12 (2) The board for depositories shall fix the one (1) time or annual
 13 charge to be paid by the bond bank for each guarantee in an
 14 amount considered by the board to be appropriate and consistent
 15 with the market rate for that guarantee, taking into consideration
 16 the terms of the indenture applicable to the bond bank obligation.

17 (3) The board for depositories may agree to other terms for each
 18 guarantee that the secretary-investment manager certifies as being
 19 commercially reasonable and that the board, in its judgment,
 20 determines to be proper.

21 (c) Any claim, loss, or debt arising out of any guarantee authorized
 22 by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the
 23 board for depositories payable out of the public deposit insurance fund
 24 only and does not constitute a debt, liability, or obligation of the state
 25 or a pledge of the faith and credit of the state. The document
 26 evidencing any guarantee must have on its face the words, "The
 27 obligations created by this guarantee (or other document as
 28 appropriate) do not constitute a debt, liability, or obligation of the state
 29 or a pledge of the faith and credit of the state but are obligations of the
 30 board for public depositories and are payable solely out of the public
 31 deposit insurance fund, and neither the faith and credit nor the taxing
 32 power of the state is pledged to the payment of any obligation
 33 hereunder."

34 (d) Any claim of loss by a lender or lessor under a guarantee
 35 authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is
 36 made in writing to the board, has priority against the fund on all claims
 37 made after that time.

38 SECTION 36. IC 5-13-12-10, AS AMENDED BY P.L.235-2005,
 39 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2018]: Sec. 10. With regard to direct obligations of the
 41 Indiana finance authority that have been issued in conjunction with an
 42 ~~industrial~~ **economic** development project undertaken by the authority,



1 including those obligations that are guaranteed by the board under this
 2 chapter or purchased by the board under section 7(d)(8) of this chapter,
 3 the board may upon the request of the authority permit a subordination
 4 of any valid security agreement, mortgage, combinations thereof, or
 5 other appropriate document securing the direct obligations, if the board
 6 in its discretion determines that the subordination is reasonably
 7 necessary to accomplish the objectives of the ~~industrial~~ **economic**
 8 development project.

9 SECTION 37. IC 5-14-3.3-2, AS ADDED BY P.L.269-2017,
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 2. (a) As used in this chapter, "executive state
 12 agency" refers to any agency, authority, board, bureau, commission,
 13 department, division, office, or other unit of state government in the
 14 executive, including the administrative, department of state
 15 government established by any of the following:

- 16 (1) The Constitution of the State of Indiana.
- 17 (2) An Indiana statute.
- 18 (3) An administrative rule.
- 19 (4) An executive order.

20 (b) The term does not include the following:

- 21 (1) The legislative department of state government.
- 22 (2) The judicial department of state government.
- 23 (3) The Indiana finance authority ~~created~~ **established** by
 24 ~~IC 4-4-11-4~~. **IC 5-1.2-3-1**.
- 25 (4) A political subdivision.
- 26 (5) A state educational institution.

27 SECTION 38. IC 5-20-1-8, AS AMENDED BY P.L.145-2008,
 28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2018]: Sec. 8. (a) Subject to the approval of the public finance
 30 director appointed under ~~IC 4-4-11-9~~, **IC 5-1.2-3-6**, the authority is
 31 hereby authorized to issue bonds or notes, or a combination thereof, to
 32 carry out and effectuate its purposes and powers. The principal of, and
 33 the interest on, such bonds or notes shall be payable solely from the
 34 funds provided for such payment in this chapter. The authority may
 35 secure the repayment of such bonds and notes by the pledge of
 36 mortgages and notes of others, revenues derived from operations and
 37 loan repayments, the proceeds of its bonds, and any available revenues
 38 or assets of the authority. The bonds or notes of each issue shall be
 39 dated and may be made redeemable before maturity at the option of the
 40 authority, at such price or prices and under such terms and conditions
 41 as may be determined by the authority. Any such bonds or notes shall
 42 bear interest at such rate or rates as may be determined by the



1 authority. Notes shall mature at such time or times not exceeding ten
2 (10) years from their date or dates, and bonds shall mature at such time
3 or times not exceeding forty-five (45) years from their date or dates, as
4 may be determined by the authority. The authority shall determine the
5 form and manner of execution of the bonds or notes, including any
6 interest coupons to be attached thereto, and shall fix the denomination
7 or denominations and the place or places of payment of principal and
8 interest, which may be any bank or trust company within or outside the
9 state. In case any officer whose signature, or a facsimile of whose
10 signature, shall appear on any bonds or notes or coupons attached
11 thereto shall cease to be such officer before the delivery thereof, such
12 signature or such facsimile shall nevertheless be valid and sufficient for
13 all purposes the same as if the person had remained in office until such
14 delivery. The authority may also provide for the authentication of the
15 bonds or notes by a trustee or fiscal agent. The bonds or notes may be
16 issued in coupon or registered form, or both, as the authority may
17 determine, and provision may be made for the registration of any
18 coupon bonds or notes as to principal alone and also as to both
19 principal and interest, and for the reconversion into coupon bonds or
20 notes of any bonds or notes registered as to both principal and interest,
21 and for the interchange of registered and coupon bonds or notes. Upon
22 the approval of a resolution of the authority authorizing the sale of its
23 bonds or notes, such bonds or notes may be sold in such manner, either
24 at public or private sale, and for such price as the authority shall
25 determine to be for the best interest of the authority and to best
26 effectuate the purposes of this chapter.

27 (b) The proceeds of any bonds or notes shall be used solely for the
28 purposes for which they are issued. The proceeds shall be disbursed in
29 such manner and under such restrictions, if any, as the authority may
30 provide in the resolution authorizing the issuance of such bonds or
31 notes or in the trust agreement securing the same.

32 (c) Prior to the preparation of definitive bonds, the authority may,
33 under like restrictions and subject to the approval of the public finance
34 director appointed under ~~IC 4-4-11-9~~, **IC 5-1.2-3-6**, issue interim
35 receipts or temporary bonds, with or without coupons, exchangeable for
36 definitive bonds when such bonds shall have been executed and are
37 available for delivery. The authority may also provide for the
38 replacement of any bonds or notes which shall become mutilated or
39 shall be destroyed or lost.

40 (d) The authority shall cooperate with and use the assistance of the
41 Indiana finance authority established under ~~IC 4-4-11~~ by **IC 5-1.2-3** in
42 the issuance of the bonds or notes.



1 SECTION 39. IC 5-20-1-18, AS AMENDED BY P.L.145-2008,
 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 18. The authority shall, promptly following the
 4 close of each fiscal year, submit an annual report of its activities for the
 5 preceding year to the public finance director appointed under
 6 ~~IC 4-4-11-9~~; **IC 5-1.2-3-6**, the budget committee, and the general
 7 assembly. An annual report submitted under this section to the general
 8 assembly must be in an electronic format under IC 5-14-6. The report
 9 shall set forth a complete operating and financial statement of the
 10 authority during such year, and a copy of such report shall be available
 11 to inspection by the public at the Indianapolis office of the authority.
 12 The authority shall cause an audit of its books and accounts to be made
 13 at least once in each year by an independent certified public accountant
 14 and the cost thereof may be paid from any available money of the
 15 authority.

16 SECTION 40. IC 5-28-3-6 IS REPEALED [EFFECTIVE JULY 1,
 17 2018]. Sec. 6: (a) As used in this section, "transferred programs" refers
 18 to the following:

19 (1) Shovel ready site development center under IC 5-28-28.4; as
 20 added by P.L.162-2007 (IC 4-4-11-44 before its repeal).

21 (2) Capital access program under IC 5-28-29; as added by
 22 P.L.162-2007 (IC 4-4-26 before its repeal).

23 (3) Industrial development loan guaranty program under
 24 IC 5-28-30; as added by P.L.162-2007 (IC 4-4-11-16 before its
 25 repeal).

26 (4) Agricultural loan and rural development project guarantee
 27 fund under IC 5-28-31, as added by P.L.162-2007 (IC 15-7-5-19.5
 28 before its repeal).

29 (5) Business development loan fund under IC 5-28-32; as added
 30 by P.L.162-2007 (IC 4-4-11-16.5 before its repeal).

31 (b) On July 1, 2007, all powers, duties, and liabilities of the Indiana
 32 finance authority with respect to the transferred programs are
 33 transferred to the corporation.

34 (c) On July 1, 2007, all records and property of the Indiana finance
 35 authority with respect to the transferred programs, including
 36 appropriations and other funds under the authority's control or
 37 supervision, are transferred to the corporation.

38 (d) After June 30, 2007, any amounts owed to the Indiana finance
 39 authority under the transferred programs before July 1, 2007, are
 40 considered to be owed to the corporation.

41 (e) After June 30, 2007, a reference to the Indiana finance authority
 42 in a statute, rule, or other document concerning a transferred program



1 is considered a reference to the corporation unless the reference applies
2 to the issuance of obligations:

3 (f) On July 1, 2007, all powers, duties, and liabilities of the Indiana
4 finance authority with respect to agreements entered into or obligations
5 issued in connection with a transferred program are transferred to the
6 corporation. The rights of a party to such an agreement or the holder of
7 such an obligation remain unchanged, although the powers, duties, and
8 liabilities described in this subsection have been transferred to the
9 corporation.

10 SECTION 41. IC 5-28-5-15, AS ADDED BY P.L.162-2007,
11 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2018]: Sec. 15. The corporation may take assignments of
13 accounts receivable, loans, guarantees, insurance, notes, mortgages,
14 security agreements securing notes, and other forms of security, attach,
15 seize, or take title by foreclosure or conveyance to an **industrial**
16 **economic** development project when a guaranteed loan on the
17 **industrial economic** development project is clearly in default and when
18 in the opinion of the corporation such an acquisition is necessary to
19 safeguard the industrial development project guaranty fund, and sell,
20 or on a temporary basis, lease or rent **such industrial the economic**
21 development project for any use.

22 SECTION 42. IC 5-28-8-4, AS AMENDED BY P.L.145-2016,
23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2018]: Sec. 4. As used in this chapter, "qualified entity"
25 means:

- 26 (1) the state;
27 (2) a political subdivision of the state;
28 (3) an agency of the state or a political subdivision of the state;
29 (4) a nonprofit corporation;
30 (5) the Indiana finance authority established ~~under IC 4-4-10.9~~
31 ~~and IC 4-4-11~~; **by IC 5-1.2-3**; or
32 (6) any of the following local economic development
33 organizations:
34 (A) An urban enterprise association established under
35 IC 5-28-15 (or IC 4-4-6.1 before its repeal).
36 (B) An economic development commission established under
37 IC 36-7-12.
38 (C) A nonprofit corporation established under state law whose
39 primary purpose is the promotion of industrial or business
40 development in Indiana, the retention or expansion of Indiana
41 businesses, or the development of entrepreneurial activities in
42 Indiana.



1 (D) A regional planning commission established under
2 IC 36-7-7.

3 (E) A nonprofit educational organization whose primary
4 purpose is educating and developing local leadership for
5 economic development initiatives.

6 (F) Other similar organizations whose purposes include
7 economic development and that are approved by the
8 corporation.

9 SECTION 43. IC 5-28-9-20, AS AMENDED BY P.L.1-2006,
10 SECTION 127, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2018]: Sec. 20. (a) For ~~industrial~~ **economic**
12 development projects (as defined in ~~IC 4-4-10.9-11(a)~~ **IC 5-1.2-2**) that
13 have a cost of the project (as defined in ~~IC 4-4-10.9-5~~ **IC 5-1.2-2**)
14 greater than one hundred million dollars (\$100,000,000), the
15 corporation may coordinate a loan to a county, city, or town under this
16 chapter that is to be funded under IC 6-1.1-39 with a simultaneous or
17 successive sale of the note or other debt obligation issued or to be
18 issued by the county, city, or town to evidence the borrowing under this
19 chapter. For such a coordinated or simultaneous lending and sale, the
20 sale proceeds may be applied to the funding of the loan to the county,
21 city, or town.

22 (b) Notes or other debt obligations of a county, city, or town that
23 may be sold by the corporation under this section or section 19 of this
24 chapter are declared to be legal investments for:

- 25 (1) all insurance companies and associations and other persons
26 carrying on an insurance business; and
27 (2) all banks, bankers, banking associations, trust companies,
28 savings associations including savings and loan associations,
29 building and loan associations, investment companies, and other
30 persons carrying on a banking business.

31 These entities may invest their funds, including capital, in the notes or
32 other debt obligations, notwithstanding any law to the contrary.

33 SECTION 44. IC 5-28-25-1, AS ADDED BY P.L.235-2005,
34 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2018]: Sec. 1. As used in this chapter, "eligible entity" means:

- 36 (1) a city;
37 (2) a town;
38 (3) a county;
39 (4) a special taxing district;
40 (5) an economic development commission established under
41 IC 36-7-12;
42 (6) a nonprofit corporation;



- 1 (7) a corporation established under IC 23-7-1.1 (before its repeal
- 2 on August 1, 1991) or IC 23-17 to distribute water for domestic
- 3 and industrial use;
- 4 (8) a regional water, sewage, or solid waste district;
- 5 (9) a conservancy district that includes in its purpose the
- 6 distribution of domestic water or the collection and treatment of
- 7 waste; or
- 8 (10) the Indiana finance authority established ~~under IC 4-4-11~~ by
- 9 **IC 5-1.2-3.**

10 SECTION 45. IC 5-28-28.5-0.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2018]: **Sec. 0.5. As used in this chapter,**
 13 **"broadband services" includes services, including voice, video, and**
 14 **data, that provide capacity for transmission of more than three**
 15 **hundred eighty-four (384) kilobits per second in at least one (1)**
 16 **direction regardless of the technology or medium used, including**
 17 **wireless, copper wire, fiber optic cable, or coaxial cable. If voice**
 18 **transmission capacity is offered in conjunction with other services**
 19 **using transmission of more than three hundred eighty-four (384)**
 20 **kilobits per second, the voice transmission capacity may be less**
 21 **than three hundred eighty-four (384) kilobits per second. The**
 22 **authority shall annually reconsider the three hundred eighty-four**
 23 **(384) kilobits threshold under this section with a bias toward**
 24 **raising the threshold in a manner consistent with technological**
 25 **advances.**

26 SECTION 46. IC 5-28-28.5-8, AS ADDED BY P.L.33-2017,
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2018]: Sec. 8. (a) As used in this section, "broadband
 29 adoption" refers to an agreement by a customer to subscribe to
 30 broadband services (as defined in IC 8-1-33-8) that are:

- 31 (1) offered by a communications service provider; and
- 32 (2) available to the customer.
- 33 (b) A unit that wishes to be certified as a broadband ready
- 34 community must establish a procedure to promote broadband adoption
- 35 in the unit after the unit is certified as a broadband ready community.
- 36 The procedure must include the following:
 - 37 (1) A single point of contact in charge of broadband adoption in
 - 38 the unit.
 - 39 (2) An assurance that each communications service provider that
 - 40 already provides broadband services in the unit will be notified
 - 41 that the unit is applying to be a broadband ready community.
 - 42 (3) An assurance that the unit will work with communications



1 service providers to promote broadband adoption in the unit.

2 (c) A procedure established under subsection (b) may not do the
3 following:

4 (1) Discriminate among communications service providers with
5 respect to promoting broadband adoption in the unit.

6 (2) Impose a fee on communications service providers to fund
7 promotion of broadband adoption in the unit.

8 SECTION 47. IC 5-28-30-1 IS REPEALED [EFFECTIVE JULY 1,
9 2018]. ~~Sec. 4. As used in this chapter, "broadband development
10 project" means a project authorized by the broadband development
11 program under IC 8-1-33.~~

12 SECTION 48. IC 5-28-30-5, AS ADDED BY P.L.162-2007,
13 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2018]: Sec. 5. As used in this chapter, "industrial development
15 project" includes the acquisition of land, interests in land, site
16 improvements, infrastructure improvements (including information and
17 high technology infrastructure (as defined in IC 5-28-9-4)), buildings,
18 or structures, rehabilitation, renovation, and enlargement of buildings
19 and structures, machinery, equipment, furnishings, or facilities (or any
20 combination of these), comprising or being functionally related and
21 subordinate to any of the following:

22 ~~(1) A pollution control facility (as defined in IC 4-4-10.9-24).~~

23 ~~(2) (1) A manufacturing enterprise.~~

24 ~~(3) (2) A business service enterprise involved in:~~

25 (A) computer and data processing services; or

26 (B) commercial testing services.

27 ~~(4) (3) A business enterprise the primary purpose of which is the~~
28 ~~operation of an education and permanent marketing center for~~
29 ~~manufacturers and distributors of robotic and flexible automation~~
30 ~~equipment.~~

31 ~~(5) (4) Any other business enterprise, if the use of the guaranty~~
32 ~~program creates a reasonable probability that the effect on Indiana~~
33 ~~employment will be creation or retention of at least fifty (50) jobs.~~

34 ~~(6) (5) An agricultural enterprise in which:~~

35 (A) the enterprise operates under a producer or growout
36 agreement; and

37 (B) the output of the enterprise is processed predominantly in
38 Indiana.

39 ~~(7) (6) A business enterprise that is required by a state, federal, or~~
40 ~~local regulatory agency to make capital expenditures to remedy a~~
41 ~~violation of a state or federal law or a local ordinance.~~

42 ~~(8) (7) A recycling market development project.~~



1 (9) **(8)** A high growth company with high skilled jobs.
 2 ~~(10) A broadband development project.~~
 3 SECTION 49. IC 5-28-30-7, AS ADDED BY P.L.162-2007,
 4 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2018]: Sec. 7. As used in this chapter, "mortgage" means a
 6 mortgage on an industrial development project, mining operation, or
 7 agricultural operation that involves the processing of agricultural
 8 products, or the unpaid purchase price of real estate under the laws of
 9 this state, together with the credit instruments, if any, secured thereby,
 10 including but not limited to a financing agreement as defined in
 11 ~~IC 4-4-10.9-8~~ **IC 5-1.2-2** or a financing agreement within the meaning
 12 of IC 36-7-12 in connection with real property.
 13 SECTION 50. IC 5-28-30-9, AS ADDED BY P.L.162-2007,
 14 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2018]: Sec. 9. There is created an industrial development
 16 project guaranty fund which shall be used by the corporation as a
 17 nonlapsing, revolving fund for carrying out the provisions of the
 18 guaranty program. The corporation may expend money from the
 19 guaranty fund as the authority considers appropriate to carry out the
 20 purposes of this chapter and ~~IC 4-4-11~~. **IC 5-1.2-9**. The guaranty fund
 21 consists of the money, if any, appropriated by the general assembly. To
 22 this sum shall be charged those expenses of the corporation attributable
 23 and allocated by the corporation to the guaranty program, including
 24 interest, principal, and lease payments required by loan or lease
 25 defaults under the guaranty program, and to the sum shall be credited
 26 that income of the corporation attributable and allocated by the
 27 corporation to the guaranty program, including guarantee premiums.
 28 SECTION 51. IC 5-28-30-11, AS ADDED BY P.L.162-2007,
 29 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2018]: Sec. 11. The conditions referred to in section 10 of this
 31 chapter are as follows:
 32 (1) A new or additional guarantee of a loan or lease under section
 33 10, 12, or 17 of this chapter may not be entered into if the
 34 guarantee would cause the outstanding total guarantee obligations
 35 with respect to all loans and leases guaranteed under sections 10,
 36 12, and 17 of this chapter to exceed eight (8) times the amount of
 37 money in the guaranty fund.
 38 (2) The amount of all guarantees by the corporation of loans or
 39 leases to or for the benefit of any single industrial development
 40 project, mining operation, or agricultural operation that involves
 41 the processing of agricultural products may not exceed two
 42 million dollars (\$2,000,000), less the outstanding total principal



- 1 balance under any loans made and owed to the corporation under
 2 section 17 of this chapter to or for the benefit of the project or
 3 operation.
- 4 (3) A guarantee of either a loan secured by real estate or a real
 5 estate lease may not exceed ninety percent (90%) of the unpaid
 6 principal balance of the loan from time to time outstanding or
 7 ninety percent (90%) of the amount of any lease payment, as
 8 applicable, or ninety percent (90%) of the appraised fair market
 9 value of the real estate, whichever is less.
- 10 (4) A guarantee of a loan secured by personal property or of a
 11 personal property lease may not exceed seventy-five percent
 12 (75%) of the unpaid principal balance of the loan from time to
 13 time outstanding or seventy-five percent (75%) of the amount of
 14 any lease payment, as applicable, or seventy-five percent (75%)
 15 of the fair market value of the personal property, whichever is
 16 less.
- 17 (5) A guarantee involving both real estate and personal property
 18 may not exceed the percentage proportionate to each type of
 19 property.
- 20 (6) To be eligible for a guarantee under section 10 of this chapter,
 21 a loan or lease must:
- 22 (A) be one that is to be made to and held by a lender or lessor
 23 approved by the corporation as responsible and able to service
 24 the loan or lease properly;
- 25 (B) involve a principal obligation or lease payments, as
 26 applicable, which may include initial service charges and
 27 appraisal, inspection, and other fees approved by the
 28 corporation;
- 29 (C) have a maturity or term satisfactory to the corporation but
 30 in no case later than twenty (20) years from the date of the
 31 guarantee;
- 32 (D) contain payment terms satisfactory to the corporation
 33 requiring periodic payments by the developer or user, including
 34 principal and interest payments, cost of local property taxes and
 35 assessments, land lease rentals, if any, insurance on the
 36 property, as applicable, and any guarantee premiums required
 37 by the corporation; and
- 38 (E) contain any terms and provisions with respect to property
 39 insurance, repairs, alterations, payment of taxes and
 40 assessments, default reserves, delinquency charges, default
 41 remedies, anticipation of maturity, additional and secondary
 42 liens, and other matters that the corporation may prescribe.



1 **(7) The proposed guarantee or direct loan has been submitted**
 2 **to the budget agency. The budget agency shall verify whether**
 3 **money is available for the proposal and that the proposal is in**
 4 **compliance with this chapter. The budget agency shall submit**
 5 **the proposal, with its comments, to the budget committee for**
 6 **review. The corporation may not approve a guarantee or**
 7 **direct loan until the budget committee has reviewed the**
 8 **guarantee or direct loan.**

9 SECTION 52. IC 5-28-30-16, AS ADDED BY P.L.162-2007,
 10 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 16. To further the purposes of this chapter, and
 12 subject to this chapter, the corporation may also use any part of the
 13 guaranty fund to guarantee any bonds issued by the Indiana finance
 14 authority under ~~IC 4-4-11~~ **IC 5-1.2** or by any authorized issuer under
 15 IC 36-7-12. With regard to direct obligations of the authority that are
 16 guaranteed by the corporation, the corporation may permit a
 17 subordination of any:

- 18 (1) security agreement;
- 19 (2) mortgage;
- 20 (3) combination of security agreements and mortgages; or
- 21 (4) other appropriate documents securing the direct obligations;

22 if the corporation in its discretion determines that the subordination is
 23 reasonably necessary to accomplish the objectives of the industrial
 24 development project undertaken by the authority.

