

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 ENROLLED ACT No. 1374

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:

SECTION 1. IC 4-3-26-2, AS ADDED BY P.L.269-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) As used in this chapter, "executive state agency" refers to any agency, authority, board, bureau, commission, department, division, office, or other unit of state government in the executive, including the administrative, department of state government established by any of the following:

- (1) The Constitution of the State of Indiana.
- (2) An Indiana statute.
- (3) An administrative rule.
- (4) An executive order.
- (b) The term does not include the following:
 - (1) The legislative department of state government.
 - (2) The judicial department of state government.
 - (3) The Indiana finance authority ~~created~~ **established** by ~~IC 4-4-11-4~~. **IC 5-1.2-3-1**.
 - (4) A political subdivision.
 - (5) A state educational institution.

SECTION 2. IC 4-4-10.9 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Finance Authority Law; Definitions).

SECTION 3. IC 4-4-11 IS REPEALED [EFFECTIVE JULY 1,

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2018]. (Indiana Finance Authority).

SECTION 4. IC 4-4-11.2 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Additional Authority: Underground Petroleum Storage Tank Excess Liability Fund).

SECTION 5. IC 4-4-11.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. (State Private Activity Bond Ceiling).

SECTION 6. IC 4-4-11.6 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Additional Authority; Substitute Natural Gas Contracts).

SECTION 7. IC 4-4-11.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Monitoring, Study, and Assessment by Indiana Finance Authority).

SECTION 8. IC 4-4-21 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Finance Authority; Export Promotion).

SECTION 9. IC 4-10-19 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Local Infrastructure Revolving Fund).

SECTION 10. IC 4-12-1-14.9, AS ADDED BY P.L.213-2015, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 14.9. (a) As used in this section, "account" refers to the state bicentennial capital account established by subsection (c).

(b) As used in this section, "bicentennial commission" refers to the Indiana 2016 bicentennial commission established by IC 4-23-33-3 **(expired)**.

(c) The state bicentennial capital account is established within the state general fund for the purposes set forth in subsection (f). The account shall be administered by the budget agency. The account consists of the following:

- (1) Money transferred to the account under IC 4-13-1-4(10). ~~or IC 8-15.5-1-2(g).~~
- (2) Appropriations, if any, made by the general assembly.
- (3) Grants and gifts intended for deposit in the account.
- (4) Any earnings on money in the account.

(d) The expenses of administering the account shall be paid from money in the account.

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

(f) Money in the account may be used only for capital projects that commemorate the bicentennial of Indiana's statehood.

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

SECTION 11. IC 4-13-1-4, AS AMENDED BY P.L.213-2015, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2018]: Sec. 4. The department shall, subject to this chapter, do the following:

- (1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.
- (2) Supervise and regulate the making of contracts by state agencies.
- (3) Perform the property management functions required by IC 4-20.5-6.
- (4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.
- (5) Maintain and operate the following for state agencies:
 - (A) Central duplicating.
 - (B) Printing.
 - (C) Machine tabulating.
 - (D) Mailing services.
 - (E) Centrally available supplemental personnel and other essential supporting services.

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

- (6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.
- (7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:
 - (A) Per diem.
 - (B) For expenses necessarily and actually incurred.
 - (C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the



commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

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

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

(A) not needed for public use; or

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

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

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

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

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned,



operated, or maintained by any state agency:

- (A) inspect;
 - (B) regulate their operation; and
 - (C) recommend improvements to those plants to promote economical and efficient operation.
- (15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.
- (16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.2.
- (17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.
- (18) Administer, determine salaries, and determine other personnel matters of the department of child services ombudsman established by IC 4-13-19-3.

SECTION 12. IC 4-13.5-1 IS REPEALED [EFFECTIVE JULY 1, 2018]. (General Provisions).

SECTION 13. IC 4-13.5-4 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Use and Management of Office Buildings).

SECTION 14. IC 4-13.6-8-1, AS AMENDED BY P.L.235-2005, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "commission" means the Indiana finance authority established by ~~IC 4-4-11-4~~. **IC 5-1.2-3-1.**

SECTION 15. IC 4-15-2.2-11, AS ADDED BY P.L.229-2011, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. As used in this chapter, "state institution" means any of the following:

- (1) A state institution (as defined in IC 12-7-2-184).
- (2) A correctional facility (as defined in ~~IC 4-13.5-1-1~~) owned by the state and operated by the department of correction.
- (3) The Indiana School for the Deaf established by IC 20-22-2-1.
- (4) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.
- (5) The Indiana Veterans' Home as described in IC 10-17-9.
- (6) Any other facility owned and operated by the state whose employees participate in the state civil service.

SECTION 16. IC 4-33-13-5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a



historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

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

(A) Before July 1, 2021, the first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

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

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

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

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

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

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

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

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

(ii) a city located in a county having a population of more



than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the state general fund. In each state fiscal year, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the state general fund in the immediately following month.

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

(1) Fifty-six and five-tenths percent (56.5%) shall be paid to the state general fund.

(2) Forty-three and five-tenths percent (43.5%) shall be paid as follows:

(A) Twenty-two and four-tenths percent (22.4%) shall be paid as follows:

(i) Fifty percent (50%) to the fiscal officer of the town of French Lick.

(ii) Fifty percent (50%) to the fiscal officer of the town of West Baden Springs.

(B) Fourteen and eight-tenths percent (14.8%) shall be paid to the county treasurer of Orange County for distribution among the school corporations in the county. The governing bodies for the school corporations in the county shall provide a formula for the distribution of the money received under this clause among the school corporations by joint resolution adopted by the governing body of each of the school corporations in the county. Money received by a school corporation under this clause must be used to improve the educational attainment of students enrolled in the school corporation receiving the money. Not later than the first regular meeting in the school year of a governing body of a



school corporation receiving a distribution under this clause, the superintendent of the school corporation shall submit to the governing body a report describing the purposes for which the receipts under this clause were used and the improvements in educational attainment realized through the use of the money. The report is a public record.

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

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

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

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

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

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

(i) Beginning after December 31, 2017, ten percent (10%) of the amount transferred under this clause in each calendar year shall be transferred to the South Central Indiana Regional Economic Development Corporation or a successor entity or partnership for economic development for the purpose of recruiting new business to Orange County as well as promoting the retention and expansion of existing businesses in Orange County.

(ii) The remainder of the amount transferred under this



clause in each calendar year shall be transferred to Radius Indiana or a successor regional entity or partnership for the development and implementation of a regional economic development strategy to assist the residents of Orange County and the counties contiguous to Orange County in improving their quality of life and to help promote successful and sustainable communities.

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

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

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

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

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

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund



under IC 4-32.2-7-7.

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

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

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

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

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

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

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

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

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

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

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) Before July 15 of each year, the treasurer of state shall determine



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

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

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

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

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

- (1) Before July 1, 2021, forty-eight million dollars (\$48,000,000).
- (2) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is equal to or greater than the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020, the maximum amount is forty-eight million dollars (\$48,000,000).
- (3) After June 30, 2021, if the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year is less than the total



adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020, the maximum amount is equal to the result of:

- (A) forty-eight million dollars (\$48,000,000); multiplied by
- (B) the result of:
 - (i) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the preceding state fiscal year; divided by
 - (ii) the total adjusted gross receipts received by licensees from gambling games authorized under this article during the state fiscal year ending June 30, 2020.

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

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

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

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

(k) Money distributed to a political subdivision under subsection (b):

- (1) must be paid to the fiscal officer of the political subdivision and may be deposited in the political subdivision's general fund or riverboat fund established under IC 36-1-8-9, or both;
- (2) may not be used to reduce the maximum levy under



IC 6-1.1-18.5 of a county, city, or town or the maximum tax rate of a school corporation, but, except as provided in subsection (b)(2)(B), may be used at the discretion of the political subdivision to reduce the property tax levy of the county, city, or town for a particular year;

(3) except as provided in subsection (b)(2)(B), may be used for any legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

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

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

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

SECTION 17. IC 4-37-3-1, AS ADDED BY P.L.167-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. The corporation is governed by a board of trustees that consists of the following members:

(1) Thirteen (13) persons appointed by the governor who are voting members. The governor's appointments **under this subdivision** must meet the following criteria:

(A) Each member must be a resident of Indiana.

(B) Not more than two (2) members may reside in the same county.

(C) At least one (1) member must be a recognized supporter of historic sites.

(D) Not more than seven (7) members may be from the same political party.

(2) **One (1) person who is appointed at-large by the governor and who is a voting member. The member appointed under**



this subdivision must be a resident of Indiana but may reside in any county.

~~(2)~~ **(3)** Twelve (12) persons appointed by the board who are voting members. The board's appointments **under this subdivision** must meet the following criteria:

- (A) Each member must be a resident of Indiana.
- (B) Not more than two (2) members may reside in the same county.
- (C) At least one (1) member must be a recognized supporter of historic sites.
- (D) Not more than six (6) members may be from the same political party.

(4) One (1) person who is appointed at-large by the board and who is a voting member. The member appointed under this subdivision must be a resident of Indiana but may reside in any county.

~~(3)~~ **(5)** The following persons serve as nonvoting members of the board:

- (A) The chief executive officer.
- (B) The governor or the governor's designee.
- (C) One (1) member of the house of representatives appointed by the chairman of the legislative council.
- (D) One (1) member of the senate appointed by the chairman of the legislative council.
- (E) The director of the department of natural resources or the director's designee.

The members appointed under clauses (C) and (D) must be from different political parties and serve at the pleasure of the chairman of the legislative council.

SECTION 18. IC 4-37-4-3, AS ADDED BY P.L.167-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. The board may do the following:

- (1) Do any and all acts and things necessary, proper, or convenient to carry out this article.
- (2) Hold meetings under IC 5-14-1.5 at the times and places in Indiana that are prescribed by the board's bylaws.
- (3) Adopt an official seal.
- (4) Adopt bylaws.
- (5) Make and execute contracts and other instruments necessary or convenient to the exercise of the board's powers.
- (6) Acquire by grant, purchase, gift, devise, or lease or otherwise and hold, use, sell, lease, manage, operate, clear, improve,



encumber, transfer, convey, exchange, or dispose of the following:

- (A) Real and personal property and any interest in real or personal property.
 - (B) Facilities.
 - (C) Money or stocks.
 - (D) Any right or interest necessary or useful for carrying out the board's powers and duties under this article.
- (7) Procure insurance against any loss in connection with the board's operations.
- (8) Enter into contractual or other arrangements with the Indiana department of administration in connection with the financing of the state museums under IC 4-13.5.
- (9) Notwithstanding IC 4-13.5-4-5 (**before its repeal**), allocate space in museums financed by the Indiana finance authority under IC 4-13.5.
- (10) Fix and collect rents, admission charges, fees, tolls, and other user charges for:
- (A) the state museums;
 - (B) restaurants;
 - (C) other facilities; and
 - (D) programs, lectures, classes, tours, and trips.
- (11) Maintain shops and restaurants on property that the board manages and at other locations and employ or contract with persons to manage the shops and restaurants.
- (12) Make or sell the following:
- (A) Pictures, models, books, and other representations of the museum and its artifacts and exhibits.
 - (B) Souvenirs, crafts, art, videotapes, digital video discs, and other merchandise.
- (13) Pay royalties, license fees, or charges for exhibits, artifacts, artwork, or materials.
- (14) Own copyrights, trademarks, and service marks and enforce the board's rights with respect to ownership.
- (15) Conduct market research concerning the state museums.
- (16) Adopt rules under IC 4-22-2 to carry out the purposes of this article.

SECTION 19. IC 5-1-16 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Finance Authority Financing of Health Facilities).

SECTION 20. IC 5-1-16.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Health and Educational Facilities Financing Authority; Additional Provisions; Financing Projects for Private Colleges and



Universities; Participation in Risk Retention Group).

SECTION 21. IC 5-1-17-5, AS ADDED BY P.L.214-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. As used in this chapter, "state agency" has the meaning set forth in ~~IC 4-13.5-1-1~~. **IC 5-1.2-2.**

SECTION 22. IC 5-1-17.5-3 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 3: As used in this chapter, "affected statutes" has the meaning set forth in IC 4-4-10.9-1.2.~~

SECTION 23. IC 5-1-17.5-6, AS ADDED BY P.L.233-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. As used in this chapter, "bonds" has the meaning set forth in ~~IC 4-4-10.9-2~~. **IC 5-1.2-2-5.**

SECTION 24. IC 5-1-17.5-31, AS ADDED BY P.L.233-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 31. The authority may do any of the following:

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

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

ARTICLE 1.2. INDIANA FINANCE AUTHORITY

Chapter 1. Purpose and Scope of Authority; General Provisions

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

- (1) **Assisting, at the request of a state agency, with project or program development on behalf of or in cooperation with the state agency.**
- (2) **Providing decision making concerning access to the capital and financial markets in the name of, or for the benefit of, the state.**
- (3) **Enabling the state to communicate, with a single voice, with the various participants in the financial markets, including credit rating agencies, investment bankers, investors, and municipal bond insurers and other credit enhancers.**
- (4) **Facilitating opportunities for gainful employment and business opportunities by the financing of economic development projects, intrastate and interstate sales, transactions, and business activities.**



(5) Facilitating the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the financing of educational facility projects.

(6) Preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the financing of economic development projects; and

(B) carrying out the purposes of this article.

(7) Facilitating the provision of safe and adequate drinking water, helping to upgrade deteriorating infrastructure, and facilitating wastewater and storm water management to positively affect the public health and well-being of the people of the state.

(8) Financing state and local infrastructure, facilities, and assets that are publicly owned, operated, or otherwise supported under this article.

(9) Carrying out the purposes of IC 5-1-17.5 concerning a motorsports investment district.

(10) Administering a regional development authority infrastructure fund established under IC 36-9-43-9.

(11) Managing, applying, and operating each of the programs in a manner to positively affect the public health, economic welfare, and well-being of the state and its citizens.

(12) Otherwise positively affecting the public health, economic welfare, and well-being of the state and its citizens by carrying out the purposes of this article.

Sec. 2. This article and the referenced statutes shall be liberally construed to effect the purposes of this article and the referenced statutes.

Sec. 3. Any general, special, or local law that is made applicable to a particular entity by referring to an officer or office of the state, an agency, a state agency, an authority, a board, a commission, a committee, a department, a division, a bureau, an instrumentality, an institution, an association, a service agency, a body corporate and politic created by statute, or any other entity of the executive, including the administrative, department of state government, or a similar reference or term, is not applicable to the authority, unless the reference is made specifically applicable to or in the name of the authority or to or by naming any statutes that are



specific to the authority, including the referenced statutes. However, the following statutes apply to the authority:

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

Chapter 2. Definitions

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

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

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

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

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

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

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

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

Sec. 5. "Bonds" means any bonds, mortgage credit certificates, notes, debentures, interim certificates, revenue anticipation notes, warrants, or any other evidence of indebtedness of the authority, and, for purposes of a refunding issue, means the same types of



such evidence of indebtedness of the authority and types of evidence of indebtedness of a unit (as defined in IC 36-1-2-23) issued for the purpose of refunding, renewing, paying, or otherwise providing for the payment of any such evidence of indebtedness.

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

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

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

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

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

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

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

Sec. 12. "Cost" includes the following:

- (1) As applied to financing a health facility and health facility property under IC 5-1.2-7, the following:
 - (A) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.
 - (B) The cost of any property interest in health facility



property, including an option to purchase a leasehold interest.

(C) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(D) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(E) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of the health facility property for up to two (2) years after the construction, acquisition, and installation or refinancing, and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(F) The costs paid or incurred in connection with the financing of health facility property, including:

- (i) out-of-pocket expenses;
- (ii) the cost of any policy of insurance;
- (iii) the cost of printing, engraving, and reproduction services; and
- (iv) the cost of the initial or acceptance fee of any trustee or paying agent.

(G) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(H) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority, and any program for the sale or lease of or making of loans for health facility property to any participating provider.

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



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

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

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

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

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

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

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

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

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

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

(1) is suitable for:

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

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

(C) use by a nonprofit college or university in connection with any educational, research, or related or incidental activity conducted by the nonprofit college or university; and

(2) is not used or is not to be used for sectarian instruction or



study or as a place for devotional activities or workshop.

Sec. 21. (a) "Educational facility project" includes the following:

(1) As applied to an educational facility project under IC 5-1.2-8, the following:

(A) The acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a nonprofit college or university.

(B) The funding of any liability, other loss, or insurance reserves or the funding and contribution of these insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses.

(2) As applied to an educational facility project under IC 5-1.2-9, the following:

(A) The acquisition of land, site improvements, infrastructure improvements, buildings, or structures, the rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these):

- (i) comprising or being functionally related and subordinate to any aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies, zoological societies, and independent elementary, secondary, or postsecondary educational institutions (or any combination of these) that engage in the cultural, intellectual, scientific, educational, or artistic enrichment of the people of the state, the development or expansion of which serves the purposes set forth in IC 5-1.2-9; and**
- (ii) not used or not to be used primarily for sectarian instruction or study or as a place for devotional activities.**

(B) Funding (including reimbursement or refinancing) by a nonprofit organization described in subsection (b) of:

- (i) real property and improvements;**
- (ii) personal property; or**
- (iii) noncapital costs to fund a judgment, a settlement, or other cost or liability, other than an ordinary and recurring operating cost or expenditure.**

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



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

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

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

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

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

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

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

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

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

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

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

(6) The establishment of floodways.

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

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

Sec. 25. "Equipment", for purposes of an economic development project under IC 5-1.2-9, means any capital item.

Sec. 26. (a) "Financial assistance agreement", for purposes of the wastewater program and drinking water program established under IC 5-1.2-10, the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, the water infrastructure assistance program established under IC 5-1.2-14, and the local transportation infrastructure program established under IC 5-1.2-15, refers to a



financial assistance agreement, financial aid agreement, or any other obligation between the authority and a participant under those chapters establishing the terms and conditions of a grant, loan, or other financial assistance, including forgiveness of principal if allowed under federal law, by the authority to the participant under those chapters.

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

Sec. 27. "Financing agreement", for purposes of an economic development project under IC 5-1.2-9, means an agreement that is entered into between the authority and a developer, user, or lender concerning the financing of, the title to, or possession of an economic development project and that provides for payments to the authority in an amount sufficient to pay the principal of, premium on, if any, and interest on bonds authorized by the authority for the financing of an economic development project.

Sec. 28. "Flood control fund" refers to the flood control fund established by IC 5-1.2-13.

Sec. 29. "Flood control program" refers to the flood control program established by IC 5-1.2-13.

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

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

Sec. 32. "Health facility", for purposes of IC 5-1.2-7, means any facility or building that is:

- (1) owned or used by a participating provider;
- (2) located:
 - (A) in Indiana; or
 - (B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and
- (3) utilized, directly or indirectly:
 - (A) in:
 - (i) health care;
 - (ii) habilitation, rehabilitation, or therapeutic services;
 - (iii) medical research;



- (iv) the training or teaching of health care personnel; or
- (v) any related supporting services;
- (B) to provide:
 - (i) a residential facility for individuals with a physical, mental, or emotional disability;
 - (ii) a residential facility for individuals with a physical or mental illness; or
 - (iii) a residential facility for the elderly; or
- (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.

Sec. 33. "Health facility property", for purposes of IC 5-1.2-7, means any tangible or intangible property or asset owned or used by a participating provider that:

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

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

- (2) is:
 - (A) a residential facility for individuals with a physical, mental, or emotional disability;
 - (B) a residential facility for individuals with a physical or mental illness; or
 - (C) a residential facility for the elderly; or
- (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.

Sec. 34. "IHCDA" refers to the Indiana housing and community development authority created by IC 5-20-1.

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

Sec. 36. "Indiana brownfields program" refers to the Indiana brownfields revolving loan program established by IC 5-1.2-12-2.

Sec. 37. "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11.

Sec. 38. "ISMEL" refers to the Indiana secondary market for



education loans, incorporated, designated by the governor under IC 20-12-21.2-2 (before its repeal) or IC 21-16-5-1.

Sec. 39. "Issuer", for purposes of IC 5-1.2-16, means the authority, IHCDA, ISMEL, a local unit, or any other issuer of bonds that must procure volume under the volume cap.

Sec. 40. "Liability", for purposes of an educational facility project under IC 5-1.2-8, means legal liability for damages (including costs of defense, legal costs and fees, and other claims for expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to the other persons or entities resulting from or arising out of any activity of an eligible member.

Sec. 41. "Liability or other loss insurance reserves", for purposes of an educational facility project under IC 5-1.2-8, means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

Sec. 42. "Loan contract", for purposes of financing a state facility under IC 5-1.2-5, means a debt instrument other than a revenue bond and includes but is not limited to a note.

Sec. 43. "Local transportation infrastructure program" refers to the local infrastructure program established by IC 5-1.2-15.

Sec. 44. "Local transportation infrastructure project" means a facility to be financed under the local transportation infrastructure program.

Sec. 45. "Local transportation infrastructure revolving fund" refers to the local transportation infrastructure revolving fund established under the local transportation infrastructure program.

Sec. 46. "Local unit", for purposes of IC 5-1.2-16, means a county, city, or town.

Sec. 47. "Mental health facility", for purposes of IC 5-1.2-5, means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

Sec. 48. "Mortgage credit certificate" refers to a mortgage credit certificate issued under Section 25 of the Internal Revenue Code.

Sec. 49. "NAICS Manual" refers to the current edition of the North American Industry Classification System Manual - United States published by the National Technical Information Service of the United States Department of Commerce.

Sec. 50. "Net revenues", for purposes of financing a health facility and health facility property under IC 5-1.2-7, means the



revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

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

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

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

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

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

Sec. 54. "Participant" means the following:

- (1) For purposes of the wastewater program established under IC 5-1.2-10:
 - (A) a political subdivision; or
 - (B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.