25 SECTION 53. IC 5-28-30-20, AS ADDED BY P.L.162-2007,
 26 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2018]: Sec. 20. To further the purposes of this chapter and
 28 ~~IC 4-4-11, IC 5-1.2-9,~~ and in addition to the corporation's other powers
 29 under this chapter, the corporation may transfer funds from the
 30 guaranty fund to the capital access account established under
 31 IC 5-28-29-35.

32 SECTION 54. IC 5-28-31 IS REPEALED [EFFECTIVE JULY 1,
 33 2018]. (Agricultural Loan and Rural Development Project Guarantee
 34 Fund).

35 SECTION 55. IC 5-28-33-8 IS REPEALED [EFFECTIVE JULY 1,
 36 2018]. ~~Sec. 8: In implementing this chapter, the corporation shall~~
 37 ~~consult with the Indiana finance authority to avoid unnecessary~~
 38 ~~duplication of efforts under this chapter and IC 8-1-33.~~

39 SECTION 56. IC 6-1.1-39-1.6 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.6. As used in this
 41 chapter, "qualified industrial development project" means an ~~industrial~~
 42 **economic** development project (as defined in ~~IC 4-4-10.9-11(a)~~)



1 **IC 5-1.2-2**) that has a cost of the project (as defined in ~~IC 4-4-10.9-5~~)
 2 **IC 5-1.2-2**) greater than one hundred million dollars (\$100,000,000).

3 SECTION 57. IC 6-3.1-29-20.7, AS ADDED BY P.L.182-2009(ss),
 4 SECTION 204, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2018]: Sec. 20.7. (a) The findings in
 6 IC 4-4-11.6-12 (**before its repeal**) are incorporated by reference into
 7 this section. The general assembly further finds that the refundable
 8 credit provided by this section is also necessary to achieve the purposes
 9 set forth in IC 4-4-11.6-12 (**before its repeal**).

10 (b) This section applies to a taxpayer that:

11 (1) makes a qualified investment in an integrated coal gasification
 12 powerplant; and

13 (2) ~~enters entered~~ into a contract to sell substitute natural gas (as
 14 defined in IC 4-4-11.6-11) (**before its repeal**) to the Indiana
 15 finance authority under IC 4-4-11.6 (**before its repeal**).

16 (c) Notwithstanding anything in this chapter to the contrary, a
 17 taxpayer may elect in the manner prescribed by the department to take
 18 and receive all credits to which the taxpayer is entitled under section
 19 15 of this chapter (without regard to section 16 of this chapter) as a
 20 refundable credit against the taxpayer's state tax liability, if any, over
 21 a period of twenty (20) taxable years, beginning not later than the
 22 taxable year in which the taxpayer places into service its integrated coal
 23 gasification powerplant. If, in a taxable year, a taxpayer that makes an
 24 election under this subsection has no state tax liability, the department
 25 shall pay to the taxpayer the full amount of the refundable credit for
 26 that taxable year.

27 (d) The amount of a credit to which a taxpayer that makes an
 28 election under subsection (c) is entitled for a particular taxable year
 29 equals the result determined under STEP FOUR:

30 STEP ONE: Determine the total credit amount to which the
 31 taxpayer is entitled under section 15 of this chapter (without
 32 regard to section 16 of this chapter).

33 STEP TWO: Divide the STEP ONE amount by twenty (20).

34 STEP THREE: Determine the ratio of Indiana coal to total coal
 35 used in the taxpayer's integrated coal gasification powerplant in
 36 the taxable year.

37 STEP FOUR: Multiply the STEP TWO and STEP THREE
 38 amounts.

39 (e) A taxpayer shall claim a refund under this section in the manner
 40 provided by the department. The department shall pay the refunded
 41 amount to the taxpayer not more than ninety (90) days after the date on
 42 which the refund is claimed.



1 (f) The shareholders, members, or partners of a pass through entity
 2 that makes an election under subsection (c) are not entitled to a credit
 3 allowed under section 20(b) of this chapter.

4 (g) A credit allowed under this section is not assignable under
 5 section 20.5 of this chapter.

6 SECTION 58. IC 6-3.6-11-6, AS AMENDED BY P.L.248-2017,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 6. (a) This section applies to Lake County,
 9 LaPorte County, Porter County, and any municipality in those counties
 10 that is a member of the northwest Indiana regional development
 11 authority (IC 36-7.5) for purposes of categorizations, allocations, and
 12 distributions of additional revenue that is allocated each year for
 13 economic development purposes under IC 6-3.6-6-9.

14 (b) This subsection applies only to Lake County. The county or a
 15 city described in IC 36-7.5-2-3(b) may use additional revenue that is
 16 allocated each year for economic development purposes under
 17 IC 6-3.6-6-9 for making transfers required by IC 36-7.5-4-2 or to
 18 provide rail project funding under IC 36-7.5-4.5. **The additional**
 19 **revenue allocated for economic development and used to make the**
 20 **transfers required by IC 36-7.5-4-2 or to provide rail project**
 21 **funding shall be paid by the treasurer of state to the treasurer of**
 22 **the northwest Indiana regional development authority before**
 23 **certified distributions are made to the county or any cities or towns**
 24 **in the county.** The county or a city or town in the county may use
 25 additional revenue that is allocated each year for economic
 26 development purposes under IC 6-3.6-6-9 to provide homestead credits
 27 in the county, city, or town. The following apply to homestead credits
 28 provided under this subsection:

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

33 (2) The county, city, or town fiscal body that adopts an ordinance
 34 under this subsection must forward a copy of the ordinance to the
 35 county auditor and the department of local government finance
 36 not more than thirty (30) days after the ordinance is adopted.

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

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

41 (5) The homestead credits shall be applied to the net property
 42 taxes due on the homestead after the application of all other



1 assessed value deductions or property tax deductions and credits
 2 that apply to the amount owed under IC 6-1.1.
 3 (6) The auditor of state shall determine the homestead credit
 4 percentage for a particular year based on the amount of additional
 5 revenue that will be used under this subsection to provide
 6 homestead credits in that year.
 7 (c) This subsection applies only to LaPorte County as follows:
 8 (1) This subsection applies if:
 9 (A) the county fiscal body has adopted an ordinance under
 10 IC 36-7.5-2-3(e) providing that the county is joining the
 11 northwest Indiana regional development authority; and
 12 (B) the fiscal body of the city described in IC 36-7.5-2-3(e) has
 13 adopted an ordinance under IC 36-7.5-2-3(e) providing that the
 14 city is joining the development authority.
 15 (2) Additional revenue that is allocated each year for economic
 16 development purposes under IC 6-3.6-6-9 may be used by a
 17 county or a city described in IC 36-7.5-2-3(e) for making transfers
 18 required by IC 36-7.5-4-2. In addition, if the allocation of
 19 additional revenue for economic development purposes under
 20 IC 6-3.6-6-9 is increased in the county, the first three million five
 21 hundred thousand dollars (\$3,500,000) of the tax revenue that
 22 results each year from the allocation increase shall be used by the
 23 county only to make the county's transfer required by
 24 IC 36-7.5-4-2 and shall be paid by the ~~county~~ treasurer **of state** to
 25 the treasurer of the northwest Indiana regional development
 26 authority under IC 36-7.5-4-2 before certified distributions are
 27 made to the county or any cities or towns in the county.
 28 (3) All of the additional revenue allocated for economic
 29 development purposes under IC 6-3.6-6-9 that results each year
 30 from an allocation increase described in subdivision (2) and that
 31 is in excess of the first three million five hundred thousand dollars
 32 (\$3,500,000) must be used by the county and cities and towns in
 33 the county for homestead credits under this subsection. The
 34 following apply to homestead credits provided under this
 35 subsection:
 36 (A) The homestead credits must be applied uniformly to
 37 provide a homestead credit for homesteads in the county, city,
 38 or town.
 39 (B) The homestead credits shall be treated for all purposes as
 40 property tax levies.
 41 (C) The homestead credits shall be applied to the net property
 42 taxes due on the homestead after the application of all other



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

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

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

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

13 (2) Second, the next three million five hundred thousand dollars
 14 (\$3,500,000) of the revenue shall be used for the county or for
 15 eligible municipalities (as defined in IC 36-7.5-1-11.3) in the
 16 county, to make transfers as provided in and required under
 17 IC 36-7.5-4-2. ~~This amount shall be paid by the county treasurer~~
 18 ~~to the treasurer of the northwest Indiana regional development~~
 19 ~~authority under IC 36-7.5-4-2. The additional revenue used to~~
 20 **make the transfers as provided in IC 36-7.5-4-2 shall be paid**
 21 **by the treasurer of state to the treasurer of the northwest**
 22 **Indiana regional development authority before certified**
 23 **distributions are made to the county or any taxing unit in the**
 24 **county.** If Porter County ceases to be a member of the northwest
 25 Indiana regional development authority under IC 36-7.5 but two
 26 (2) or more municipalities in the county have become members
 27 of the northwest Indiana regional development authority as
 28 authorized by IC 36-7.5-2-3(i), the ~~county~~ **treasurer of state** shall
 29 continue to transfer this amount to the treasurer of the northwest
 30 Indiana regional development authority under IC 36-7.5-4-2.

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

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

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

41 (C) The homestead credits shall be applied to the net property
 42 taxes due on the homestead after the application of all other



1 assessed value deductions or property tax deductions and
 2 credits that apply to the amount owed under IC 6-1.1.
 3 (D) The auditor of state shall determine the homestead credit
 4 percentage for a particular year based on the amount of
 5 additional revenue that will be used under this subdivision to
 6 provide homestead credits in that year.
 7 **(e) A transfer made on behalf of a city, town, or county under
 8 this section after December 31, 2018, is to be considered a payment
 9 for services provided to residents by a rail project as those services
 10 are rendered.**
 11 **(f) A pledge by the northwest Indiana regional development
 12 authority of transferred revenue under this section to the payment
 13 of bonds, leases, or obligations under this article or IC 5-1.3:**
 14 **(1) constitutes the obligations of the northwest Indiana
 15 regional development authority; and**
 16 **(2) does not constitute an indebtedness of:**
 17 **(A) a county or municipality described in this section; or**
 18 **(B) the state;**
 19 **within the meaning or application of any constitutional or
 20 statutory provision or limitation.**
 21 **(g) Neither the transfer of revenue nor the pledge of revenue
 22 transferred under this section is an impairment of contract within
 23 the meaning or application of any constitutional provision or
 24 limitation because of the following:**
 25 **(1) The statutes governing local income taxes, including the
 26 transferred revenue, have been the subject of legislation
 27 annually since 1973, and during that time the statutes have
 28 been revised, amended, expanded, limited, and recodified
 29 dozens of times.**
 30 **(2) Owners of bonds, leases, or other obligations to which
 31 local income tax revenues have been pledged recognize that
 32 the regulation of local income taxes has been extensive and
 33 consistent.**
 34 **(3) All bonds, leases, or other obligations, due to their
 35 essential contractual nature, are subject to relevant state and
 36 federal law that is enacted after the date of a contract.**
 37 **(4) The state has a legitimate interest in assisting the
 38 northwest Indiana regional development authority in
 39 financing rail projects (as defined in IC 36-7.5-1-13.5).**
 40 **(h) All proceedings had and actions described in this section are
 41 hereby legalized and declared valid if taken before March 15, 2018.**
 42 SECTION 59. IC 6-3.6-11-7 IS ADDED TO THE INDIANA CODE



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 7. (a) This section applies to a civil taxing
3 unit that has previously:

- 4 (1) entered into an interlocal cooperation or similar
5 agreement;
6 (2) adopted an ordinance or resolution; or
7 (3) taken any other action;

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

11 (b) The civil taxing unit may use additional revenue that is
12 allocated each year for economic development purposes under
13 IC 6-3.6-6-9 to provide funding for a rail project. The additional
14 revenue allocated for economic development to provide funding for
15 a rail project shall be paid by the treasurer of state to the treasurer
16 of the northwest Indiana regional development authority under
17 IC 36-7.5-4-2 before certified distributions are made to the county
18 or any civil taxing unit in the county or counties in which the unit
19 is located.

20 (c) A transfer made on behalf of a civil taxing unit under this
21 section after December 31, 2018, is considered to be a payment for
22 services provided to residents by a rail project as such services are
23 rendered.

24 (d) A pledge by the northwest Indiana regional development
25 authority of transferred revenue under this section to the payment
26 of bonds, leases, or obligations under this article or IC 5-1.3:

- 27 (1) constitutes the obligations of the northwest Indiana
28 regional development authority; and
29 (2) does not constitute an indebtedness of:
30 (A) a unit described in this section; or
31 (B) the state;

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

34 (e) Neither the transfer of revenue nor the pledge of revenue
35 transferred under this section is an impairment of contract within
36 the meaning or application of any constitutional provision or
37 limitation because of the following:

- 38 (1) The statutes governing local income taxes, including the
39 transferred revenue, have been the subject of legislation
40 annually since 1973, and during that time the statutes have
41 been revised, amended, expanded, limited, and recodified
42 dozens of times.



- 1 **(2) Owners of bonds, leases, or other obligations to which**
- 2 **local income tax revenues have been pledged recognize that**
- 3 **the regulation of local income taxes has been extensive and**
- 4 **consistent.**
- 5 **(3) All bonds, leases, or other obligations, due to their**
- 6 **essential contractual nature, are subject to relevant state and**
- 7 **federal law that is enacted after the date of a contract.**
- 8 **(4) The state has a legitimate interest in assisting the**
- 9 **northwest Indiana regional development authority in**
- 10 **financing rail projects (as defined in IC 36-7.5-1-13.5).**
- 11 **(f) All proceedings had and actions described in this section are**
- 12 **hereby legalized and declared valid if taken before March 15, 2018.**
- 13 SECTION 60. IC 6-9-7-7, AS AMENDED BY P.L.6-2012,
- 14 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2018]: Sec. 7. (a) The county treasurer shall establish an
- 16 innkeeper's tax fund. The treasurer shall deposit in that fund all money
- 17 received under section 6 of this chapter that is attributable to an
- 18 innkeeper's tax rate that is not more than five percent (5%).
- 19 (b) Money in the innkeeper's tax fund shall be distributed as
- 20 follows:
- 21 (1) Thirty percent (30%) shall be distributed as follows:
- 22 (A) Before July 1, 2015, and after June 30, 2017, to the
- 23 department of natural resources for the development of projects
- 24 in the state park on the county's largest river, including its
- 25 tributaries.
- 26 (B) For the period July 1, 2015, through June 30, 2017, to the
- 27 treasurer of state for deposit in the state general fund.
- 28 (2) Forty percent (40%) shall be distributed to the commission to
- 29 carry out its purposes, including making any distributions or
- 30 payments to the Lafayette - West Lafayette Convention and
- 31 Visitors Bureau, Inc.
- 32 (3) Ten percent (10%) shall be distributed to a community
- 33 development corporation that serves a metropolitan area in the
- 34 county that includes:
- 35 (A) a city having a population of more than sixty-five thousand
- 36 (65,000) but less than seventy thousand (70,000); and
- 37 (B) a city having a population of more than twenty-nine
- 38 thousand five hundred (29,500) but less than twenty-nine
- 39 thousand six hundred (29,600);
- 40 for the community development corporation's use in tourism,
- 41 recreation, and economic development activities.
- 42 (4) Ten percent (10%) shall be distributed to Historic



- 1 Prophetstown to be used by Historic Prophetstown for carrying
- 2 out its purposes.
- 3 (5) Ten percent (10%) shall be distributed to the Wabash River
- 4 Enhancement Corporation to assist the Wabash River
- 5 Enhancement Corporation in carrying out its purposes.
- 6 (c) An advisory commission consisting of the following members is
- 7 established:
- 8 (1) The director of the department of natural resources or the
- 9 director's designee.
- 10 (2) The public finance director or the public finance director's
- 11 designee.
- 12 (3) A member appointed by the Native American Indian affairs
- 13 commission.
- 14 (4) A member appointed by Historic Prophetstown.
- 15 (5) A member appointed by the community development
- 16 corporation described in subsection (b)(3).
- 17 (6) A member appointed by the Wabash River Enhancement
- 18 Corporation.
- 19 (7) A member appointed by the commission.
- 20 (8) A member appointed by the county fiscal body.
- 21 (9) A member appointed by the town board of the town of
- 22 Battleground.
- 23 (10) A member appointed by the mayor of the city of Lafayette.
- 24 (11) A member appointed by the mayor of the city of West
- 25 Lafayette.
- 26 (d) The following apply to the advisory commission:
- 27 (1) The governor shall appoint a member of the advisory
- 28 commission as chairman of the advisory commission.
- 29 (2) Six (6) members of the advisory commission constitute a
- 30 quorum. The affirmative votes of at least six (6) advisory
- 31 commission members are necessary for the advisory commission
- 32 to take official action other than to adjourn or to meet to hear
- 33 reports or testimony.
- 34 (3) The advisory commission shall make recommendations
- 35 concerning the use of any proceeds of bonds issued to finance the
- 36 development of Prophetstown State Park.
- 37 (4) Members of the advisory commission who are state
- 38 employees:
- 39 (A) are not entitled to any salary per diem; and
- 40 (B) are entitled to reimbursement for traveling expenses as
- 41 provided under IC 4-13-1-4 and to reimbursement for other
- 42 expenses actually incurred in connection with the member's



1 duties as provided in the state policies and procedures
 2 established by the Indiana department of administration and
 3 approved by the budget agency.

4 (e) The Indiana finance authority ~~in its capacity as the recreational~~
 5 ~~development commission~~, may issue bonds for the development of
 6 Prophetstown State Park under ~~IC 14-14-1~~. **IC 5-1.2-6.**

7 SECTION 61. IC 6-9-36-8, AS ADDED BY P.L.214-2005,
 8 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 8. (a) The entire amount received from the
 10 taxes imposed by a county under this chapter shall be paid monthly by
 11 the treasurer of state to the treasurer of the northwest Indiana regional
 12 development authority established by IC 36-7.5-2-1.

13 (b) The taxes paid to the treasurer of the development authority
 14 under this section shall be deposited in the development authority
 15 **revenue** fund established under IC 36-7.5-4-1.

16 SECTION 62. IC 8-1-29.5-7, AS AMENDED BY P.L.162-2007,
 17 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2018]: Sec. 7. (a) In imposing a civil penalty under section
 19 6(b)(4) of this chapter, the commission may consider the following
 20 factors:

21 (1) The duration and gravity of the offense, including the number
 22 of customers affected.

23 (2) Economic benefits accrued by the provider or certificate
 24 holder as a result of the offense.

25 (3) The amount of a civil penalty that will deter future offenses by
 26 the provider or certificate holder.

27 (4) The market share of the provider or certificate holder in the
 28 affected service areas.

29 (5) Good faith of the provider or certificate holder in attempting
 30 to remedy the offense after receiving notification of the offense.

31 (b) If the commission waives a civil penalty for any offense
 32 described in section 6(b)(4) of this chapter, the commission must make
 33 a written finding as to why it is waiving the civil penalty. The
 34 commission may waive a civil penalty under section 6(b)(4) of this
 35 chapter if the commission finds that the offense is the result of any of
 36 the following:

37 (1) Technological infeasibility.

38 (2) An act of God.

39 (3) A defect in, or prohibited use of, customer provided
 40 equipment.

41 (4) A negligent act of a customer.

42 (5) An emergency situation.



1 (6) Unavoidable casualty.
 2 (c) The secretary of the commission shall direct a civil penalty
 3 imposed and collected under section 6(b)(4) of this chapter as follows:
 4 (1) A civil penalty imposed for an offense that directly affects
 5 retail customers must be refunded directly to the customers of the
 6 provider or certificate holder in the form of credits on customer
 7 bills.
 8 (2) A civil penalty imposed for an offense not described in
 9 subdivision (1) must be deposited into an account designated by
 10 the Indiana economic development corporation for use by the
 11 corporation in making loans or grants to broadband developers
 12 and operators. ~~under the Indiana broadband development program~~
 13 ~~established by IC 8-1-33-15.~~
 14 SECTION 63. IC 8-1-30.7-2, AS ADDED BY P.L.102-2016,
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2018]: Sec. 2. As used in this chapter, "authority" refers to the
 17 Indiana finance authority established by IC ~~4-4-11-4~~. **IC 5-1.2-3.**
 18 SECTION 64. IC 8-1-30.7-7, AS AMENDED BY P.L.233-2017,
 19 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 7. As used in this chapter, "water related state
 21 agency" means any of the following:
 22 (1) The Indiana finance authority established by IC ~~4-4-11-~~
 23 **IC 5-1.2-3.**
 24 (2) The department of administration created by IC 4-13-1-2.
 25 (3) The commission.
 26 (4) The office of utility consumer counselor created by
 27 IC 8-1-1.1-2.
 28 (5) The department of environmental management established by
 29 IC 13-13-1-1.
 30 (6) The department of natural resources created by IC 14-9-1-1.
 31 (7) The state department of health established by IC 16-19-1-1.
 32 (8) The Indiana geological and water survey established as a part
 33 of Indiana University by IC 21-47-2.
 34 (9) The Indiana Water Resource Research Center of Purdue
 35 University.
 36 (10) The state department of agriculture established by
 37 IC 15-11-2-1.
 38 SECTION 65. IC 8-1-33 IS REPEALED [EFFECTIVE JULY 1,
 39 2018]. (Indiana Broadband Development Program).
 40 SECTION 66. IC 8-9.5-8-1, AS AMENDED BY P.L.235-2005,
 41 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter:



1 "Authority" refers to the Indiana finance authority established ~~under~~
2 ~~IC 4-4-11~~ by **IC 5-1.2-3**.

3 "Department" refers to the Indiana department of transportation
4 established under IC 8-23-2.

5 "Toll bridge" means a bridge with approaches, avenues of access,
6 fills, causeways, and connecting bridges or ferries under IC 8-16-1.

7 "Toll road project" has the meaning specified in IC 8-15-2-4(4).

8 SECTION 67. IC 8-9.5-9-2, AS AMENDED BY P.L.162-2007,
9 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2018]: Sec. 2. As used in this chapter, "authority" means:

11 (1) an authority or agency established under IC 8-1-2.2 or
12 IC 8-9.5 through IC 8-23;

13 (2) when acting under ~~an affected~~ **a referenced** statute (as
14 defined in ~~IC 4-4-10-9-1.2~~; **IC 5-1.2-2**), the Indiana finance
15 authority established by ~~IC 4-4-11~~; **IC 5-1.2-3**;

16 (3) only in connection with a program established under
17 ~~IC 13-18-13 or IC 13-18-21~~, **IC 5-1.2-10**, the bank established
18 under IC 5-1.5;

19 (4) a fund or program established under ~~IC 13-18-13 or~~
20 ~~IC 13-18-21~~; **IC 5-1.2-10**;

21 (5) the Indiana housing and community development authority
22 established by IC 5-20-1;

23 (6) the authority established under ~~IC 4-4-11~~; **IC 5-1.2-3**; or

24 (7) the authority established under IC 5-1-17.