(2) For purposes of the drinking water program established under IC 5-1.2-10:

- (A) a political subdivision; or**
- (B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Safe Drinking Water Act.**

(3) For purposes of the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, and the water infrastructure assistance program established under IC 5-1.2-14:

- (A) a political subdivision; or**
- (B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under those chapters.**

(4) For purposes of the local transportation infrastructure program established under IC 5-1.2-15:

- (A) a political subdivision;**
- (B) an agency, authority, department, instrumentality, or body corporate and politic acting on behalf of a political subdivision; or**
- (C) a regional authority, instrumentality, or body corporate and politic acting on behalf of one (1) or more entities described in clause (A) or (B).**

Sec. 55. "Participating provider", for purposes of financing a health facility and health facility property under IC 5-1.2-7, means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, that:

- (1) is located in Indiana or outside Indiana;**
- (2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:**
 - (A) in Indiana; or**
 - (B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;**
- (3) is:**
 - (A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is**



- located;
- (B) a regional blood center;
- (C) a community mental health center or community intellectual disability and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);
- (D) an entity that:
- (i) contracts with the division of disability and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or
 - (ii) provides a similar program under the laws of the state in which the entity is located;
- (E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;
- (F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for individuals with a physical, mental, or emotional disability, individuals with a physical or mental illness, or the elderly;
- (G) 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;
- (H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or
- (I) an individual, business entity, or governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and
- (4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the



following services or facilities in Indiana:

- (A) A facility that provides:
 - (i) health care;
 - (ii) habilitation, rehabilitation, or therapeutic services;
 - (iii) medical research;
 - (iv) training or teaching of health care personnel; or
 - (v) any related supporting services.
- (B) A residential facility for:
 - (i) individuals with a physical, mental, or emotional disability;
 - (ii) individuals with a physical or mental illness; or
 - (iii) the elderly.
- (C) A licensed child caring institution providing residential care described in IC 12-7-2-29(1).

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

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

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

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.

Sec. 59. "Program" or "programs" means:

- (1) the drinking water program established under IC 5-1.2-10;
- (2) the Indiana brownfields program established under IC 5-1.2-12;
- (3) the flood control program established under IC 5-1.2-13;
- (4) the water infrastructure assistance program established under IC 5-1.2-14;
- (5) the local transportation infrastructure program established under IC 5-1.2-15;
- (6) the storm water management program;
- (7) the supplemental program established under IC 5-1.2-11;
- and
- (8) the wastewater program established under IC 5-1.2-10.

Sec. 60. "Public finance director" means the public finance director appointed under IC 5-1.2-3-6.

Sec. 61. "Public water system", for purposes of the drinking water program established under IC 5-1.2-10, and the supplemental program established under IC 5-1.2-11, has the meaning set forth in the federal Safe Drinking Water Act.

Sec. 62. "Referenced statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to this article, IC 5-1-17, IC 5-1-17.5, IC 5-1.3, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, and IC 8-16.

Sec. 63. "Regional blood center", for purposes of financing a health facility and health facility property under IC 5-1.2-7, means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

- (1) is:
 - (A) accredited by the American Association of Blood Banks; or
 - (B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and
- (2) owns and operates a health facility that is primarily engaged in:
 - (A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or
 - (B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

Sec. 64. "Regional health facility", for purposes of financing a



state facility under IC 5-1.2-5, means a building, a structure, or an improvement to a building or structure for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

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

(1) Actions necessary to:

- (A) prevent;
- (B) minimize; or
- (C) mitigate;

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

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

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

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

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

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

- (1) 42 U.S.C. 300f et seq., and laws supplemental and ancillary to these laws; and
- (2) regulations adopted under 42 U.S.C. 300f et seq., and laws supplemental and ancillary to these regulations.

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

Sec. 70. "Special volume cap" means the maximum dollar amount of bonds that may be allocated to the state under the



authority of a federal act. The special volume cap is in addition to the volume cap as defined in section 80 of this chapter.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

Chapter 3. Indiana Finance Authority

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

(b) The authority is comprised of five (5) members.

(c) The members are as follows:

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

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

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

(d) All members must be residents of Indiana.

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

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

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

(3) is eligible for reappointment; and

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

The governor shall fill a vacancy for the unexpired term of any member appointed under section 1(c)(3) of this chapter.

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

(b) The members of the authority are entitled to reimbursement for traveling expenses and other expenses actually incurred in



connection with their duties as provided by law. Members are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.

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

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

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

- (1) administer, manage, and direct the affairs and activities of the authority and the employees of the authority in accordance with the policies and under the control and direction of the members of the authority;
- (2) approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant, and expenses incidental to the operation of the authority; and
- (3) perform other duties as may be directed by the members of the authority in carrying out the purposes of the referenced statutes.

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

Sec. 8. (a) The authority may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and such other officers, agents, and employees, permanent or temporary, as the authority considers necessary to carry out the efficient operation of the



authority, and shall determine their qualifications, duties, compensation, and terms of service. The authority shall fix the compensation of the public finance director.

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

- (1) a member of the authority;
- (2) the public finance director; or
- (3) one (1) or more agents or employees of the authority;

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

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

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

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

Sec. 11. (a) Each member of the authority, the public finance director, and any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks, before beginning the individual's duties, shall execute a surety bond in the penal sum of fifty thousand dollars (\$50,000). To the extent an individual described in this section is already covered by a bond required by state law, the individual need not obtain another bond so long as the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. Instead of a bond, the chair of the authority may execute a blanket surety bond covering each member and the employees or other officers of the authority. Each



surety bond shall be conditioned upon the faithful performance of the individual's duties and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each individual described in this section shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the authority.

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

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

Chapter 4. General Powers and Duties

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

- (1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
- (2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the referenced statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the referenced statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.
- (3) Sue and be sued in its own name.
- (4) Have an official seal and alter it at will.
- (5) Maintain an office or offices at a place or places within the state as it may designate.
- (6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:
 - (A) a purchase, acquisition, or sale of securities or other investments; or
 - (B) the performance of the authority's duties and execution of any of the authority's powers under the referenced statutes.
- (7) Employ architects, engineers, attorneys, space planners, construction managers, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, health care



experts, and financial experts, and any other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation and contract for the creation of plans and specifications for a facility.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidence of indebtedness, whether secured or unsecured, to any person, as provided by the referenced statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure payment:

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

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

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the referenced statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease (as lessee or lessor) or otherwise



acquire, own, hold, improve, employ, use, or otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the referenced statutes.

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

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

(14) Provide technical assistance to local public bodies and to for profit and nonprofit entities in the development or operation of economic development projects.

(15) To the extent allowed under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent allowed under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the economic



development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

- (A) the authority's money, funds, and accounts;
- (B) any money, funds, and accounts in the authority's custody; and
- (C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

- (A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and
- (B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the referenced statutes.

(22) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve economic development projects, including land, machinery, equipment, or any combination of these.

(23) Lease economic development projects to users or developers, with or without an option to purchase.

(24) Sell economic development projects to users or developers, for consideration to be paid in installments or otherwise.

(25) Make direct loans from the proceeds of the bonds to users or developers for:

- (A) the cost of acquisition, construction, or installation of economic development projects, including land, machinery, equipment, or any combination of these; or
- (B) eligible expenditures for an educational facility project; with the loans to be secured by the pledge of one (1) or more



bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(26) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to the lender to be used for making a loan to a developer or user for the financing of economic development projects under this article.

(27) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct economic development projects to be leased from or to be acquired by the authority.

(28) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal of and interest on the bonds.

(29) Adopt rules and guidelines governing its activities authorized under the referenced statutes.

(30) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidence of indebtedness.

(31) Sell and guarantee securities.

(32) Procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

(33) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(34) Sell, convey, mortgage, pledge, assign, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(35) Reimburse from bond proceeds expenditures for economic development projects under this article.

(36) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(37) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices



without relation to cost and in a manner the authority considers advisable.

- (38) Fix and establish terms and provisions with respect to:**
- (A) a purchase of securities by the authority, including dates and maturities of the securities;**
 - (B) redemption or payment before maturity; and**
 - (C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.**
- (39) To the extent allowed under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:**
- (A) a bond, a note, or any other obligation of the authority;**
 - or**
 - (B) any agreement or contract of any kind to which the authority is a party.**
- (40) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the referenced statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.**
- (41) Do any act necessary or convenient to the exercise of the powers granted by the referenced statutes, or reasonably implied from those statutes, including compliance with requirements of federal law imposed from time to time for the issuance of bonds.**

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

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

(d) The authority shall work with and assist the Indiana housing and community development authority created by IC 5-20-1-3, the



ports of Indiana created under IC 8-10-1-3, and the state fair commission established by IC 15-13-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the ports of Indiana, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

Sec. 2. The authority:

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

(2) may not:

(A) emit bills of credit;

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

(C) administer trusts;

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

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

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

Sec. 3. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant for the purposes of one (1) or more programs.

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

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

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

(2) pay over the money to the authority for the purpose of



paying principal of and interest on the bonds or notes of the authority.

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

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

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

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

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

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

(2) Pay the amount by which the revenues or other money or property is reduced under subdivision (1) to the authority to pay the principal of and interest on bonds or other obligations of the authority.

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

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

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

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

(A) is held, possessed, maintained, or controlled by, or otherwise in the custody of, the county or a department, an



agency, or an instrumentality of the county; and
 (B) would otherwise be available for distribution to the political subdivision under any other law.

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

(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; and

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

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

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

(2) the indebtedness is authorized under the referenced statutes.

(b) Notwithstanding any other law in effect before:

(1) the authority issues indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to a required level; or

(2) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or any part of any indebtedness issued by the authority;

the authority is subject to, and shall comply with, to the extent practicable, the requirements set forth in IC 5-1.5-5-4(c) through IC 5-1.5-5-4(g) as if the authority were specifically named in IC 5-1.5-5-4(c) through IC 5-1.5-5-4(g).

(c) In addition:

(1) indebtedness described in IC 5-1.5-5-4(c) through IC 5-1.5-5-4(g) is considered a reference to an indebtedness or agreement referred to in this section; and



(2) a qualified entity referred to in IC 5-1.5-5-4(c) through IC 5-1.5-5-4(g) is considered a reference to a borrower of any indebtedness and to any other parties referred to in this section.

Sec. 6. (a) The authority has the power to borrow money and to issue its bonds from time to time in the principal amounts as the authority determines are necessary to provide sufficient funds to carry out its purposes, powers, and programs, including:

- (1) carrying out the purposes, powers, and programs stated in this article;
- (2) the payment of interest on bonds of the authority;
- (3) the establishment of reserves to secure the bonds; and
- (4) all other expenditures of the authority incident to, necessary, and convenient to carry out the authority's purposes, powers, and programs.

(b) The authority may also issue bonds in the manner and for the purposes provided by the referenced statutes.

Sec. 7. Except as may otherwise be expressly provided by the authority, every issue of its bonds shall be obligations of the authority payable solely out of any specified revenue or money of the authority, subject only to any agreements with the holders of particular bonds pledging any particular money or revenue. The bonds may be additionally secured by a pledge of any grant, contribution, or guarantee from the federal government or any corporation, limited liability company, association, institution, or person or a pledge of any money, income, or revenue of the authority from any source.

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

Sec. 9. The bonds shall be authorized by a resolution of the authority, shall bear the date or dates, and shall mature at a time or times as the resolution may provide, except that no bond shall mature more than fifty (50) years from the date of its issue. The bonds shall be in denominations, be in the form, either coupon or registered, carry the conversion or registration privileges, be executed in the manner, be payable in the medium of payment at the place or places inside or outside Indiana, and be subject to the



terms of redemption, including redemption prior to maturity, as the resolution or any trust agreement or indenture of the authority securing the bonds may provide. The bonds shall bear interest at a rate or rates that may be fixed, variable, fixed convertible to variable, variable convertible to fixed, or any combination of these rates. Variable rates shall be determined in the manner and in accordance with the provisions set forth in the resolution or the trust agreement or indenture securing the bonds. The interest on the bonds may be payable at the time or times or at the interval or intervals as may be provided in the resolution or the trust agreement or indenture securing the bonds, including the compounding and payment of interest at maturity or at any other time or times as may be specified in the resolution, trust agreement, or indenture. The bonds and their issuance shall not be subject to the provisions of any other statute concerning bonds or the issuance of bonds. Bonds of the authority may be sold by the authority at public or private sale, and at a price or prices as the authority shall determine. No action to contest the validity of any bonds issued or guarantees entered into by the authority under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving such bonds or guarantees as provided in section 10 of this chapter.

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

- (1) Pledging all or any part of the revenue of the authority to secure the payment of the bonds, subject to agreements with bondholders as may then exist.
- (2) Pledging all or any part of the assets of the authority, including loans and obligations securing the loans and obligations, to secure the payment of the bonds, subject to agreements with bondholders as may then exist.
- (3) The use and disposition of the gross income from loans owned by the authority and payment of the principal of loans owned by the authority.
- (4) The setting aside of reserves or sinking funds and the regulation and disposition of these reserves or sinking funds.
- (5) Limitations on the purposes to which or the investments in which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds.
- (6) Limitations on the issuance of additional bonds, the terms



upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.

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

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

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

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

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

(12) Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

Sec. 11. (a) The authority has the power to issue, from time to time, bonds to renew or to pay bonds, including the interest on these bonds, whenever the authority considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds and partly for any other of its purposes, powers, and programs.

(b) The refunding bonds may be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded, or exchanged for the bonds to be refunded.

(c) A savings to the authority or to the unit issuing the bonds to be refunded is not required for the issuance of the refunding bonds or the issuance of bonds to refund refunding bonds. Refunding bonds issued under this article are payable out of any specified revenue or money of the authority, subject only to any agreements with the holders of particular bonds pledging any particular money or revenue.



(d) Refunding bonds issued under this section are not:

- (1) in any respect a general obligation of the authority; and**
- (2) payable in any manner from revenues raised by taxation.**

Sec. 12. Any pledge made by the authority is valid and binding from the time when the pledge is made. The revenue, money, or properties so pledged and received by the authority after the pledge is immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice. The resolution or any other instrument by which a pledge is created does not need to be recorded.

Sec. 13. The authority, subject to any agreements with bondholders as may then exist, has the power out of any funds available to purchase bonds of the authority, which, at the option of the authority, shall be canceled after the purchase, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price then applicable plus accrued interest to the next interest payment on the bond.

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

Sec. 15. Whether the bonds are in the form and character of negotiable instruments, the bonds are negotiable instruments,



subject only to provisions of the bonds relating to registration.

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

Sec. 17. The members of the authority, the officers and employees of the authority, the public finance director, any agents of the authority, and any other persons executing bonds issued under the referenced statutes are not subject to personal liability or accountability by reason of any act authorized by the referenced statutes, including without limitation the issuance of bonds, the failure to issue bonds, the execution of bonds, and the making of guarantees.

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

Sec. 19. All money received by the authority, except as provided in the referenced statutes, shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in these accounts shall be paid out on checks signed by the chair or other officers or employees of the authority that the authority authorizes or by wire transfer or other electronic means authorized by the authority. All deposits of money shall, if required by the authority, be secured in a manner that the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits. Notwithstanding any other law to the contrary, all money received pursuant to the referenced statutes are trust funds to be held and applied solely as provided in the referenced statutes. The resolution authorizing any obligations, or trust agreement or indenture



securing the same, may provide that any of the money may be temporarily invested pending the disbursement of the money, and shall provide that any officer with whom or any bank or trust company with which the money is deposited shall act as trustee of the money and shall hold and apply the money for the authorized purposes of the authority, subject to the referenced statutes, the authority's investment policy, and the resolution or trust agreement or indenture.

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

Sec. 21. The state pledges to and agrees with the holder of any bonds issued under this article that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with bondholders or in any way impair the rights or remedies of bondholders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of bondholders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the bondholders.

Sec. 22. Bonds issued under this article and:

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

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

Sec. 23. The bonds issued under this article by the authority are declared to be legal investments in which all public officers or public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons



carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are authorized to invest in bonds or in other obligations of this state, may invest funds, including capital, in their control or belonging to them. The bonds are also made securities that may be deposited with and received by all public officers and bodies of this state or any agency or political subdivisions of this state and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of this state is authorized by law.

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

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

Sec. 26. 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 article 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 or resolution, or under any other contract executed by the authority under this article, and enforce and compel the performance of all duties required by this article or by the trust agreement or resolution to be performed by the authority or by any officer of the authority.

Sec. 27. (a) All expenses incurred by the authority in carrying



out the referenced statutes are payable solely from funds provided under the referenced statutes, except to the extent payable from grants or advances from participating providers or any other entity, which grants or advances may be reimbursed from bond proceeds, and nothing in the referenced statutes shall be construed to authorize the authority to incur indebtedness or liability of the state or any political subdivision.

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

Sec. 28. (a) Except as provided in subsection (b), all property, both tangible and intangible, acquired or held by the authority under the referenced statutes is declared to be public property used for public and governmental purposes, and all the property and income from the property is at all times exempt from all taxes imposed by this state, any county, any city, or any other political subdivision of this state, except for the financial institutions tax imposed under IC 6-5.5.

(b) Property owned by the authority and:

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

(2) financed by a loan;

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

Sec. 29. The authority shall, following the close of each fiscal year, submit an annual report of the authority's activities under the referenced statutes for the preceding year to the governor, the budget committee, and the general assembly. A report submitted to the general assembly must be in an electronic format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

Sec. 30. Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions:

(1) a participant receiving financial assistance in connection with a program may invest and reinvest funds that constitute, replace, or substitute for the proceeds of bonds or other evidence of indebtedness sold to the authority under the



program, together with any account or reserves of a participant not funded with the proceeds of the bonds or other evidence of indebtedness purchased by the authority but that secure or provide payment for those bonds or other evidence of indebtedness, in any instrument or other investment authorized under a resolution of the authority; and

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

Sec. 31. (a) Notwithstanding any other law, a participant may borrow money from the authority for any program by negotiating a loan or other financial assistance directly with the authority and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidence of indebtedness. A participant shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

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

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

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

(1) in the amounts; and

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



that are agreed to by the participant and the authority.

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

- (1) valid and binding obligations of the participant;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

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

- (1) provisions of this section; or
- (2) actual issuance by a participant of notes under subsection (b);

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

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

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

Sec. 33. (a) Notwithstanding any other law and if provided in a financial assistance agreement related to any program, any state department or state agency, including the treasurer of state:

- (1) that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant; and
- (2) after written notice from the public finance director that



the participant is in default on the payment of principal of or interest on a loan or evidence of other financial assistance related to any program owed to the authority; may withhold payment of money from that participant and pay over the money to the authority as directed by the public finance director, for the purpose of curing the default.

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

Sec. 34. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or other financial assistance pursuant to any program commits a Level 6 felony.

Sec. 35. The public finance director shall prepare an annual report that provides an update on transportation projects in which the authority is involved. The report must be submitted to the legislative council in an electronic format under IC 5-14-6.

Sec. 36. The authority, after consulting with the treasurer of state, the Indiana bond bank, the budget agency, and the commission for higher education, shall establish and periodically update a state debt management plan. The plan must include at least the following provisions with respect to debt issued or to be issued by the authority, other bodies corporate and politic of the state, and state educational institutions:

- (1) An inventory of existing debt.
- (2) Projections of future debt obligations.
- (3) Recommended criteria for the appropriate use of debt as a means to finance capital projects.
- (4) Recommended strategies to minimize costs associated with debt issuance.
- (5) An analysis of the impact of debt issued by all bodies corporate and politic and state educational institutions on the state budget.
- (6) Recommended guidelines for the prudent issuance of debt that creates a moral obligation of the state to pay all or part of the debt.
- (7) Recommended policies for the investment of:
 - (A) proceeds of bonds, notes, or other obligations issued by bodies corporate and politic and state educational institutions; and
 - (B) other money, funds, and accounts owned or held by a body corporate and politic.



(8) Recommended policies for the establishment of a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the Internal Revenue Code.

(9) Recommended policies for the preparation of financial disclosure documents, including official statements accompanying debt issues, comprehensive annual financial reports, and continuing disclosure statements. The recommended policies must include a provision for approval by the budget director of any statements or reports that include a discussion of the state's economic and fiscal condition.

(10) Potential opportunities to more effectively and efficiently authorize and manage debt.

(11) Recommendations to the budget director, the governor, and the general assembly with respect to financing of capital projects.

The recommendations to the general assembly under subdivision (11) must be in an electronic format under IC 5-14-6.

Chapter 5. State Facility Financing

Sec. 1. This chapter does not apply to the authority when acting under any other statute for any other purpose.

Sec. 2. At the request of the department of administration, the authority may provide for facilities for state agencies or branches of state government if the general assembly, by statute:

(1) finds that the state needs renovation, refurbishing, or alteration of existing facilities or construction of additional facilities; and

(2) authorizes the authority to provide for the facilities.

In providing for the facilities, the authority shall proceed under this chapter.

Sec. 3. To accomplish the governmental purposes of this chapter, the department of administration or applicable state agency may convey, transfer, or sell, with or without consideration, real property (including the buildings, structures, and improvements), title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals.

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



the state, the authority shall comply with IC 4-13.5-1-8.

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

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

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

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

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

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

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

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

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

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

- (1) if the state facility is designed to house the supreme court or court of appeals, the administrator of the supreme court for approval by the courts; and
- (2) if the state facility is a correctional facility, the department



of correction.

(b) After the plans and specifications have been approved by the authority under subsection (a), the authority shall advertise for and receive construction bids and award contracts to the best bidders in the same manner as required by law for the department of administration.

(c) With regard to participation by minority and women's business enterprises (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3), the authority shall act in the same manner as required by law for the department of administration.

Sec. 9. Except with respect to a correctional facility, the department of administration shall allocate space in each state facility to state agencies and departments of state government. The department of correction shall allocate space in correctional facilities under IC 11.

Sec. 10. If the authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24-1. The authority may not institute a proceeding until the authority has adopted a resolution that:

- (1) describes the real property sought to be acquired and the purpose for which the real property is to be used;
- (2) declares that the public interest and necessity require the acquisition by the authority of the property involved; and
- (3) sets out any other facts that the authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the authority, in the circuit or superior court of the county in which the real property is located.