25 SECTION 68. IC 8-9.5-9-8 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) With respect to
27 all leases and contracts entered into by the authority with the Indiana
28 department of transportation, the Indiana department of administration,
29 a fund or program established under ~~IC 13-18-13 or IC 13-18-21~~;
30 **IC 5-1.2-10**, or any other entity to support obligations, the lease or
31 contract may provide that payments under a swap agreement are treated
32 as a debt service on the obligations or as additional rental or other
33 payment due under the lease or contract as the authority may
34 determine.

35 (b) The authority may determine that payments under a swap
36 agreement may be integrated with payments on obligations for the
37 purpose of meeting any statutory requirements related to the issuance
38 of obligations.

39 SECTION 69. IC 8-10-1-13, AS AMENDED BY P.L.98-2008,
40 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2018]: Sec. 13. (a) Subject to the approval of the governor, the
42 ports of Indiana is hereby authorized to provide by resolution of the



1 commission, at one (1) time or from time to time, for the issuance of
2 revenue bonds of the state for the purpose of paying all or any part of
3 the cost of a port or project under this chapter or IC 8-10-4. The
4 principal of and the interest on such bonds shall be payable solely from
5 the revenues specifically pledged to the payment thereof. The bonds of
6 each issue shall be dated, shall bear interest at any rate, shall mature at
7 such time or times not exceeding thirty-five (35) years from the date
8 thereof, as may be determined by the ports of Indiana, and may be
9 made redeemable before maturity, at the option of the ports of Indiana,
10 at such price or prices and under such terms and conditions as may be
11 fixed by the ports of Indiana in the authorizing resolution.

12 (b) The ports of Indiana shall determine the form of the bonds,
13 including any interest coupons to be attached thereto, and shall fix the
14 denomination or denominations of the bonds and the place or places of
15 payment of principal and interest which may be at any bank or trust
16 company within or without the state.

17 (c) The bonds shall be signed in the name of the ports of Indiana by
18 the chairman or vice chairman of the commission or chief executive of
19 the ports of Indiana, or by the facsimile signature of the chairman or
20 vice chairman of the commission or chief executive of the ports of
21 Indiana and the official seal of the ports of Indiana or facsimile thereof,
22 shall be affixed thereto and attested by the secretary-treasurer of the
23 commission, and any coupons attached thereto shall bear the facsimile
24 signature of the chairman of the commission. In case any officer whose
25 signature or a facsimile of whose signature shall appear on any bonds
26 or coupons shall cease to be such officer before the delivery of such
27 bonds, such signature or such facsimile shall nevertheless be valid and
28 sufficient for all purposes the same as if the officer had remained in
29 office until such delivery.

30 (d) All bonds issued under this article shall have and are hereby
31 declared to have all the qualities and incidents of negotiable
32 instruments under the negotiable instruments law of the state of
33 Indiana.

34 (e) The bonds may be issued in coupon or in registered form, or
35 both, as the ports of Indiana may determine, and provision may be
36 made for the registration of any coupon bonds as to principal alone and
37 also as to both principal and interest, and for the reconversion into
38 coupon bonds of any bonds registered as to both principal and interest.

39 (f) The bonds shall be sold at public sale in accordance with
40 IC 21-32-3, except as provided in IC 8-10-4.

41 (g) No action to contest the validity of any bonds issued by the ports
42 of Indiana under this article shall be commenced more than thirty (30)



1 days following the adoption of the resolution approving the bonds as
2 provided in this article.

3 (h) The ports of Indiana shall cooperate with and use the assistance
4 of the Indiana finance authority established ~~under IC 4-4-11~~ by
5 **IC 5-1.2-3** in the issuance of the bonds under this chapter or IC 8-10-4.

6 SECTION 70. IC 8-14-14-1, AS ADDED BY P.L.47-2006,
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 1. As used in this chapter, "authority" refers to the
9 Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3**.

10 SECTION 71. IC 8-14-14-6, AS ADDED BY P.L.47-2006,
11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 6. (a) If the authority enters into a
13 public-private agreement concerning the Indiana Toll Road under
14 IC 8-15.5, the auditor of state shall make the following distributions
15 from the fund for the indicated purposes:

16 (1) One hundred fifty million dollars (\$150,000,000) to the
17 treasurer of state for deposit in the motor vehicle highway account
18 established by IC 8-14-1. Notwithstanding IC 8-14-1, on or before
19 October 15, 2006, and on or before October 15, 2007, the auditor
20 of state shall distribute seventy-five million dollars (\$75,000,000)
21 of the money deposited in the motor vehicle highway account
22 under this subdivision to each of the counties, cities, and towns
23 eligible to receive a distribution from the motor vehicle highway
24 account under IC 8-14-1 and in the same proportion among the
25 counties, cities, and towns as funds are distributed from the motor
26 vehicle highway account under IC 8-14-1. The auditor of state:

27 (A) shall make the distributions required by this subdivision
28 separately from distributions required by IC 8-14-1; and

29 (B) may not combine the distributions required by this
30 subdivision with distributions required by IC 8-14-1.

31 Money distributed under this subdivision may be used only for
32 purposes that money distributed from the motor vehicle highway
33 account may be expended under IC 8-14-1.

34 (2) The following amounts to the northwest Indiana regional
35 development authority for deposit in the development authority
36 **revenue** fund established under IC 36-7.5-4-1:

37 (A) Forty million dollars (\$40,000,000) during the state fiscal
38 year beginning July 1, 2006. During the state fiscal year
39 beginning July 1, 2006, the regional development authority
40 must pay at least twenty million dollars (\$20,000,000) of the
41 distribution received under this clause to an airport authority
42 that is carrying out an airport expansion project described in



- 1 IC 36-7.5-2-1(2).
2 (B) Eighty million dollars (\$80,000,000) to be distributed in
3 installments of ten million dollars (\$10,000,000) during the
4 state fiscal year beginning July 1, 2007, and each of the seven
5 (7) state fiscal years thereafter.
6 However, no distributions may be made under clause (B) until the
7 development authority's comprehensive strategic development
8 plan prepared under IC 36-7.5-3-4 has been reviewed by the
9 budget committee and approved by the director of the office of
10 management and budget. In addition, no distributions may be
11 made under clause (B) during the state fiscal years beginning July
12 1, 2009, July 1, 2011, and July 1, 2013, unless the budget
13 committee has reviewed the status of the plan and any changes to
14 the plan.
15 (3) The following amounts to each of the following counties on or
16 before September 15, 2006, for deposit in local major moves
17 construction funds under IC 8-14-16:
18 (A) Forty million dollars (\$40,000,000) to each county
19 described in IC 8-14-16-1(1) through IC 8-14-16-1(5).
20 However, if a county described in IC 8-14-16-1(3) becomes a
21 member of the northwest Indiana regional development
22 authority, the distribution to that county is twenty-five million
23 dollars (\$25,000,000) instead of forty million dollars
24 (\$40,000,000).
25 (B) Twenty-five million dollars (\$25,000,000) to each county
26 described in IC 8-14-16-1(6).
27 (C) Fifteen million dollars (\$15,000,000) to each county
28 described in IC 8-14-16-1(7).
29 (4) One hundred seventy-nine million dollars (\$179,000,000)
30 during the state fiscal year beginning July 1, 2006, to the state
31 highway fund for use by the department for preliminary
32 engineering, purchase of rights-of-way, or construction of
33 highways, roads, and bridges. After review by the budget
34 committee, and subject to the approval of the governor, the
35 budget agency may augment this distribution from balances
36 available in the fund.
37 (5) An amount sufficient to provide for the payments owed by the
38 authority as a result of a written agreement entered into under
39 IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees
40 imposed on Class 2 vehicles, or to establish or replenish the
41 reserves therefore, to the administration account of the toll road
42 fund. The budget agency shall determine the amount of the



1 distributions required to be made by this subdivision for each
 2 state fiscal year beginning with the state fiscal year ending June
 3 30, 2007, and ending with the state fiscal year ending June 30,
 4 2016.
 5 (6) An amount sufficient to make any payments required by
 6 IC 5-10.3-6-8.9 as a result of a public-private agreement under
 7 IC 8-15.5.
 8 (b) There is annually appropriated from the fund an amount
 9 sufficient to make any distributions required by subsection (a).
 10 SECTION 72. IC 8-14-17-1, AS ADDED BY P.L.203-2007,
 11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2018]: Sec. 1. As used in this chapter, "authority" refers to the
 13 Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3**.
 14 SECTION 73. IC 8-14.5-2-2, AS AMENDED BY P.L.235-2005,
 15 SECTION 114, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2018]: Sec. 2. "Authority" refers to the Indiana
 17 finance authority established ~~under IC 4-4-11~~ **by IC 5-1.2-3**.
 18 SECTION 74. IC 8-15-2-4, AS AMENDED BY P.L.85-2010,
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 4. As used in this chapter, the following words
 21 and terms shall have the following meanings, unless the context shall
 22 indicate another or different meaning or intent:
 23 (1) "Authority" refers to the Indiana finance authority established
 24 ~~under IC 4-4-11~~ **by IC 5-1.2-3**.
 25 (2) "Capitalized interest" means:
 26 (A) interest costs on toll road revenue bonds before and during
 27 the period of construction of the project for the payment of the
 28 cost of which the bonds were issued, and for one (1) year after
 29 completion of construction; and
 30 (B) interest costs on succeeding lien bonds authorized by this
 31 chapter for the period from the date of such bonds until the date
 32 when the prior outstanding toll road revenue bonds, for which
 33 revenues are pledged, are retired, but not later than ten (10)
 34 years from the date of issue of the succeeding lien bonds.
 35 (3) "Department" refers to the Indiana department of
 36 transportation.
 37 (4) "Project" or "toll road project" means any new or existing
 38 express highway, limited access facility, superhighway, or
 39 motorway constructed under the provisions of this chapter or
 40 accepted as a toll road under IC 8-23-7, including all bridges,
 41 tunnels, overpasses, underpasses, interchanges, entrance plazas,
 42 approaches, tollhouses, service stations, and administration,



1 storage, and other buildings and facilities which the authority may
2 deem necessary or desirable for the operation of the project,
3 together with all property, rights, easements, and interests which
4 may be acquired by the authority for the construction or the
5 operation of the project. "Project" or "toll road project" includes
6 any subsequent improvement, betterment, enlargement, extension,
7 or reconstruction of an existing project. "Project" or "toll road
8 project" also includes a project connecting the state of Indiana
9 with an adjacent state. Each project or toll road project may be
10 constructed or extended in such sections as the authority may
11 from time to time determine, and shall be separately designated
12 by name or number, which designation shall also apply to any
13 project which is a subsequent improvement, betterment,
14 enlargement, extension, or reconstruction of such project. The
15 construction, maintenance, or operation, of transient lodging
16 facilities on, or adjacent to any such project, or the contracting
17 therefor, shall not be considered as within the definition of
18 "project" or "toll road project".

19 (5) "Cost" as applied to a toll road project or any part of a toll
20 road project includes:

21 (A) the cost of construction, including bridges over or under
22 existing highways and railroads;

23 (B) the cost of acquisition of all land, rights-of-way, property,
24 rights, easements, and interests acquired by the authority for
25 such construction;

26 (C) the cost of demolishing or removing any buildings or
27 structures on land so acquired, including the cost of acquiring
28 any lands to which such buildings or structures may be moved;

29 (D) the cost of diverting highways, interchange of highways,
30 and access roads to private property, including the cost of land
31 or easements therefor;

32 (E) the cost of all machinery and equipment;

33 (F) financing charges and capitalized interest;

34 (G) the cost of funding any reserves to secure the payment of
35 toll road revenue bonds;

36 (H) the cost of traffic estimates and of engineering and legal
37 expenses, plans, specifications, surveys, estimates of cost and
38 revenues;

39 (I) other expenses necessary or incident to determining the
40 feasibility or practicability of constructing any such project;

41 (J) administrative expense;

42 (K) such other expenses as may be necessary or incident to the



- 1 construction of the project, the financing of such construction,
 2 and the placing of the project in operation; and
 3 (L) the cost of conversion to a toll road project of a state
 4 highway or part of a highway accepted as a toll road project
 5 under IC 8-23-7.
- 6 Any obligation or expense incurred by the department for surveys,
 7 borings, preparation of plans and specifications, and other
 8 engineering services in connection with the construction of a
 9 project under this chapter or for the repayment of a grant from a
 10 federal agency which the authority itself would be authorized to
 11 repay under section 5(9) of this chapter in connection with such
 12 project or with the issuance of bonds for the payment of the cost
 13 of such project, shall be regarded as a part of the cost of such
 14 project and shall be reimbursed to the state out of the proceeds of
 15 toll road revenue bonds as authorized.
- 16 (6) "Owner" includes all individuals, copartnerships, associations,
 17 limited liability companies, or corporations having any title or
 18 interest in any property, rights, easements, and interests
 19 authorized to be acquired by this chapter.
- 20 (7) "Revenues" means all tolls, rentals, gifts, grants, money, and
 21 all other funds and property coming into the possession or under
 22 the control of the authority by virtue of the terms and provisions
 23 of this chapter, except the proceeds from the sale of bonds issued
 24 under the provisions of this chapter and earnings thereon.
- 25 (8) "Public roads" includes all public highways, roads, and streets
 26 in the state, whether maintained by the state, county, city,
 27 township, or other political subdivision.
- 28 (9) "Transient lodging facility" means accommodations for
 29 overnight or temporary habitation, including, but not limited to,
 30 hotels, motels, motor courts, lodges, and inns, for persons using
 31 any toll road project.
- 32 (10) "Toll road bonds" means all bonds issued under the
 33 provisions of this chapter, including refunding bonds and
 34 succeeding lien bonds.
- 35 (11) "State highway" means a public road for which the
 36 department is responsible under IC 8-23-2.
- 37 SECTION 75. IC 8-15-2-14.7, AS AMENDED BY P.L.47-2006,
 38 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 14.7. (a) As used in this section,
 40 "development authority" refers to the development authority
 41 established under IC 36-7.5-2-1.
 42 (b) An appropriation made by the general assembly to the



1 development authority may be distributed to the development authority
2 only if all transfers required from cities and counties to the
3 development authority under IC 36-7.5-4-2 have been made.

4 (c) An appropriation made by the general assembly to the
5 development authority may be distributed to the development authority
6 only after:

- 7 (1) the budget committee has reviewed; and
 - 8 (2) the director of the office of management and budget has
9 approved;
- 10 the comprehensive strategic development plan submitted in accordance
11 with IC 36-7.5-3-4.

12 (d) If the Indiana Toll Road is sold or leased before January 1, 2008
13 (other than a lease to the department), and the sale or lease agreement
14 does not require the purchaser or lessee to continue making the
15 distributions required by subsection (b), the treasurer of state shall pay
16 the amount, if any, appropriated by the general assembly to the
17 development authority **revenue** fund established under IC 36-7.5-4-1.

18 (e) Amounts distributed or paid to the development authority under
19 this section may be used for any purpose of the development authorized
20 under IC 36-7.5.

21 SECTION 76. IC 8-15-3-0.5, AS ADDED BY P.L.218-2017,
22 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2018]: Sec. 0.5. As used in this chapter, "authority" refers to
24 the Indiana finance authority established ~~under IC 4-4-11.~~ by
25 **IC 5-1.2-3.**

26 SECTION 77. IC 8-15.5-1-2, AS AMENDED BY THE
27 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL
28 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2018]: Sec. 2. (a) This article contains full and complete
30 authority for public-private agreements between the authority, a private
31 entity, and, where applicable, a governmental entity. Except as
32 provided in this article, no law, procedure, proceeding, publication,
33 notice, consent, approval, order, or act by the authority or any other
34 officer, department, agency, or instrumentality of the state or any
35 political subdivision is required for the authority to enter into a
36 public-private agreement with a private entity under this article, or for
37 a project that is the subject of a public-private agreement to be
38 constructed, acquired, maintained, repaired, operated, financed,
39 transferred, or conveyed.

40 (b) Before the authority or the department may issue a request for
41 proposals for or enter into a public-private agreement under this article
42 that would authorize an operator to impose tolls for the operation of



1 motor vehicles on all or part of a toll road project, the general assembly
 2 must adopt a statute authorizing the imposition of tolls. However,
 3 during the period beginning July 1, 2011, and ending June 30, 2021,
 4 and notwithstanding subsection (c), the general assembly is not
 5 required to enact a statute authorizing the authority or the department
 6 to issue a request for proposals or enter into a public-private agreement
 7 to authorize an operator to impose tolls for the operation of motor
 8 vehicles on all or part of the following projects:

9 (1) A project on which construction begins after June 30, 2011,
 10 not including any part of Interstate Highway 69 other than a part
 11 described in subdivision (4).

12 (2) The addition of toll lanes, including high occupancy toll lanes,
 13 to a highway, roadway, or other facility in existence on July 1,
 14 2011, if the number of nontolled lanes on the highway, roadway,
 15 or facility as of July 1, 2011, does not decrease due to the addition
 16 of the toll lanes.

17 (3) The Illiana Expressway, a limited access facility connecting
 18 Interstate Highway 65 in northwestern Indiana with an interstate
 19 highway in Illinois.

20 (4) A project that is located within a metropolitan planning area
 21 (as defined by 23 U.S.C. 134) and that connects the state of
 22 Indiana with the commonwealth of Kentucky.

23 *However, neither the authority nor the department may issue a request*
 24 *for proposals for a public-private agreement under this article that*
 25 *would authorize an operator to impose tolls unless the budget*
 26 *committee has reviewed the request for proposals.*

27 (c) Before the authority or an operator may carry out any of the
 28 following activities under this article, the general assembly must enact
 29 a statute authorizing that activity:

30 (1) Imposing tolls on motor vehicles for use of Interstate Highway
 31 69.

32 (2) Imposing tolls on motor vehicles for use of a nontolled
 33 highway, roadway, or other facility in existence or under
 34 construction on July 1, 2011, including nontolled interstate
 35 highways, U.S. routes, and state routes.

36 (d) The general assembly is not required to enact a statute
 37 authorizing the authority or the department to issue a request for
 38 proposals or enter into a public-private agreement for a freeway
 39 project.

40 (e) The authority may enter into a public-private agreement for a
 41 facility project if the general assembly, by statute, authorizes the
 42 authority to enter into a public-private agreement for the facility



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

project.

(f) As permitted by subsection (e), the general assembly authorizes the authority to enter into public-private agreements for the following facility projects:

(1) A state park inn and related improvements in an existing state park located in a county with a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000).

(2) ~~Communications systems infrastructure, including-~~

(A) towers and associated land; improvements; foundations; access roads and rights-of-way; structures; fencing; and equipment necessary, proper, or convenient to enable the towers to function as part of the communications system;

(B) any equipment necessary, proper, or convenient to transmit and receive voice and data communications; and

(C) any other necessary, proper, or convenient elements of the communications system.

~~(3) (2) Larue D. Carter Memorial Hospital in Indianapolis.~~

(g) The following apply to a public-private agreement for communications systems infrastructure under subsection (f)(2):

(1) The authority *may*: ~~shall~~

(A) use the procedures set forth in IC 8-15.5-4; ~~or~~

(B) *at the authority's option and in its sole discretion, negotiate an agreement with a single offeror.*

The authority must issue a request for information before entering into negotiations with a single offeror. If an agreement is negotiated with a single offeror, IC 8-15.5-4-11 and IC 8-15.5-4-12 are the only sections in IC 8-15.5-4 that apply.

(2) This article, and any other applicable laws with respect to establishing, charging, and collecting user fees, including IC 8-15.5-7, do not apply, and the operator may establish, charge, and collect user fees as set forth in the public-private agreement.

(3) Notwithstanding IC 8-15.5-5-2(2) providing that all improvements and real property must be owned by the authority in the name of the state or by a governmental entity, or both, the public-private agreement may provide that any improvements on any real property interests may be owned by the authority, a governmental entity, an operator, or a private entity.

(4) The authority shall transfer money received from an operator under a public-private agreement to the state bicentennial capital account established under IC 4-12-1-14.9.

SECTION 78. IC 8-15.5-2-3.2, AS ADDED BY P.L.213-2015,



1 SECTION 106, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2018]: Sec. 3.2. "Facility project" means a
 3 project to plan, design, acquire, construct, reconstruct, equip, improve,
 4 extend, expand, lease, operate, repair, manage, maintain, or finance any
 5 of the following that are or will be owned by or leased in the name of
 6 the state or the authority and are the subject of a public-private
 7 agreement under this article:

8 (1) A state park inn and related improvements in an existing state
 9 park located in a county with a population of more than two
 10 hundred thousand (200,000) and less than three hundred thousand
 11 (300,000).

12 ~~(2) Communications systems infrastructure, including:~~

13 ~~(A) towers and associated land, improvements, foundations,~~
 14 ~~access roads and rights-of-way, structures, fencing, and~~
 15 ~~equipment necessary, proper, or convenient to enable the~~
 16 ~~towers to function as part of the communications system;~~

17 ~~(B) any equipment necessary, proper, or convenient to transmit~~
 18 ~~and receive voice and data communications; and~~

19 ~~(C) any other necessary, proper, or convenient elements of the~~
 20 ~~communications system.~~

21 ~~(3) Larue D. Carter Memorial Hospital in Indianapolis.~~

22 SECTION 79. IC 8-15.5-4-2, AS ADDED BY P.L.47-2006,
 23 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 2. A request for proposals issued by the authority
 25 must include the following:

26 (1) The factors or criteria that will be used in evaluating the
 27 proposals.

28 (2) A statement that a proposal must be accompanied by evidence
 29 of financial responsibility as considered appropriate and
 30 satisfactory by the authority.

31 (3) A statement concerning whether discussions may be
 32 conducted with the offerors for the purpose of clarification to
 33 assure full understanding of and responsiveness to the solicitation
 34 requirements.

35 (4) A statement concerning any other information that the
 36 authority may consider in evaluating the proposals.

37 **(5) A statement that to be considered an eligible offeror, the**
 38 **offeror, any private entity described in section 7(d) of this**
 39 **chapter with respect to the offeror, or any predecessor to the**
 40 **private entity must have completed a similar or equivalent**
 41 **project in North America within two (2) years of the date of**
 42 **the submission of the offeror's proposal.**



1 ~~(5)~~ **(6)** A statement that, except as otherwise required by law or
 2 under order from a court with jurisdiction, the authority may not
 3 disclose the contents of proposals during:
 4 (A) discussions; or
 5 (B) negotiations;
 6 with eligible offerors to other eligible offerors.
 7 SECTION 80. IC 8-15.5-4-7, AS AMENDED BY P.L.205-2013,
 8 SECTION 145, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The authority shall negotiate
 10 with one (1) or more responsible offerors who submit proposals that are
 11 determined to be reasonably capable of being selected for a
 12 public-private agreement and may seek to obtain a final offer from one
 13 (1) or more responsible offerors.
 14 (b) In determining whether one (1) or more responsible offerors are
 15 reasonably capable of being selected for a public-private agreement,
 16 the authority must consider all the following:
 17 (1) The responsible offeror's expertise, qualifications,
 18 competence, skills, and know-how to perform its obligations
 19 under the proposed public-private agreement in accordance with
 20 the public-private agreement.
 21 (2) The financial strength of the responsible offeror, including its
 22 capitalization.
 23 (3) The experience of the responsible offeror, **or predecessor to**
 24 **the offeror**, in other ~~similar comparable~~ projects in **North**
 25 **America** and the quality of the responsible offeror's **or**
 26 **predecessor's** past or present performance on other ~~similar or~~
 27 **equivalent comparable** projects in **North America that have**
 28 **been completed within two (2) years of the date of the**
 29 **submission of the offeror's proposal.**
 30 (4) The integrity, background, and reputation of the responsible
 31 offeror, including the absence of criminal, civil, or regulatory
 32 claims or actions against the responsible offeror.
 33 (c) The requirements set forth in subsection (b) also apply to the
 34 approval by the authority of any successor or replacement operator
 35 under the public-private agreement after the execution of the
 36 public-private agreement under section 11 of this chapter.
 37 (d) In making its determination under subsection (b) or (c), the
 38 authority shall consider:
 39 **(1) the offeror or operator; as well as;**
 40 **(2) any affiliate of the offeror or operator;**
 41 **(3) any party or affiliate of the offeror or operator that the**
 42 **offeror's proposal sets forth as a party or affiliate that may**



1 **enter into a substantive contract with the offeror or operator**
 2 **to carry out the obligations of the offeror or operator under**
 3 **the public-private agreement with respect to the construction,**
 4 **operations, or rehabilitation of the project; and**
 5 **(4) any private entity that controls the actions of ~~the offeror or~~**
 6 **operator: those considered by the authority under subdivisions**
 7 **(1) through (3).**

8 SECTION 81. IC 8-15.5-4-8, AS AMENDED BY P.L.205-2013,
 9 SECTION 146, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2018]: Sec. 8. **(a)** After the final offers from
 11 responsible offerors have been negotiated under section 7 of this
 12 chapter, the authority shall:

- 13 **(1) subject to a responsible offeror complying with subsection**
 14 **(b),** make a preliminary selection of an offeror as the operator for
 15 the project, whose final offer is referred to in this article as the
 16 "selected offer"; or
 17 **(2) terminate the request for proposal process.**

18 **(b) Before the authority may consider an offeror for a**
 19 **preliminary selection, the authority must have received a**
 20 **certificate from the offeror that includes the information required**
 21 **to be considered under section 7(b)(4) and 7(d) of this chapter that**
 22 **is dated not more than fifteen (15) days and not fewer than ten (10)**
 23 **days before the date of the authority's public meeting at which the**
 24 **authority will make a final selection.**

25 SECTION 82. IC 8-15.5-5-2, AS AMENDED BY P.L.91-2014,
 26 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2018]: Sec. 2. A public-private agreement entered into under
 28 this article must provide for the following:

- 29 **(1) The original term of the public-private agreement, which may**
 30 **not exceed seventy-five (75) years.**
 31 **(2) Provisions for a:**
 32 **(A) lease, franchise, or license of the project and the real**
 33 **property owned by the authority upon which the project is**
 34 **located or is to be located; or**
 35 **(B) management agreement or other contract to operate the**
 36 **project and the real property owned by the authority upon**
 37 **which the project is located or is to be located;**
 38 **for a predetermined period. The public-private agreement must**
 39 **provide for ownership of all improvements and real property by**
 40 **the authority in the name of the state or by a governmental entity,**
 41 **or both.**
 42 **(3) Monitoring of the operator's maintenance practices by the**



- 1 authority and the taking of actions by the authority that it
 2 considers appropriate to ensure that the project is properly
 3 maintained.
- 4 (4) The basis upon which user fees that may be collected by the
 5 operator, as determined under this article, are established.
- 6 (5) Compliance with applicable state and federal laws and local
 7 ordinances.
- 8 **(6) Filing by the operator, on a periodic basis, of appropriate**
 9 **financial statements in a form acceptable to the authority.**
- 10 ~~(6)~~ (7) Grounds for termination of the public-private agreement
 11 by the authority or the operator.
- 12 ~~(7)~~ (8) The date of termination of the operator's authority and
 13 duties under this article.
- 14 ~~(8)~~ (9) Procedures for amendment of the agreement.
- 15 ~~(9)~~ (10) Provisions requiring the completion of all environmental
 16 analyses of the project required by state and federal law in the
 17 manner and at the times required by the appropriate state and
 18 federal agencies.
- 19 ~~(10)~~ (11) An expedited method for resolving disputes between or
 20 among the authority, the parties to the public-private agreement,
 21 and units of local government that contain any part of the project,
 22 as required by IC 8-15.5-10-8.
- 23 SECTION 83. IC 8-15.5-5-3, AS AMENDED BY P.L.213-2015,
 24 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2018]: Sec. 3. In addition to the requirements
 26 of section 2 of this chapter, a public-private agreement may include
 27 additional provisions concerning the following:
- 28 (1) Review and approval by the authority of the operator's plans
 29 for the development and operation of the project.
- 30 (2) Inspection by the authority of construction of or improvements
 31 to the project.
- 32 (3) Maintenance by the operator of a policy or policies of public
 33 liability insurance (copies of which shall be filed with the
 34 authority, accompanied by proofs of coverage) or self-insurance,
 35 each in a form and amount satisfactory to the authority to insure
 36 coverage of tort liability to the public and employees and to
 37 enable the continued operation of the project.
- 38 ~~(4) Filing by the operator, on a periodic basis, of appropriate~~
 39 ~~financial statements in a form acceptable to the authority.~~
- 40 ~~(5)~~ (4) Filing by the operator, on a periodic basis, of appropriate
 41 traffic reports in a form acceptable to the authority.
- 42 ~~(6)~~ (5) Payments to the operator. These payments may consist of



- 1 one (1) or more of the following:
- 2 (A) The retention by the operator of the user fees collected by
- 3 the operator in the operation and management of a toll road
- 4 project or a facility project, if applicable.
- 5 (B) Payments made to the operator by the authority.
- 6 (C) Other sources of payment or revenue to the operator, if any.
- 7 ~~(7)~~ **(6)** Financing obligations of the operator and the authority,
- 8 including entering into agreements for the benefit of the financing
- 9 parties.
- 10 ~~(8)~~ **(7)** Apportionment of expenses between the operator and the
- 11 authority.
- 12 ~~(9)~~ **(8)** The rights and duties of the operator, the authority, and
- 13 other state and local governmental entities with respect to use of
- 14 the project, including the state police department and other law
- 15 enforcement and public safety agencies.
- 16 ~~(10)~~ **(9)** Arbitration or other dispute resolution mechanisms or
- 17 remedies for the settlement of claims and other disputes arising
- 18 under the agreement.
- 19 ~~(11)~~ **(10)** Payment of money to either party upon default or delay,
- 20 or upon termination of the public-private agreement, with the
- 21 payments to be used:
- 22 (A) in the form of liquidated damages to compensate the
- 23 operator for demonstrated unamortized costs, lost profits, or
- 24 other amounts as provided in the agreement;
- 25 (B) to retire or refinance indebtedness related to the project or
- 26 the public-private agreement; or
- 27 (C) for any other purpose mutually agreeable to the operator
- 28 and the authority.
- 29 ~~(12)~~ **(11)** Indemnification of the operator by the authority under
- 30 conditions specified in the agreement.
- 31 ~~(13)~~ **(12)** Assignment, subcontracting, or other delegation of
- 32 responsibilities of the operator or the authority under the
- 33 agreement to third parties, including other private entities, the
- 34 department, and other state agencies.
- 35 ~~(14)~~ **(13)** Sale or lease to the operator of personal property related
- 36 to the project.
- 37 ~~(15)~~ **(14)** Provisions for private commercial development or
- 38 private use for a facility project.
- 39 ~~(16)~~ **(15)** Other lawful terms and conditions to which the operator
- 40 and the authority mutually agree.
- 41 SECTION 84. IC 8-15.5-5-6.1, AS ADDED BY P.L.218-2017,
- 42 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2018]: Sec. 6.1. (a) If a public-private agreement is terminated
 2 or the authority exercises its right or remedies under the public-private
 3 agreement with respect to the project before the completion of the
 4 construction, reconstruction, improvement, extension, or expansion of
 5 the project as specified by the public-private agreement, the authority,
 6 subject to subsection (b), may take any or all of the following actions
 7 in order to facilitate completion of the project:

8 (1) Employ or contract with contractors, subcontractors, suppliers,
 9 architects, engineers, and such other advisers, consultants, and
 10 agents as may be necessary in its judgment to complete the
 11 project, and to fix their compensation.

12 (2) Contract with or enter into a public-private agreement with a
 13 new operator, and to fix its compensation.

14 (3) Assume and assign any contracts, subcontracts, and supply
 15 agreements.

16 (4) Enter into one (1) or more agreements with the department to
 17 manage the completion of the project, in which case the
 18 department may employ or contract with contractors,
 19 subcontractors, suppliers, architects, engineers, and such other
 20 advisers, consultants, and agents as may be necessary in its
 21 judgment to complete the project, and to fix their compensation.

22 (5) Issue bonds and refunding bonds under ~~IC 4-4-11~~ IC 5-1.2 or
 23 IC 8-14.5-6 to provide funding for the completion of the project,
 24 to provide funding for any losses or additional costs incurred by
 25 the authority under the public-private agreement, or to refund any
 26 bonds previously issued by the authority.

27 (6) Such other actions as the authority considers reasonable and
 28 appropriate in order to complete the project.

29 (b) Any actions taken by the authority under subsection (a)(2) or
 30 (a)(5) must be submitted to the budget committee for review. The
 31 budget committee shall hold a meeting and conduct a review of the
 32 actions taken by the authority under this section not later than thirty
 33 (30) days after the date the authority submits its actions for review.

34 (c) Unless otherwise provided by federal law, neither the authority,
 35 the department, nor any operator, contractor, or subcontractor engaged
 36 in completion of the project under this section is required to comply
 37 with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17
 38 concerning purchases of materials and supplies, or any other statutes
 39 concerning procedures for procurement of public works or personal
 40 property as a condition of being awarded and performing work on the
 41 project.

42 SECTION 85. IC 8-15.5-8-1, AS AMENDED BY P.L.91-2014,

HB 1374—LS 7151/DI 58



1 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2018]: Sec. 1. Notwithstanding ~~IC 4-4-11-36.1(b);~~
 3 ~~IC 4-4-11-36.1(e);~~ **IC 5-1.2-9-27**, or any other law, a project and
 4 tangible personal property used exclusively in connection with a
 5 project that are:

- 6 (1) owned by the authority or a governmental entity and leased,
 7 franchised, licensed, or otherwise conveyed to an operator; or
 - 8 (2) acquired, constructed, or otherwise provided by an operator in
 9 connection with a project;
- 10 under the terms of a public-private agreement are considered to be
 11 public property devoted to an essential public and governmental
 12 function and purpose and the property, and an operator's leasehold
 13 estate, franchise, license, and other interests in the property, are exempt
 14 from all ad valorem property taxes and special assessments levied
 15 against property by the state or any political subdivision of the state.

16 SECTION 86. IC 8-15.5-8-1.5, AS ADDED BY P.L.91-2014,
 17 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2018]: Sec. 1.5. Notwithstanding ~~IC 4-4-11-36.1(b);~~
 19 ~~IC 4-4-11-36.1(e);~~ **IC 5-1.2-9-27**, or any other law, any interest in a
 20 project, including all tangible personal property used exclusively in
 21 connection with a project, that is:

- 22 (1) owned by:
 - 23 (A) the authority;
 - 24 (B) an adjacent state or commonwealth; or
 - 25 (C) a political subdivision or instrumentality of an adjacent
 26 state or commonwealth; and
- 27 (2) acquired, constructed, or otherwise provided in connection
 28 with a project by:
 - 29 (A) an operator;
 - 30 (B) an adjacent state or commonwealth; or
 - 31 (C) a political subdivision or instrumentality of an adjacent
 32 state or commonwealth;

33 is considered to be public property devoted to an essential public and
 34 governmental function and purpose. This property, and a leasehold
 35 estate, franchise, license, or other interests in the property, is exempt
 36 from all ad valorem property taxes and special assessments levied
 37 against property by the state or any political subdivision of the state.

38 SECTION 87. IC 8-15.5-10-3, AS AMENDED BY P.L.213-2015,
 39 SECTION 120, IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The authority may pay any
 41 amounts owed by the authority under a public-private agreement
 42 entered into under this article from any funds available to the authority



- 1 under this article or any other statute.
- 2 (b) Subject to review by the budget committee established by
- 3 IC 4-12-1-3 and approval by the budget director appointed under
- 4 IC 4-12-1-3, a public-private agreement entered into under this article
- 5 may:
- 6 (1) establish a procedure for the authority or a person acting on
- 7 behalf of the authority to certify to the general assembly the
- 8 amount needed to pay any amounts owed by the authority under
- 9 a public-private agreement; or
- 10 (2) otherwise create a moral obligation of the state to pay any
- 11 amounts owed by the authority under the public-private
- 12 agreement.
- 13 (c) The authority may issue bonds or refunding bonds under
- 14 ~~IC 4-4-1-1~~ IC 5-1.2-4 to provide funds for any amounts identified under
- 15 this article but is not required to comply with IC 8-9.5-8-10.
- 16 (d) If the agreement that is submitted for review provides for any
- 17 tolls, the budget committee shall hold a meeting and conduct a review
- 18 of the agreement not later than ninety (90) days after the date the
- 19 agreement is submitted for review.
- 20 SECTION 88. IC 8-15.5-11-3, AS ADDED BY P.L.47-2006,
- 21 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 JULY 1, 2018]: Sec. 3. (a) The toll road fund is established to provide
- 23 funds to:
- 24 (1) pay or defease certain bonds in the manner provided by this
- 25 chapter;
- 26 (2) pay amounts owed by the authority in connection with the
- 27 execution and performance of a public-private agreement under
- 28 this article, including operating expenses of the authority; and
- 29 (3) make distributions to the next generation trust fund and the
- 30 major moves construction fund.
- 31 (b) The authority shall hold, administer, and manage the fund.
- 32 (c) Expenses of administering the fund shall be paid from money in
- 33 the fund.
- 34 (d) The fund consists of the following:
- 35 (1) Money received from an operator under a public-private
- 36 agreement.
- 37 (2) Appropriations, if any, made by the general assembly.
- 38 (3) Grants and gifts intended for deposit in the fund.
- 39 (4) Interest, premiums, gains, or other earnings on the fund.
- 40 (5) Amounts transferred to the fund under subsection (i).
- 41 (6) Amounts transferred to the fund under IC 8-14-14-6(a)(5).
- 42 (e) The authority shall establish the following separate accounts



- 1 within the fund:
- 2 (1) The bond retirement account.
- 3 (2) The administration account.
- 4 (3) The eligible project account.
- 5 (f) Money in the fund shall be deposited, paid, and secured in the
- 6 manner provided by ~~IC 4-4-11-32~~. **IC 5-1.2-4-19**. Notwithstanding
- 7 IC 5-13, the authority shall invest the money in the fund that is not
- 8 needed to meet the obligations of the fund in the manner provided by
- 9 an investment policy established by resolution of the authority.
- 10 (g) The fund is not part of the state treasury and is considered a trust
- 11 fund for purposes of IC 4-9.1-1-7. Money may not be transferred,
- 12 assigned, or otherwise removed from the fund by the state board of
- 13 finance, the budget agency, or any other state agency.
- 14 (h) Money in the fund at the end of a state fiscal year does not revert
- 15 to the state general fund.
- 16 (i) As soon as practicable after a public-private agreement
- 17 concerning the Indiana Toll Road has been executed and the closing for
- 18 each financing transaction required to provide funding to carry out the
- 19 agreement has been conducted, the authority shall determine the total
- 20 balance remaining in all toll road funds and accounts established under
- 21 IC 8-15-2. Subject to any applicable trust indentures securing toll road
- 22 bonds, the authority may retain from those funds and accounts the
- 23 amounts necessary to pay outstanding obligations with respect to the
- 24 operation of the Indiana Toll Road incurred before the effective date of
- 25 the public-private agreement, and shall transfer all remaining balances
- 26 in the toll road funds and accounts to the fund.
- 27 SECTION 89. IC 8-15.7-2-3, AS ADDED BY P.L.47-2006,
- 28 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2018]: Sec. 3. "Authority" or "Indiana finance authority"
- 30 refers to the Indiana finance authority established by ~~IC 4-4-11-4~~.
- 31 **IC 5-1.2-3.**
- 32 SECTION 90. IC 8-15.7-8-6, AS AMENDED BY P.L.163-2011,
- 33 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2018]: Sec. 6. (a) For the purpose of financing a qualifying
- 35 project, the authority may enter into agreements, leases, or subleases
- 36 with the department or an operator, or both, and do the following:
- 37 (1) Issue bonds, debt, or other obligations under ~~IC 4-4-11~~;
- 38 **IC 5-1.2-4**, IC 8-15-2, or IC 8-15.7-9.
- 39 (2) Enter into loan agreements or other credit facilities.
- 40 (3) Secure any financing with a pledge of, security interest in, or
- 41 lien on all or part of a property subject to the agreement, including
- 42 all of the party's property interests in the qualifying project.



1 (4) Subject to review by the budget committee established in
 2 IC 4-12-1-3 and approval by the budget director appointed under
 3 IC 4-12-1-3:

4 (A) establish a procedure for the authority or a person acting on
 5 behalf of the authority to certify to the general assembly the
 6 amount needed to pay costs incurred under a public-private
 7 agreement; or

8 (B) otherwise create a moral obligation of the state to pay all or
 9 part of any costs incurred by the authority under a
 10 public-private agreement.

11 (b) The department and an operator may transfer any interest in
 12 property that the department or operator has to the authority to secure
 13 the financing.

14 (c) If items submitted for review under subsection (a)(4) provide for
 15 any tolls, the budget committee shall hold a meeting and conduct a
 16 review of the items not later than ninety (90) days after the date the
 17 items are submitted for review.

18 SECTION 91. IC 8-16-1-0.1, AS AMENDED BY P.L.235-2005,
 19 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2018]: Sec. 0.1. As used in this chapter:

21 "Authority" refers to the Indiana finance authority established ~~under~~
 22 ~~IC 4-4-11~~ by **IC 5-1.2-3**.

23 "Department" refers to the Indiana department of transportation.

24 SECTION 92. IC 8-21-12-3, AS AMENDED BY P.L.235-2005,
 25 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2018]: Sec. 3. As used in this chapter,
 27 "authority" refers to the Indiana finance authority established ~~under~~
 28 ~~IC 4-4-11~~ by **IC 5-1.2-3**.

29 SECTION 93. IC 8-22-3.5-3, AS AMENDED BY P.L.182-2009(ss),
 30 SECTION 274, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) As used in this chapter,
 32 "qualified airport development project" means an airport development
 33 project that has a cost of the project (as defined in ~~IC 4-4-10.9-5~~)
 34 **IC 5-1.2-2**) greater than:

35 (1) five hundred million dollars (\$500,000,000), if the project is
 36 to be located in a county having a consolidated city; or

37 (2) two hundred fifty thousand dollars (\$250,000), if the project
 38 is to be located in:

39 (A) a city described in section 1(2) or 1(7) of this chapter; or

40 (B) in a county described in section 1(3), 1(4), 1(5), or 1(6) of
 41 this chapter.

42 Except as provided by subsection (b), the term includes any portion or



1 expansion of the original qualified airport development project used by
2 one (1) or more successor tenants.

3 (b) For purposes of section 9 of this chapter, the definition of
4 "qualified airport development project" does not include any portion of,
5 or expansion of, the original qualified airport development project used
6 by a successor tenant unless the commission adopts a resolution to
7 amend the definition to include that portion or expansion.

8 SECTION 94. IC 8-23-1-13, AS AMENDED BY P.L.235-2005,
9 SECTION 121, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2018]: Sec. 13. "Authority" refers to the Indiana
11 finance authority established ~~under IC 4-4-11~~ by **IC 5-1.2-3**.

12 SECTION 95. IC 9-21-5-2, AS AMENDED BY P.L.188-2015,
13 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2018]: Sec. 2. (a) Except when a special hazard exists that
15 requires lower speed for compliance with section 1 of this chapter, the
16 slower speed limit specified in this section or established as authorized
17 by section 3 of this chapter is the maximum lawful speed. A person
18 may not drive a vehicle on a highway at a speed in excess of the
19 following maximum limits:

- 20 (1) Thirty (30) miles per hour in an urban district.
21 (2) Fifty-five (55) miles per hour, except as provided in
22 subdivisions (1), (3), (4), (5), (6), and (7).
23 (3) Seventy (70) miles per hour on a highway on the national
24 system of interstate and defense highways located outside of an
25 urbanized area (as defined in 23 U.S.C. 101) with a population of
26 at least fifty thousand (50,000), except as provided in subdivision
27 (4).
28 (4) Sixty-five (65) miles per hour for a vehicle (other than a bus)
29 having a declared gross weight greater than twenty-six thousand
30 (26,000) pounds on a highway on the national system of interstate
31 and defense highways located outside an urbanized area (as
32 defined in 23 U.S.C. 101) with a population of at least fifty
33 thousand (50,000).
34 (5) Sixty-five (65) miles per hour on:
35 (A) U.S. 20 from the intersection of U.S. 20 and County Road
36 17 in Elkhart County to the intersection of U.S. 20 and U.S. 31
37 in St. Joseph County;
38 (B) U.S. 31 from the intersection of U.S. 31 and U.S. 20 in St.
39 Joseph County to the boundary line between Indiana and
40 Michigan; and
41 (C) a highway classified by the Indiana department of
42 transportation as an INDOT Freeway.