Sec. 11. (a) Before or after the award of construction contracts, or the arranging of financing, the authority and the department of administration may negotiate a use and occupancy agreement. The budget agency, after consulting with the budget committee, must approve any use and occupancy agreement before the department of administration may execute the agreement. The use and 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.

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

Sec. 12. Unless the use and occupancy agreement provides otherwise, the department of administration shall provide for the



operation, maintenance, and repair of each state facility.

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

(b) This section does not authorize any:

- (1)** additional construction; or
- (2)** issuance of additional bonds or other evidence of indebtedness;

other than as described in subsection (a).

Chapter 6. Recreational Development Facilities and Park Projects

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

- (1)** finds that the state needs renovation, refurbishing, or alteration of a recreational facility or park project or the construction of a new recreational facility or park project; and
- (2)** authorizes the authority to provide for the recreational facility or park project.

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

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

- (1)** To provide for the general health and welfare of Indiana citizens by the acquisition, construction, improvement, and operation of public recreational facilities.
- (2)** To facilitate, support, and promote the development and use of the parks of the state.

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

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

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

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



agreements:

- (1) do not need to be approved by the attorney general; and
- (2) must be approved by the:
 - (A) budget agency, after consulting with the budget committee; and
 - (B) governor;

before the department of natural resources may execute the agreement.

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

- (1) may provide for the operation, maintenance, improvement, or renovation of the property;
- (2) must contain standards for operation, quality of goods and services, and price of goods and services;
- (3) need not be approved by the attorney general or the governor;
- (4) may be executed by the:
 - (A) chair or vice chair of the authority; and
 - (B) public finance director; and
- (5) is binding on the state after advertisement one (1) time a week for two (2) weeks in two (2) newspapers published in Indianapolis. The first publication must be at least fourteen (14) days before a public hearing by the authority, and the proposed lease must be on file in the department of natural resources during the period of publication.

Sec. 7. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars (\$20,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the authority determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place for receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank so that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety approved by the authority is required of all contractors in an



amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

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

- (1) department of natural resources transfer;**
- (2) purchase; or**
- (3) lease;**

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

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

(1) comply with:

- (A) the master plan for that property; or**
- (B) the Indiana outdoor recreation plan approved by the natural resources commission; or**

(2) be specifically approved by the natural resources commission.

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

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

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

are unjust and unreasonable considering the value of the improvements.

(b) In determining just and reasonable amounts to be paid for the use of improvements, the authority shall impose and collect money that in the aggregate will be sufficient to pay the expenses of operation, maintenance, and repair of the improvements to the extent that the expenses are not otherwise provided and leave a balance of net income of revenues from the improvements to pay the interest on the bonds as the interest is due and accomplish retirement of the bonds at or before maturity. If the department of



natural resources has made all payments provided in the agreements, the use of improvements covered by the agreements and the sites of the improvements revert to the department of natural resources at the end of the terms of the agreement.

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

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

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

- (1) Admission fees.
- (2) Commission rentals.
- (3) Boat registrations.
- (4) Launching fees.
- (5) Mooring fees.

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

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

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

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

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

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



(d) The authority may do the following:

- (1) Transfer to the special revolving fund other money in the authority's possession not otherwise committed or needed.**
- (2) Place a gift or grant to the authority not limited in character in the special revolving fund.**

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

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

Chapter 7. Health Facility Financing

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

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

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

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

Sec. 4. Health facility property financed under this chapter is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of health facility property with regard to any action taken under this chapter. However, if the prospective lessee or purchaser requests in writing, the authority shall call for the construction bids in a manner determined by the authority with the approval of the lessee or purchaser.

Sec. 5. (a) The authority has all the powers necessary to carry out and effectuate its public purposes under this chapter, including



initiating a program of providing health facility property to be operated by participating providers in health facilities. In furtherance of this objective, the authority may also do one (1) or more of the following:

- (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 subdivision 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.

(6) Establish eligibility standards for participating providers, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been published in a newspaper published in the city of Indianapolis, at least ten (10) days in advance of the hearing.

(7) Contract with any entity securing the payment of bonds under IC 5-1.2-4-1(a)(10) and IC 5-1.2-4-1(a)(33), authorizing the entity to approve the participating providers that can finance or refinance health facility property with proceeds from the bond issue secured by that entity.

(8) Lease to a participating provider specific items of health facility property upon terms and conditions that the authority considers proper, to charge and collect rents for the health facility property, to terminate such a lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides, to include in the lease provisions that the lessee has the option to renew the term of the lease for the periods and at the rents as may be determined by the authority or to purchase any or all of the health facility property to which the lease applies.

(9) Loan to a participating provider under an installment purchase contract or loan agreement money to finance, reimburse, or refinance the cost of specific items of health facility property and to take back a secured or unsecured promissory note evidencing such a loan and a security interest in the health facility property financed or refinanced with the loan, upon the terms and conditions as the authority considers proper.

(10) Sell or otherwise dispose of any unneeded or obsolete health facility property under terms and conditions as determined by the authority.

(11) Maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any health facility property owned by the authority.

(12) Obtain or aid in obtaining property insurance on all health facility property owned or financed, or to accept payment if any health facility property is damaged or



destroyed.

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

(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 lienholders and other creditors.

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

- (1) require that the lease, installment purchase contract, or loan agreement involved be insured by a loan insurer, be guaranteed by a loan guarantor, or be secured by a letter of credit; and
- (2) require any other type of security from the participating providers that the authority considers reasonable and necessary.

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. 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.

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

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

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

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

Sec. 10. All expenses incurred in carrying out this chapter shall be payable solely from funds provided under this chapter, and no liability may be incurred by the authority or the state beyond the extent to which money has been provided under this chapter.

Sec. 11. 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. 12. 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.

Sec. 13. (a) A county may lease land and buildings, including the necessary equipment and appurtenances, from the authority for hospital purposes. No lease on a particular building shall be entered into for a period of more than forty (40) years. However, a lease is renewable for less than forty (40) years.

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

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

Sec. 14. A county may, in anticipation of the construction, erection, or renovation of a building (including the necessary equipment and appurtenances), make and enter into a lease with the authority before the actual acquisition of a site and the construction, erection, or renovation of the building. The lease shall not provide for the payment of any lease rental by the lessee until the building is ready for occupancy. However, if a building is to be acquired and renovated under this chapter, a county may, in anticipation of the acquisition and renovation, make and enter into a lease upon terms and conditions that are agreed upon by the county and the authority, including:

- (1)** terms and conditions upon which the county may continue to operate the building until completion of the renovation; and
- (2)** the payment of a lease rental by the lessee during the period of renovation.

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



- (1) Entirely from the levy of taxes.
- (2) Entirely from the net revenues of the hospital of which the leased building is a part.
- (3) In part from the levy of taxes and in part from the net revenues described in subdivision (2).

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

- (1) If any of the lease rental is payable from taxes, the interest or other income shall be transferred to the fund to be used for the payment of the lease rental provided to be paid from taxes.
- (2) If none of the lease rental is payable from taxes, the interest or other income shall become a part of the reserve fund.

Sec. 16. In addition to the ways specified in section 15 of this chapter for the payment of lease rental, any lease executed under this chapter may provide for the payment of lease rental from a cumulative building fund established by the lessee under IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal). Part or all of a cumulative building fund and the tax levied for that cumulative building fund may be committed and pledged to the payment of the lease rental. To the extent that the amount committed and pledged is insufficient to pay the lease rental, the lease shall provide that any remaining lease rental shall be paid entirely from the net revenues of the hospital of which the leased building is a part. So long as the lease remains in effect:

- (1) any amount of cumulative building fund so committed and



pledged may not be expended by the lessee for any other purpose; and

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

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

Sec. 17. (a) When the authority, the board of trustees or board of managers of the hospital, the board of commissioners of the county, and a majority of the county council have agreed upon the terms and conditions of any lease proposed to be entered into under section 13 or 14 of this chapter, and before the final execution of the lease, the county auditor shall give notice by publication of a public hearing to be held in the county by the board of commissioners. The hearing shall take place on a day not earlier than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice shall do the following:

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

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

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

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



commissioners. The lease contract shall be executed on behalf of the county by the board of commissioners.

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

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

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

Sec. 18. (a) A lease under this chapter may provide that the lessee has an option to renew the lease for a like or lesser term, on the conditions that are provided in the lease. A lease shall contain an option to purchase:

(1) at any time after ten (10) years from the execution of the



lease and before the expiration of the term of lease on the date fixed in the lease; and

(2) at a price equal to:

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

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

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

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

Sec. 19. On behalf of the authority, the board of directors or board of managers of the hospital shall, before the execution of a lease, submit to and receive the approval of the board of commissioners of the county of the plans, specifications, and estimates of cost for the building or renovation. The plans and specifications shall be submitted to and approved by the state board of health, the division of fire and building safety, and other state agencies that are required by law to pass on plans and specifications for public buildings.

Sec. 20. A county desiring to have a building erected or renovated on land owned or to be acquired by the county may sell that land or building to the authority. Before the sale may take place, the county commissioners shall file a petition with the circuit court, superior court, or probate court of the county requesting the appointment of:

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

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the land or building. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land or building. Upon appointment, the appraisers shall fix the



fair market value of the land or building and shall report that value within two (2) weeks after the date of their appointment. The county may then sell the land or building to the authority for an amount not less than the amount fixed by the appraisers as the fair market value. The amount shall be paid in cash upon delivery of the deed by the county to the authority. If a cumulative building fund exists at the time of the sale, the proceeds from the sale shall be placed in that fund. If a cumulative building fund does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund with the principal of and interest on the fund to be used solely by the county hospital for the purposes set forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A sale of land or a building by a county to the authority shall be authorized by the board of commissioners by an order that shall be entered in the official records of the board. The deed shall be executed on behalf of the county by the board of county commissioners.

Sec. 21. A county and an authority that have entered into, or propose to enter into, a lease under this chapter may enter into party wall agreements or other agreements concerning the attaching of an addition to a hospital building, if the agreement is:

- (1) approved by the board of trustees or board of managers of the hospital; and
- (2) recorded in the office of the recorder of the county in which the hospital is located.

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

Chapter 8. Educational Facility Financing

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

- (1) To provide financing for educational facility projects.
- (2) To provide a measure of assistance and an alternative method to enable nonprofit colleges or universities in Indiana to refund or refinance outstanding indebtedness incurred by nonprofit colleges or universities in Indiana for the renovation, construction, acquisition, or equipping of educational facilities.
- (3) To establish liability or other loss insurance reserves or to contribute those insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses.
- (4) To provide the needed additional educational facilities for the public benefit and good.



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

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

- (1) any municipality or political subdivision;**
- (2) any department, division, commission, board, body, bureau, official, or agency of any municipality or political subdivision; or**
- (3) the state.**

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

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

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

Sec. 5. The authority:

- (1) may require that the rates, rents, fees, or charges established by a nonprofit college or university are sufficient to discharge the institution's obligations to the authority; but**
- (2) has no other jurisdiction over the rates, rents, fees, or charges.**

Sec. 6. The authority may:

- (1) establish rules for the use of an educational facility project or any part of an educational facility project; and**
- (2) designate a nonprofit college or university as the authority's agent to establish rules for the use of an educational facility project undertaken for that nonprofit college or university.**

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

(b) A loan authorized under this section may not exceed the total cost of the educational facility project as determined by the



nonprofit college or university and approved by the authority.

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

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

- (1)** alleviates a financial hardship upon the nonprofit college or university;
- (2)** results in a lesser cost of education; or
- (3)** enables the nonprofit college or university to offer greater security for a loan or loans to finance a new educational facility project or educational facility projects or to effect savings in interest costs or more favorable amortization terms.

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

Sec. 10. (a) The authority may, for financing purposes, combine an educational facility project or educational facility projects and some or all future educational facility projects of any nonprofit college or university or nonprofit colleges or universities if:

- (1)** the authority obtains the consent of all of the nonprofit colleges or universities that are involved, or, when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and
- (2)** the money set aside in any fund or funds pledged for any series of bonds or issue of bonds is held for the sole benefit of a series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

(b) To facilitate the combining of educational facility projects, bonds may be issued in one (1) or more series under one (1) or



more resolutions or trust agreements and be:

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

(2) partially open ended, limited as to additional series;

all in the discretion of the authority.

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

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

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

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

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

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

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

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

(1) the principal of and interest on bonds of the authority issued to finance the cost of an educational facility project or educational facility projects for a nonprofit college or university, including any refunding bonds issued to refund and refinance the bonds, have been fully paid and retired; or

(2) adequate provision has been made to fully pay and retire bonds of the authority issued to finance the cost of an educational facility project or educational facility projects for a nonprofit college or university, all other conditions of the bond resolution have been satisfied, and the lien created by



the bond resolution has been released in accordance with the provisions of the bond resolution.

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

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

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

- (1)** to pay the private institution's share of the administrative costs and expenses of the authority;
- (2)** to pay the principal of, the premium (if any), and the interest on outstanding bonds of the authority issued in respect of the educational facility project as the bonds become due and payable; and
- (3)** to create and maintain reserves that may be required or provided for in the bond resolution relating to the bonds of the authority.

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

Sec. 17. The authority may provide for the issuance of bonds of the authority:

- (1)** to refund any bonds of the authority then outstanding, including the payment of any redemption premium on the bonds and any interest accrued or to accrue to the earlier or any subsequent date of redemption, purchase, or maturity of



the bonds; and

(2) if determined advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any part of an addition, improvement, extension, or enlargement of an educational facility project. However, no refunding bonds may be issued unless the authority provides for the payment of rentals adequate to satisfy the requirements of section 13 of this chapter.

Sec. 18. The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority:

(1) 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 outstanding bonds; and

(2) pending the application of the proceeds, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of the outstanding bonds on a date determined by the authority.

Sec. 19. Any escrowed proceeds, pending use for the refunding of outstanding bonds, may be invested and reinvested in:

(1) direct obligations of the United States of America; or

(2) obligations having the timely payment of principal and interest unconditionally guaranteed by the United States of America;

maturing at a time or times that are appropriate to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be refunded. Any interest, income, and profits earned or realized on any investment may also be applied to the payment of the outstanding bonds to be refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and any interest, income, and profits earned or realized on the investments described in this section must be returned to the nonprofit college or university for use by the nonprofit college or university in any lawful manner.

Sec. 20. All bonds issued to refund outstanding bonds of the authority are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

Sec. 21. Except as provided in IC 21-36-2, an educational facility



project is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of property with regard to any action taken under authority of this chapter. If, however, the prospective lessee makes a request in writing, the authority shall call for the construction bids in the manner determined by the authority with the approval of the lessee.

Sec. 22. Notwithstanding any other provision of this chapter, the authority may:

- (1) finance the cost of an educational facility or refund outstanding indebtedness of a nonprofit college or university, as authorized under section 8 of this chapter; or
- (2) finance the establishment of liability or other loss insurance reserves or the contribution of reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses;

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

Sec. 23. (a) Any promissory notes received under section 22 of this chapter:

- (1) must have the same principal amounts, maturities, and interest rates as the bonds being issued;
- (2) may be secured by a first mortgage lien on the educational facility being financed or by a first mortgage lien on or security interest in other real or personal property or funds acceptable to the authority subject to any exceptions that the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority; and
- (3) may be insured or guaranteed by others.

(b) Any bonds described in section 22 of this chapter must be payable solely out of the payments to be made on the promissory notes and under the corresponding agreement. Any bonds described in section 22 of this chapter may not exceed in principal amount the cost of the educational facility, as determined by the nonprofit college or university, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority.



Sec. 24. If an educational facility is financed and mortgaged under sections 22 and 23 of this chapter:

- (1) the title to the facility must remain in the nonprofit college or university owning the facility, subject to the lien of the mortgage securing the promissory notes then being purchased; and
- (2) there may not be a lease of the facility between the authority and the institution.

Sec. 25. Section 15 of this chapter does not apply to any educational facility or any liability or loss insurance reserves financed under this section and sections 22 through 24 of this chapter. However, the authority shall return the promissory notes purchased through the issuance of bonds to the nonprofit college or university issuing the promissory notes when:

- (1) the bonds have been fully paid and retired or adequate provision has been made to pay and retire the bonds fully;
- (2) all other conditions of the trust agreement or indenture creating the bonds have been satisfied; and
- (3) the lien has been released in accordance with the provisions of the instrument creating the lien.

Chapter 9. Economic Development Projects

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

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

Sec. 3. The authority may, instead of a private sale or leasing as authorized by IC 5-1.2-4-1(a) or a financing of an economic development project under section 12 of this chapter, decide to hold a public offering under this chapter for the sale or leasing of any land or interests in land, building improvements, structures, personal property, and franchises and patents acquired by the authority under this article for an economic development project. If the authority decides to hold a public offering for the sale or leasing of any property or interests acquired for an economic development project, the offering shall be made in accordance with this chapter.

Sec. 4. Before offering for sale or lease to the public any property or interests acquired for an economic development project, the authority shall prepare an offering sheet showing the property or interests to be offered and copies of the offering sheets shall be furnished to prospective buyers or lessees. Maps and plats



of the property and any additional information considered appropriate by the authority shall also be kept available for inspection at the office of the authority.

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

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

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

- (1) The size and character of the improvements for the economic development project as proposed by the bidder to be made on the property and the terms and conditions of the consideration offered by the bidder.
- (2) The bidder's plans and ability to carry out the economic development project with reasonable promptness.
- (3) Whether the property and interests to be acquired by the bidder will be leased or released for the economic development project.
- (4) The nature and extent of any obligations to be undertaken by the authority in conjunction with the improvement of the property or interests to be acquired for the economic development project as proposed by the bidder.
- (5) The potential impact of the bidder's proposal on the creation of new employment or the retention of existing employment resulting from the economic development project.
- (6) The potential impact of the bidder's proposal to attract or establish a major new business enterprise or to retain or expand a significant existing business enterprise that will provide or preserve gainful employment for the citizens of the



state.

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

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

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

Sec. 9. The authority may contract with a bidder concerning any of the factors listed in section 7 of this chapter, and the contract may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and remedies if the bidder fails to comply with the contract.

Sec. 10. After the opening, consideration, and determination of the written offers filed in response to the notice, the authority may dispose of all or part of the remaining available property or interests for any approved use, either at public sale or by private negotiation carried on by the authority, its regular employees, or real estate experts employed for that purpose. For a period of thirty (30) days after the opening of the written offers and determination on them, no sale, exchange, or lease may be made on



terms less than that shown on the offering sheet, but after that period the authority may adjust the offering terms the authority considers necessary to further the economic development project.

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

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

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

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

- (1) briefly describes the proposed economic development project;
- (2) estimates the number and expense of public works or services that would be made necessary or desirable by the proposed economic development project, including public ways, schools, water, sewers, street lights, and fire protection;
- (3) estimates the total costs of the proposed economic development project;
- (4) for an economic development project that is not exclusively either a pollution control facility or an educational facility project, estimates the number of jobs and the payroll to be created or saved by the project;
- (5) for educational facility projects, describes how the project promotes the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of the people of the state; and
- (6) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution.

The report shall be submitted to the executive director or chair of



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

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

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

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

Sec. 17. The term of a financing agreement may not exceed fifty (50) years from the date of any bonds issued under the financing agreement. However, a financing agreement does not terminate after fifty (50) years if a default under that financing agreement remains uncured, unless the termination is authorized by the terms of the financing agreement.

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



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

- (1) Establish eligibility standards for developers and users, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.**
- (2) Contract with any entity securing the payment of bonds issued under this chapter and authorizing the entity to approve the developers and users that can finance or refinance economic development projects with proceeds from the bond issue secured by that entity.**
- (3) Lease to a developer or user economic development projects upon terms and conditions that the authority considers proper and, with respect to the lease:

 - (A) charge and collect rents;**
 - (B) terminate the lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides; and**
 - (C) include in the lease provisions that the lessee has the option to renew the term of the lease for those periods and at those rents as may be determined by the authority or to purchase any or all of the economic development projects to which the lease applies.****
- (4) Lend money, upon terms and conditions as the authority considers proper, to a developer or user under an installment purchase contract or loan agreement to:

 - (A) finance, reimburse, or refinance the cost of an economic development project; and**
 - (B) take back a secured or unsecured promissory note evidencing such a loan or a security interest in the economic development project financed or refinanced with the loan.****
- (5) Sell or otherwise dispose of any unneeded or obsolete economic development project under terms and conditions determined by the authority.**
- (6) Maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any economic development project owned by the authority.**
- (7) Require any type of security that the authority considers**



reasonable and necessary.

(8) Obtain or aid in obtaining property insurance on all economic development projects owned or financed, or accept payment if any economic development project property is damaged or destroyed.

(9) Enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, letter of credit, or other form of credit enhancement, accepting payment in the manner and form as provided in the instrument if a developer or user defaults, and assign the insurance, guarantee, letter of credit, or other form of credit enhancement as security for bonds issued by the authority.

(10) Finance for eligible developers and users in connection with an economic development project:

- (A) the cost of their economic development projects; and
- (B) in the case of a program funded from the proceeds of taxable bonds, working capital associated with the operation of the economic development project;

in amounts determined to be appropriate by the authority.

(11) Issue bonds to fund a program for financing multiple, identified or unidentified economic development projects if the authority finds that issuance of the bonds will be of benefit to the health, safety, morals, or general welfare of the state and complies with the purposes and provisions of this article by promoting a substantial likelihood for one (1) or more of the following:

- (A) Creating opportunities for gainful employment.
- (B) Creating business opportunities.
- (C) Educational enrichment (including cultural, intellectual, scientific, or artistic opportunities).
- (D) The abatement, reduction, or prevention of pollution.
- (E) The removal or treatment of any substances in materials being processed that would otherwise cause pollution when used.