- 1 (6) On a highway that is the responsibility of the Indiana finance
- 2 authority established by ~~IC 4-4-11~~; **IC 5-1.2-3**:
- 3 (A) seventy (70) miles per hour for:
- 4 (i) a motor vehicle having a declared gross weight of not
- 5 more than twenty-six thousand (26,000) pounds; or
- 6 (ii) a bus; or
- 7 (B) sixty-five (65) miles per hour for a motor vehicle having a
- 8 declared gross weight greater than twenty-six thousand
- 9 (26,000) pounds.
- 10 (7) Sixty (60) miles per hour on a highway that:
- 11 (A) is not designated as a part of the national system of
- 12 interstate and defense highways;
- 13 (B) has four (4) or more lanes;
- 14 (C) is divided into two (2) or more roadways by:
- 15 (i) an intervening space that is unimproved and not intended
- 16 for vehicular travel;
- 17 (ii) a physical barrier; or
- 18 (iii) a dividing section constructed to impede vehicular
- 19 traffic; and
- 20 (D) is located outside an urbanized area (as defined in 23
- 21 U.S.C. 101) with a population of at least fifty thousand
- 22 (50,000).
- 23 (8) Fifteen (15) miles per hour in an alley.
- 24 (b) A person who violates subsection (a) commits a Class C
- 25 infraction.
- 26 SECTION 96. IC 11-8-8-1, AS ADDED BY P.L.173-2006,
- 27 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2018]: Sec. 1. As used in this chapter, "correctional facility"
- 29 has the meaning set forth in ~~IC 4-13.5-1-1~~; **IC 5-1.2-2**.
- 30 SECTION 97. IC 13-11-2-16, AS AMENDED BY P.L.233-2017,
- 31 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2018]: Sec. 16. ~~(a)~~ "Authority", for purposes of IC 13-22-10,
- 33 refers to the Indiana hazardous waste facility site approval authority.
- 34 (b) "Authority", for purposes of ~~IC 13-18-13~~; ~~IC 13-18-21~~;
- 35 ~~IC 13-18-25~~; and ~~IC 13-19-5~~; refers to the Indiana finance authority
- 36 created under ~~IC 4-4-11~~.
- 37 SECTION 98. IC 13-11-2-29, AS AMENDED BY P.L.233-2017,
- 38 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2018]: Sec. 29. "Clean Water Act", for purposes of this
- 40 chapter, ~~IC 13-18-13~~; IC 13-18-22, **and** IC 13-18-23, **and** ~~IC 13-18-25~~;
- 41 refers to:
- 42 (1) 33 U.S.C. 1251 et seq.; and



1 (2) regulations adopted under 33 U.S.C. 1251 et seq.
2 SECTION 99. IC 13-11-2-71, AS AMENDED BY P.L.189-2011,
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2018]: Sec. 71. "Environmental management laws" refers to
5 the following:
6 (1) IC 13-12-2 and IC 13-12-3.
7 (2) IC 13-13.
8 (3) IC 13-14.
9 (4) IC 13-15.
10 (5) IC 13-16.
11 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
12 (7) IC 13-18-10, IC 13-18-10.5, IC 13-18-12, ~~IC 13-18-13-31~~;
13 **IC 5-1.2-10**, and IC 13-18-15 through IC 13-18-20.
14 (8) IC 13-19-1 **and** IC 13-19-4. ~~and IC 13-19-5-17.~~
15 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
16 IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and
17 IC 13-20-22-21.
18 (10) IC 13-22.
19 (11) IC 13-23.
20 (12) IC 13-24.
21 (13) IC 13-25-1 through IC 13-25-5.
22 (14) IC 13-27-8.
23 (15) IC 13-30, except IC 13-30-1.
24 SECTION 100. IC 13-11-2-83 IS REPEALED [EFFECTIVE JULY
25 1, 2018]. Sec. 83: (a) "Financial assistance agreement", for purposes of
26 ~~IC 13-18-13~~, refers to an agreement between:
27 (1) the Indiana finance authority; and
28 (2) a participant under ~~IC 13-18-13~~;
29 establishing the terms and conditions of a loan or other financial
30 assistance, including forgiveness of principal if allowed under federal
31 law; by the state to the participant under that chapter.
32 (b) "Financial assistance agreement", for purposes of ~~IC 13-19-5~~;
33 means an agreement between the authority and a political subdivision
34 that:
35 (1) is approved by the budget agency; and
36 (2) establishes the terms and conditions of a loan or other
37 financial assistance by the state to the political subdivision.
38 (c) "Financial assistance agreement", for purposes of ~~IC 13-18-21~~;
39 refers to an agreement between:
40 (1) the Indiana finance authority; and
41 (2) a participant under ~~IC 13-18-21~~;
42 establishing the terms and conditions of a loan or other financial



1 assistance; including forgiveness of principal if allowed under federal
2 law; by the state to the participant under IC 13-18-21.

3 (d) "Financial assistance agreement", for purposes of IC 13-18-25,
4 refers to an agreement between:

5 (1) the Indiana finance authority; and

6 (2) a participant under IC 13-18-25;

7 establishing the terms and conditions of a loan or other financial
8 assistance; including forgiveness of principal.

9 SECTION 101. IC 13-11-2-87, AS AMENDED BY P.L.233-2017,
10 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2018]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers
12 to the environmental management special fund.

13 (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility
14 operator trust fund.

15 (c) "Fund", for purposes of IC 13-15-11, refers to the environmental
16 management permit operation fund.

17 (d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust
18 fund.

19 (e) "Fund", for purposes of IC 13-17-8, refers to the Title V
20 operating permit program trust fund.

21 (f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

22 (g) "Fund", for purposes of IC 13-18-13, refers to the wastewater
23 revolving loan fund established by IC 13-18-13-2.

24 (h) "Fund", for purposes of IC 13-18-21, refers to the drinking water
25 revolving loan fund established by IC 13-18-21-2. The term does not
26 include the supplemental fund established by IC 13-18-21-22.

27 (i) "Fund", for purposes of IC 13-18-25, refers to the infrastructure
28 assistance fund established by IC 13-18-25-2.

29 (j) "Fund", for purposes of IC 13-19-5, refers to the environmental
30 remediation revolving loan fund established by IC 13-19-5-2.

31 (k) "Fund", for purposes of IC 13-20-4, refers to the municipal waste
32 transportation fund.

33 (l) (g) "Fund", for purposes of IC 13-20-13, refers to the waste tire
34 management fund.

35 (m) (h) "Fund", for purposes of IC 13-20-22, refers to the state solid
36 waste management fund.

37 (n) (i) "Fund", for purposes of IC 13-21-7, refers to the waste
38 management district bond fund.

39 (o) (j) "Fund", for purposes of IC 13-21-13-2, refers to a district
40 solid waste management fund.

41 (p) (k) "Fund", for purposes of IC 13-23-6, refers to the
42 underground petroleum storage tank trust fund.



1 ~~(q)~~ **(l)** "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to
2 the underground petroleum storage tank excess liability trust fund (or
3 ELTF).

4 ~~(r)~~ **(m)** "Fund", for purposes of IC 13-25-4, refers to the hazardous
5 substances response trust fund.

6 ~~(s)~~ **(n)** "Fund", for purposes of IC 13-25-5, refers to the voluntary
7 remediation fund.

8 ~~(t)~~ **(o)** "Fund", for purposes of IC 13-28-2, refers to the voluntary
9 compliance fund.

10 SECTION 102. IC 13-11-2-98, AS AMENDED BY P.L.113-2014,
11 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2018]: Sec. 98. "Hazardous substance", for purposes of:

13 ~~(1)~~ IC 13-19-5;

14 ~~(2)~~ **(1)** IC 13-25-4; and

15 ~~(3)~~ **(2)** IC 13-25-5;

16 has the meaning set forth in Section 101 of CERCLA (42 U.S.C. 9601).
17 The term includes any substance that the board determines to be
18 hazardous under environmental management laws.

19 SECTION 103. IC 13-11-2-151.1 IS REPEALED [EFFECTIVE
20 JULY 1, 2018]. Sec. ~~151.1~~: "Participant" means the following:

21 ~~(1)~~ For purposes of IC 13-18-13:

22 ~~(A)~~ a political subdivision; or

23 ~~(B)~~ any person; entity; association; trust; or other manner of
24 participant permitted by law to enter contractual arrangements
25 for a purpose eligible for assistance under the Clean Water Act.

26 ~~(2)~~ For purposes of the drinking water revolving loan program
27 under IC 13-18-21:

28 ~~(A)~~ a political subdivision; or

29 ~~(B)~~ any person; entity; association; trust; or other manner of
30 participant permitted by law to enter contractual arrangements
31 for a purpose eligible for assistance under the Safe Drinking
32 Water Act.

33 ~~(3)~~ For purposes of the supplemental drinking water and
34 wastewater assistance program under IC 13-18-21-21 through
35 IC 13-18-21-29:

36 ~~(A)~~ a political subdivision; or

37 ~~(B)~~ any person; entity; association; trust; or other manner of
38 participant permitted by law to enter contractual arrangements
39 for a purpose eligible for assistance under IC 13-18-21-21
40 through IC 13-18-21-29.

41 ~~(4)~~ For purposes of the infrastructure assistance program under
42 IC 13-18-25:



- 1 (A) a political subdivision; or
- 2 (B) any person, entity, association, trust, or other manner of
- 3 participant permitted by law to enter into contractual
- 4 arrangements for assistance under IC 13-18-25.
- 5 SECTION 104. IC 13-11-2-164 IS REPEALED [EFFECTIVE JULY
- 6 1, 2018]. Sec. 164. (a) "Political subdivision", for purposes of
- 7 IC 13-18-13, means:
- 8 (1) a political subdivision (as defined in IC 36-1-2);
- 9 (2) a regional water, sewage, or solid waste district organized
- 10 under:
- 11 (A) IC 13-26; or
- 12 (B) IC 13-3-2 (before its repeal July 1, 1996); or
- 13 (3) a local public improvement bond bank organized under
- 14 IC 5-1.4.
- 15 (b) "Political subdivision", for purposes of IC 13-18-21 and
- 16 IC 13-18-25, means:
- 17 (1) a political subdivision (as defined in IC 36-1-2);
- 18 (2) a regional water, sewage, or solid waste district organized
- 19 under:
- 20 (A) IC 13-26; or
- 21 (B) IC 13-3-2 (before its repeal July 1, 1996);
- 22 (3) a local public improvement bond bank organized under
- 23 IC 5-1.4;
- 24 (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public
- 25 water utility described in IC 8-1-2-125; or
- 26 (5) a conservancy district established for the purpose set forth in
- 27 IC 14-33-1-1(a)(4).
- 28 (c) "Political subdivision", for purposes of IC 13-19-5, has the
- 29 meaning set forth in IC 36-1-2-13 and includes a redevelopment district
- 30 under IC 36-7-14 or IC 36-7-15.1.
- 31 SECTION 105. IC 13-11-2-165, AS AMENDED BY P.L.133-2012,
- 32 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2018]: Sec. 165. "Pollution control laws" refers to the
- 34 following:
- 35 (1) IC 13-12-4 and IC 13-12-5.
- 36 (2) IC 13-17, except for the following:
- 37 (A) IC 13-17-3-15.
- 38 (B) IC 13-17-7.
- 39 (C) IC 13-17-8-10.
- 40 (D) IC 13-17-10.
- 41 (E) IC 13-17-11.
- 42 (F) IC 13-17-13.



1 (3) IC 13-18, except for the following:

2 (A) IC 13-18-12 and ~~IC 13-18-13~~. **IC 5-1.2-10.**

3 (B) IC 13-18-15 through IC 13-18-20.

4 (4) IC 13-19-3.

5 (5) IC 13-20-16 and IC 13-20-17.

6 SECTION 106. IC 13-11-2-172, AS AMENDED BY P.L.233-2017,
7 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2018]: Sec. 172. (a) "Program", for purposes of ~~IC 13-18-13~~,
9 refers to the wastewater revolving loan program established by
10 ~~IC 13-18-13-1~~.

11 (b) "Program", for purposes of ~~IC 13-18-21~~, refers to the drinking
12 water revolving loan program established by ~~IC 13-18-21-1~~. The term
13 does not include the supplemental program.

14 (c) "Program", for purposes of ~~IC 13-18-25~~, refers to the
15 infrastructure assistance program established by ~~IC 13-18-25-1~~.

16 (d) "Program", for purposes of ~~IC 13-19-5~~, refers to the
17 environmental remediation revolving loan program established by
18 ~~IC 13-19-5-1~~.

19 (e) "Program", for purposes of IC 13-23, refers to an underground
20 storage tank release:

21 (1) detection;

22 (2) prevention; and

23 (3) correction;

24 program created in accordance with the requirements of IC 13-23 or
25 IC 13-7-20 (before its repeal).

26 SECTION 107. IC 13-11-2-177.3, AS AMENDED BY
27 P.L.233-2017, SECTION 19, IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 177.3. "Public water
29 system", for purposes of this chapter, IC 13-18-11, IC 13-18-16,
30 IC 13-18-20.5, ~~IC 13-18-21~~, ~~IC 13-18-25~~, and other environmental
31 management laws, has the meaning set forth in 42 U.S.C. 300f.

32 SECTION 108. IC 13-11-2-186 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 186. "Remediation", for
34 purposes of ~~IC 13-19-5~~ and IC 13-25-5, means any of the following:

35 (1) Actions necessary to:

36 (A) prevent;

37 (B) minimize; or

38 (C) mitigate;

39 damages to the public health or welfare or to the environment that
40 may otherwise result from a release or threat of a release.

41 (2) Actions consistent with a permanent remedy taken instead of
42 or in addition to removal actions if a release or threatened release



1 of a hazardous substance or petroleum into the environment
 2 occurs to eliminate the release of hazardous substances or
 3 petroleum so that the hazardous substances or petroleum do not
 4 migrate to cause substantial danger to present or future public
 5 health or welfare or the environment.

6 (3) The cleanup or removal of released hazardous substances or
 7 petroleum from the environment.

8 SECTION 109. IC 13-11-2-195.5, AS AMENDED BY
 9 P.L.233-2017, SECTION 20, IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 195.5. "Safe Drinking
 11 Water Act", for purposes of this chapter, ~~IC 13-18-21~~, and ~~IC 13-18-25~~,
 12 refers to:

13 (1) 42 U.S.C. 300f et seq.; and

14 (2) regulations adopted under 42 U.S.C. 300f et seq.

15 SECTION 110. IC 13-11-2-223.5 IS REPEALED [EFFECTIVE
 16 JULY 1, 2018]. ~~Sec. 223.5. "Storm water management program"~~, for
 17 ~~purposes of IC 13-18-21 and IC 13-18-25~~, means a program that is
 18 consistent with the requirements in:

19 ~~(1) 40 CFR 122.26(d)(2)(iv) for a proposed management~~
 20 ~~program; or~~

21 ~~(2) 40 CFR 122.34 for a storm water management program.~~

22 SECTION 111. IC 13-11-2-226 IS REPEALED [EFFECTIVE JULY
 23 1, 2018]. ~~Sec. 226. "Supplemental fund"~~, for purposes of ~~IC 13-18-13~~
 24 and ~~IC 13-18-21~~, refers to the supplemental drinking water and
 25 wastewater assistance fund established by ~~IC 13-18-21-22~~.

26 SECTION 112. IC 13-11-2-227 IS REPEALED [EFFECTIVE JULY
 27 1, 2018]. ~~Sec. 227. "Supplemental program"~~, for purposes of
 28 ~~IC 13-18-13 and IC 13-18-21~~, refers to the supplemental drinking water
 29 and wastewater assistance program established by ~~IC 13-18-21-21~~.

30 SECTION 113. IC 13-18-13 IS REPEALED [EFFECTIVE JULY 1,
 31 2018]. (Wastewater Revolving Loan Program).

32 SECTION 114. IC 13-18-21 IS REPEALED [EFFECTIVE JULY 1,
 33 2018]. (Drinking Water Revolving Loan Program).

34 SECTION 115. IC 13-18-25 IS REPEALED [EFFECTIVE JULY 1,
 35 2018]. (Infrastructure Assistance Program).

36 SECTION 116. IC 13-19-5 IS REPEALED [EFFECTIVE JULY 1,
 37 2018]. (Environmental Remediation Revolving Loan Program).

38 SECTION 117. IC 13-23-7-2, AS AMENDED BY P.L.96-2016,
 39 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2018]: Sec. 2. Sources of money for the ELTF are the
 41 following:

42 (1) Appropriations from the general assembly.



- 1 (2) Gifts and donations intended for deposit in the fund.
 2 (3) Inspection fees paid under IC 16-44-2.
 3 ~~(4) Bond revenue under IC 4-4-11.2-7(a)(1):~~
 4 ~~(5)~~ (4) Any other money authorized to be deposited in or
 5 appropriated to the trust fund.
 6 SECTION 118. IC 13-25-4-1, AS AMENDED BY P.L.220-2014,
 7 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2018]: Sec. 1. (a) The hazardous substances response trust
 9 fund is established. The purpose of the fund is to accumulate and
 10 maintain a source of money for the following purposes:
 11 (1) Financing contracts or cooperative agreements between the
 12 state and the President of the United States under Section 104 of
 13 CERCLA (42 U.S.C. 9604).
 14 (2) Providing state assistance in the form of supplies, materials,
 15 services, and equipment to:
 16 (A) prevent the release of a hazardous substance or
 17 contaminant; or
 18 (B) control, contain, isolate, neutralize, remove, store, or
 19 dispose of any hazardous substance or contaminant already
 20 released into or on the air, land, or waters of Indiana.
 21 (3) Financing response actions that are:
 22 (A) undertaken or authorized by the commissioner with respect
 23 to sites in Indiana; and
 24 (B) considered by the commissioner to be necessary to protect
 25 the public health or welfare or the environment from the release
 26 or threatened release of a hazardous substance or contaminant.
 27 (4) Paying expenses related to releases of regulated substances
 28 other than petroleum from underground storage tanks under
 29 IC 13-23-13-7.
 30 (5) Paying administrative and personnel expenses incurred by the
 31 state in responding to releases or threats of releases of hazardous
 32 substances or contaminants.
 33 (6) Paying claims for the reimbursement of necessary response
 34 costs incurred by persons that have received preauthorization
 35 from the commissioner for reimbursement.
 36 (7) Providing grants for household hazardous waste and
 37 conditionally exempt small quantity generator waste collection,
 38 recycling, or disposal projects under IC 13-20-20.
 39 (8) Paying administrative and personnel expenses incurred by the
 40 department in implementing and administering household
 41 hazardous waste and conditionally exempt small quantity
 42 generator waste collection, recycling, or disposal projects under



- 1 IC 13-20-20.
- 2 (9) Transferring funds to the ~~environmental remediation revolving~~
- 3 ~~loan~~ **Indiana brownfields** fund established by ~~IC 13-19-5-2.~~
- 4 **IC 5-1.2-12-3.**
- 5 (10) Paying administrative and personnel expenses incurred by
- 6 the state in evaluating proposed modifications of restrictive
- 7 covenants under IC 13-14-2-9.
- 8 (b) Money in the fund at the end of a state fiscal year does not revert
- 9 to the state general fund.
- 10 SECTION 119. IC 14-8-2-16.4 IS REPEALED [EFFECTIVE JULY
- 11 1, 2018]. ~~Sec. 16.4. "Authority", for purposes of IC 14-28-5, has the~~
- 12 ~~meaning set forth in IC 14-28-5-0.5.~~
- 13 SECTION 120. IC 14-8-2-48, AS AMENDED BY P.L.133-2012,
- 14 SECTION 162, IS AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 2018]: Sec. 48. (a) "Commission", except as
- 16 provided in this section, refers to the natural resources commission.
- 17 (b) "Commission", for purposes of IC 14-13-1, has the meaning set
- 18 forth in IC 14-13-1-1.
- 19 (c) "Commission", for purposes of IC 14-13-2, has the meaning set
- 20 forth in IC 14-13-2-2.
- 21 (d) "Commission", for purposes of IC 14-13-4, has the meaning set
- 22 forth in IC 14-13-4-1.
- 23 (e) "Commission", for purposes of IC 14-13-5, has the meaning set
- 24 forth in IC 14-13-5-1.
- 25 (f) "Commission", for purposes of IC 14-13-6, has the meaning set
- 26 forth in IC 14-13-6-2.
- 27 ~~(g) "Commission", for purposes of IC 14-14-1, has the meaning set~~
- 28 ~~forth in IC 14-14-1-3.~~
- 29 ~~(h)~~ **(g)** "Commission", for purposes of IC 14-20-11, has the meaning
- 30 set forth in IC 14-20-11-1.
- 31 ~~(i)~~ **(h)** "Commission", for purposes of IC 14-28-4, has the meaning
- 32 set forth in IC 14-28-4-1.
- 33 ~~(j)~~ **(i)** "Commission", for purposes of IC 14-30-1, has the meaning
- 34 set forth in IC 14-30-1-2.
- 35 ~~(k)~~ **(j)** "Commission", for purposes of IC 14-30-2, has the meaning
- 36 set forth in IC 14-30-2-2.
- 37 ~~(l)~~ **(k)** "Commission", for purposes of IC 14-30-3, has the meaning
- 38 set forth in IC 14-30-3-2.
- 39 ~~(m)~~ **(l)** "Commission", for purposes of IC 14-30-4, has the meaning
- 40 set forth in IC 14-30-4-2.
- 41 ~~(n)~~ **(m)** "Commission", for purposes of IC 14-33-20, has the
- 42 meaning set forth in IC 14-33-20-2.



1 SECTION 121. IC 14-8-2-60 IS REPEALED [EFFECTIVE JULY
2 1, 2018]. Sec. 60: "~~Cost~~", for purposes of IC ~~14-14-1~~, has the meaning
3 set forth in IC ~~14-14-1-4~~.

4 SECTION 122. IC 14-8-2-95 IS REPEALED [EFFECTIVE JULY
5 1, 2018]. Sec. 95: "~~Flood control program~~", for purposes of IC ~~14-28-5~~;
6 has the meaning set forth in IC ~~14-28-5-1~~.

7 SECTION 123. IC 14-8-2-107, AS AMENDED BY P.L.219-2014,
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2018]: Sec. 107. "Fund" has the following meaning:

10 (1) For purposes of IC 14-9-5, the meaning set forth in
11 IC 14-9-5-1.

12 (2) For purposes of IC 14-9-8-21, the meaning set forth in
13 IC 14-9-8-21.

14 (3) For purposes of IC 14-9-8-21.5, the meaning set forth in
15 IC 14-9-8-21.5.

16 (4) For purposes of IC 14-9-9, the meaning set forth in
17 IC 14-9-9-3.

18 (5) For purposes of IC 14-12-1, the meaning set forth in
19 IC 14-12-1-1.

20 (6) For purposes of IC 14-12-2, the meaning set forth in
21 IC 14-12-2-2.

22 (7) For purposes of IC 14-12-3, the meaning set forth in
23 IC 14-12-3-2.

24 (8) For purposes of IC 14-13-1, the meaning set forth in
25 IC 14-13-1-2.

26 (9) For purposes of IC 14-13-2, the meaning set forth in
27 IC 14-13-2-3.

28 (10) For purposes of IC 14-16-1, the meaning set forth in
29 IC 14-16-1-30.

30 (11) For purposes of IC 14-19-8, the meaning set forth in
31 IC 14-19-8-1.

32 (12) For purposes of IC 14-20-11, the meaning set forth in
33 IC 14-20-11-2.

34 (13) For purposes of IC 14-22-3, the meaning set forth in
35 IC 14-22-3-1.

36 (14) For purposes of IC 14-22-4, the meaning set forth in
37 IC 14-22-4-1.

38 (15) For purposes of IC 14-22-5, the meaning set forth in
39 IC 14-22-5-1.

40 (16) For purposes of IC 14-22-8, the meaning set forth in
41 IC 14-22-8-1.