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

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



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

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

- (1) revenues and receipts derived from the various financing agreements; or**
- (2) the payments made under any other agreements to secure the obligations of the developers, users, related persons, or the authority.**

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

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

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

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

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

- (1) the loan is, or, if the loan has not been made, will be, at the time of making, in all respects a prudent investment; and**
- (2) the lender will make the loan and sell the loan to the authority within a reasonable period of time.**

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



- (1) require that the loan involved be insured by a loan insurer or be guaranteed by a loan guarantor;
- (2) require any type of security that the authority considers reasonable and necessary; or
- (3) authorize the reservation of funds by lenders in the amount and subject to conditions as the authority considers reasonable and necessary under this chapter.

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

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

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

- (1) financing agreements with the users or developers of the facilities originally financed by the outstanding bonds, or related persons; or
- (2) payments made under guaranty agreements by developers, users, or related persons.

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

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

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

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

(c) The property and the economic development project are subject to all taxes of this state or any county, city, or other political subdivision of this state in the same manner and subject



to the same exemptions that apply to all persons.

Chapter 10. Wastewater and Drinking Water Revolving Loan Programs

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

Sec. 2. The following programs are established:

- (1) The wastewater revolving loan program.
- (2) The drinking water revolving loan program.

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

- (1) The drinking water revolving loan fund (referred to in this chapter as the "drinking water SRF fund" or "fund").
- (2) The wastewater revolving loan fund (referred to in this chapter as the "wastewater SRF fund" or "fund").

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

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

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

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

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

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

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

- (1) gifts to either fund; and
- (2) loans and other financial assistance, as provided in sections 11 through 15 of this chapter;

shall be deposited in the appropriate fund.

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

Sec. 6. (a) The authority shall invest the money in each fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from the investments



shall be credited to and deposited in the appropriate fund.

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

- (1) a participant;
- (2) the authority; or
- (3) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

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

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

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

- (1) Provide loans or other financial assistance to participants for:
 - (A) the planning;
 - (B) the designing;
 - (C) the construction;
 - (D) the renovation;
 - (E) the improvement;
 - (F) the expansion; or
 - (G) any combination of the activities described in clauses (A) through (F);

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

- (2) Pay the cost of administering each fund and program.
- (3) Carry out any purpose eligible for assistance under the federal Clean Water Act or the federal Safe Drinking Water Act.
- (4) Conduct all other activities that are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 8. The authority may develop and implement a strategy to assist participants in acquiring and maintaining technical,



managerial, and financial capacity as contemplated by the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 9. This chapter does not require the authority to provide a loan or other financial assistance to any participant to the extent the authority determines the loan or financial assistance is not in the best interests of the wastewater or drinking water program and the authority.

Sec. 10. The authority may contract with the department of environmental management or any other entity or person for assistance in administering the wastewater or drinking water program and the wastewater SRF fund or drinking water SRF fund and in carrying out the purposes of this chapter.

Sec. 11. For the purposes of this chapter, the authority shall do the following:

- (1) Administer, hold, and manage all aspects of each fund and the wastewater or drinking water program, and any related fund or account the authority creates under this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency.
- (3) Prepare and provide wastewater or drinking water program information.
- (4) Ensure that each proposed financial assistance agreement meets the environmental and technical aspects of the wastewater or drinking water program.
- (5) Periodically inspect project design and construction to determine compliance with the following:
 - (A) This chapter.
 - (B) The federal Clean Water Act or the federal Safe Drinking Water Act.
 - (C) Construction plans and specifications.
- (6) Negotiate the negotiable aspects of each financial assistance agreement.
- (7) Manage any payment systems through which the state receives grant payments from the federal government for the wastewater or drinking water program and disbursements to the wastewater SRF fund or drinking water SRF fund.
- (8) Prepare annual reports concerning each fund and program.
- (9) Be the point of contact with participants and other interested persons in preparing and providing wastewater or drinking water program information.
- (10) Prepare or cause to be prepared each financial assistance



agreement.

(11) Sign each financial assistance agreement.

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

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

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

(1) charge a fee for services provided;

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

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

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

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

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

(b) The authority, in consultation with other state agencies the authority determines to be appropriate, shall develop the priority ranking system to achieve optimum water quality consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act, the water quality goals of the state, and the federal Clean Water Act.

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

(1) Establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made



from sources other than the wastewater SRF fund or drinking water SRF fund (including financial institutions) for a purpose permitted by this chapter.

(2) Provide interest subsidies.

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

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

(1) make loans; or

(2) provide other financial assistance under this chapter.

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

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

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

Sec. 16. (a) A loan or other financial assistance from either fund must be accompanied by the following:

(1) All papers and opinions required by the authority.

(2) Unless otherwise provided by the guidelines of the authority, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

(E) Documentation demonstrating that the participant has the financial, managerial, technical, and legal capability of



operating and maintaining its water or wastewater collection and treatment system.

(b) Each participant:

(1) to which; or

(2) for the benefit of which;

a loan would be made or the other financial assistance would be provided under this chapter must demonstrate that it has developed or is in the process of developing an asset management program as defined in the guidelines of the authority.

Sec. 17. A participant receiving a loan or other financial assistance from the wastewater SRF fund or drinking water SRF fund shall enter into a financial assistance agreement. A financial assistance agreement related to the wastewater or drinking water program is a valid, binding, and enforceable agreement of the participant.

Sec. 18. The authority may sell or pledge loans or evidence of other financial assistance and other obligations of participants to the extent allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 19. (a) The authority may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the wastewater SRF fund or drinking water SRF fund to secure:

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

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act or the federal Clean Water Act.

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

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

(1) the drinking water SRF fund;

(2) the wastewater SRF fund; or

(3) the authority;



regardless of whether the parties have notice of any lien.

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

(e) Action taken to:

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

is limited to the property pledged.

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

Sec. 20. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

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

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

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

Sec. 21. The authority shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

- (1) operate and maintain the public water or wastewater collection and treatment system; and
- (2) pay the obligations of the public water system.

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

Sec. 23. (a) As an alternative to making loans or providing other financial assistance to participants, the authority may use the money in either fund to provide a leveraged loan program and



other financial assistance programs allowed by the federal Clean Water Act or the federal Safe Drinking Water Act to or for the benefit of participants, including using money in the wastewater SRF fund or drinking water SRF fund to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

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

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

(B) provide interest subsidies;

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

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

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

Sec. 24. Notwithstanding any other law, and to the extent allowed by the federal Clean Water Act or the federal Safe Drinking Water Act, money in the wastewater SRF fund or drinking water SRF fund, together with loan repayments to be deposited in the wastewater SRF fund or drinking water SRF fund, may be used to establish a leveraged loan program or other financial assistance programs established in connection with the wastewater SRF fund or drinking water SRF fund.

Chapter 11. Supplemental Drinking Water and Wastewater Assistance Program

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

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



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

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

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

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

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

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

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

(1) gifts to the supplemental fund; and

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

shall be deposited in the supplemental fund.

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

Sec. 5. (a) The authority shall invest the money in the supplemental fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from the investments shall be credited to and deposited in the supplemental fund.

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

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

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



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

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

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

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

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) Provide interest subsidies.

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

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

(6) Pay the cost of administering the supplemental fund and the supplemental program.

(7) Conduct all other activities that are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 7. The authority shall develop criteria to make or provide grants, loans, or other financial assistance from the supplemental fund.

Sec. 8. The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

Sec. 9. This chapter does not require the authority to provide a loan or other financial assistance to any participant to the extent the authority determines loan or financial assistance is not in the best interests of the supplemental program and the authority.

Sec. 10. A loan or other financial assistance from the fund must be accompanied by the following:



- (1) All papers and opinions required by the authority.
- (2) Unless otherwise provided by the guidelines of the authority, the following:
 - (A) An approving opinion of nationally recognized bond counsel.
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
 - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

Sec. 11. A participant receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement related to the supplemental program is a valid, binding, and enforceable agreement of the participant.

Chapter 11.5. Monitoring, Study, and Assessment by the Indiana Finance Authority

Sec. 1. As used in this chapter, "governmental requirement" means a requirement imposed on a utility by a governmental unit in connection with:

- (1) the federal Clean Water Act (33 U.S.C. 1251 et seq.);
- (2) the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.); or
- (3) any other law, order, rule, or regulation administered or issued by the United States Environmental Protection Agency, the department of environmental management, or the department of natural resources in connection with the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 2. As used in this chapter, "utility" means:

- (1) a public utility (as defined in IC 8-1-2-1(a));
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h));



or

(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));
that provides water or wastewater service to the public.

Sec. 3. The IFA shall monitor and study events and conditions that bear upon the ability of utilities to provide clean and safe drinking water in Indiana for the foreseeable future, including the ability of utilities to directly or indirectly fund the increasing costs of meeting governmental requirements.

Sec. 4. The powers of the IFA under section 3 of this chapter include the following:

- (1) Assessing issues related to service line ownership and replacement.
- (2) Assessing the challenges that utilities are likely to encounter as they become subject to more stringent governmental requirements.
- (3) Studying cost recovery mechanisms that enable utilities to respond quickly to system needs.
- (4) Monitoring the growing costs for utilities in complying with consent decrees related to governmental requirements.
- (5) Studying regional water ownership issues, including cross-border issues.

Chapter 12. Indiana Brownfields Program

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

Sec. 2. The Indiana brownfields program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by providing grants, loans, forgivable loans, awards of professional services, or other financial assistance to or for the benefit of political subdivisions to conduct any of the following activities:

- (1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment.
- (2) Environmental assessment of identified brownfields, including assessment of petroleum and hazardous substances contamination, and other activities necessary or convenient to complete the environmental assessments.
- (3) Remediation activities conducted on brownfields, including:
 - (A) remediation of petroleum and hazardous substances contamination; and
 - (B) other activities necessary or convenient to complete



remediation activities conducted on brownfields, including 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 Indiana brownfields 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 Indiana brownfields fund in accordance with an investment



policy adopted by the authority. Interest, premiums, gains, or other earnings from the investments shall be credited to and deposited in the Indiana brownfields fund.

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

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

- (1) Be responsible for the management of all aspects of the Indiana brownfields program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance agreement.
- (4) Sign each financial assistance agreement.
- (5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.
- (6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.
- (7) Conduct or cause to be conducted an evaluation concerning the financial ability of a private individual or entity, nonprofit entity, or political subdivision to:
 - (A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and
 - (B) otherwise comply with terms of the financial assistance agreement.
- (8) Evaluate or cause to be evaluated the technical aspects of the private individual or entity, nonprofit entity, or political subdivision's:
 - (A) environmental assessment of potential brownfield properties;
 - (B) proposed remediation; and
 - (C) remediation activities conducted on brownfield properties.



(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison to the United States Environmental Protection Agency regarding the Indiana brownfields program.

(11) Be a point of contact for private entities, nonprofit entities, and political subdivisions concerning questions about the Indiana brownfields program.

(12) Enter into memoranda of understanding, as necessary, with the department of environmental management and the budget agency concerning the administration and management of the Indiana brownfields fund and the Indiana brownfields program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with private entities, nonprofit entities, and political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(C) Demolition and clearance activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more environmental consultants to undertake the activities described in subsection (b)(2) for the benefit of private entities, nonprofit entities, and political subdivisions.

(e) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(f) For purposes of subsection (e), reckless, willful, or wanton



misconduct constitutes gross negligence.

(g) The authority is entitled to the same governmental immunity afforded a political subdivision under IC 34-13-3-3(22) for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

(h) This chapter does not require the authority to provide a loan or other financial assistance to any private individual or entity, nonprofit entity, or political subdivision to the extent the authority determines that providing the loan or other financial assistance is not in the best interests of the Indiana brownfields program and the authority.

Sec. 5. The authority may do the following:

(1) Employ:

- (A) fiscal consultants;**
- (B) environmental consultants;**
- (C) engineers;**
- (D) bond counsel;**
- (E) other special counsel;**
- (F) accountants; and**
- (G) any other consultants, employees, and agents;**

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed under subdivision (1) from money available in the Indiana brownfields fund or otherwise made available for the Indiana brownfields program.

(3) Provide services to a private individual or entity, nonprofit entity, or political subdivision in connection with a loan or other financial assistance, including advisory and other services.

Sec. 6. (a) The authority may provide services to a person (as defined in IC 13-11-2-158(a)) in connection with financial assistance, technical assistance, and liability clarification, and may assess and collect a fee for:

- (1) services provided to offset the costs of providing the services; and**
- (2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.**



(b) A political subdivision may pay fees charged under this section.

(c) The authority shall adopt guidelines for the assessment and collection of fees under this section.

(d) Fees collected under this section shall be deposited in the Indiana brownfields fund.

Sec. 7. The authority shall use a priority ranking system in making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation under section 4(a)(8)(A), 4(a)(8)(B), and 4(a)(8)(C) of this chapter.

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

Sec. 8. (a) A loan or other financial assistance must be used for at least one (1) of the purposes under section 2 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the Indiana brownfields fund (including financial institutions) for a purpose allowed by this chapter; or

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield; or

(B) the loan or other financial assistance.

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this



chapter, including parameters for establishing the amount of interest subsidies.

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

- (1) Credit risk.
- (2) Environmental, water quality, and health protection.
- (3) Affordability.
- (4) Other fiscal factors the authority considers relevant, including the Indiana brownfields program's cost of funds and whether the financial assistance provided to or for the benefit of a particular political subdivision is taxable or tax exempt under federal law.

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

(d) Before a private individual or entity, nonprofit entity, or political subdivision may receive a loan or other financial assistance, including grants, from the Indiana brownfields fund, the private individual or entity, nonprofit entity, or political subdivision must submit the following:

- (1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.
- (2) A plan for repayment of the loan or other financial assistance, if applicable.
- (3) A summary of the environmental objectives of the proposed project.

(e) A private individual or entity, nonprofit entity, or political subdivision that receives a loan or other financial assistance from the Indiana brownfields fund shall enter into a financial assistance agreement. A financial assistance agreement related to the Indiana brownfields program is a valid, binding, and enforceable agreement of the private individual or entity, nonprofit entity, or political subdivision.

(f) The authority may sell or assign:

- (1) loans or evidence of other financial assistance; and
- (2) other obligations of the private individuals or entities, nonprofit entities, or political subdivisions evidencing the



loans or other financial assistance from the Indiana brownfields fund;
at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the Indiana brownfields fund. A sale or an assignment under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(g) The authority may pledge loans or evidence of other financial assistance and other obligations of private individuals or entities, nonprofit entities, or political subdivisions evidencing the loans or other financial assistance from the Indiana brownfields fund to secure other loans or financial assistance from the Indiana brownfields fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, a trustee, or the Indiana brownfields fund, regardless of whether the parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms.

Sec. 9. A loan or other financial assistance from the fund must be accompanied by the following:

- (1) All papers and opinions required by the authority.
- (2) Unless otherwise provided by the guidelines of the authority, the following:
 - (A) An approving opinion of nationally recognized bond counsel.
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:



- (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
- (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

Sec. 10. The authority may adopt guidelines without complying with IC 4-22-2 to govern the administration of this chapter.

Sec. 11. (a) As an alternative to making loans or providing other financial assistance to private individuals or entities, nonprofit entities, or political subdivisions, the authority may use the money in the Indiana brownfields fund to provide a leveraged loan program and other financial assistance programs to or for the benefit of political subdivisions, including using money in the Indiana brownfields fund to enhance a private individual or entity's, nonprofit entity's, or political subdivision's obligations under this chapter by:

(1) granting money to:

(A) be deposited in:

- (i) a capital fund or reserve fund established under IC 5-1.2-4 or another law, including this chapter; or
- (ii) any account established within the Indiana brownfields fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision or for bonds or other obligations issued by a trustee that is a financial institution for a grantor trust or the authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds or other obligations issued by a trustee that is a financial institution for a grantor trust or the authority.

(b) The authority may enter into any agreements with:



**(1) a trustee that is a financial institution for a grantor trust;
or**

**(2) private individuals or entities, nonprofit entities, or
political subdivisions;**

to carry out this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the Indiana brownfields fund. A guarantee under subsection (a)(3) does not create a liability or an indebtedness of the state or of the authority except, in the case of the authority, strictly in accordance with the guarantee terms.

(d) Notwithstanding any other law, the authority is considered a qualified entity for purposes of IC 5-1.5.

Sec. 12. (a) Notwithstanding any other law and in addition to any other law, including this article, the authority may issue, guarantee, and sell its revenue bonds, notes, and other obligations and guarantee loans and other financial assistance in connection with the Indiana brownfields program and the Indiana brownfields fund. The revenue bonds, notes, and other obligations must be issued in accordance with a resolution of the authority on terms or within parameters established by the authority, and proceeds must be used to carry out one (1) or more of the purposes of this chapter.

(b) Compliance with this section constitutes full authority for the authority to issue and guarantee its revenue bonds, notes, and other obligations, to guarantee loans and other financial assistance, and to sell the revenue bonds, notes, and other obligations at public or private negotiated sale on terms or within parameters established by the authority. The authority is not required to comply with any other law applicable to the authorization, approval, issuance, guarantee, and sale of its revenue bonds, notes, and other obligations and guarantee loans and other financial assistance. The revenue bonds, notes, and other obligations, including guarantees, issued by the authority in connection with the Indiana brownfields program and the Indiana brownfields fund are valid and binding obligations of the authority and are enforceable in accordance with their terms and payable solely from the sources specified in the resolution authorizing their issuance, guarantee, and sale. The authority's revenue bonds, notes, and other obligations, including guarantees, do not create a liability or debt of the state.

Sec. 13. (a) The authority may deposit appropriations or other money received under this chapter (or IC 13-19-5, before its repeal) after June 30, 1999, into an account of the Indiana



brownfields fund. The authority may use money deposited in the account to award financial assistance, including forgivable loans, to or for the benefit of a political subdivision, and awards of professional services to private individuals or entities, nonprofit entities, and political subdivisions for remediation or other brownfield redevelopment activities. The authority shall, in the manner provided by section 10 of this chapter, adopt guidelines to establish a political subdivision's eligibility for a forgivable loan. The guidelines may provide priority for projects based on the funding source.

(b) The financial assistance agreement for a project to be financed with a forgivable loan must specify economic development or redevelopment goals for the project that must be achieved before the political subdivision will be released from its obligation to repay the forgivable loan.

Chapter 13. Flood Control Program

Sec. 1. At the request of the department of natural resources, the authority shall carry out the program established under this chapter.

Sec. 2. (a) The flood control program is established.

(b) The flood control fund is created to provide money for loans and financial assistance to or for the benefit of participants under this chapter as part of the flood control program.

(c) The flood control fund must be used exclusively for the purposes of this chapter.

(d) The authority shall hold the flood control fund in the name of the authority. The authority shall administer the flood control fund in the manner provided by IC 5-1.2-4 and this chapter.

(e) Money in the flood control fund does not revert to the state general fund.

Sec. 3. Loans and financial assistance may be made from the flood control fund to participants in the manner provided by IC 5-1.2-4 and this chapter.

Sec. 4. The authority may make an approved loan or provide other financial assistance from the flood control fund to a participant. The money loaned or provided must be used by the participant only for the purpose of undertaking approved assistance.

Sec. 5. The authority may make an approved loan or provide other financial assistance from the flood control fund to a participant for an eligible activity only if:

(1) the eligible activity is authorized and approved by



ordinance or resolution enacted by the governing board of the participant; and

(2) the assistance has been approved by the authority.

Sec. 6. (a) The authority shall authorize the making of a loan or providing other financial assistance to a participant under this chapter subject to the following:

(1) An application for the loan or other financial assistance to undertake an eligible activity has been submitted by the participant to the authority in the manner and form that the authority directs. The application must state the following:

(A) The need for the requested eligible activity and the need for the loan or other financial assistance for undertaking the requested eligible activity.

(B) A detailed description of the requested eligible activity.

(C) An engineering estimate of the cost of the requested eligible activity.

(D) The amount of the loan or other financial assistance considered to be needed.

(E) Other information that is requested by the authority.

(2) By entering into a financial assistance agreement, the authority determines that the eligible activity for which the approved assistance is provided will preserve, protect, or benefit the health, safety, and general welfare of the inhabitants of the participant's jurisdiction and the citizens of the state.

(3) The participant agrees and furnishes assurance, satisfactory to the authority, that after completion, the participant will operate and maintain the eligible activity receiving approved assistance.

(b) This chapter does not require the authority to provide a loan or other financial assistance to any participant to the extent it determines that providing the loan or other financial assistance is not in the best interests of the flood control program and the authority.

Sec. 7. (a) The participant:

(1) shall undertake and complete work related to the eligible activity receiving approved assistance; and

(2) may provide labor, equipment, and materials from any source available to the participant related to the eligible activity receiving approved assistance.

(b) The authority may do the following:

(1) Evaluate the participation of the participant in the



accomplishment of the eligible activity receiving approved assistance.

(2) Require a contribution by the participant toward the total cost of the eligible activity receiving approved assistance.

(c) Any participation required under this section shall be supervised by the governing board of the participant.

Sec. 8. (a) The authority shall use a priority ranking system in making loans or providing other financial assistance from the flood control fund. The authority, in consultation with other state agencies the authority determines to be appropriate, shall develop the priority ranking system to achieve the purposes of this chapter.

(b) If an emergency demands immediate relief from actual or threatened flood damage, the application made by a participant for a loan or financial assistance may be considered regardless of a previous priority rating ascribed to the applicant.

Sec. 9. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan and other financial assistance made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan and other financial assistance, may take the following into account:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of flood control funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

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

Sec. 10. A participant receiving a loan or other financial assistance from the flood control fund shall enter into a financial assistance agreement with the authority. A financial assistance agreement related to the flood control program is a valid, binding, and enforceable agreement on the participant.

Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the authority.

(2) Unless otherwise provided by the guidelines of the



authority, the following:

- (A) An approving opinion of nationally recognized bond counsel.
- (B) A certification and guarantee of signatures.
- (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
- (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

Sec. 12. A participant receiving a loan or other financial assistance under:

- (1) this chapter;
- (2) IC 13-2-23 (before its repeal); or
- (3) IC 14-28-5 (before its repeal);

may levy an annual tax on personal and real property located within the geographical limits of the participant for flood control purposes. The tax is in addition to any other tax authorized by law to be levied for flood control purposes. The tax shall be levied at the rate that will produce sufficient revenue to pay the annual installment and interest on a loan or other financial assistance made under this chapter, under IC 13-2-23 (before its repeal), or under IC 14-28-5 (before its repeal). The tax at the rate authorized in this section is in addition to the maximum annual rates prescribed by law.

Sec. 13. If a participant fails to make a payment to the flood control fund or any other payment required by this chapter, under IC 13-2-23 (before its repeal), or under IC 14-28-5 (before its repeal) or is in any way indebted to the flood control fund for an amount incurred or accrued, the state may recover the amount through any of the following:

- (1) The state may, through the attorney general and on behalf of the authority, file a suit in the circuit or a superior court with jurisdiction in the county in which the participant is



located to recover the amount that the participant owes the flood control fund.

(2) The auditor of state may, after a sixty (60) day written notice to the participant, withhold the payment and distribution of state money that the defaulting participant is entitled to receive under Indiana law.

(3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the flood control fund in the name of the special taxing district. Upon elimination of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

Chapter 14. Water Infrastructure Assistance Program

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

Sec. 2. The water infrastructure assistance program is established.

Sec. 3. (a) The water infrastructure assistance fund is established as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.

(b) The fund shall be administered, held, and managed by the authority.

(c) The authority shall invest or cause to be invested all or a part of the fund, pursuant to the authority's investment policy, in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment under this subsection may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture referred to in this subsection may permit disbursements by the trustee to the authority, the department, the budget agency, a participant, or any other person as provided in the trust agreement or indenture.

(d) The fund consists of the following:

(1) Fees and other amounts received by the state, paid by the



treasurer of state to the authority upon warrants issued by the auditor of state, and deposited in the fund.

(2) Appropriations to the fund from the general assembly.

(3) Grants and gifts of money to the fund.

(4) Proceeds of the sale of:

(A) gifts to the fund; and

(B) loans, evidences of other financial assistance, and other obligations evidencing the loans or other financial assistance, as provided in sections 5 through 9 of this chapter.

(5) Repayments of loans and other financial assistance from the fund, including interest, premiums, and penalties.

(e) Fees and other amounts received by the state pursuant to law concerning the funding of the water infrastructure assistance fund shall be paid monthly by the treasurer of state to the authority upon warrants issued by the auditor of state and deposited in the fund.

(f) The expenses of administering the fund shall be paid from money in the fund.

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

Sec. 4. Money in the water infrastructure assistance fund may be used to do the following:

(1) Provide grants, loans, and other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated



with the development and preparation of:

- (A) long term control plans;
 - (B) use attainability analyses; and
 - (C) storm water management programs.
- (4) Undertake tasks associated with the development and preparation of water, wastewater, and storm water infrastructure and resource analyses.
- (5) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

Sec. 5. The authority shall adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the water infrastructure assistance fund.

Sec. 6. (a) The making of grants and loans and the providing of other financial assistance from the water infrastructure assistance fund to or for the benefit of participants under this chapter are subject to the following conditions:

- (1) A grant, loan, or other financial assistance may be used:
 - (A) for:
 - (i) the planning, designing, acquiring, constructing, renovating, improving, or expanding of public water systems; and
 - (ii) other activities necessary or convenient to the completion of the tasks referred to in item (i);
 - (B) to:
 - (i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions), for a purpose permitted by clause (A); or
 - (ii) provide interest subsidies;
 - (C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or
 - (D) to pay the following:
 - (i) Consultant, advisory, and legal fees.
 - (ii) Other costs or expenses necessary or incident to the making of grants, loans, or other financial assistance or the administration of the fund or the program.
- (2) A grant may be used for tasks associated with the development and preparation of water infrastructure and



resource analyses.

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to the making of grants or loans or providing of other financial assistance under this chapter.

(b) In addition to exercising its powers under subsection (a), the authority may also make grants or loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to the completion of these tasks;

(B) to:

- (i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the water infrastructure assistance fund (including financial institutions), for a purpose permitted by clause (A); or**
- (ii) provide interest subsidies;**

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay:

- (i) consultant, advisory, and legal fees; and**
- (ii) other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the water infrastructure assistance fund or the infrastructure program.**

(2) A grant may be used for tasks associated with the development and preparation of:

- (A) long term control plans;**
- (B) use attainability analyses;**
- (C) storm water management programs; or**
- (D) other wastewater or storm water infrastructure and resource analyses.**

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to the making of grants or loans or providing of other financial assistance



under this chapter.

Sec. 7. (a) An application for a grant, loan, or other financial assistance from the water infrastructure assistance fund must be accompanied by all papers and opinions required by the authority.

(b) The authority may require that an application for a loan or other financial assistance from the water infrastructure assistance fund be accompanied by the following:

- (1)** A certification and guarantee of signatures.
- (2)** A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:
 - (A)** the grant, loan, or other financial assistance; or
 - (B)** any security for the loan or other financial assistance.
- (3)** Any other certifications, agreements, security, or requirements that the authority requests.
- (4)** An approving opinion of nationally recognized bond counsel.

Sec. 8. A participant receiving a grant, loan, or other financial assistance from the water infrastructure assistance fund shall enter into a financial assistance agreement with the authority. A financial assistance agreement entered into under this section is a valid, binding, and enforceable agreement of the participant.

Sec. 9. (a) The authority may sell loans, evidences of other financial assistance, and other obligations evidencing the loans or other financial assistance from the water infrastructure assistance fund:

- (1)** periodically;
 - (2)** at any price; and
 - (3)** on terms acceptable to the authority.
- (b)** Proceeds of sales under subsection (a) shall be deposited in:
- (1)** the water infrastructure assistance fund;
 - (2)** the wastewater revolving loan fund established by IC 5-1.2-10;
 - (3)** the drinking water revolving loan fund established by IC 5-1.2-10; or
 - (4)** the supplemental drinking water and wastewater assistance fund established by IC 5-1.2-11;

at the direction of the authority.

Sec. 10. (a) The authority may pledge loans, evidences of other financial assistance, and other obligations evidencing the loans or other financial assistance from the water infrastructure assistance fund to secure other loans or financial assistance from:



- (1) the water infrastructure assistance fund;
- (2) the wastewater revolving loan fund established by IC 5-1.2-10;
- (3) the drinking water revolving loan fund established by IC 5-1.2-10; or
- (4) the supplemental drinking water and wastewater assistance fund established by IC 5-1.2-11;

for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the authority.

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

- (1) the authority;
- (2) the budget agency; or
- (3) the water infrastructure assistance fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or another instrument by which a pledge is created under this section does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

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

is limited to the property pledged.

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

Sec. 11. Not later than August 1 of each odd-numbered year through 2021, the public finance director shall prepare for the budget committee established by IC 4-12-1-3 and the legislative council a report that includes the following:

- (1) Information concerning the financial assistance made available to participants from the water infrastructure assistance fund during the two (2) most recent fiscal years.
- (2) Any other information requested by the budget committee and the legislative council.

The report must be submitted in an electronic format under IC 5-14-6.

Chapter 15. Local Transportation Infrastructure Program



Sec. 1. At the request of the Indiana department of transportation, the authority shall carry out this chapter.

Sec. 2. The authority may establish local transportation infrastructure revolving funds for the purpose of providing funds to participants for local transportation infrastructure projects. A separate fund may be established for any purpose listed in section 8(a) of this chapter. Each fund shall be administered by the authority.

Sec. 3. (a) In administering a fund, the authority shall do the following:

- (1) Monitor applicable infrastructure finance needs and the availability and cost of capital.
- (2) Provide financial management of investment pools and financial services associated with loans.
- (3) Explore and evaluate capital financing techniques.
- (4) Explore methods for the state to enhance the credit quality of bond issues of participants at a minimum cost to the state.

(b) The Indiana department of transportation, the department of environmental management, and any other appropriate state agency, department, or instrumentality, in consultation with the authority, shall advise participants on methods for financing infrastructure.

(c) The authority shall annually present a report to the budget committee and the budget agency that describes the projects funded under this chapter during the year.

Sec. 4. Subject to the written procedures developed by the authority under section 7 of this chapter, the authority may do the following:

- (1) Accept money from any agency, department, or instrumentality of the United States, the state, or another state for deposit in a fund.
- (2) Issue bonds and deposit proceeds in a fund.
- (3) Loan money to a participant.
- (4) Use the money in a fund:
 - (A) for debt financing;
 - (B) for grants;
 - (C) for loan guarantees;
 - (D) to manage leveraged loan programs for new construction of local transportation infrastructure projects through recapitalization of funds;
 - (E) to refinance and purchase participant debt;
 - (F) to guarantee participant loans;



(G) to make bond and debt service reserve insurance payments;

(H) to guarantee debt service reserve funds; and

(I) to provide other financial assistance;

to or for a participant.

(5) Deposit loan repayments by a participant in a fund.

Sec. 5. (a) If the authority uses bond proceeds to loan money to or purchase bonds of a participant, the authority may, by the resolution approving the bonds, provide that subsection (b) is applicable to the participant.

(b) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the participant (other than for goods or services provided by the participant), at any time after written notice to the department or agency head from the authority that the participant is in default on the payment of principal of or interest on the bonds then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that participant and pay over the money to the authority for the purpose of paying the principal of and interest on the related bonds. However, the withholding of payment from the participant and payment to the authority under this section must not adversely affect the validity of the bonds in default.

Sec. 6. (a) If the authority finds that the local transportation infrastructure project:

(1) will be of benefit to the health, safety, morals, and general welfare of the area where the local transportation infrastructure project is to be located; and

(2) complies with the purposes and provisions of this chapter; the authority may by resolution approve the proposed financial assistance agreement.

(b) A financial assistance agreement approved under this section in connection with bonds must provide for payments in an amount sufficient to pay the principal of, premium (if any), and interest on the bonds issued for the financing of the local transportation infrastructure project. Interest payments for the anticipated construction period, plus a period of not more than one (1) year, may be funded in the bond issue. The term of a financial assistance agreement may not exceed twenty (20) years from the date of any bonds issued under the financial assistance agreement. However, a financial assistance agreement does not terminate after twenty



(20) years if a default under that financial assistance agreement remains uncured, unless the termination is authorized by the terms of the financial assistance agreement.

(c) The authority may do any of the following:

(1) Establish eligibility standards for a participant and local transportation infrastructure projects, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.

(2) Contract with any entity securing, in whole or in part, the payment of bonds issued under this chapter and authorizing the entity to approve the participant that can finance or refinance local transportation infrastructure projects with proceeds from the bond issue secured by that entity.

(3) Finance for participants in connection with their local transportation infrastructure projects:

(A) the cost of their local transportation infrastructure projects, including costs of planning, designing, feasibility studies, construction, expansion, renovation, or improvement;

(B) capitalized interest for the anticipated construction period plus one (1) year; and

(C) in the case of a program funded from the proceeds of taxable bonds or sources other than tax exempt bonds, working capital associated with the operation of such local transportation infrastructure projects;

in amounts determined to be appropriate by the authority.

(d) The authority may provide financial assistance to participants in the form of forgiveness of principal of a loan.

Sec. 7. (a) The authority shall establish a written procedure, in coordination with a state agency, department, or instrumentality providing funds under section 4(1) of this chapter and for allocating money to projects described in section 8 of this chapter.

(b) The procedure established under this section must include at least the following:

(1) An application procedure to identify projects that qualify for funding.

(2) Criteria for establishing priority of projects.

(3) Procedures for selecting projects.

(4) Procedures for reporting the results of the selection process and the status of projects to the budget committee.

(c) To apply for a loan or other financial assistance from a fund,



a participant must submit an application that contains at least the following information:

- (1) A description of the infrastructure for which the loan or other financial assistance is sought.
- (2) An estimate of the cost of constructing or improving the infrastructure, including the cost of designing the infrastructure.
- (3) Any other information required by the authority in accordance with the procedure established under this section.

Sec. 8. (a) A loan of proceeds of the authority's bonds or a loan or other financial assistance from a fund must be used by a participant to establish or improve highways, roads, streets, bridges, or any other public way, and public mass transportation systems.

(b) Financial assistance from the fund must be made in conjunction with the adoption of a resolution by a participant that sets forth the participant's commitment of revenues or other money or property to the local transportation infrastructure project for which the financial assistance is made.

Sec. 9. (a) A loan from a fund may:

- (1) not have a term of more than twenty (20) years;
- (2) provide for amortization to begin not later than one (1) year after construction of the project ends; and
- (3) have an interest rate established by the authority in accordance with subsection (c).

(b) Unless otherwise provided by the procedure established by the authority under section 7 of this chapter, a participant that receives financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the participant.

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

- (1) Credit risk.
- (2) Affordability.
- (3) Other fiscal factors the authority considers relevant, including the program's cost of funds.

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

Sec. 10. A loan or other financial assistance from the fund must



be accompanied by the following:

- (1) All papers and opinions required by the authority.
- (2) Unless otherwise provided by the guidelines of the authority, the following:
 - (A) An approving opinion of nationally recognized bond counsel.
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
 - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

Sec. 11. The expenses of administering a fund shall be paid from money in that fund.

Sec. 12. The authority may invest money in funds as provided in IC 5-1.2-4-1(a)(17) and IC 5-1.2-4-1(a)(41).

Sec. 13. Money in any fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 14. The following apply to bonds issued under this chapter for local transportation infrastructure projects:

- (1) IC 5-1.2-1-2.
- (2) IC 5-1.2-4-7 through IC 5-1.2-4-16.
- (3) IC 5-1.2-4-19 through IC 5-1.2-4-20.
- (4) IC 5-1.2-4-23.
- (5) IC 5-1.2-4-24.
- (6) IC 5-1.2-4-26 through IC 5-1.2-4-29.

Sec. 15. The authority may fix and pay the compensation of persons employed for purposes of this chapter from money:

- (1) available in a fund; or
- (2) otherwise made available for the program.

Sec. 16. A participant may pay fees charged by the authority to carry out this chapter.

Chapter 16. Bond Ceiling



Sec. 1. The purpose of this chapter is to allocate the volume cap under Section 146 of the Internal Revenue Code.

Sec. 2. (a) The allocation formula established by Section 146(b) and Section 146(c) of the Internal Revenue Code for the volume cap established for Indiana is supplanted under the authority granted by Section 146(e) of the Internal Revenue Code.

(b) All amounts of the volume cap are annually allocated to the state. Thereafter all amounts of the volume cap are assigned from the state to other issuers as provided in this chapter.

Sec. 3. (a) The volume cap shall be allocated annually among categories of bonds in accordance with section 4 of this chapter. Those categories are as follows:

- (1)** Bonds issued by the authority.
- (2)** Bonds issued by the IHCDA.
- (3)** Bonds issued by the ISMEL.
- (4)** Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

- (A)** Division A - Agricultural, Forestry, and Fishing;
- (B)** Division B - Mining;
- (C)** Division C - Construction;
- (D)** Division D - Manufacturing;
- (E)** Division E - Transportation; and
- (F)** Division F - Wholesale Trade;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(3), 142(a)(4), 142(a)(5), 142(a)(6), 142(a)(8), 142(a)(9), or 142(a)(10) of the Internal Revenue Code.

- (5)** Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

- (A)** Division G - Retail Trade;
- (B)** Division H - Finance, Insurance, and Real Estate;
- (C)** Division I - Services;
- (D)** Division J - Public Administration; and
- (E)** Division K - Miscellaneous;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(7) or 144(c) of the Internal Revenue Code.

(b) For purposes of determining the SIC category of a facility, the determination shall be based upon the type of activity engaged in by the user of the facility within the facility in question, rather



than upon the ultimate enterprise in which the developer or user of the facility is engaged.

Sec. 4. (a) On or before January 1 of each year, the authority shall determine the dollar amount of the volume cap for that year.

(b) Each year the volume cap shall be allocated among the categories specified in section 3 of this chapter as follows:

Type of Bonds	Percentage of Volume Cap
Bonds issued by the IFA	9%
Bonds issued by the IHEDA	28%
Bonds issued by the ISMEL	1%
Bonds issued by local units or other issuers under section 3(a)(4) of this chapter	42%
Bonds issued by local units or other issuers under section 3(a)(5) of this chapter	20%

(c) Except as provided in subsection (d), the amount allocated to a category represents the maximum amount of the volume cap that will be reserved for bonds included within that category.

(d) The authority may adopt a resolution to alter the allocations made by subsection (b) for a year if the authority determines that the change is necessary to allow maximum usage of the volume cap and to promote the health and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

(e) The governor may, by executive order, establish for a year a different dollar amount for the volume cap, different bond categories, and different allocations among the bond categories than those set forth in or established under this section and section 3 of this chapter if it becomes necessary to adopt a different volume cap and bond category allocation system in order to allow maximum usage of the volume cap among the bond categories then subject to the volume cap and to promote the health, welfare, and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

Sec. 5. The authority shall determine the allocation of any special volume cap in accordance with the federal act authorizing the special volume cap.

Sec. 6. (a) At 5 p.m. on December 20 of each year, all categories established by section 3 of this chapter are eliminated and any



remaining amounts in those categories shall be placed in a single noncategorized state pool.

(b) After 5 p.m. on December 20 of each year, applications for a grant of volume cap shall be granted from the single noncategorized state pool. These applications shall be granted in the order of priority established in the guidelines adopted under section 7 of this chapter.

Sec. 7. (a) Notwithstanding IC 5-15-5.1, the authority has the sole authority to prescribe and furnish forms used in the administration of this chapter.

(b) The authority may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter. The guidelines may establish procedures, criteria, and conditions for each category of bonds identified in sections 3 and 4 of this chapter. However, the guidelines may not be inconsistent with the requirements of Section 146 of the Internal Revenue Code.

Sec. 8. To qualify for a grant of volume cap, an applicant must do the following:

- (1) Apply for the grant in conformity with the procedures established by the authority.
- (2) Provide the information reasonably requested by the authority to carry out this chapter.
- (3) Meet the criteria established by the authority for the category of bond for which the application is filed.
- (4) Pay the fees established by the authority.

Sec. 9. The authority shall establish a written:

- (1) application procedure for the granting of a portion of the volume cap to an applicant; and
- (2) procedure for filing carryforward elections.

Sec. 10. The authority shall establish written criteria for the selection of grant applications from among the applicants that qualify for the grant under section 8 of this chapter. The criteria must promote the health and well-being of the residents of Indiana by promoting the public purposes served by each of the bond categories subject to the volume cap.

Sec. 11. The authority may establish conditions for the termination of a grant of volume cap. The conditions may include requirements such as the following:

- (1) That the amount of volume cap granted may not be substantially higher than the amount of actual bonds issued.
- (2) That the issuer issue bonds within the time specified by the authority.



SECTION 26. IC 5-1.3 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 1.3. LEASE FINANCING FOR RAIL PROJECTS FOR THE NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY AND THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

Chapter 1. Legislative Findings of Fact

Sec. 1. (a) The general assembly makes the following findings of fact:

(1) The communities in northwest Indiana face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other communities in Indiana.

(2) The general assembly routinely appropriates money to communities throughout the state based on its policy determinations with regard to local need, and has previously authorized appropriations for the development and improvement of the commuter rail system in northwest Indiana.

(3) It is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

(b) Any bonds, leases, or obligations entered into under this article by the IFA do not constitute an indebtedness of the state within the meaning or application of any constitutional or statutory provision, prohibition, or limitation.

Sec. 2. This article provides an additional and alternative method for doing the things authorized by this article, and is supplemental and additional to powers conferred by other laws and not in derogation of any other powers.

Sec. 3. This article is necessary for the welfare of the state and its inhabitants and shall be liberally construed to effect the purposes of this article. If any other law or rule is inconsistent with this article, this article is controlling as to the financing, acquisition, or construction undertaken under this article.

Sec. 4. This article contains full and complete authorization for leases between the IFA and:

- (1) the NWIRDA;
- (2) the NICTD;
- (3) a unit;
- (4) a political subdivision; or



(5) a governmental entity;
 for a rail project. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the IFA, the NWIRDA, or the NICTD or any other officer, department, agency, or instrumentality of the state, any unit, political subdivision, or governmental entity is required to enter into any lease, except as prescribed in this article.

Sec. 5. (a) This article:

(1) applies to:

(A) the IFA;

(B) the NWIRDA; and

(C) the NICTD;

only when acting for the purposes set forth in this article; and

(2) does not apply to:

(A) the IFA;

(B) the NWIRDA; or

(C) the NICTD;

when acting under any other statute for any other purpose.

(b) This article does not apply to a transit development district established by the NWIRDA under IC 36-7.5-4.5.

Sec. 6. When acting pursuant to powers specifically granted in this article, the IFA, the NWIRDA, and the NICTD are not required to comply with any other state statute or law unless it is required by this article.

Sec. 7. The IFA, the NWIRDA, and the NICTD may do all things necessary or proper to carry out this article.

Sec. 8. (a) An action to contest the validity of any action taken under this article may not be brought after the fifteenth day following the date the resolution of:

(1) the IFA;

(2) the NWIRDA; or

(3) the NICTD;

is adopted approving the action taken, provided the applicable statutory procedures have been completed.

(b) If an action challenging an action taken under this article is not brought within the time prescribed by this section, the lease, contract, bonds, notes, obligations, or other action taken shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the lease, contract, bonds, notes, obligations, or other action.



Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Bonds" refers to bonds of:

- (1) the IFA issued under IC 5-1.3-6; or
- (2) the NWIRDA issued under IC 5-1.3-6.

Sec. 3. "Capitalized interest" means interest cost on bonds or notes before and during the period of construction of the rail project for which the bonds or notes were issued, and for a period not to exceed two (2) years after completion of construction.

Sec. 4. "Construction" means constructing, acquiring, renovating, rehabilitating, reconstructing, improving, extending, and equipping a rail project.