42 (17) For purposes of IC 14-22-34, the meaning set forth in



- 1 IC 14-22-34-2.
 2 (18) For purposes of IC 14-23-3, the meaning set forth in
 3 IC 14-23-3-1.
 4 (19) For purposes of IC 14-25-2-4, the meaning set forth in
 5 IC 14-25-2-4.
 6 (20) For purposes of IC 14-25-10, the meaning set forth in
 7 IC 14-25-10-1.
 8 (21) For purposes of IC 14-25.5, the meaning set forth in
 9 IC 14-25.5-1-3.
 10 ~~(22) For purposes of IC 14-28-5, the meaning set forth in~~
 11 ~~IC 14-28-5-2.~~
 12 ~~(23)~~ **(22)** For purposes of IC 14-31-2, the meaning set forth in
 13 IC 14-31-2-5.
 14 ~~(24)~~ **(23)** For purposes of IC 14-25-12, the meaning set forth in
 15 IC 14-25-12-1.
 16 ~~(25)~~ **(24)** For purposes of IC 14-32-8, the meaning set forth in
 17 IC 14-32-8-1.
 18 ~~(26)~~ **(25)** For purposes of IC 14-33-14, the meaning set forth in
 19 IC 14-33-14-3.
 20 ~~(27)~~ **(26)** For purposes of IC 14-33-21, the meaning set forth in
 21 IC 14-33-21-1.
 22 ~~(28)~~ **(27)** For purposes of IC 14-34-6-15, the meaning set forth in
 23 IC 14-34-6-15.
 24 ~~(29)~~ **(28)** For purposes of IC 14-34-14, the meaning set forth in
 25 IC 14-34-14-1.
 26 ~~(30)~~ **(29)** For purposes of IC 14-34-19-1.3, the meaning set forth
 27 in IC 14-34-19-1.3(a).
 28 ~~(31)~~ **(30)** For purposes of IC 14-34-19-1.5, the meaning set forth
 29 in IC 14-34-19-1.5(a).
 30 ~~(32)~~ **(31)** For purposes of IC 14-37-10, the meaning set forth in
 31 IC 14-37-10-1.
 32 SECTION 124. IC 14-8-2-117 IS REPEALED [EFFECTIVE JULY
 33 1, 2018]. Sec. ~~117~~: "Governing board", for purposes of IC ~~14-28-5~~, has
 34 the meaning set forth in IC ~~14-28-5-3~~.
 35 SECTION 125. IC 14-8-2-196 IS REPEALED [EFFECTIVE JULY
 36 1, 2018]. Sec. ~~196~~: "Park", for purposes of IC ~~14-14-1~~, has the meaning
 37 set forth in IC ~~14-14-1-5~~.
 38 SECTION 126. IC 14-8-2-197 IS REPEALED [EFFECTIVE JULY
 39 1, 2018]. Sec. ~~197~~: "Park project", for purposes of IC ~~14-14-1~~, has the
 40 meaning set forth in IC ~~14-14-1-6~~.
 41 SECTION 127. IC 14-14-1 IS REPEALED [EFFECTIVE JULY 1,
 42 2018]. (Recreational Development Commission).



1 SECTION 128. IC 14-25-7-18, AS AMENDED BY P.L.233-2017,
 2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 18. (a) As used in this section, "authority" refers
 4 to the Indiana finance authority established by ~~IC 4-4-11-4~~. **IC 5-1.2-3.**

5 (b) As used in this section, "quality assurance review" means a
 6 process of reviewing and verifying water resources data with the goal
 7 of assuring the reliability of the data. The term includes the application
 8 of certain objectives, principles, and policies already in use at the
 9 Indiana geological and water survey in maintaining consistency in
 10 water resources data and accountability to the scientific community and
 11 general public.

12 (c) The authority shall perform a quality assurance review of the
 13 water resources data compiled from the reports submitted by owners of
 14 significant water withdrawal facilities under:

15 (1) section 15 of this chapter; and

16 (2) IC 13-2-6.1-1 and IC 13-2-6.1-7 (before their repeal);
 17 beginning with the reports submitted for the 1985 calendar year.

18 (d) The authority may enter into contracts with one (1) or more
 19 professionals or state educational institutions under which the
 20 professionals or state educational institutions will perform some or all
 21 of the duties imposed on the authority by this section. The authority
 22 may compensate the professionals or state educational institutions for
 23 work performed under this section with:

24 (1) money from the drinking water revolving loan fund
 25 established by ~~IC 13-18-21-2~~; **IC 5-1.2-10-3**; or

26 (2) any other funds appropriated to the authority.

27 (e) In performing the quality assurance review required by this
 28 section, the authority shall use the water resources data in a manner
 29 that:

30 (1) protects the confidential information of owners of significant
 31 water withdrawal facilities; and

32 (2) is consistent with IC 5-14-3-4.

33 (f) The authority shall present the results of the quality assurance
 34 review performed under this section, as those results become available,
 35 to the water rights and use section of the department's division of water.
 36 The water rights and use section shall maintain the results in the data
 37 base of data extracted from reports submitted by owners of significant
 38 water withdrawal facilities under section 15 of this chapter (and
 39 IC 13-2-6.1-1 and IC 13-2-6.1-7 before their repeal).

40 SECTION 129. IC 14-28-5 IS REPEALED [EFFECTIVE JULY 1,
 41 2018]. (Flood Control Revolving Fund).

42 SECTION 130. IC 14-33-7-7, AS AMENDED BY P.L.4-2005,



1 SECTION 127, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) To pay the costs of
 3 establishing a district, including general, legal, and administrative costs
 4 and costs incident to preparing the district plan, money may be
 5 obtained from one (1) or a combination of the following methods:

- 6 (1) Gifts, loans, or grants from a state or federal agency, or both.
- 7 (2) Gifts from any source.
- 8 (3) The collection of the special benefit tax.
- 9 (4) Borrowing from private or public sources in anticipation of the
 10 collection of the tax.
- 11 (5) Advances from the general fund of the county under section
 12 15 of this chapter.
- 13 (6) Borrowing from the economic development fund created by
 14 IC 5-28-8 for any of the purposes in IC 14-33-1-1.
- 15 (7) Borrowing from the flood control revolving fund created by
 16 ~~IC 14-28-5~~ IC 5-1.2-13 for any of the purposes in IC 14-33-1-1.

17 (b) All persons, agencies, and departments charged with the
 18 administration and supervision of funds such as those created by
 19 IC 5-28-8 and ~~IC 14-28-5~~ IC 5-1.2-13 may make loans and advances
 20 to a district. The procedures, terms, and conditions of the loans must be
 21 the same as provided in the statutes establishing the funds but shall be
 22 modified and supplemented to fit this article to facilitate the financing
 23 of districts.

24 (c) This section does not preclude the borrowing of money for the
 25 following:

- 26 (1) Establishing the district.
- 27 (2) General, legal, and administrative costs.
- 28 (3) Costs incident to preparing the district plan in conjunction
 29 with borrowing of money to pay construction costs.

30 SECTION 131. IC 15-13-10-3, AS ADDED BY P.L.2-2008,
 31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2018]: Sec. 3. (a) Subject to the approval of the governor, the
 33 commission may, by resolution, authorize and issue revenue bonds to:

- 34 (1) pay all or part of the cost of a project; or
- 35 (2) refund outstanding revenue bonds.

36 (b) The principal of and the interest on bonds must be payable solely
 37 from the revenues specifically pledged to the payment of the principal
 38 and the interest on the bonds.

39 (c) The bonds of each issue must:

- 40 (1) be dated; and
- 41 (2) mature at a time not exceeding thirty (30) years from the date
 42 of the bonds.



1 (d) The bonds may be made redeemable before maturity, at the
2 option of the commission, at a price and under terms and conditions
3 fixed by the commission.

4 (e) The commission shall:

5 (1) determine the form of the bonds; and

6 (2) fix:

7 (A) the denomination of the bonds; and

8 (B) the place of payment of principal and interest, which may
9 be at any bank or trust company in the United States.

10 (f) The bonds must be signed in the name of the commission by:

11 (1) the commission chairperson; or

12 (2) the facsimile signature of the commission chairperson.

13 (g) The official seal of the commission, or a facsimile of the seal,
14 must be:

15 (1) affixed to the bonds; and

16 (2) attested by the executive director of the commission.

17 (h) If an officer whose signature or a facsimile of whose signature
18 appears on a bond ceases to be an officer before the delivery of the
19 bonds, the signature or facsimile is valid and sufficient for all purposes
20 as if the officer had remained in office until the delivery.

21 (i) Bonds issued under this chapter have all the qualities and
22 incidents of negotiable instruments under the laws of Indiana.

23 (j) Bonds may be issued in registered form.

24 (k) Bonds must be sold in accordance with IC 21-32-3.

25 (l) The commission shall cooperate with and use the assistance of
26 the Indiana finance authority established ~~under IC 4-4-11-4~~ **by IC 5-1.2-3**
27 in the issuance of the bonds.

28 SECTION 132. IC 16-18-2-338.5, AS AMENDED BY
29 P.L.162-2007, SECTION 36, IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 338.5. "State
31 authority", for purposes of IC 16-22, means the Indiana finance
32 authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3**.

33 SECTION 133. IC 16-22-3-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The governing
35 board may lease real or personal property, with or without an option to
36 purchase, on reasonable terms and conditions. If a lease agreement
37 gives the hospital an option to purchase the property and if any part of
38 the lease rental is to be applied on the purchase price if the option is
39 exercised, the agreement shall be treated as a purchase and is subject
40 to this chapter and other Indiana laws relating to purchases by county
41 hospitals.

42 (b) The governing board may authorize the purchase or lease of a



1 hospital building from the **Indiana finance** authority ~~or an authority~~
 2 ~~referred to in IC 5-1-16-1~~; **established by IC 5-1.2-3.**

3 SECTION 134. IC 16-22-5-15, AS AMENDED BY P.L.162-2007,
 4 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2018]: Sec. 15. As the tax is collected, the levies become a
 6 part of the hospital funds without further appropriation by the county
 7 fiscal body and may be invested in accordance with IC 16-22-3-20. The
 8 levies shall be separately accounted for as a hospital cumulative
 9 building fund and may not be used for any purposes other than that for
 10 which the cumulative building fund was established, except for the
 11 following:

12 (1) A lease entered into with an authority or the Indiana finance
 13 authority under ~~IC 5-1-16~~ **IC 5-1.2-7** may provide that the lease
 14 agreement to pay lease rentals be paid in whole or in part from the
 15 hospital cumulative building fund.

16 (2) If a loan has been obtained for the same purposes for which
 17 the cumulative building fund was established, the fund may be
 18 used to pay principal and interest on the bonds, notes, or other
 19 evidences of indebtedness of the hospital.

20 SECTION 135. IC 21-29-3-3, AS AMENDED BY
 21 P.L.182-2009(ss), SECTION 365, IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Subject to
 23 subsections (b) through (d), any state educational institution may enter
 24 into and modify, amend, or terminate one (1) or more swap agreements
 25 that the state educational institution determines to be necessary or
 26 desirable in connection with or incidental to the issuance, carrying, or
 27 securing of obligations. Swap agreements entered into by a state
 28 educational institution must:

29 (1) contain the provisions (including payment, term, security,
 30 default, and remedy provisions); and

31 (2) be with the parties;

32 that the state educational institution determines are necessary or
 33 desirable after due consideration is given to the creditworthiness of the
 34 parties.

35 (b) A state educational institution may not:

36 (1) enter into, modify, amend, or terminate any swap agreement
 37 without the specific approval of the public finance director
 38 appointed under ~~IC 4-4-11-9~~; **IC 5-1.2-3-6**;

39 (2) enter into any swap agreement under this section other than
 40 for the purpose of managing an interest rate or similar risk that
 41 arises in connection with or incidental to the issuance, carrying,
 42 or securing of obligations by the state educational institution; or



- 1 (3) carry on a business of acting as a dealer in swap agreements.
- 2 (c) A swap agreement is considered as being entered into in
3 connection with or incidental to the issuance, carrying, or securing of
4 obligations if:
- 5 (1) the swap agreement is entered into not more than one hundred
6 eighty (180) days after the issuance of the obligations and
7 specifically indicates the agreement's relationship to the
8 obligations;
- 9 (2) the board of trustees of the state educational institution
10 specifically designates the swap agreement as having a
11 relationship to the particular obligations;
- 12 (3) the swap agreement amends, modifies, or reverses a swap
13 agreement described in subdivision (1) or (2); or
- 14 (4) the terms of the swap agreement bear a reasonable
15 relationship to the terms of the obligations.
- 16 (d) Payments to be made by a state educational institution to any
17 other party under a swap agreement are payable only from the same
18 source or sources of funds from which the related obligations are
19 payable.
- 20 SECTION 136. IC 21-47-2-3, AS AMENDED BY P.L.233-2017,
21 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2018]: Sec. 3. (a) The survey shall do the following:
- 23 (1) Provide geological information about the water, energy, and
24 mineral resources and geologically related hazards of Indiana.
- 25 (2) Provide services that include:
- 26 (A) the archiving of rock cores, well cuttings, other subsurface
27 geological information, and other physical and chemical data on
28 geological materials; and
- 29 (B) the collection and storage of data.
- 30 (3) Provide public service, information, and educational
31 programs.
- 32 (4) Engage in research.
- 33 (5) Participate in cooperative studies and contractual projects with
34 the department of natural resources and other agencies of state
35 and federal government.
- 36 (6) Participate in cooperative studies and contractual projects with
37 state educational institutions and private educational institutions.
- 38 (7) Disseminate published maps and reports and digital data.
- 39 (b) The survey may also do the following through contractual
40 agreements:
- 41 (1) Provide the department of natural resources with information
42 on the geological occurrence of ground water and the



- 1 vulnerability of this resource to contamination.
- 2 (2) Provide to the department of natural resources and other state
- 3 agencies geological information needed for the effective
- 4 regulation of the mineral, water, and energy resources of Indiana.
- 5 (3) At the request of the department of natural resources, perform
- 6 geotechnical investigations for a variety of mine reclamation
- 7 programs.
- 8 (4) Provide general geotechnical consultation and assistance as
- 9 may be needed from time to time.
- 10 (5) Provide technical assistance including, but not limited to,
- 11 mapping and data collection as requested by the Indiana finance
- 12 authority established by ~~IC 4-4-11~~; **IC 5-1.2-3**.
- 13 SECTION 137. IC 22-2-15-2, AS ADDED BY P.L.110-2010,
- 14 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2018]: Sec. 2. (a) The department shall develop guidelines
- 16 and procedures for investigating questions and complaints concerning
- 17 employee classification and a plan for implementation of those
- 18 guidelines and procedures.
- 19 (b) The guidelines and procedures must do the following:
- 20 (1) Cover at least the following:
- 21 (A) Who is eligible to file a complaint. The guidelines and
- 22 procedures must allow any aggrieved person to file a complaint
- 23 and must indicate what evidence is needed to initiate an
- 24 investigation.
- 25 (B) Applicable and appropriate penalties, taking into
- 26 consideration:
- 27 (i) the financial impact on both employers and misclassified
- 28 employees; and
- 29 (ii) whether the employer has previously misclassified
- 30 employees.
- 31 (C) Mechanisms to share data with appropriate state agencies
- 32 to assist those agencies in determining compliance with and
- 33 enforcing state laws concerning misclassified employees and to
- 34 recoup contributions owed, depending on the level of
- 35 culpability.
- 36 (D) Record keeping requirements for contractors, including any
- 37 records necessary for the department to investigate alleged
- 38 violations concerning misclassification of employees.
- 39 (E) Investigative procedures.
- 40 (2) Apply to public works and private work projects for ~~the~~
- 41 construction industry (as ~~described~~ **defined** in ~~IC 4-13.5-1-1(3)~~);
- 42 **IC 5-1.2-2**), including demolition.



- 1 (3) Apply to any contractor that engages in construction and is
 2 authorized to do business in Indiana.
 3 (4) Provide a remedy for an employer or a misclassified employee
 4 in response to:
 5 (A) any retaliation that occurs as the result of an investigation
 6 or a complaint; and
 7 (B) any complaints that the department determines are frivolous
 8 or that are filed for the purpose of harassment.
 9 (5) Provide that in carrying out this chapter the department has
 10 the same inspection, investigative, and enforcement powers that
 11 the department has in enforcing the labor laws of this state,
 12 including powers described in IC 22-1-1.
 13 (c) The guidelines and procedures may include other elements as
 14 determined by the department.
 15 (d) The department shall exempt the following from the guidelines
 16 and procedures developed under this chapter:
 17 (1) Residential construction of a single family home or duplex if
 18 the builder builds less than twenty-five (25) units each year.
 19 (2) An owner-operator that provides a motor vehicle and the
 20 services of a driver under a written contract that is subject to
 21 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor
 22 carrier.
 23 SECTION 138. IC 34-30-2-2, AS AMENDED BY P.L.235-2005,
 24 SECTION 205, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2018]: Sec. 2. ~~IC 4-4-11-30 and IC 4-4-21-23~~
 26 **IC 5-1.2-4-17** (Concerning members, officers, employees, and agents
 27 of the Indiana finance authority for acts authorized by law).
 28 SECTION 139. IC 34-30-2-3, AS AMENDED BY P.L.235-2005,
 29 SECTION 206, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2018]: Sec. 3. ~~IC 4-13-5-4-4(g)~~ **IC 5-1.2-4-8**
 31 (Concerning the state for monetary damages for obligations of or
 32 violation by the Indiana finance authority).
 33 SECTION 140. IC 34-30-2-8, AS AMENDED BY P.L.162-2007,
 34 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2018]: Sec. 8. ~~IC 5-1-16-28 IC 5-1.2-4-17~~ (Concerning bonds
 36 issued by the Indiana finance authority under ~~IC 5-1-16~~ **IC 5-1.2-7**).
 37 SECTION 141. IC 34-30-2-86.9 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2018]: **Sec. 86.9. IC 5-1.2-4-31 (concerning**
 40 **loan or financial assistance under IC 5-1.2 governing the Indiana**
 41 **finance authority).**
 42 SECTION 142. IC 34-30-2-87, AS AMENDED BY P.L.162-2007,



1 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2018]: Sec. 87. ~~IC 5-1-16.5-4~~ **IC 5-1.2-4-17** (Concerning
3 members of, and persons executing bonds for, the Indiana finance
4 authority under ~~IC 5-1-16.5~~; **IC 5-1.2-8**).

5 SECTION 143. IC 34-30-2-87.1 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2018]: **Sec. 87.1. IC 5-1.2-4-31 (concerning**
8 **Indiana finance authority's addressing of brownfield**
9 **contamination issues).**

10 SECTION 144. IC 35-52-13-3, AS ADDED BY P.L.169-2014,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2018]: Sec. 3. ~~IC 13-18-21-31~~ **IC 5-1.2-4-33** defines a crime
13 concerning water pollution control.

14 SECTION 145. IC 35-52-13-4, AS ADDED BY P.L.169-2014,
15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2018]: Sec. 4. ~~IC 13-19-5-17~~ **IC 5-1.2-4-33** defines a crime
17 concerning ~~environmental remediation revolving loan the Indiana~~
18 **brownfields** program.

19 SECTION 146. IC 36-7-4-1104, AS AMENDED BY P.L.181-2016,
20 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2018]: Sec. 1104. (a) As used in this section, "state agency"
22 means all agencies, boards, commissions, departments, and institutions,
23 including state educational institutions, of the state.

24 (b) ADVISORY—AREA. This chapter does not restrict or regulate
25 (or authorize any political subdivision, legislative body, plan
26 commission, or board of zoning appeals to restrict or regulate) the
27 exercise of the power of eminent domain by the state, by any state
28 agency, or by the Indiana finance authority (~~IC 4-4-11-4~~); **(IC 5-1.2-3)**,
29 or the use of property owned or occupied by the state, by any state
30 agency, or by the Indiana finance authority.

31 SECTION 147. IC 36-7.5-2-8, AS AMENDED BY P.L.252-2015,
32 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 8. (a) **Except as provided in subsection (c)**,
34 the development authority must comply with IC 5-22 (public
35 purchasing), IC 36-1-12 (public work projects), and any applicable
36 federal bidding statutes and regulations. An eligible political
37 subdivision that receives a loan, a grant, or other financial assistance
38 from the development authority or enters into a lease with the
39 development authority must comply with applicable federal, state, and
40 local public purchasing and bidding law and regulations. However, a
41 purchasing agency (as defined in IC 5-22-2-25) of an eligible political
42 subdivision may:



- 1 (1) assign or sell a lease for property to the development
 2 authority; or
 3 (2) enter into a lease for property with the development authority;
 4 at any price and under any other terms and conditions as may be
 5 determined by the eligible political subdivision and the development
 6 authority. However, before making an assignment or sale of a lease or
 7 entering into a lease under this section that would otherwise be subject
 8 to IC 5-22, the eligible political subdivision or its purchasing agent
 9 must obtain or cause to be obtained a purchase price for the property
 10 to be subject to the lease from the lowest responsible and responsive
 11 bidder in accordance with the requirements for the purchase of supplies
 12 under IC 5-22.
- 13 (b) In addition to the provisions of subsection (a), with respect to
 14 projects undertaken by the authority, the authority shall set a goal for
 15 participation by minority business enterprises of fifteen percent (15%)
 16 and women's business enterprises of five percent (5%), consistent with
 17 the goals of delivering the project on time and within the budgeted
 18 amount and, insofar as possible, using Indiana businesses for
 19 employees, goods, and services. In fulfilling the goal, the authority
 20 shall take into account historical precedents in the same market.
- 21 **(c) As an alternative to IC 36-1-12, the development authority**
 22 **may utilize and may comply with:**
 23 **(1) IC 5-16;**
 24 **(2) IC 5-23;**
 25 **(3) IC 5-30;**
 26 **(4) IC 5-32; or**
 27 **(5) any combination of the articles listed in subdivisions (1)**
 28 **through (4) as determined by the NWIRDA or the NICTD,**
 29 **whichever is appropriate;**
 30 **when acquiring, financing, and constructing a public work that is**
 31 **a development project (as defined in IC 36-7.5-4.5-5).**
- 32 **(d) The development authority may:**
 33 **(1) contract with;**
 34 **(2) assign to; or**
 35 **(3) delegate to;**
 36 **a commuter transportation district or the NICTD to perform any**
 37 **duties and exercise any powers of the development authority under**
 38 **this chapter.**
- 39 SECTION 148. IC 36-7.5-3-1, AS AMENDED BY P.L.192-2015,
 40 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 1. The development authority shall do the
 42 following:



- 1 (1) Subject to ~~section~~ **sections 1.5 and 1.7** of this chapter, assist
 2 in the coordination of local efforts concerning projects.
- 3 (2) Assist a commuter transportation district, an airport authority,
 4 the Lake Michigan marina and shoreline development
 5 commission, a regional transportation authority, and a regional
 6 bus authority in coordinating regional transportation and
 7 economic development efforts.
- 8 (3) Subject to ~~section~~ **sections 1.5 and 1.7** of this chapter, fund
 9 projects as provided in this article.
- 10 (4) Fund bus services (including fixed route services and flexible
 11 or demand-responsive services) and projects related to bus
 12 services and bus terminals, stations, or facilities.
- 13 SECTION 149. IC 36-7.5-3-1.5, AS AMENDED BY P.L.204-2016,
 14 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]: Sec. 1.5. (a) **Except as provided in section 1.7 of**
 16 **this chapter**, this section applies to revenue received by the authority
 17 to the extent that the revenue has not been pledged or otherwise
 18 obligated to pay bonds or leases entered into before July 1, 2015, **for**
 19 **a project other than a rail project.**
- 20 (b) The authority may expend money received under this article to
 21 fund economic development projects only to the extent that:
- 22 (1) the development board finds that the economic development
 23 project is a destination based economic development project
 24 evaluated under IC 36-7.5-2-1(4) or is consistent with:
- 25 (A) a duty imposed upon the development authority under
 26 section 1(2) or 1(4) of this chapter; or
 27 (B) the Marquette Plan; and
- 28 (2) funding the project is reviewed by the state budget committee
 29 under subsection (c).
- 30 (c) The development board shall submit to the state budget
 31 committee for review and comment any proposal to fund an economic
 32 development project (including any destination based economic
 33 development project) under this article. The state budget committee
 34 shall review any proposal received under this subsection and may
 35 request that the authority appear at a public meeting of the state budget
 36 committee concerning the funding proposal. **This subsection does not**
 37 **apply to a rail project financed under IC 5-1.3.**
- 38 SECTION 150. IC 36-7.5-3-1.7 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. (a) This section applies to**
 41 **a rail project.**
- 42 (b) **Notwithstanding section 1.5 of this chapter, and except for**



1 revenue received by the development authority and pledged or
 2 otherwise obligated to pay bonds or leases entered into before July
 3 1, 2015, for a project other than a rail project, the development
 4 authority may expend money received under this article to fund a
 5 rail project.