Sec. 5. "Costs" as applied to any rail project, includes any item or cost incurred in the construction of a rail project, including:

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the IFA for the construction, including the cost of any relocations incident to the acquisition;
- (3) the cost of demolishing or removing any buildings, structures, or improvements on property acquired by the IFA, including the cost of:
 - (A) acquiring any property to which the buildings, structures, or improvements may be moved; or
 - (B) acquiring any property that may be exchanged for property acquired by the IFA, the NWIRDA, or the NICTD;
- (4) financing charges;
- (5) costs of issuance of bonds or notes, including costs of credit enhancement, such as bond or note insurance;
- (6) remarketing or conversion fees;
- (7) discounts resulting from the purchase price of the bonds or notes being less than par;
- (8) capitalized interest;
- (9) the cost of funding any reserves to secure the payment of bonds or notes;
- (10) engineering, financial, trust and legal expenses, costs of plans, specifications, surveys, estimates, and any necessary feasibility studies;
- (11) administrative expenses of the IFA, the NWIRDA, or the NICTD relating to any rail project financed by bonds or



notes;

(12) refunding any interim financing entered into by the IFA, the NWIRDA, or the NICTD;

(13) reimbursement of the IFA, the NWIRDA, or the NICTD for:

(A) any cost, obligation, or expense incurred by the IFA, the NWIRDA, or the NICTD relating to a rail project;

(B) advances relating to a rail project from the IFA to the NWIRDA or the NICTD or from the NWIRDA to the NICTD for surveys, borings, preparation of plans and specifications, or engineering services; or

(C) any other cost of construction incurred by the NWIRDA or the NICTD that was paid from advances;

(14) other expenses necessary or incident to determining the feasibility or practicability of constructing, operating, and maintaining any rail project; and

(15) other expenses the IFA finds necessary or incident to the construction of the rail project, the financing of the construction, and the placing of the rail project in operation.

Sec. 6. "IFA" refers to the Indiana finance authority established by IC 5-1.2-3.

Sec. 7. "NICTD" refers to the northern Indiana commuter transportation district established under IC 8-5-15.

Sec. 8. "Notes" refers to notes of the IFA or the NWIRDA issued under IC 5-1.3-6 and includes any evidences of indebtedness of the IFA or the NWIRDA, including notes issued in anticipation of the receipt of grant proceeds from the federal government, but does not include bonds.

Sec. 9. "NWIRDA" refers to the northwest Indiana regional development authority established under IC 36-7.5-2-1.

Sec. 10. "Obligations" means bonds, loan contracts, notes, bond anticipation notes, commercial paper, leases, lease-purchases, installment purchases, certificates of participation in agreements or programs, other evidences of indebtedness, or other agreements or purchasing programs.

Sec. 11. "Person" means any individual, entity, or organization of any kind.

Sec. 12. "Political subdivision" has the meaning set forth in IC 36-1-2-13, but does not include a township.

Sec. 13. "Property owner" means all individuals, copartnerships, associations, governmental units or entities, corporations, limited liability companies, or other legal entities



having any title or interest in any land, rights-of-way, property, rights, easements, or legal or equitable interests that may be acquired by the IFA, the NWIRDA, or the NICTD. The term includes the NWIRDA, the NICTD, a unit, or a political subdivision.

Sec. 14. "Rail project" refers only to a rail project as defined in IC 36-7.5-1-13.5 and includes all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests that may be acquired by the IFA, the NWIRDA, or the NICTD for the construction of the rail project. The term includes, but is not limited to, any construction, equipment, 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, or other item that the IFA, the NWIRDA, or the NICTD considers necessary or desirable for the construction and operation of a rail project under this article.

Sec. 15. "Unit" has the meaning set forth in IC 36-1-2-23, but does not include a township.

Chapter 3. General Provisions

Sec. 1. (a) The IFA may contract with the NWIRDA or the NICTD for construction, ownership, maintenance, and operation of rail projects.

(b) The NWIRDA may contract with the NICTD for construction, ownership, maintenance, and operation of rail projects.

Sec. 2. The IFA and the NWIRDA may finance rail projects in accordance with this article.

Sec. 3. (a) The IFA may exercise any powers provided under this article in participation or cooperation with any governmental entity, including the NWIRDA, the NICTD, a unit, or a political subdivision, and enter into any contracts to facilitate that participation or cooperation.

(b) The NWIRDA may exercise any powers provided under this article in participation or cooperation with any governmental entity, including the IFA, the NICTD, a unit, or a political subdivision, and enter into any contracts to facilitate that participation or cooperation.

Sec. 4. (a) The IFA may pay or reimburse the cost of construction of a rail project or of owning or leasing a rail project from any money available to the IFA under this article or any other law, including, without limitation, the proceeds of notes and



bonds, grant proceeds from the federal government, state appropriations, money on deposit in the next generation trust fund established under IC 8-14-15.2, and state or local revenues from the IFA, NWIRDA, NICTD or any political subdivision.

(b) The NWIRDA may pay or reimburse the cost of construction of a rail project or of owning or leasing a rail project from any money available to the NWIRDA under this article or any other law.

(c) The NICTD may pay or reimburse the cost of construction of a rail project or of owning or leasing a rail project from any funds available to the NICTD under this article or any other law.

Sec. 5. The IFA, the NWIRDA, or the NICTD may sell, transfer, lease as lessor, or otherwise convey any land, rights-of-way, property, rights, easements, or legal or equitable interest the IFA, the NWIRDA, or the NICTD considers necessary or convenient for carrying out the provisions of this article, including disposal of unused or surplus property.

Sec. 6. The IFA, the NWIRDA, or the NICTD may acquire by purchase, whenever the IFA, the NWIRDA, or the NICTD considers a purchase expedient, or lease as lessee, any land, rights-of-way, property, rights, easements, or other legal or equitable interests as the IFA, the NWIRDA, or the NICTD considers necessary or convenient for the construction and operation of any rail project. A purchase or lease under this section shall be made upon the terms and at the price agreed upon between the purchaser or lessee, the IFA, and the property owner. The purchaser shall take title to the property, unless the purchaser is the IFA, in which case the IFA shall take title to the property in the name of the state.

Sec. 7. The IFA, the NWIRDA, or the NICTD (each entity referred to in this section as the "contracting party") may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the contracting party and may be for any term of years and contain any terms that are considered reasonable by the contracting party.

Sec. 8. The IFA, the NWIRDA, or the NICTD (each entity referred to in this section as the "grantee") may receive and accept from any federal or state agency grants for or in aid of the construction of any rail project and repay any grant to the grantee from a federal agency if the repayment is necessary to free the



grantee from restrictions that the grantee determines to be in the public interest to remove, or otherwise required by the terms of the grant. Any repayment under this section shall be made from funds available to the grantee at the time the repayment is required and shall be made in a way that does not impair any contract between the grantee and the owners of its bonds or notes or any lease of the grantee.

Sec. 9. The IFA, the NWIRDA, or the NICTD may accept gifts, devises, bequests, grants, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

Sec. 10. The IFA, the NWIRDA, or the NICTD may accept the transfer of any rail project to it.

Sec. 11. The IFA, the NWIRDA, or the NICTD may:

- (1) in the manner provided by IC 32-24; or
- (2) as otherwise required for a railroad federal aid project funded in any part under 49 U.S.C. 103, et seq.;

acquire by appropriation any land, rights-of-way, property, rights, easements, or other legal or equitable interests necessary or convenient for the construction or the efficient operation of any rail project. However, compensation for the property taken shall first be made in money as provided by IC 32-24 or as otherwise required for a railroad federal aid project funded in any part under 49 U.S.C. 103, et seq.

Sec. 12. (a) The state, acting through the governor, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the state, to the IFA, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this article.

(b) A unit, acting through the unit's executive, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the unit, to the IFA, without being required to advertise or solicit bids or proposals in order to accomplish the governmental purposes of this article.

(c) A political subdivision, acting through the political subdivision's legislative body, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land,



rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the political subdivision, to the IFA, without being required to advertise or solicit bids or proposals in order to accomplish the governmental purposes of this article.

(d) The NICTD, acting through its board of trustees, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the NICTD, to the IFA, without being required to advertise or solicit bids or proposals in order to accomplish the governmental purposes of this article.

(e) The NWIRDA, acting through its board, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the NWIRDA, to the IFA, without being required to advertise or solicit bids or proposals in order to accomplish the governmental purposes of this article.

Sec. 13. All property of the IFA, the NWIRDA, or the NICTD constituting a rail project is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or any political subdivision.

Sec. 14. (a) Notwithstanding IC 36-7.5-2-8, the NWIRDA and the NICTD may utilize and may comply with the provisions of:

- (1) IC 5-16;
- (2) IC 5-23;
- (3) IC 5-30;
- (4) IC 5-32;
- (5) IC 36-1-12; or
- (6) any combination of the statutes listed in subdivisions (1) through (5) as determined by the NWIRDA or the NICTD, whichever is appropriate;

when financing, acquiring and constructing a rail project under this article.

(b) The NWIRDA and the NICTD may contract to finance, acquire, and construct a rail project in accordance with this section.

Chapter 4. Contracts

Sec. 1. (a) The IFA, the NWIRDA, and the NICTD are responsible for the construction, leasing, and ownership of rail



projects. With respect to and for the construction of each rail project, the IFA and the NWIRDA or the NICTD may enter into a contract for the purposes set forth in this chapter. The IFA, the NWIRDA, and the NICTD may enter into a separate contract for each rail project or a master contract for several rail projects.

(b) The IFA, the NWIRDA, and the NICTD have all the powers necessary and incidental to carry out the terms and conditions of contracts under this chapter.

Sec. 2. A contract may include the following:

(1) Provisions for payment by the IFA to the NWIRDA and the NICTD of all costs incurred by the NWIRDA or the NICTD in the performance of the contracts, including all costs of construction, salaries, wages, and associated costs of NWIRDA or NICTD personnel attributable to performance of the contract.

(2) Other terms and conditions that the IFA, the NWIRDA, and the NICTD consider appropriate.

Chapter 5. Leases

Sec. 1. (a) In addition to its other powers, the IFA may enter into a lease or leases with the NWIRDA under this chapter for any or all of the purposes set forth in this article.

(b) The IFA and the NWIRDA have all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the IFA and the NWIRDA decide to enter into a lease under this chapter, the IFA and the NWIRDA may enter into a separate lease for each rail project or may enter into one (1) or more master leases for several rail projects.

Sec. 2. (a) If lease rental payments under a lease from the IFA to the NWIRDA are payable in whole or in part from state appropriations, a lease entered into under this chapter must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease may be extended from biennium to biennium, with the extensions not to exceed a cumulative lease term of forty (40) years, unless either the IFA or the NWIRDA gives notice of no extension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is



given.

(3) A provision stating plainly that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional or statutory provision, prohibition, or limitation, and if lease rental payments are payable in whole or in part from state appropriations, that lease rentals are payable by the NWIRDA solely from biennial appropriations, and that the lease is for the actual use or availability for use of rail projects provided by the IFA, with payment commencing no earlier than the time the use or availability or partial use or availability commences.

(4) Provisions requiring the NWIRDA to pay rent at times and in amounts sufficient to pay in full:

- (A) the debt service payable under the terms of any bonds or notes issued by the IFA and outstanding with respect to any rail project, including any required additions to reserves for the bonds or notes maintained by the IFA; and
- (B) additional rent as provided by the lease.

(5) Provisions requiring the NWIRDA to operate and maintain the rail project or rail projects or to cause the rail project or rail projects to be operated and maintained during the term of the lease.

(6) A provision in each master lease for two (2) or more rail projects requiring that each rail project added to the master lease shall be covered by a supplemental lease describing the particular rail project, stating the additional rent payable, and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all rail projects covered, whether by the master lease or a supplemental lease.

(7) Provisions permitting the NWIRDA to pay lease rentals solely from available revenues from the fund established under IC 36-7.5-4-1 without providing for consideration of state appropriations.

(b) A lease entered into under this chapter may contain other terms and conditions that the IFA and the NWIRDA consider appropriate.

(c) If lease rental payments under a lease from the IFA to the NWIRDA are payable in whole or in part from state appropriations, the NWIRDA shall request an appropriation for payment of lease rentals on any lease entered into under this chapter in writing at a time sufficiently in advance of the date for



payment of the lease rentals.

(d) If lease rental payments under a lease from the IFA to the NWIRDA are payable in whole or in part from state appropriations, and the NWIRDA fails at any time to pay to the IFA when due any lease rentals on any lease under this section, the chairperson of the IFA shall immediately:

- (1) report the unpaid amount in writing to the governor and, in an electronic format under IC 5-14-6, to the general assembly; and
- (2) notify the treasurer of state that the NWIRDA has failed to pay lease rentals when due.

The treasurer of state, upon being notified of the failure, shall pay the unpaid lease rental obligations that are due from money in the possession of the state that would otherwise be available for distribution to the NWIRDA under any other law, deducting the payment from the amount distributed.

(e) A lease entered into under this chapter must state the term of the lease, which may not exceed forty (40) years.

Sec. 3. The NWIRDA may sell, transfer, or convey by any means any rail project to the IFA through negotiation of a lease. The NWIRDA may lease any existing rail project system or property under its control to the IFA for construction of a rail project. The rail project may be leased back to the NWIRDA.

Sec. 4. The NWIRDA shall pay lease rentals for leases entered into under this chapter and securing bonds issued under IC 5-1.3-6 from revenues deposited in a separate fund established under IC 36-7.5-4-1.

Sec. 5. (a) Before a lease may be entered into by the NWIRDA under this chapter, the NWIRDA must find that the lease rental provided for is fair and reasonable.

(b) A lease of a rail project from the IFA to the NWIRDA:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed rail project or for improvements to an existing rail project until the rail project or improvements to the rail project have been completed and are ready for availability or use or for partial availability or use;
- (3) may contain provisions:
 - (A) allowing the NWIRDA to continue to operate an existing rail project or cause an existing rail project to be operated until completion of the acquisition, improvements, reconstruction, or renovation of that rail project or any



- other rail project; and
- (B) requiring payment of lease rentals for land, for an existing rail project being used, reconstructed, or renovated, or for any other existing rail project;
- (4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;
- (5) must contain an option for the NWIRDA to purchase the rail project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the rail project, including indebtedness incurred for the refunding of that indebtedness;
- (6) may be entered into before acquisition or construction of a rail project;
- (7) may provide that the NWIRDA must agree to:
- (A) pay or cause to be paid, any taxes and assessments on the rail project;
- (B) maintain or cause to be maintained, insurance on the rail project for the benefit of the NWIRDA;
- (C) assume or cause to be assumed, responsibility for utilities, repairs, alterations, and any costs of operation; and
- (D) pay or cause to be paid, a deposit or series of deposits to the IFA from any funds legally available to the NWIRDA before the commencement of the lease to secure the performance of the NWIRDA's obligations under the lease;
- (8) must provide that the lease rental payments by the NWIRDA shall be made from the fund established under IC 36-7.5-4-1 and may provide that the lease rental payments by the NWIRDA shall be made from:
- (A) net revenues of the rail project;
- (B) any other funds available to the NWIRDA; or
- (C) both sources described in clauses (A) and (B);
- (9) must provide that the IFA is not responsible for the operation and maintenance of the rail project or rail projects upon completion of construction; and
- (10) does not create a debt of the:
- (A) IFA;
- (B) NWIRDA; or
- (C) state;
- within the meaning or application of any constitutional or statutory provision, prohibition, or limitation.

Sec. 6. This chapter contains full and complete authority for leases between the IFA and the NWIRDA. No law, procedure,



proceedings, publications, notices, consents, approvals, orders, or acts by the IFA or the NWIRDA or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 7. (a) The NWIRDA may lease for a nominal lease rental, or sell to the IFA, one (1) or more rail projects or portions of a rail project or land upon which a rail project is located or is to be constructed.

(b) Any lease of all or a portion of a rail project by the NWIRDA to the IFA must be for a term equal to the term of the lease of that rail project back to the NWIRDA.

(c) The NWIRDA may sell property to the IFA for the amount the NWIRDA determines to be in the best interest of the NWIRDA. The IFA may pay that amount from the proceeds of bonds of the IFA.

Sec. 8. If the NWIRDA exercises its option to purchase leased property, the NWIRDA may issue its bonds as authorized by statute.

Sec. 9. This chapter contains full and complete authority for ground, operating, or maintenance leases of any kind between the NWIRDA and the NICTD. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the NWIRDA or the NICTD or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 10. The IFA shall certify to the NWIRDA and the NICTD that all bonds, notes issued, and leases or other obligations entered into with respect to the rail projects have been paid to their final maturity. At that time, the rail project or rail projects shall be transferred to the NICTD and neither the IFA or the NWIRDA shall have any further obligation with respect to the rail project or rail projects.

Chapter 6. Bonds and Notes

Sec. 1. (a) Except as provided in sections 2 and 6 of this chapter, the IFA may, by resolution, issue and sell bonds or notes of the IFA to provide funding to carry out the provisions of this article with respect to the construction of a rail project or rail projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding.

(b) Except as provided in sections 2 and 6 of this chapter, the NWIRDA may, by resolution, issue and sell bonds or notes of the



NWIRDA to provide funding to carry out the provisions of this article with respect to the construction of a rail project or rail projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding.

Sec. 2. (a) Before the issuance of bonds or notes, the IFA must:

- (1) receive the approval of the budget agency; and**
- (2) receive budget committee review of a financial plan if the bonds or notes are payable from lease rental payments to be made from:**

- (A) state appropriations; or**
- (B) money on deposit in the next generation trust fund established under IC 8-14-15.2.**

(b) Before the issuance of bonds or notes, the IFA or the NWIRDA shall identify the rail project or rail projects to be financed from the proceeds of the bonds or notes.

Sec. 3. (a) Before issuing a series of bonds or notes, the IFA or the NWIRDA shall publish a notice of its determination to issue the bonds or notes. The notice shall be published one (1) time in two (2) newspapers published and of general circulation in the area where the rail project is located.

(b) An action to contest the validity of:

- (1) any contract related to the bonds or notes entered into by or among the IFA, the NWIRDA, or the NICTD before the bonds or notes are issued;**
 - (2) any lease related to the bonds or notes entered into by or among the IFA, the NWIRDA, or the NICTD before the bonds or notes are issued to secure a series of bonds or notes;**
 - (3) a series of bonds or notes issued by the IFA or the NWIRDA; or**
 - (4) any pledge of financial support for the bonds or notes;**
- may not be brought after the fifteenth day following publication of the notice required by subsection (a).**

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the IFA may publish notice of execution of the lease or contract as set forth in subsection (a). An action to contest the validity of such a lease or contract, or any pledge of financial support for such a lease or contract, may not be brought after the fifteenth day following publication of the notice.

Sec. 4. (a) The bonds or notes of the IFA:

- (1) shall be executed by the manual or facsimile signature of the chairperson or vice chairperson of the IFA;**



- (2) shall be attested by the manual or facsimile signature of the public finance director for the IFA;
 - (3) shall be imprinted or impressed with the seal of the IFA by any means;
 - (4) may be authenticated by a trustee, registrar, or paying agent; and
 - (5) constitute valid and binding obligations of the IFA, even if the chairperson, vice chairperson, or public finance director whose manual or facsimile signature appears on the bonds or notes no longer holds that office.
- (b) The bonds or notes of the NWIRDA:
- (1) shall be executed by the manual or facsimile signature of the chairperson or vice chairperson of the NWIRDA;
 - (2) shall be attested by the manual or facsimile signature of the secretary-treasurer of the NWIRDA;
 - (3) may be authenticated by a trustee, registrar, or paying agent; and
 - (4) constitute valid and binding obligations of the NWIRDA, even if the chairperson, vice chairperson, or secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

Sec. 5. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

Sec. 6. The bonds or notes may be sold by the IFA or the NWIRDA at a public or a negotiated sale at a time or times determined by the IFA or the NWIRDA and at a premium or discount as determined by the IFA or NWIRDA. In determining the amount of bonds or notes to be issued and sold, the IFA or the NWIRDA may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the rail project, a refunding, or the issuance of the bonds or notes.

Sec. 7. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the IFA or the NWIRDA may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the IFA and the NWIRDA, as applicable, are



governed in all respects by this article and the resolution or trust agreement.

Sec. 8. The bonds or notes:

- (1) constitute the corporate obligations of the IFA or the NWIRDA;**
- (2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision, prohibition, or limitation; and**
- (3) are payable solely as to both principal and interest from:**
 - (A) the revenues from a lease to the NWIRDA, if any;**
 - (B) other available revenues, if any;**
 - (C) proceeds of bonds or notes, if any; or**
 - (D) investment earnings on proceeds of bonds or notes.**

Sec. 9. The provisions of this article and the covenants and undertakings of the IFA or the NWIRDA as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the IFA or the NWIRDA or any officer, agent, or employee of the IFA or the NWIRDA. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the IFA or the NWIRDA.

Sec. 10. (a) All bonds or notes issued under this article by the IFA are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5.

(b) All bonds or notes issued under this article by the NWIRDA are issued by a body corporate and politic. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5.

Sec. 11. Notwithstanding any other law, all financial institutions,



investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds or other money belonging to them or within their control in bonds or notes issued under this chapter.

Sec. 12. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-19 and any other state securities registration statutes.

Sec. 13. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the IFA or the NWIRDA is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the IFA or the NWIRDA and received after the pledge by the IFA or the NWIRDA or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the IFA, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the IFA.

Sec. 14. (a) The IFA may obtain from the NWIRDA or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the IFA, or on securities purchased or held by the IFA.

(b) The NWIRDA may obtain from the IFA or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the NWIRDA, or on securities purchased or held by the NWIRDA.

Sec. 15. The IFA or the NWIRDA may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the IFA or the NWIRDA, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the IFA or the NWIRDA, and not in violation of law. The IFA or the NWIRDA may execute and deliver notes to evidence its obligation to make payments under such an agreement, but these notes must conform to this article in all respects.



Sec. 16. The IFA or the NWIRDA may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the IFA or the NWIRDA for rendering services in connection with:

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the IFA or the NWIRDA;**
- (2) the payment or collection of amounts payable as to principal or interest; and**
- (3) the delivery to the IFA or the NWIRDA of securities or other investments purchased or sold by it.**

The IFA or the NWIRDA may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the IFA or the NWIRDA, is necessary or desirable.

Sec. 17. (a) In the discretion of the IFA or the NWIRDA, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the IFA or the NWIRDA and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a co-trustee, which may be any trust company or bank in the United States.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the IFA or the NWIRDA, and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.

(d) Any trust agreement or resolution may contain other provisions that the IFA or the NWIRDA considers reasonable and proper for the security of the owners of bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from funds available to the IFA or the NWIRDA.

Sec. 18. (a) The IFA may purchase bonds or notes of the IFA or the NWIRDA out of its funds or money available for the purchase of its own bonds or notes. The IFA may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with



owners of its bonds or notes. Unless canceled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.

(b) The NWIRDA may purchase bonds or notes of the IFA or the NWIRDA out of its funds or money available for the purchase of its own bonds or notes. The NWIRDA may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless canceled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.

Sec. 19. Funds or money held by the IFA, the NWIRDA, or the NICTD under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

SECTION 27. IC 5-1.5-1-8, AS AMENDED BY P.L.232-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. "Qualified entity" means:

- (1) a political subdivision (as defined in IC 36-1-2-13);
- (2) a state educational institution;
- (3) a leasing body (as defined in IC 5-1-1-1(a));
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- (5) any rural electric membership corporation organized under IC 8-1-13;
- (6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;
- (7) any telephone cooperative corporation formed under IC 8-1-17;
- (8) any commission, authority, or authorized body of any qualified entity;
- (9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;
- (10) any commission, authority, or instrumentality of the state;
- (11) any other participant (as defined in ~~IC 13-11-2-151.1~~; **IC 5-1.2-2-54**);
- (12) a charter school established under IC 20-5.5 (before its repeal) or IC 20-24 that is not a qualified entity under IC 5-1.4-1-10;



(13) a volunteer fire department (as defined in IC 36-8-12-2); or

(14) a development authority (as defined in IC 36-7.6-1-8).

SECTION 28. IC 5-1.5-2-2, AS AMENDED BY P.L.235-2005, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the public finance director appointed under ~~IC 4-4-11-9~~, **IC 5-1.2-3-6**, who shall be the director ex officio; and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until ~~his~~ **the director's** successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing the director's duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with the director's duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

SECTION 29. IC 5-1.5-4-4, AS AMENDED BY P.L.235-2005, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the



place inside or outside the state; and
 (9) be subject to the terms of redemption;
 as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in 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 subject to the volume cap (as defined in ~~IC 4-4-11.5-14~~ **IC 5-1.2-2**) without obtaining the prior approval of the Indiana finance authority.

SECTION 30. IC 5-13-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. "Credit enhancement obligation" means the obligation of the developers of an **industrial economic** development project under the documents related to the credit enhancement.

SECTION 31. IC 5-13-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. "**Industrial Economic** development obligation" means any loan or lease by a lender or lessor approved by the board for depositories as responsible and able to service the loan or lease properly, which is used to finance all or any portion of the cost of an **industrial economic** development project.

SECTION 32. IC 5-13-4-14, AS AMENDED BY P.L.235-2005, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2018]: Sec. 14. ~~Industrial~~ **Economic** development project" has the meaning set forth in ~~IC 4-4-10.9-11~~ **IC 5-1.2-2** and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana finance authority may make a loan or lease guarantee.

SECTION 33. IC 5-13-9.3-4, AS ADDED BY P.L.139-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) If the fiscal body of a political subdivision adopts an ordinance or a resolution under section 3 of this chapter for a particular capital asset, the fiscal officer of the political subdivision shall establish a separate fund into which some or all of the proceeds from the sale of the capital asset shall be deposited. All interest and other income earned on investments of money in the fund shall be deposited in the fund. The ordinance or resolution under section 3 of this chapter must require that the investing officer of the political subdivision shall contract with a registered investment advisor concerning the investment of the proceeds in the fund with the expanded investment authority granted to the political subdivision under this section.

(b) Notwithstanding IC 5-13 or any other law, the investing officer of the political subdivision may invest money in the fund in the same manner as money in the next generation trust fund may be invested under ~~IC 8-14-15-8(b)~~; **IC 8-14-15.2-9(b)**. A political subdivision shall enter into an agreement with a registered investment advisor to provide advice regarding investment of money in the fund. The political subdivision shall, with the advice of the registered investment advisor, enter into agreements with investment managers for the investment of the funds. These agreements:

- (1) must be a fee-for-service agreement; and
- (2) may not provide that the compensation of the investment management professionals or investment advisors is determined in whole or in part by the amount or percentage of the investment income earned on money in the fund.

(c) Money in the fund may not be expended or transferred from the fund, except as provided in this chapter.

SECTION 34. IC 5-13-12-3, AS AMENDED BY P.L.235-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The board for depositories exercises essential public functions, and has a perpetual existence. The board has all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including but not limited



to the powers to do the following:

- (1) Adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate its affairs and to effect the powers and purposes of the board, all without the necessity of adopting a rule under IC 4-22-2.
- (2) Adopt its budget on a calendar year or fiscal year as it shall determine.
- (3) Sue and be sued in its own name.
- (4) Have an official seal and alter it at will.
- (5) Maintain an office or offices at a place or places within Indiana as it may designate.
- (6) Make and execute contracts and all other instruments with either public or private entities.
- (7) Communicate with the employees of the Indiana finance authority to the extent reasonably desirable in working on a guarantee of an **industrial economic** development obligation or credit enhancement obligation.
- (8) Deposit all uninvested funds of the public deposit insurance fund in a separate account or accounts in financial institutions that are designated as depositories to receive state funds under IC 5-13-9.5. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the board as it shall authorize.
- (9) Take any other act necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(b) In enforcing any obligation of the borrower or any other person under the documents evidencing a guarantee, the board may renegotiate the guarantee, modify the rate of interest, term of the industrial development obligation or credit enhancement obligation, payment of any installment of principal or interest, or any other term of any documents, settle any obligation on the security or receipt of property or the other terms as in its discretion it deems advantageous to the public deposit insurance fund, and take any other action necessary or convenient to such enforcement.

(c) The records of the board for depositories relating to negotiations between it and prospects for **industrial economic** development obligation or credit enhancement obligation guarantees are excepted from the provisions of IC 5-14-3-3.

SECTION 35. IC 5-13-12-4, AS AMENDED BY P.L.93-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) The secretary-investment manager shall



administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an ~~industrial~~ **economic** development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under clause (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Before July 30, 2013, the auditor of state shall:

(1) make the second 2013 distribution from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund as required by this section as it existed on June 30, 2013; and

(2) transfer all of the balance in the pension distribution fund remaining after the distribution under subdivision (1) to the public deposit insurance fund.

SECTION 36. IC 5-13-12-7, AS AMENDED BY P.L.93-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories. Money in the fund may not be expended, removed, or transferred from the fund for any purpose



other than the following unless the expenditure, the removal, or transfer is first reviewed by the budget committee:

- (1) Paying expenses of administering the fund.
- (2) Investing, reinvesting, and exchanging investments as described in subsection (d).
- (3) Paying claims on insured public deposits under IC 5-13-13.
- (4) Making payments required by contracts executed under section 3(a)(6) of this chapter.
- (5) Making deposits of uninvested funds under section 3(a)(8) of this chapter.
- (6) Paying allowable expenses as provided in section 4 of this chapter.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on information the board considers, including but not limited to capital adequacy, liquidity, and asset quality, and a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be



entitled shall be set off against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

- (1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).
- (2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).
- (3) In bonds, notes, certificates, and other valid obligations of a state or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.
- (4) In bonds or other obligations of the Indiana finance authority issued under ~~IC 4-13-5~~ **IC 5-1.2**.
- (5) In investments permitted the state under IC 5-13-10.5.
- (6) In guarantees of ~~industrial~~ **economic** development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars (\$8,000,000).
- (7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.
- (8) In bonds, notes, or other valid obligations of the Indiana finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an ~~industrial~~ **economic** development project (as defined in ~~IC 4-4-10.9-11~~) **IC 5-1.2-2**) that the authority has undertaken for the purposes of retaining or increasing



employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing and community development authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of ~~industrial~~ **economic** development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars (\$14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars (\$24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars (\$20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11 (**before its**



repeal), and the board may invest an amount equal to the remainder, if any, of:

- (i) fifteen percent (15%) of the available balance of the insurance fund; minus
- (ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11 (**before its repeal**);

in guarantees of ~~industrial~~ **economic** development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars (\$34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

- (A) ten percent (10%) of the available balance of the insurance fund; or
- (B) twelve million dollars (\$12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) All interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).

SECTION 37. IC 5-13-12-8, AS AMENDED BY P.L.162-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) The board for depositories, in making the ~~industrial~~ **economic** development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

- (1) A guarantee shall be made only of ~~industrial~~ **economic** development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).
- (2) Each ~~industrial~~ **economic** development obligation or credit



enhancement obligation must be guaranteed not only by the board but also by the Indiana economic development corporation created by IC 5-28-3-1. Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the ~~industrial~~ **economic** development obligation or credit enhancement documents, the amount of the loss, up to two million dollars (\$2,000,000), shall first be paid by the industrial development project guaranty fund created by IC 5-28-30-9, and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the ~~industrial~~ **economic** development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana economic development corporation. Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the ~~industrial~~ **economic** development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the ~~industrial~~ **economic** development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the ~~industrial~~ **economic** development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of **security agreements and mortgages under items (i) and (ii)**; or

(iv) other document; and



- (B) in lease transactions by the guaranteed party's rights as owner of the leased property.
- (5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision (2), must not exceed:
- (A) the lesser of:
- (i) ninety percent (90%) of the unpaid balance of the obligation; or
 - (ii) ninety percent (90%) of the appraised fair market value of the real estate;
- if the obligation is backed by real estate;
- (B) the lesser of:
- (i) seventy-five percent (75%) of the unpaid balance of the obligation; or
 - (ii) seventy-five percent (75%) of the appraised fair market value of the equipment;
- if the obligation is backed by equipment; or
- (C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.
- (6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the **industrial economic** development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.
- (b) The following conditions apply to the making of bond bank obligation guarantees under section 7(d)(7) of this chapter:
- (1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.
 - (2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.



(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder."

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

SECTION 38. IC 5-13-12-10, AS AMENDED BY P.L.235-2005, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. With regard to direct obligations of the Indiana finance authority that have been issued in conjunction with an **industrial economic** development project undertaken by the authority, including those obligations that are guaranteed by the board under this chapter or purchased by the board under section 7(d)(8) of this chapter, the board may upon the request of the authority permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate document securing the direct obligations, if the board in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the **industrial economic** development project.

SECTION 39. IC 5-14-3.3-2, AS ADDED BY P.L.269-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) As used in this chapter, "executive state agency" refers to any agency, authority, board, bureau, commission, department, division, office, or other unit of state government in the executive, including the administrative, department of state government established by any of the following:

(1) The Constitution of the State of Indiana.



- (2) An Indiana statute.
- (3) An administrative rule.
- (4) An executive order.
- (b) The term does not include the following:
 - (1) The legislative department of state government.
 - (2) The judicial department of state government.
 - (3) The Indiana finance authority ~~created~~ **established** by ~~IC 4-4-11-4~~ **IC 5-1.2-3-1**.
 - (4) A political subdivision.
 - (5) A state educational institution.

SECTION 40. IC 5-20-1-8, AS AMENDED BY P.L.145-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Subject to the approval of the public finance director appointed under ~~IC 4-4-11-9~~ **IC 5-1.2-3-6**, the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may



determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions and subject to the approval of the public finance director appointed under ~~IC 4-4-11-9~~, **IC 5-1.2-3-6**, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established ~~under IC 4-4-11~~ by **IC 5-1.2-3** in the issuance of the bonds or notes.

SECTION 41. IC 5-20-1-18, AS AMENDED BY P.L.145-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the public finance director appointed under ~~IC 4-4-11-9~~, **IC 5-1.2-3-6**, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 42. IC 5-28-3-6 IS REPEALED [EFFECTIVE JULY 1,



2018]. Sec. 6: (a) As used in this section, "transferred programs" refers to the following:

- (1) Shovel ready site development center under IC 5-28-28.4, as added by P.L.162-2007 (IC 4-4-11-44 before its repeal);
- (2) Capital access program under IC 5-28-29, as added by P.L.162-2007 (IC 4-4-26 before its repeal);
- (3) Industrial development loan guaranty program under IC 5-28-30, as added by P.L.162-2007 (IC 4-4-11-16 before its repeal);
- (4) Agricultural loan and rural development project guarantee fund under IC 5-28-31, as added by P.L.162-2007 (IC 15-7-5-19.5 before its repeal);
- (5) Business development loan fund under IC 5-28-32, as added by P.L.162-2007 (IC 4-4-11-16.5 before its repeal);

(b) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to the transferred programs are transferred to the corporation:

(c) On July 1, 2007, all records and property of the Indiana finance authority with respect to the transferred programs, including appropriations and other funds under the authority's control or supervision, are transferred to the corporation:

(d) After June 30, 2007, any amounts owed to the Indiana finance authority under the transferred programs before July 1, 2007, are considered to be owed to the corporation:

(e) After June 30, 2007, a reference to the Indiana finance authority in a statute, rule, or other document concerning a transferred program is considered a reference to the corporation unless the reference applies to the issuance of obligations:

(f) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to agreements entered into or obligations issued in connection with a transferred program are transferred to the corporation. The rights of a party to such an agreement or the holder of such an obligation remain unchanged, although the powers, duties, and liabilities described in this subsection have been transferred to the corporation:

SECTION 43. IC 5-28-5-15, AS ADDED BY P.L.162-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. The corporation may take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to an **industrial economic** development project when a guaranteed loan on the



~~industrial economic~~ development project is clearly in default and when in the opinion of the corporation such an acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent ~~such industrial the economic~~ development project for any use.

SECTION 44. IC 5-28-8-4, AS AMENDED BY P.L.145-2016, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. As used in this chapter, "qualified entity" means:

- (1) the state;
- (2) a political subdivision of the state;
- (3) an agency of the state or a political subdivision of the state;
- (4) a nonprofit corporation;
- (5) the Indiana finance authority established ~~under IC 4-4-10-9 and IC 4-4-11;~~ **by IC 5-1.2-3;** or
- (6) any of the following local economic development organizations:
 - (A) An urban enterprise association established under IC 5-28-15 (or IC 4-4-6.1 before its repeal).
 - (B) An economic development commission established under IC 36-7-12.
 - (C) A nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana.
 - (D) A regional planning commission established under IC 36-7-7.
 - (E) A nonprofit educational organization whose primary purpose is educating and developing local leadership for economic development initiatives.
 - (F) Other similar organizations whose purposes include economic development and that are approved by the corporation.

SECTION 45. IC 5-28-9-20, AS AMENDED BY P.L.1-2006, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 20. (a) For ~~industrial economic~~ development projects (as defined in ~~IC 4-4-10.9-11(a)~~) **IC 5-1.2-2**) that have a cost of the project (as defined in ~~IC 4-4-10.9-5~~) **IC 5-1.2-2**) greater than one hundred million dollars (\$100,000,000), the corporation may coordinate a loan to a county, city, or town under this chapter that is to be funded under IC 6-1.1-39 with a simultaneous or



successive sale of the note or other debt obligation issued or to be issued by the county, city, or town to evidence the borrowing under this chapter. For such a coordinated or simultaneous lending and sale, the sale proceeds may be applied to the funding of the loan to the county, city, or town.

(b) Notes or other debt obligations of a county, city, or town that may be sold by the corporation under this section or section 19 of this chapter are declared to be legal investments for:

- (1) all insurance companies and associations and other persons carrying on an insurance business; and
- (2) all banks, bankers, banking associations, trust companies, savings associations including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business.

These entities may invest their funds, including capital, in the notes or other debt obligations, notwithstanding any law to the contrary.

SECTION 46. IC 5-28-25-1, AS ADDED BY P.L.235-2005, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "eligible entity" means:

- (1) a city;
- (2) a town;
- (3) a county;
- (4) a special taxing district;
- (5) an economic development commission established under IC 36-7-12;
- (6) a nonprofit corporation;
- (7) a corporation established under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to distribute water for domestic and industrial use;
- (8) a regional water, sewage, or solid waste district;
- (9) a conservancy district that includes in its purpose the distribution of domestic water or the collection and treatment of waste; or
- (10) the Indiana finance authority established ~~under IC 4-4-11~~ by **IC 5-1.2-3.**

SECTION 47. 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 48. 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 49. 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.

SECTION 50. IC 5-28-30-5, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. As used in this chapter, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and



high technology infrastructure (as defined in IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

- (1) ~~A pollution control facility (as defined in IC 4-4-10.9-24).~~
- (2) **(1)** A manufacturing enterprise.
- (3) **(2)** A business service enterprise involved in:
 - (A) computer and data processing services; or
 - (B) commercial testing services.
- (4) **(3)** A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.
- (5) **(4)** Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.
- (6) **(5)** An agricultural enterprise in which:
 - (A) the enterprise operates under a producer or growout agreement; and
 - (B) the output of the enterprise is processed predominantly in Indiana.
- (7) **(6)** A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.
- (8) **(7)** A recycling market development project.
- (9) **(8)** A high growth company with high skilled jobs.
- (10) ~~A broadband development project.~~

SECTION 51. IC 5-28-30-7, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. As used in this chapter, "mortgage" means a mortgage on an industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, or the unpaid purchase price of real estate under the laws of this state, together with the credit instruments, if any, secured thereby, including but not limited to a financing agreement as defined in ~~IC 4-4-10.9-8~~ **IC 5-1.2-2** or a financing agreement within the meaning of IC 36-7-12 in connection with real property.

SECTION 52. IC 5-28-30-9, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. There is created an industrial development project guaranty fund which shall be used by the corporation as a



nonlapsing, revolving fund for carrying out the provisions of the guaranty program. The corporation may expend money from the guaranty fund as the authority considers appropriate to carry out the purposes of this chapter and ~~IC 4-4-11~~. **IC 5-1.2-9**. The guaranty fund consists of the money, if any, appropriated by the general assembly. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the guaranty program, including interest, principal, and lease payments required by loan or lease defaults under the guaranty program, and to the sum shall be credited that income of the corporation attributable and allocated by the corporation to the guaranty program, including guarantee premiums.

SECTION 53. IC 5-28-30-11, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. The conditions referred to in section 10 of this chapter are as follows:

- (1) A new or additional guarantee of a loan or lease under section 10, 12, or 17 of this chapter may not be entered into if the guarantee would cause the outstanding total guarantee obligations with respect to all loans and leases guaranteed under sections 10, 12, and 17 of this chapter to exceed eight (8) times the amount of money in the guaranty fund.
- (2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products may not exceed two million dollars (\$2,000,000), less the outstanding total principal balance under any loans made and owed to the corporation under section 17 of this chapter to or for the benefit of the project or operation.
- (3) A guarantee of either a loan secured by real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less.
- (4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less.



(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under section 10 of this chapter, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years from the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and any guarantee premiums required by the corporation; and

(E) contain any terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation may prescribe.

(7) The proposed guarantee or direct loan has been submitted to the budget agency. The budget agency shall verify whether money is available for the proposal and that the proposal is in compliance with this chapter. The budget agency may submit the proposal, with its comments, to the budget committee for review. The corporation may not approve a guarantee or direct loan until the budget committee has reviewed the guarantee or direct loan.

SECTION 54. IC 5-28-30-16, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 16. To further the purposes of this chapter, and subject to this chapter, the corporation may also use any part of the guaranty fund to guarantee any bonds issued by the Indiana finance authority under ~~IC 4-4-11~~ **IC 5-1.2** or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a



subordination of any:

- (1) security agreement;
- (2) mortgage;
- (3) combination of security agreements and mortgages; or
- (4) other appropriate documents securing the direct obligations;

if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.

SECTION 55. IC 5-28-30-20, AS ADDED BY P.L.162-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 20. To further the purposes of this chapter and ~~IC 4-4-11~~, **IC 5-1.2-9**, and in addition to the corporation's other powers under this chapter, the corporation may transfer funds from the guaranty fund to the capital access account established under IC 5-28-29-35.

SECTION 56. IC 5-28-31 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Agricultural Loan and Rural Development Project Guarantee Fund).

SECTION 57. 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.~~

SECTION 58. IC 6-1.1-39-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.6. As used in this chapter, "qualified industrial development project" means an **industrial economic** development project (as defined in ~~IC 4-4-10.9-11(a)~~ **IC 5-1.2-2**) that has a cost of the project (as defined in ~~IC 4-4-10.9-5~~ **IC 5-1.2-2**) greater than one hundred million dollars (\$100,000,000).

SECTION 59. IC 6-3.1-29-20.7, AS ADDED BY P.L.182-2009(ss), SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 20.7. (a) The findings in IC 4-4-11.6-12 (**before its repeal**) are incorporated by reference into this section. The general assembly further finds that the refundable credit provided by this section is also necessary to achieve the purposes set forth in IC 4-4-11.6-12 (**before its repeal**).

(b) This section applies to a taxpayer that:

- (1) makes a qualified investment in an integrated coal gasification powerplant; and
- (2) **enters entered** into a contract to sell substitute natural gas (as defined in IC 4-4-11.6-11) (**before its repeal**) to the Indiana finance authority under IC 4-4-11.6 (**before its repeal**).

(c) Notwithstanding anything in this chapter to the contrary, a



taxpayer may elect in the manner prescribed by the department to take and receive all credits to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter) as a refundable credit against the taxpayer's state tax liability, if any, over a period of twenty (20) taxable years, beginning not later than the taxable year in which the taxpayer places into service its integrated coal gasification powerplant. If, in a taxable year, a taxpayer that makes an election under this subsection has no state tax liability, the department shall pay to the taxpayer the full amount of the refundable credit for that taxable year.