6 SECTION 151. IC 36-7.5-4-1, AS AMENDED BY THE
 7 TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL
 8 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 1. (a) The development board shall establish
 10 and administer a development authority **revenue** fund.

11 (b) The development authority **revenue** fund consists of the
 12 following:

13 (1) Riverboat admissions tax revenue, riverboat wagering tax
 14 revenue, or riverboat incentive payments received by a city or
 15 county described in IC 36-7.5-2-3(b) and transferred by the
 16 county or city to the fund.

17 (2) Local income tax revenue dedicated to economic development
 18 purposes by a county or city and transferred by the county or city
 19 to the fund.

20 (3) Amounts distributed under IC 8-15-2-14.7.

21 (4) Food and beverage tax revenue deposited in the fund under
 22 IC 6-9-36-8.

23 (5) Funds received from the federal government.

24 (6) Appropriations to the fund by the general assembly.

25 (7) Other local revenue appropriated to the fund by a political
 26 subdivision.

27 (8) *Amounts transferred to the fund under IC 36-7.5-4.5.*

28 ~~(8)~~ (9) Gifts, donations, and grants to the fund.

29 (c) ~~The development authority shall establish a development~~
 30 ~~authority fund.~~ The development board shall establish and administer
 31 a ~~general account; a lease rental account; and such other any~~ accounts
 32 in the fund ~~as that~~ are necessary or appropriate to carry out the powers
 33 and duties of the development authority.

34 (d) **The development board shall establish separate accounts for**
 35 **funding that are expressly committed to:**

36 (1) **the mainline double tracking project; or**

37 (2) **the West Lake corridor project.**

38 (e) **A separate fund or account may be established to comply**
 39 **with the requirements of:**

40 (1) **a grant received from any federal agency or department;**

41 (2) **a grant received from the state;**

42 (3) **state appropriations;**



- 1 **(4) gifts, bequests, or donations;**
 2 **(5) the issuance of obligations;**
 3 **(6) the execution of leases; or**
 4 **(7) any other purpose.**

5 **(f)** Except as otherwise provided by law, ~~or~~ agreement with holders
 6 of any obligations of the development authority, *or subsection ~~(d)~~, (g)*,
 7 all money transferred to the development authority **revenue** fund under
 8 subsection (b)(1), (b)(2), and (b)(4) shall be ~~deposited in the lease~~
 9 ~~rental account and~~ used only for the payment of or to secure the
 10 payment of obligations of an eligible political subdivision under a lease
 11 entered into by an eligible political subdivision and the development
 12 authority under this chapter. *However, any money Money deposited in*
 13 *the lease rental account and not used for the purposes of this subsection*
 14 *pledged to payment of any existing or future leases or reasonably*
 15 *necessary for the purposes of this article shall* may be returned by the
 16 treasurer of the development authority to the respective counties and
 17 cities that contributed the money to the development authority.

18 ~~(d)~~ **(g)** If the amount of money transferred to the development
 19 authority **revenue** fund under subsection (b)(1), (b)(2), and (b)(4) for
 20 deposit in the lease rental account in any one (1) calendar year is
 21 greater than an amount equal to:

- 22 (1) one and twenty-five hundredths (1.25); multiplied by
 23 (2) the total of the highest annual debt service on any bonds then
 24 outstanding to their final maturity date, which have been issued
 25 under this article and are not secured by a lease, plus the highest
 26 annual lease payments on any leases to their final maturity, which
 27 are then in effect under this article;

28 all or a portion of the excess may instead be deposited in the general
 29 account.

30 ~~(e)~~ **(h)** Except as otherwise provided by law or agreement with the
 31 holders of obligations of the development authority, all other money
 32 and revenues of the development authority ~~may be deposited in the~~
 33 ~~general account or the lease rental account at the discretion of the~~
 34 ~~development board. Money on deposit in the lease rental account may~~
 35 ~~be used only to make rental payments on leases entered into by the~~
 36 ~~development authority under this article. Money on deposit in the~~
 37 ~~general account may be used for any purpose authorized by this article.~~

38 ~~(f)~~ **(i)** The development authority **revenue** fund shall be
 39 administered by the development authority.

40 ~~(g)~~ **(j)** Money in the development authority **revenue** fund shall be
 41 used by the development authority to carry out this article and does not
 42 revert to any other fund.



1 **(k) This section includes full authority for the creation of any**
 2 **fund or account by the development authority and for an**
 3 **agreement with any person to hold or manage a fund or account.**

4 SECTION 152. IC 36-7.5-4-2, AS AMENDED BY P.L.248-2017,
 5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 2. (a) Except as provided in subsections (b)
 7 and (d), the fiscal officer of each city and county described in
 8 IC 36-7.5-2-3(b) shall each transfer three million five hundred
 9 thousand dollars (\$3,500,000) each year to the development authority
 10 for deposit in the development authority **revenue** fund established
 11 under section 1 of this chapter. However, if a county having a
 12 population of more than one hundred fifty thousand (150,000) but less
 13 than one hundred seventy thousand (170,000) ceases to be a member
 14 of the development authority and two (2) or more municipalities in the
 15 county have become members of the development authority as
 16 authorized by IC 36-7.5-2-3(i), the transfer of the local income tax
 17 revenue that is dedicated to economic development purposes that is
 18 required to be transferred under IC 6-3.6-11-6 is the contribution of the
 19 municipalities in the county that have become members of the
 20 development authority.

21 (b) This subsection applies only if:

- 22 (1) the fiscal body of the county described in IC 36-7.5-2-3(e) has
 23 adopted an ordinance under IC 36-7.5-2-3(e) providing that the
 24 county is joining the development authority;
 25 (2) the fiscal body of the city described in IC 36-7.5-2-3(e) has
 26 adopted an ordinance under IC 36-7.5-2-3(e) providing that the
 27 city is joining the development authority; and
 28 (3) the county described in IC 36-7.5-2-3(e) is an eligible county
 29 participating in the development authority.

30 The fiscal officer of the county described in IC 36-7.5-2-3(e) shall
 31 transfer two million six hundred twenty-five thousand dollars
 32 (\$2,625,000) each year to the development authority for deposit in the
 33 development authority **revenue** fund established under section 1 of this
 34 chapter. The fiscal officer of the city described in IC 36-7.5-2-3(e) shall
 35 transfer eight hundred seventy-five thousand dollars (\$875,000) each
 36 year to the development authority for deposit in the development
 37 authority **revenue** fund established under section 1 of this chapter.

38 (c) This subsection does not apply to Lake County, Hammond, Gary,
 39 or East Chicago. The following apply to the remaining transfers
 40 required by subsections (a) and (b):

- 41 (1) Except for transfers of money described in subdivision (4)(D),
 42 the transfers shall be made without appropriation by the city or



1 county fiscal body or approval by any other entity.

2 (2) Except as provided in subdivision (3), each fiscal officer shall
3 transfer eight hundred seventy-five thousand dollars (\$875,000)
4 to the development authority **revenue** fund before the last
5 business day of January, April, July, and October of each year.
6 Food and beverage tax revenue deposited in the fund under
7 IC 6-9-36-8 is in addition to the transfers required by this section.

8 (3) The fiscal officer of the county described in IC 36-7.5-2-3(e)
9 shall transfer six hundred fifty-six thousand two hundred fifty
10 dollars (\$656,250) to the development authority **revenue** fund
11 before the last business day of January, April, July, and October
12 of each year. The county is not required to make any payments or
13 transfers to the development authority covering any time before
14 January 1, 2017. The fiscal officer of a city described in
15 IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand
16 seven hundred fifty dollars (\$218,750) to the development
17 authority **revenue** fund before the last business day of January,
18 April, July, and October of each year. The city is not required to
19 make any payments or transfers to the development authority
20 covering any time before January 1, 2017.

21 (4) The transfers shall be made from one (1) or more of the
22 following:

23 (A) Riverboat admissions tax revenue received by the city or
24 county, riverboat wagering tax revenue received by the city or
25 county, or riverboat incentive payments received from a
26 riverboat licensee by the city or county.

27 (B) Any local income tax revenue that is dedicated to
28 economic development purposes under IC 6-3.6-6 and
29 received under IC 6-3.6-9 by the city or county.

30 (C) Any other local revenue other than property tax revenue
31 received by the city or county.

32 (D) In the case of a county described in IC 36-7.5-2-3(e) or a
33 city described in IC 36-7.5-2-3(e), any money from the major
34 moves construction fund that is distributed to the county or
35 city under IC 8-14-16.

36 (d) This subsection applies only to Lake County, Hammond, Gary,
37 and East Chicago. The obligations of each city and the county under
38 subsection (a) are satisfied by the distributions made by the auditor of
39 state on behalf of each unit under IC 4-33-12-6(d) and IC 4-33-13-5(j).
40 However, if the total amount distributed under IC 4-33 on behalf of a
41 unit with respect to a particular state fiscal year is less than the amount
42 required by subsection (a), the fiscal officer of the unit shall transfer



1 the amount of the shortfall to the authority from any source of revenue
 2 available to the unit other than property taxes. The auditor of state shall
 3 certify the amount of any shortfall to the fiscal officer of the unit after
 4 making the distribution required by IC 4-33-13-5(j) on behalf of the
 5 unit with respect to a particular state fiscal year.

6 **(e) A transfer made on behalf of a county, city, or town under
 7 this section after December 31, 2018:**

8 **(1) is considered to be a payment for services provided to
 9 residents by a rail project as those services are rendered; and
 10 (2) does not impair any pledge of revenues under this article
 11 because a pledge by the development authority of transferred
 12 revenue under this section to the payment of bonds, leases, or
 13 obligations under this article or IC 5-1.3:**

14 **(A) constitutes the obligations of the northwest Indiana
 15 regional development authority; and**

16 **(B) does not constitute an indebtedness of a county, city, or
 17 town described in this section or of the state within the
 18 meaning or application of any constitutional or statutory
 19 provision or limitation.**

20 **(f) Neither the transfer of revenue as provided in this section
 21 nor the pledge of revenue transferred under this section is an
 22 impairment of contract within the meaning or application of any
 23 constitutional provision or limitation because of the following:**

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

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

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

35 **(4) The state of Indiana has a legitimate interest in assisting
 36 the development authority in financing rail projects.**

37 **(g) All proceedings had and actions described in this section are
 38 hereby legalized and declared valid if taken before March 15, 2018.**

39 **SECTION 153. IC 36-7.5-4-2.5 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) This section applies to
 42 a unit that has previously:**



- 1 (1) entered into an interlocal cooperation or other similar
2 agreement;
- 3 (2) adopted an ordinance or resolution; or
- 4 (3) taken any other action offering to support and finance:
- 5 (A) a rail project or rail projects under this chapter; or
- 6 (B) the double tracking project under IC 36-7.5-4.5.
- 7 (b) The unit may use any legally available revenue to support
8 and finance the projects described in subsection (a)(3), including
9 additional revenue allocated each year for economic development
10 under IC 6-3.6-6-9.
- 11 (c) Additional revenue allocated for economic development to
12 support and finance the projects under this section shall be paid by
13 the treasurer of state to the treasurer of the northwest Indiana
14 regional development authority under section 2 of this chapter
15 before certified distributions are made to the county or any civil
16 taxing unit in the county or counties in which the unit is located.
- 17 (d) A transfer made on behalf of a unit under subsection (c)
18 after December 31, 2018, is considered to be a payment for services
19 provided to residents by a rail project as those services are
20 rendered.
- 21 (e) A pledge by the development authority of transferred
22 revenue under this section to the payment of bonds, leases, or
23 obligations under this article or IC 5-1.3:
- 24 (1) constitutes the obligations of the northwest Indiana
25 regional development authority; and
- 26 (2) does not constitute an indebtedness of:
- 27 (A) a unit described in this section; or
- 28 (B) the state;
- 29 within the meaning or application of any constitutional or
30 statutory provision or limitation.
- 31 (f) Neither the transfer of revenue nor the pledge of revenue
32 transferred under this section is an impairment of contract within
33 the meaning or application of any constitutional provision or
34 limitation because of the following:
- 35 (1) The statutes governing local income taxes, including the
36 transferred revenue, have been the subject of legislation
37 annually since 1973, and during that time the statutes have
38 been revised, amended, expanded, limited, and recodified
39 dozens of times.
- 40 (2) Owners of bonds, leases, or other obligations to which
41 local income tax revenues have been pledged recognize that
42 the regulation of local income taxes has been extensive and



- 1 **consistent.**
- 2 **(3) All bonds, leases, or other obligations, due to their**
- 3 **essential contractual nature, are subject to relevant state and**
- 4 **federal law that is enacted after the date of a contract.**
- 5 **(4) The state of Indiana has a legitimate interest in assisting**
- 6 **the northwest Indiana regional development authority in**
- 7 **financing rail projects.**
- 8 **(g) All proceedings had and actions described in this section are**
- 9 **hereby legalized and declared valid if taken before March 15, 2018.**
- 10 SECTION 154. IC 36-7.5-4-3, AS AMENDED BY P.L.252-2015,
- 11 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 UPON PASSAGE]: Sec. 3. (a) The development authority may issue
- 13 bonds for the purpose of obtaining money to pay the cost of:
- 14 (1) acquiring real or personal property, including existing capital
- 15 improvements;
- 16 (2) acquiring, constructing, improving, reconstructing, or
- 17 renovating one (1) or more projects; or
- 18 (3) funding or refunding bonds issued under this chapter or
- 19 IC 8-5-15, IC 8-22-3, ~~IC 36-7-13.5~~, or IC 36-9-3 or prior law.
- 20 (b) The bonds are payable solely from:
- 21 (1) the lease rentals from the lease of the projects for which the
- 22 bonds were issued, insurance proceeds, and any other funds
- 23 pledged or available; and
- 24 (2) except as otherwise provided by law, revenue received by the
- 25 development authority and amounts deposited in the development
- 26 authority **revenue** fund.
- 27 (c) The bonds shall be authorized by a resolution of the
- 28 development board.
- 29 (d) The terms and form of the bonds shall either be set out in the
- 30 resolution or in a form of trust indenture approved by the resolution.
- 31 (e) The bonds shall mature within forty (40) years.
- 32 (f) The board shall sell the bonds only to the Indiana finance
- 33 authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3** upon the terms
- 34 determined by the development board and the Indiana finance
- 35 authority.
- 36 (g) All money received from any bonds issued under this chapter
- 37 shall be applied solely to the payment of the cost of acquiring,
- 38 constructing, improving, reconstructing, or renovating one (1) or more
- 39 projects, or the cost of refunding or refinancing outstanding bonds, for
- 40 which the bonds are issued. The cost may include:
- 41 (1) planning and development of equipment or a facility and all
- 42 buildings, facilities, structures, equipment, and improvements



- 1 related to the facility;
- 2 (2) acquisition of a site and clearing and preparing the site for
- 3 construction;
- 4 (3) equipment, facilities, structures, and improvements that are
- 5 necessary or desirable to make the project suitable for use and
- 6 operations;
- 7 (4) architectural, engineering, consultant, and attorney's fees;
- 8 (5) incidental expenses in connection with the issuance and sale
- 9 of bonds;
- 10 (6) reserves for principal and interest;
- 11 (7) interest during construction;
- 12 (8) financial advisory fees;
- 13 (9) insurance during construction;
- 14 (10) municipal bond insurance, debt service reserve insurance,
- 15 letters of credit, or other credit enhancement; and
- 16 (11) in the case of refunding or refinancing, payment of the
- 17 principal of, redemption premiums (if any) for, and interest on,
- 18 the bonds being refunded or refinanced.
- 19 SECTION 155. IC 36-7.5-4-5, AS ADDED BY P.L.214-2005,
- 20 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 UPON PASSAGE]: Sec. 5. (a) The development authority may secure
- 22 bonds issued under this chapter by a trust indenture between the
- 23 development authority and a corporate trustee, which may be any trust
- 24 company or national or state bank within Indiana that has trust powers.
- 25 (b) The trust indenture may:
- 26 (1) pledge or assign revenue received by the development
- 27 authority, amounts deposited in the development authority
- 28 **revenue** fund, and lease rentals, receipts, and income from leased
- 29 projects, but may not mortgage land or projects;
- 30 (2) contain reasonable and proper provisions for protecting and
- 31 enforcing the rights and remedies of the bondholders, including
- 32 covenants setting forth the duties of the development authority
- 33 and development board;
- 34 (3) set forth the rights and remedies of bondholders and trustees;
- 35 and
- 36 (4) restrict the individual right of action of bondholders.
- 37 (c) Any pledge or assignment made by the development authority
- 38 under this section is valid and binding in accordance with IC 5-1-14-4
- 39 from the time that the pledge or assignment is made, against all persons
- 40 whether they have notice of the lien or not. Any trust indenture by
- 41 which a pledge is created or an assignment made need not be filed or
- 42 recorded. The lien is perfected against third parties in accordance with



- 1 IC 5-1-14-4.
 2 SECTION 156. IC 36-7.5-4-7, AS ADDED BY P.L.214-2005,
 3 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 7. (a) Before a lease may be entered into by
 5 an eligible political subdivision under this chapter, the eligible political
 6 subdivision must find that the lease rental provided for is fair and
 7 reasonable.
 8 (b) A lease of land or a project from the development authority to an
 9 eligible political subdivision:
 10 (1) may not have a term exceeding forty (40) years;
 11 (2) may not require payment of lease rentals for a newly
 12 constructed project or for improvements to an existing project
 13 until the project or improvements to the project have been
 14 completed and are ready for occupancy or use;
 15 (3) may contain provisions:
 16 (A) allowing the eligible political subdivision to continue to
 17 operate an existing project until completion of the acquisition,
 18 improvements, reconstruction, or renovation of that project or
 19 any other project; and
 20 (B) requiring payment of lease rentals for land, for an existing
 21 project being used, reconstructed, or renovated, or for any
 22 other existing project;
 23 (4) may contain an option to renew the lease for the same or
 24 shorter term on the conditions provided in the lease;
 25 (5) must contain an option for the eligible political subdivision to
 26 purchase the project upon the terms stated in the lease during the
 27 term of the lease for a price equal to the amount required to pay
 28 all indebtedness incurred on account of the project, including
 29 indebtedness incurred for the refunding of that indebtedness;
 30 (6) may be entered into before acquisition or construction of a
 31 project;
 32 (7) may provide that the eligible political subdivision shall agree
 33 to:
 34 (A) pay any taxes and assessments on the project;
 35 (B) maintain insurance on the project for the benefit of the
 36 development authority;
 37 (C) assume responsibility for utilities, repairs, alterations, and
 38 any costs of operation; and
 39 (D) pay a deposit or series of deposits to the development
 40 authority from any funds legally available to the eligible
 41 political subdivision before the commencement of the lease to
 42 secure the performance of the eligible political subdivision's



- 1 obligations under the lease; and
- 2 (8) shall provide that the lease rental payments by the eligible
- 3 political subdivision shall be made from the development
- 4 authority **revenue** fund established by section 1 of this chapter
- 5 and may provide that the lease rental payments by the eligible
- 6 political subdivision shall be made from:
- 7 (A) net revenues of the project;
- 8 (B) any other funds available to the eligible political
- 9 subdivision; or
- 10 (C) both sources described in clauses (A) and (B).
- 11 SECTION 157. IC 36-7.5-4-18, AS ADDED BY P.L.248-2017,
- 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 UPON PASSAGE]: Sec. 18. **Subject to IC 5-1.3**, the development
- 14 authority is the exclusive fiscal officer for and has final approval for
- 15 financing a transportation project involving a rail project as ~~defined in~~
- 16 ~~IC 36-7.5-4.5-12~~: **under this article.**
- 17 SECTION 158. IC 36-7.5-4.5-0.5 IS ADDED TO THE INDIANA
- 18 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
- 19 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter,**
- 20 **"associate member" refers to a county or municipality that**
- 21 **adopted an ordinance or resolution under section 16 of this chapter**
- 22 **specifying that the county or municipality has chosen to become an**
- 23 **associate member.**
- 24 SECTION 159. IC 36-7.5-4.5-2.5 IS ADDED TO THE INDIANA
- 25 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
- 26 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter,**
- 27 **"cash participant" refers to a county or municipality that has**
- 28 **adopted an ordinance or resolution under section 16 of this chapter**
- 29 **specifying that the county or municipality has chosen to become a**
- 30 **cash participant.**
- 31 SECTION 160. IC 36-7.5-4.5-16.5 IS ADDED TO THE INDIANA
- 32 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
- 33 [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) This section applies**
- 34 **to an associate member or cash participant that has committed to:**
- 35 **(1) make a cash payment to the development authority; or**
- 36 **(2) provide revenues to the development authority annually to**
- 37 **make debt service payments annually for the life of any:**
- 38 **(A) bonds or obligations issued; or**
- 39 **(B) leases entered into;**
- 40 **by the development authority;**
- 41 **to finance the mainline double tracking project.**
- 42 **(b) A transfer of funds made by a cash participant or an**



1 associate member under this section after December 31, 2018, is
 2 considered to be a payment for services provided to residents by
 3 the mainline double tracking project (as described in section 12 of
 4 this chapter) as those services are rendered.

5 (c) A transfer of funds under this section does not constitute an
 6 indebtedness of:

- 7 (1) an associate member;
- 8 (2) a cash participant; or
- 9 (3) the state;

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

12 (d) A pledge by the development authority of transferred
 13 revenue under this section to the payment of bonds, leases, or
 14 obligations under this article or IC 5-1.3, to these bonds, leases, or
 15 obligations:

- 16 (1) constitutes the obligations of the development authority;
- 17 and
- 18 (2) does not constitute an indebtedness of:
 - 19 (A) an associate member;
 - 20 (B) a cash participant; or
 - 21 (C) the state;

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

24 (e) Neither the transfer of revenue nor the pledge of revenue
 25 transferred under this section is an impairment of contract within
 26 the meaning or application of any constitutional provision or
 27 limitation because of the following:

- 28 (1) The statutes governing local government revenues,
 29 including the transferred revenue, have been the subject of
 30 legislation annually since 1973, and during that time the
 31 statutes have been revised, amended, expanded, limited, and
 32 recodified dozens of times.
- 33 (2) Owners of bonds, leases, or other obligations to which
 34 local government revenues have been pledged recognize that
 35 the regulation of government revenues has been extensive and
 36 consistent.
- 37 (3) All bonds, leases, or other obligations, due to their
 38 essential contractual nature, are subject to relevant state and
 39 federal law that is enacted after the date of a contract.
- 40 (4) The state of Indiana has a legitimate interest in assisting
 41 the northwest Indiana regional development authority in
 42 financing rail projects, including the mainline double tracking



1 **project.**
2 **SECTION 161. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1374, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 22, delete lines 2 through 42.

Page 23, line 1, delete "(3)" and insert "(2)".

Page 23, delete lines 3 through 5.

Page 23, line 19, delete "IC 5-1.2-8," and insert "**IC 5-1.2-9**,".

Page 23, line 34, delete "IC 5-1.2-1;" and insert "**IC 5-1.2-9; and**".

Page 23, line 37, delete "; and" and insert ".".

Page 23, delete lines 38 through 40.

Page 24, line 40, delete ""Environmental remediation" and insert **""Indiana brownfields"**.

Page 24, line 41, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 24, line 42, delete ""Environmental remediation" and insert **""Indiana brownfields"**.

Page 25, line 1, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 25, line 8, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 25, line 10, after "the" insert "**water**".

Page 25, line 11, after "local" insert "**transportation**".

Page 25, line 38, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 26, line 14, delete "and".

Page 26, line 19, after "illness;" insert "**or**".

Page 26, delete lines 21 through 24, begin a new line double blocked indented and insert:

"(C) as a licensed child caring institution that provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located."

Page 26, line 36, delete "and".

Page 26, line 41, after "illness;" insert "**or**".

Page 27, delete lines 1 through 4, begin a new line blocked indented and insert:

"(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located."



- Page 27, delete lines 7 through 8.
- Page 27, line 9, delete "38." and insert "37."
- Page 27, line 11, delete "39." and insert "38."
- Page 27, line 14, delete "40." and insert "39."
- Page 27, line 17, delete "41." and insert "40."
- Page 27, line 24, delete "42." and insert "41."
- Page 27, line 28, delete "43." and insert "42."
- Page 27, line 31, delete "44." and insert "43."
- Page 27, line 31, before "infrastructure" insert "**transportation**".
- Page 27, line 33, delete "45. "Local" and insert "**44. "Local transportation**".
- Page 27, line 34, after "local" insert "**transportation**".
- Page 27, line 35, delete "46. "Local" and insert "**45. "Local transportation**".
- Page 27, line 36, before "infrastructure" insert "**transportation**".
- Page 27, line 36, after "local" insert "**transportation**".
- Page 27, line 38, delete "47." and insert "46."
- Page 27, line 40, delete "48." and insert "47."
- Page 28, line 2, delete "49." and insert "48."
- Page 28, line 5, delete "50." and insert "49."
- Page 28, line 9, delete "51." and insert "50."
- Page 28, line 14, delete "52." and insert "51."
- Page 28, line 17, delete "53." and insert "52."
- Page 28, line 22, delete "54." and insert "53."
- Page 29, line 3, delete "55." and insert "54."
- Page 29, line 19, delete "environmental remediation" and insert "**Indiana brownfields**".
- Page 29, line 21, after "the" insert "**water**".
- Page 29, line 28, after "local" insert "**transportation**".
- Page 29, line 37, delete "56." and insert "55."
- Page 31, line 25, delete "57." and insert "56."
- Page 31, line 28, delete "58." and insert "57."
- Page 31, between lines 39 and 40, begin new paragraph and insert:
"Sec. 58. "Pollution", for purposes of IC 5-1.2-9, means all forms of environmental pollution, including water pollution, air pollution, sewage, solid and radioactive waste, thermal pollution, radiation contamination, and noise pollution.
- Sec. 58.4. "Pollution control facility", for purposes of IC 5-1.2-9, means a facility for the abatement, reduction, or prevention of pollution or for the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used. This includes the following:**



(1) Coal washing, coal cleaning, or coal preparation facilities designed to reduce the sulfur and ash levels of Indiana coal.

(2) Coal-fired boiler facilities designed to reduce emissions while burning Indiana coal.

(3) Pollution control equipment to allow for the environmentally sound use of Indiana coal."

Page 31, line 42, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 32, line 3, after "the" insert **"water"**.

Page 32, line 5, after "local" insert **"transportation"**.

Page 32, line 19, after "article," insert **"IC 5-1-17, IC 5-1-17.5,"**.

Page 32, line 42, delete "environmental".

Page 33, line 1, delete "remediation" and insert **"Indiana brownfields"**.

Page 34, line 8, delete "under this chapter".

Page 35, between lines 2 and 3, begin new paragraph and insert:

"Sec. 83. "Water infrastructure assistance program" refers to the infrastructure assistance program established by IC 5-1.2-14."

Page 35, line 12, delete "six (6)" and insert **"seven (7)"**.

Page 35, delete lines 20 through 23, begin new paragraph and insert:

"(d) The sixth and seventh members are nonvoting members. Each of these members must be a member of the general assembly. The chairperson and the vice chairperson of the legislative council shall each appoint one (1) of the nonvoting members."

Page 46, delete lines 17 through 31, begin new line block indented and insert:

"(1) enter into leases and issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to:

(A) acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17;

(B) acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1; or

(C) carry out the purposes of IC 5-1-17.5 within a motorsports investment district.

(2) perform any other functions determined by the authority to be necessary or appropriate to carry out the purposes of this section."

Page 48, line 35, delete "11" and insert **"10"**.

Page 50, delete lines 7 through 9.



Page 50, line 10, delete "(d)" and insert "(c)".

Page 50, line 17, delete "(e)" and insert "(d)".

Page 50, line 17, delete "section:" and insert "**section are not:**".

Page 50, line 18, delete "are not".

Page 50, line 20, delete "are".

Page 54, line 14, delete "subsections (b) and (c)," and insert "**subsection (b),**".

Page 57, delete lines 17 through 23, begin a new paragraph and insert:

"Sec. 34. The public finance director shall prepare an annual report that provides an update on transportation projects in which the authority is involved."

Page 57, line 24, after "submitted" insert "**to the legislative council**".

Page 59, line 22, after "bonds" insert "**are appropriated for and**".

Page 65, line 15, after "bonds" insert "**are appropriated for and**".

Page 67, line 6, delete "The authority may initiate" and insert "**(a) The authority has all the powers necessary to carry out and effectuate its public purposes under this chapter, including initiating**".

Page 67, between lines 9 and 10, begin new line block indented and insert:

"(1) Provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health facility property to be located within a health facility.

(2) Lease as lessor any item of health facility property for those rentals and upon the terms and conditions as the authority considers advisable and are not in conflict with this chapter.

(3) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter and IC 5-1.2-4.

(4) Assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the



proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

(5) Employ and enter into agreements with, and delegate to any person as the authority sees fit, the power to manage the routine affairs of the authority, including the originating and processing of any applications from participating providers for the lease or purchase from the authority, or financing, reimbursing, or refinancing by the authority, of health facility property and to service the leases, installment purchase contracts, and loan agreements between the authority and the participating providers."

Page 67, line 10, delete "(1)" and insert "**(6)**".

Page 67, line 16, delete "(2)" and insert "**(7)**".

Page 67, line 17, delete "IC 5-1.2-4-1(a)(10)," and insert "**IC 5-1.2-4-1(a)(10) and IC 5-1.2-4-1(a)(33)**".

Page 67, line 21, delete "(3)" and insert "**(8)**".

Page 67, line 31, delete "(4)" and insert "**(9)**".

Page 67, line 39, delete "(5)" and insert "**(10)**".

Page 67, line 42, delete "(6)" and insert "**(11)**".

Page 68, line 3, delete "(7)" and insert "**(12)**".

Page 68, line 6, delete "(8)" and insert "**(13)**".

Page 68, between lines 11 and 12, begin new paragraph and insert:

"(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution of the authority, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lien holders and other creditors."

Page 68, between lines 20 and 21, begin new paragraph and insert:



"Sec. 7. (a) The authority may issue, sell, and deliver its bonds, in accordance with IC 5-1.2-4 and this chapter, for the purpose of paying for or making loans to participating providers for the financing, reimbursing, or refinancing of all or any part of the cost of health facility property, to finance the acquisition of health facility property for lease or sale to participating providers, and any other purposes authorized by this chapter.

(b) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium on these bonds and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of these bonds, and, if considered advisable by the authority, for the additional purpose of paying all or any part of the cost of health facility property.

(c) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of the outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity of the bonds and may, pending such an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the authority. Subject to the provisions of any trust indenture to the contrary, any of the escrowed proceeds, pending such a use, may be invested and reinvested in obligations as are determined by the authority to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on such an investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments shall be returned to the authority or the participating providers for use by them in any lawful manner. All the bonds are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

(d) The proceeds of the bonds (other than refunding bonds) of each issue shall be used for the payment of all or part of the cost of, or for the making of a loan in the amount of all or part of the cost of, the health facility property for which the bonds have been



authorized and, at the option of the authority, for the deposit to a reserve fund or reserve funds for the bonds. However, the authority may be paid, out of money from the proceeds of the sale and delivery of its bonds issued in accordance with this chapter, all of the authority's out-of-pocket expenses and costs in connection with the issuance, sale, and delivery of the bonds, and the costs of obtaining insurance, guarantees, and letters of credit securing payment of the bonds and the lease and the loan and installment purchase payments, plus an amount equal to the compensation paid to any employees of the authority for the time those employees have spent on activities relating to the issuance, sale, and delivery of the bonds. Bond proceeds shall be disbursed in the manner and under the restrictions determined by the authority.

Sec. 8. (a). Any bond resolution or related trust indenture, indenture of mortgage, or deed of trust may contain provisions, which must be a part of the contract with the holders of the bonds to be authorized, as to pledging or assigning the revenues generated by the health facility property, pledging or assigning the notes and mortgage, lease, or other security given by the participating providers whose health facility property has been financed with the proceeds of the bonds or other specified revenues or property of the authority."

Page 68, line 21, delete "7." and insert "9."

Page 68, line 24, delete "or of notes".

Page 68, line 28, after "(2)" insert "a pooling of notes and".

Page 68, line 34, delete "8." and insert "10."

Page 68, between lines 35 and 36, begin new paragraph and insert:

"Sec. 11. Any holder of bonds or any coupons appertaining to the bonds, and the trustee under any trust agreement or resolution authorizing the issuance of the bonds, except to the extent the rights given in this chapter may be restricted by the trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of Indiana, or under the trust agreement resolution, or under any other contract executed by the authority under this chapter, and enforce and compel the performance of all duties required by this chapter or by the agreement or resolution to be performed by the authority or by any officer of the authority.

Sec. 12. All property acquired or held by the authority under this chapter is declared to be public property used for public and governmental purposes, and all property, income from the



property and bonds issued under this chapter, interest payable on the bonds and income derived from the bonds, are exempt from all taxes, direct or indirect, imposed by the state, any county, any city, or any political subdivision of the state.

Sec. 13. Nothing in this chapter may be construed as a restriction or limitation upon any powers which the authority might otherwise have under any other law of this state, and this chapter is cumulative to these powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized, and shall be construed as supplemental to powers conferred by any other laws. The adoption by the authority of bylaws and rules, and the issuance of bonds by the authority under this chapter need not comply with the requirements of any other state laws applicable to the adoption of bylaws and rules and the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval is required for the issuance of any bonds or any instrument or the security for the bonds or instruments, or for the proper conduct of the authority's business, affairs, or operations, except as provided in this chapter."

Page 68, line 36, delete "9." and insert "14."

Page 69, line 14, delete "10." and insert "15."

Page 69, line 30, delete "11." and insert "16."

Page 70, line 20, delete "12." and insert "17."

Page 71, line 1, delete "13." and insert "18."

Page 71, line 5, delete "9 or 10" and insert "14 or 15".

Page 72, line 28, delete "14." and insert "19."

Page 73, line 11, delete "15." and insert "20."

Page 73, line 20, delete "16." and insert "21."

Page 74, line 8, delete "17." and insert "22."

Page 83, line 17, after "not" insert "**exclusively either a pollution control facility or**".

Page 83, line 19, delete "and".

Page 83, line 23, delete "state." and insert "**state; and**".

Page 83, between lines 23 and 24, begin a new line block indented and insert:

"(6) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution."

Page 84, line 3, delete "This resolution may also authorize the".

Page 84, delete lines 4 through 13.

Page 88, between lines 9 and 10, begin new paragraph and insert:

"(b) With respect to any bonds issued under this chapter, the



cumulative terms of refunding bonds may not exceed fifty (50) years."

Page 88, line 10, delete "(b)" and insert "(c)".

Page 88, line 20, delete "(c)" and insert "(d)".

Page 88, line 27, delete "state." and insert "**state, except for pollution control equipment.**".

Page 90, line 1, delete "only".

Page 90, line 3, delete "only".

Page 90, line 41, delete "The" and insert "**For the purposes of this chapter, the**".

Page 97, line 40, delete "Environmental Remediation Revolving Loan" and insert "**Indiana Brownfields**".

Page 98, line 3, delete "environmental remediation revolving loan" and insert "**Indiana brownfields**".

Page 98, line 26, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 98, line 33, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 98, line 34, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 98, line 36, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 98, line 39, delete "environmental".

Page 98, line 40, delete "remediation" and insert "**Indiana brownfields**".

Page 98, line 42, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 99, line 5, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 99, line 20, delete "environmental".

Page 99, line 21, delete "remediation" and insert "**Indiana brownfields**".

Page 99, line 25, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 99, line 38, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 100, line 26, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 100, line 30, delete "environmental remediation" and insert "**Indiana brownfields**".

Page 100, line 34, delete "environmental remediation" and insert "**Indiana brownfields**".



Page 100, line 35, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 101, line 33, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 102, line 5, delete "environmental".

Page 102, line 6, delete "remediation" and insert **"Indiana brownfields"**.

Page 102, line 7, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 102, line 28, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 102, line 29, delete "may" and insert **"shall"**.

Page 103, line 10, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 103, line 32, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 103, line 38, after "to" insert **"or for the benefit of"**.

Page 103, line 39, after "to" insert **"or for the benefit of"**.

Page 104, line 1, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 104, line 16, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 104, line 18, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 104, line 29, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 105, line 6, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 105, line 20, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 105, line 23, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 106, line 9, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 106, line 19, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 106, line 20, delete "environmental remediation" and insert **"Indiana brownfields"**.

Page 106, delete line 36.

Page 106, line 37, delete "remediation" and insert **"the Indiana brownfields program and the Indiana brownfields"**.

Page 107, line 6, delete "to a" and insert **"to or for the benefit of a"**.



- Page 110, line 41, after "14." insert "**Water**".
- Page 111, line 3, after "The" insert "**water**".
- Page 111, line 4, after "The" insert "**water**".
- Page 111, line 34, before "infrastructure" insert "**water**".
- Page 111, line 41, after "the" insert "**water**".
- Page 112, line 32, after "the" insert "**water**".
- Page 112, line 34, after "the" insert "**water**".
- Page 113, line 39, after "the" insert "**water**".
- Page 114, line 8, after "the" insert "**water**".
- Page 114, line 22, after "the" insert "**water**".
- Page 114, line 25, after "the" insert "**water**".
- Page 114, line 38, after "the" insert "**water**".
- Page 115, line 2, after "the" insert "**water**".
- Page 115, line 7, after "the" insert "**water**".
- Page 115, line 17, after "the" insert "**water**".
- Page 115, line 19, after "the" insert "**water**".
- Page 115, line 38, after "the" insert "**water**".
- Page 116, line 12, after "the" insert "**water**".
- Page 116, line 18, after "Local" insert "**Transportation**".
- Page 116, line 21, after "local" insert "**transportation**".
- Page 116, line 23, after "local" insert "**transportation**".
- Page 117, line 14, after "local" insert "**transportation**".
- Page 117, line 42, after "local" insert "**transportation**".
- Page 118, line 3, after "local" insert "**transportation**".
- Page 118, line 11, after "local" insert "**transportation**".
- Page 118, line 30, after "local" insert "**transportation**".
- Page 118, line 34, after "local" insert "**transportation**".
- Page 120, line 1, delete "6" and insert "7".
- Page 120, line 23, after "local" insert "**transportation**".
- Page 123, line 40, after "PROJECTS" insert "**FOR THE NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY AND THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT**".
- Page 124, delete lines 6 through 19.
- Page 124, line 20, delete "(5)" and insert "**(2)**".
- Page 124, line 26, delete "(6)" and insert "**(3)**".
- Page 125, line 8, delete "NWIRDA" and insert "**IFA, the NWIRDA,**".
- Page 125, line 35, delete "or".
- Page 125, line 36, after "NWIRDA;" insert "**or**".
- Page 125, between lines 36 and 37, begin a new line block indented and insert:



"(3) the NICTD;"

Page 127, line 26, delete "northwest" and insert "**northern**".

Page 128, line 12, delete "includes" and insert "**includes, but is not limited to,**".

Page 128, line 13, after "equipment," insert "**rail track, embankments, rights of way, sidings, passenger stations or platforms, parking lots, overpasses, railroad bridges, ancillary structures and related safety systems equipment and technology,**".

Page 129, line 24, delete "(referred" and insert "**(each entity referred**".

Page 129, line 32, delete "(referred" and insert "**(each entity referred**".

Page 131, line 19, after "NICTD" insert "**may utilize and**".

Page 131, line 26, delete "(5);" and insert "**(5) as determined by the NWIRDA or the NICTD, whichever is appropriate,**".

Page 131, line 35, after "to" insert "**and for the construction of**".

Page 134, line 24, delete "fifty (50)" and insert "**forty (40)**".

Page 142, line 23, delete "IC 5-1.2-2-55);" and insert "**IC 5-1.2-2-54);**".

Page 158, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 45. IC 5-28-28.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 0.5. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than three hundred eighty-four (384) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than three hundred eighty-four (384) kilobits per second, the voice transmission capacity may be less than three hundred eighty-four (384) kilobits per second. The authority shall annually reconsider the three hundred eighty-four (384) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.**

SECTION 46. IC 5-28-28.5-8, AS ADDED BY P.L.33-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8. (a) As used in this section, "broadband adoption" refers to an agreement by a customer to subscribe to broadband services (as defined in IC 8-1-33-8) that are:**



- (1) offered by a communications service provider; and
- (2) available to the customer.

(b) A unit that wishes to be certified as a broadband ready community must establish a procedure to promote broadband adoption in the unit after the unit is certified as a broadband ready community. The procedure must include the following:

- (1) A single point of contact in charge of broadband adoption in the unit.
- (2) An assurance that each communications service provider that already provides broadband services in the unit will be notified that the unit is applying to be a broadband ready community.
- (3) An assurance that the unit will work with communications service providers to promote broadband adoption in the unit.

(c) A procedure established under subsection (b) may not do the following:

- (1) Discriminate among communications service providers with respect to promoting broadband adoption in the unit.
- (2) Impose a fee on communications service providers to fund promotion of broadband adoption in the unit.

SECTION 47. IC 5-28-30-1 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 4: As used in this chapter, "broadband development project" means a project authorized by the broadband development program under IC 8-1-33.~~

Page 159, line 21, delete "(9)".

Page 159, line 21, strike "A broadband development project."

Page 162, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 55. IC 5-28-33-8 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 8: In implementing this chapter, the corporation shall consult with the Indiana finance authority to avoid unnecessary duplication of efforts under this chapter and IC 8-1-33.~~"

Page 170, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 62. IC 8-1-29.5-7, AS AMENDED BY P.L.162-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) In imposing a civil penalty under section 6(b)(4) of this chapter, the commission may consider the following factors:

- (1) The duration and gravity of the offense, including the number of customers affected.
- (2) Economic benefits accrued by the provider or certificate holder as a result of the offense.



(3) The amount of a civil penalty that will deter future offenses by the provider or certificate holder.

(4) The market share of the provider or certificate holder in the affected service areas.

(5) Good faith of the provider or certificate holder in attempting to remedy the offense after receiving notification of the offense.

(b) If the commission waives a civil penalty for any offense described in section 6(b)(4) of this chapter, the commission must make a written finding as to why it is waiving the civil penalty. The commission may waive a civil penalty under section 6(b)(4) of this chapter if the commission finds that the offense is the result of any of the following:

(1) Technological infeasibility.

(2) An act of God.

(3) A defect in, or prohibited use of, customer provided equipment.

(4) A negligent act of a customer.

(5) An emergency situation.

(6) Unavoidable casualty.

(c) The secretary of the commission shall direct a civil penalty imposed and collected under section 6(b)(4) of this chapter as follows:

(1) A civil penalty imposed for an offense that directly affects retail customers must be refunded directly to the customers of the provider or certificate holder in the form of credits on customer bills.

(2) A civil penalty imposed for an offense not described in subdivision (1) must be deposited into an account designated by the Indiana economic development corporation for use by the corporation in making loans or grants to broadband developers and operators. ~~under the Indiana broadband development program established by IC 8-1-33-15.~~

Page 171, delete lines 13 through 17, begin a new paragraph and insert:

"SECTION 65. IC 8-1-33 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Broadband Development Program)."

Page 183, line 41, delete "7(b)(3)" and insert "**7(b)(4)**".

Page 187, line 23, delete "IC 5-1.2-9-27(a), IC 5-1.2-9-27(b)," and insert "**IC 5-1.2-9-27**,".

Page 187, line 39, delete "IC 5-1.2-9-27(a), IC 5-1.2-9-27(b)," and insert "**IC 5-1.2-9-27**,".

Page 189, line 26, delete "IC 5-1.2-4-17." and insert "**IC 5-1.2-4-19**,".



Page 200, line 22, strike "environmental remediation".

Page 200, line 23, after "loan" insert "**Indiana brownfields**".

Page 210, line 36, strike "environmental remediation revolving loan" and insert "**the Indiana brownfields**".

Page 211, line 39, after "authority" insert "**may utilize and**".

Page 212, line 4, delete "(4);" and insert "**(4) as determined by the NWIRDA or the NICTD, whichever is appropriate;**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1374 as introduced.)

BROWN T

Committee Vote: yeas 18, nays 0.