(d) The amount of a credit to which a taxpayer that makes an election under subsection (c) is entitled for a particular taxable year equals the result determined under STEP FOUR:

STEP ONE: Determine the total credit amount to which the taxpayer is entitled under section 15 of this chapter (without regard to section 16 of this chapter).

STEP TWO: Divide the STEP ONE amount by twenty (20).

STEP THREE: Determine the ratio of Indiana coal to total coal used in the taxpayer's integrated coal gasification powerplant in the taxable year.

STEP FOUR: Multiply the STEP TWO and STEP THREE amounts.

(e) A taxpayer shall claim a refund under this section in the manner provided by the department. The department shall pay the refunded amount to the taxpayer not more than ninety (90) days after the date on which the refund is claimed.

(f) The shareholders, members, or partners of a pass through entity that makes an election under subsection (c) are not entitled to a credit allowed under section 20(b) of this chapter.

(g) A credit allowed under this section is not assignable under section 20.5 of this chapter.

SECTION 60. IC 6-3.6-11-6, AS AMENDED BY P.L.248-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to Lake County, LaPorte County, Porter County, and any municipality in those counties that is a member of the northwest Indiana regional development authority (IC 36-7.5) for purposes of categorizations, allocations, and distributions of additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9.

(b) This subsection applies only to Lake County. The county or a city described in IC 36-7.5-2-3(b) may use additional revenue that is allocated each year for economic development purposes under



IC 6-3.6-6-9 for making transfers required by IC 36-7.5-4-2 or to provide rail project funding under IC 36-7.5-4.5. **The additional revenue allocated for economic development and used to make the transfers required by IC 36-7.5-4-2 or to provide rail project funding shall be paid by the treasurer of state to the treasurer of the northwest Indiana regional development authority before certified distributions are made to the county or any cities or towns in the county.** The county or a city or town in the county may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 to provide homestead credits in the county, city, or town. The following apply to homestead credits provided under this subsection:

- (1) The county, city, or town fiscal body must adopt an ordinance authorizing the homestead credits. The ordinance must specify the amount of additional revenue that will be used to provide homestead credits in the following year.
 - (2) The county, city, or town fiscal body that adopts an ordinance under this subsection must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.
 - (3) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.
 - (4) The homestead credits shall be treated for all purposes as property tax levies.
 - (5) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.
 - (6) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subsection to provide homestead credits in that year.
- (c) This subsection applies only to LaPorte County as follows:
- (1) This subsection applies if:
 - (A) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and
 - (B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.
 - (2) Additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 may be used by a



county or a city described in IC 36-7.5-2-3(e) for making transfers required by IC 36-7.5-4-2. In addition, if the allocation of additional revenue for economic development purposes under IC 6-3.6-6-9 is increased in the county, the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the allocation increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2 and shall be paid by the ~~county~~ treasurer **of state** to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county.

(3) All of the additional revenue allocated for economic development purposes under IC 6-3.6-6-9 that results each year from an allocation increase described in subdivision (2) and that is in excess of the first three million five hundred thousand dollars (\$3,500,000) must be used by the county and cities and towns in the county for homestead credits under this subsection. The following apply to homestead credits provided under this subsection:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

(d) This subsection applies only to Porter County. The additional revenue designated each year for economic development purposes under IC 6-3.6-6 shall be allocated and used as follows:

(1) First, the revenue attributable to an income tax rate of twenty-five hundredths percent (0.25%) shall be allocated to the county and cities and towns as provided in IC 6-3.6-6-9.

(2) Second, the next three million five hundred thousand dollars (\$3,500,000) of the revenue shall be used for the county or for eligible municipalities (as defined in IC 36-7.5-1-11.3) in the county, to make transfers as provided in and required under



IC 36-7.5-4-2. This amount shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under ~~IC 36-7.5-4-2~~. **The additional revenue used to make the transfers as provided in IC 36-7.5-4-2 shall be paid by the treasurer of state to the treasurer of the northwest Indiana regional development authority before certified distributions are made to the county or any taxing unit in the county.** If Porter County ceases to be a member of the northwest Indiana regional development authority under IC 36-7.5 but two (2) or more municipalities in the county have become members of the northwest Indiana regional development authority as authorized by IC 36-7.5-2-3(i), the ~~county~~ **treasurer of state** shall continue to transfer this amount to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2.

(3) Third, except as provided in IC 36-7.5-3-5, all of the revenue each year that is in excess of the amounts described in subdivisions (1) and (2) must be used by the county and cities and towns in the county for homestead credits. The following apply to homestead credits provided under this subdivision:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

(e) A transfer made on behalf of a city, town, or county under this section after December 31, 2018, is to be considered a payment for services provided to residents by a rail project as those services are rendered.

(f) A pledge by the northwest Indiana regional development authority of transferred revenue under this section to the payment of bonds, leases, or obligations under this article or IC 5-1.3:

(1) constitutes the obligations of the northwest Indiana regional development authority; and

(2) does not constitute an indebtedness of:



- (A) a county or municipality described in this section; or
- (B) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(g) Neither the transfer of revenue nor the pledge of revenue transferred under this section is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

- (1) The statutes governing local income taxes, including the transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.
- (2) Owners of bonds, leases, or other obligations to which local income tax revenues have been pledged recognize that the regulation of local income taxes has been extensive and consistent.
- (3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.
- (4) The state has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects (as defined in IC 36-7.5-1-13.5).

(h) All proceedings had and actions described in this section are valid pledges under IC 5-1-14-4 as of the date of those pledges or actions and are hereby legalized and declared valid if taken before March 15, 2018.

SECTION 61. IC 6-3.6-11-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section applies to a civil taxing unit that has previously:

- (1) entered into an interlocal cooperation or similar agreement;
- (2) adopted an ordinance or resolution; or
- (3) taken any other action;

offering to provide revenue from the unit's economic development allocation to support and finance a rail project or rail projects (as defined under IC 36-7.5-1-13.5).

(b) The civil taxing unit may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 to provide funding for a rail project. The additional revenue allocated for economic development to provide funding for



a rail project shall be paid by the treasurer of state to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any civil taxing unit in the county or counties in which the unit is located.

(c) A transfer made on behalf of a civil taxing unit under this section after December 31, 2018, is considered to be a payment for services provided to residents by a rail project as such services are rendered.

(d) A pledge by the northwest Indiana regional development authority of transferred revenue under this section to the payment of bonds, leases, or obligations under this article or IC 5-1.3:

(1) constitutes the obligations of the northwest Indiana regional development authority; and

(2) does not constitute an indebtedness of:

(A) a unit described in this section; or

(B) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(e) Neither the transfer of revenue nor the pledge of revenue transferred under this section is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

(1) The statutes governing local income taxes, including the transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.

(2) Owners of bonds, leases, or other obligations to which local income tax revenues have been pledged recognize that the regulation of local income taxes has been extensive and consistent.

(3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.

(4) The state has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects (as defined in IC 36-7.5-1-13.5).

(f) All proceedings had and actions described in this section are valid pledges under IC 5-1-14-4 as of the date of those pledges or actions and are hereby legalized and declared valid if taken before March 15, 2018.



SECTION 62. IC 6-9-7-7, AS AMENDED BY P.L.6-2012, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that is not more than five percent (5%).

(b) Money in the innkeeper's tax fund shall be distributed as follows:

(1) Thirty percent (30%) shall be distributed as follows:

(A) Before July 1, 2015, and after June 30, 2017, to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) For the period July 1, 2015, through June 30, 2017, to the treasurer of state for deposit in the state general fund.

(2) Forty percent (40%) shall be distributed to the commission to carry out its purposes, including making any distributions or payments to the Lafayette - West Lafayette Convention and Visitors Bureau, Inc.

(3) Ten percent (10%) shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(A) a city having a population of more than sixty-five thousand (65,000) but less than seventy thousand (70,000); and

(B) a city having a population of more than twenty-nine thousand five hundred (29,500) but less than twenty-nine thousand six hundred (29,600);

for the community development corporation's use in tourism, recreation, and economic development activities.

(4) Ten percent (10%) shall be distributed to Historic Prophetstown to be used by Historic Prophetstown for carrying out its purposes.

(5) Ten percent (10%) shall be distributed to the Wabash River Enhancement Corporation to assist the Wabash River Enhancement Corporation in carrying out its purposes.

(c) An advisory commission consisting of the following members is established:

(1) The director of the department of natural resources or the director's designee.

(2) The public finance director or the public finance director's designee.

(3) A member appointed by the Native American Indian affairs



commission.

(4) A member appointed by Historic Prophetstown.

(5) A member appointed by the community development corporation described in subsection (b)(3).

(6) A member appointed by the Wabash River Enhancement Corporation.

(7) A member appointed by the commission.

(8) A member appointed by the county fiscal body.

(9) A member appointed by the town board of the town of Battleground.

(10) A member appointed by the mayor of the city of Lafayette.

(11) A member appointed by the mayor of the city of West Lafayette.

(d) The following apply to the advisory commission:

(1) The governor shall appoint a member of the advisory commission as chairman of the advisory commission.

(2) Six (6) members of the advisory commission constitute a quorum. The affirmative votes of at least six (6) advisory commission members are necessary for the advisory commission to take official action other than to adjourn or to meet to hear reports or testimony.

(3) The advisory commission shall make recommendations concerning the use of any proceeds of bonds issued to finance the development of Prophetstown State Park.

(4) Members of the advisory commission who are state employees:

(A) are not entitled to any salary per diem; and

(B) are entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and to reimbursement for other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The Indiana finance authority ~~in its capacity as the recreational development commission~~, may issue bonds for the development of Prophetstown State Park under ~~IC 14-14-1~~, **IC 5-1.2-6**.

SECTION 63. IC 6-9-36-8, AS ADDED BY P.L.214-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the treasurer of the northwest Indiana regional development authority established by IC 36-7.5-2-1.



(b) The taxes paid to the treasurer of the development authority under this section shall be deposited in the development authority **revenue** fund established under IC 36-7.5-4-1.

SECTION 64. 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.~~

SECTION 65. IC 8-1-30.7-2, AS ADDED BY P.L.102-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. As used in this chapter, "authority" refers to the Indiana finance authority established by ~~IC 4-4-11-4.~~ **IC 5-1.2-3.**

SECTION 66. IC 8-1-30.7-7, AS AMENDED BY P.L.233-2017, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. As used in this chapter, "water related state agency" means any of the following:

- (1) The Indiana finance authority established by ~~IC 4-4-11-4.~~ **IC 5-1.2-3.**
- (2) The department of administration created by IC 4-13-1-2.
- (3) The commission.
- (4) The office of utility consumer counselor created by IC 8-1-1.1-2.
- (5) The department of environmental management established by IC 13-13-1-1.
- (6) The department of natural resources created by IC 14-9-1-1.
- (7) The state department of health established by IC 16-19-1-1.
- (8) The Indiana geological and water survey established as a part of Indiana University by IC 21-47-2.
- (9) The Indiana Water Resource Research Center of Purdue University.
- (10) The state department of agriculture established by IC 15-11-2-1.

SECTION 67. IC 8-1-33 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Indiana Broadband Development Program).

SECTION 68. IC 8-9.5-8-1, AS AMENDED BY P.L.235-2005, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana finance authority established ~~under IC 4-4-11-4.~~ **by IC 5-1.2-3.**

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).

SECTION 69. IC 8-9.5-9-2, AS AMENDED BY P.L.162-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;



- (2) when acting under ~~an affected~~ **a referenced** statute (as defined in ~~IC 4-4-10.9-1.2~~; **IC 5-1.2-2**), the Indiana finance authority established by ~~IC 4-4-11~~; **IC 5-1.2-3**;
- (3) only in connection with a program established under ~~IC 13-18-13 or IC 13-18-21~~; **IC 5-1.2-10**, the bank established under IC 5-1.5;
- (4) a fund or program established under ~~IC 13-18-13 or IC 13-18-21~~; **IC 5-1.2-10**;
- (5) the Indiana housing and community development authority established by IC 5-20-1;
- (6) the authority established under ~~IC 4-4-11~~; **IC 5-1.2-3**; or
- (7) the authority established under IC 5-1-17.

SECTION 70. IC 8-9.5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) With respect to all leases and contracts entered into by the authority with the Indiana department of transportation, the Indiana department of administration, a fund or program established under ~~IC 13-18-13 or IC 13-18-21~~; **IC 5-1.2-10**, or any other entity to support obligations, the lease or contract may provide that payments under a swap agreement are treated as a debt service on the obligations or as additional rental or other payment due under the lease or contract as the authority may determine.

(b) The authority may determine that payments under a swap agreement may be integrated with payments on obligations for the purpose of meeting any statutory requirements related to the issuance of obligations.

SECTION 71. IC 8-10-1-13, AS AMENDED BY P.L.98-2008, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. (a) Subject to the approval of the governor, the ports of Indiana is hereby authorized to provide by resolution of the commission, at one (1) time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding thirty-five (35) years from the date thereof, as may be determined by the ports of Indiana, and may be made redeemable before maturity, at the option of the ports of Indiana, at such price or prices and under such terms and conditions as may be fixed by the ports of Indiana in the authorizing resolution.

(b) The ports of Indiana shall determine the form of the bonds,



including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the ports of Indiana by the chairman or vice chairman of the commission or chief executive of the ports of Indiana, or by the facsimile signature of the chairman or vice chairman of the commission or chief executive of the ports of Indiana and the official seal of the ports of Indiana or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the ports of Indiana may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 21-32-3, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the ports of Indiana under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The ports of Indiana shall cooperate with and use the assistance of the Indiana finance authority established ~~under IC 4-4-11~~ by **IC 5-1.2-3** in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 72. IC 8-14-14-1, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3**.

SECTION 73. IC 8-14-14-5, AS AMENDED BY P.L.201-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) The major moves construction fund is



established for the purpose of:

- (1) funding projects, other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), under IC 8-15.7 or IC 8-15-3;
 - (2) funding other projects in the department's transportation plan; and
 - (3) funding distributions under sections 6 and 7 of this chapter.
- (b) The fund shall be administered by the department.
- (c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.
- (d) The fund consists of the following:
- (1) Distributions to the fund from the toll road fund under IC 8-15.5-11.
 - ~~(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.~~
 - ~~(3)~~ (2) Appropriations to the fund.
 - ~~(4)~~ (3) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.
 - ~~(5)~~ (4) Revenues arising from:
 - (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or
 - (B) a toll road under IC 8-15-2 or IC 8-23-7-23;
 that the department designates as part of, and deposits in, the fund.
 - ~~(6)~~ (5) Payments, other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), made to the authority or the department from operators under IC 8-15.7.
 - ~~(7)~~ (6) Any money transferred to the fund under IC 8-14-14.1-4.
 - ~~(8)~~ (7) Interest, premiums, or other earnings on the fund.
- (e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.
- (f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.



(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

SECTION 74. IC 8-14-14-6, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If the authority enters into a public-private agreement concerning the Indiana Toll Road under IC 8-15.5, the auditor of state shall make the following distributions from the fund for the indicated purposes:

(1) One hundred fifty million dollars (\$150,000,000) to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, on or before October 15, 2006, and on or before October 15, 2007, the auditor of state shall distribute seventy-five million dollars (\$75,000,000) of the money deposited in the motor vehicle highway account under this subdivision to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. The auditor of state:

(A) shall make the distributions required by this subdivision separately from distributions required by IC 8-14-1; and

(B) may not combine the distributions required by this subdivision with distributions required by IC 8-14-1.

Money distributed under this subdivision may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(2) The following amounts to the northwest Indiana regional development authority for deposit in the development authority **revenue** fund established under IC 36-7.5-4-1:

(A) Forty million dollars (\$40,000,000) during the state fiscal year beginning July 1, 2006. During the state fiscal year beginning July 1, 2006, the regional development authority must pay at least twenty million dollars (\$20,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2).

(B) Eighty million dollars (\$80,000,000) to be distributed in installments of ten million dollars (\$10,000,000) during the state fiscal year beginning July 1, 2007, and each of the seven

(7) state fiscal years thereafter.

However, no distributions may be made under clause (B) until the development authority's comprehensive strategic development



plan prepared under IC 36-7.5-3-4 has been reviewed by the budget committee and approved by the director of the office of management and budget. In addition, no distributions may be made under clause (B) during the state fiscal years beginning July 1, 2009, July 1, 2011, and July 1, 2013, unless the budget committee has reviewed the status of the plan and any changes to the plan.

(3) The following amounts to each of the following counties on or before September 15, 2006, for deposit in local major moves construction funds under IC 8-14-16:

(A) Forty million dollars (\$40,000,000) to each county described in IC 8-14-16-1(1) through IC 8-14-16-1(5). However, if a county described in IC 8-14-16-1(3) becomes a member of the northwest Indiana regional development authority, the distribution to that county is twenty-five million dollars (\$25,000,000) instead of forty million dollars (\$40,000,000).

(B) Twenty-five million dollars (\$25,000,000) to each county described in IC 8-14-16-1(6).

(C) Fifteen million dollars (\$15,000,000) to each county described in IC 8-14-16-1(7).

(4) One hundred seventy-nine million dollars (\$179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department for preliminary engineering, purchase of rights-of-way, or construction of highways, roads, and bridges. After review by the budget committee, and subject to the approval of the governor, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient to provide for the payments owed by the authority as a result of a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles, or to establish or replenish the reserves therefore, to the administration account of the toll road fund. The budget agency shall determine the amount of the distributions required to be made by this subdivision for each state fiscal year beginning with the state fiscal year ending June 30, 2007, and ending with the state fiscal year ending June 30, 2016.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.9 as a result of a public-private agreement under IC 8-15.5.



(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

SECTION 75. IC 8-14-15 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Next Generation Trust Fund).

SECTION 76. IC 8-14-15.1-5, AS ADDED BY P.L.217-2017, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) The authority has established the next level Indiana trust fund to hold title to proceeds transferred to the trust ~~under IC 8-15.5-11, including as held in trust~~ under IC 8-14-15-5 **(before its repeal)**, as previously in effect before July 1, 2017, to be used exclusively for the provision of highways, roads, and bridges for the benefit of the people of Indiana and the users of those facilities.

(b) The trust as established is a charitable trust, separate from the state, but for the benevolent public purpose provided in this section.

(c) The trust consists of the proceeds transferred to the trust ~~under IC 8-15.5-11, including as held in trust~~ under IC 8-14-15-5 **(before its repeal)**, and any income that accrues from the investment of these proceeds.

SECTION 77. IC 8-14-15.1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 5.5. (a) Notwithstanding any law to the contrary, the treasurer of state shall transfer title to any proceeds in excess of two hundred fifty million dollars (\$250,000,000) held in the trust fund to the next generation trust fund established under IC 8-14-15.2.**

(b) The officers, directors, and employees of the authority and the treasurer of state (whether arising from the capacities of the position or from having entered in any trust agreement under this chapter) are immune from civil liability in connection with any transfer to the next generation trust fund under this section.

SECTION 78. IC 8-14-15.1-8, AS ADDED BY P.L.217-2017, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) The board shall adopt an investment policy that includes all the following:

(1) ~~For not more than fifty percent (50%) of the money in the trust, the policy may provide that~~ Money in the trust may be invested in investments that:

- (A) maximize risk appropriate returns, which may include the purchase of equity or debt securities;
- (B) make significant investments in Indiana funds and companies; and
- (C) have such other investment parameters and procedures as



the board determines are prudent to ensure that investments are consistent with this chapter.

~~(2)~~ For at least fifty percent (50%) of the money in the trust, the policy must provide that such money in the trust shall be invested in the same manner as money invested by the Indiana public retirement system as required by subsection (d). The investment policy adopted by the board may not allow the treasurer of state to invest the money in the trust in equity securities under this subdivision.

~~(3)~~ **(2)** Not more than twenty-five million dollars (\$25,000,000) may be invested in any one (1) particular investment fund or investment firm.

~~(4)~~ **(3)** Such other investment parameters and procedures as the board determines are prudent to ensure that investments are consistent with this chapter.

(b) The investment policy adopted by the board must give adequate time to change current investments in a prudent manner.

(c) The board may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the expenses incurred under those contracts from the fund.

(d) The board has the powers, duties, restrictions, limitations, and penalties in connection with the board's and the treasurer of state's investment and management of the assets of trust as if the following provisions pertaining to the public pension and retirement funds made reference to the trust and the board:

- (1) IC 5-10.2-2-2.5.
- (2) IC 5-10.2-2-13.
- (3) IC 5-10.3-5-3.
- (4) IC 5-10.3-5-4.
- (5) IC 5-10.3-5-5.
- (6) IC 5-10.3-5-6.
- (7) IC 5-10.4-3-10.
- (8) IC 5-10.4-3-12.
- (9) IC 5-10.4-3-13.
- (10) IC 5-10.4-3-14.
- (11) IC 5-10.4-3-15.
- (12) IC 5-10.4-3-16.

(e) Compliance with the established investment policy is definitive evidence of compliance with the applicable investment standards in subsection (d).

SECTION 79. IC 8-14-15.2 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 15.2. Next Generation Trust Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "principal of the trust" means an amount equal to two hundred fifty million dollars (\$250,000,000).

Sec. 3. As used in this chapter, "trust" refers to the next generation trust fund established under this chapter.

Sec. 4. As used in this chapter, "trustee" refers to the trustee of the trust designated under section 8 of this chapter.

Sec. 5. (a) The authority shall establish a next generation trust fund to hold title to proceeds transferred to the trust fund under IC 8-14-15.1-5.5 or section 10 of this chapter, to be used exclusively for the provision of highways, roads, and bridges for the benefit of the people of Indiana and the users of those facilities or for the purpose set forth in section 10 of this chapter.

(b) The trust shall be established as a charitable trust, separate from the state, but for the benevolent public purposes provided in this section.

(c) The trust consists of the proceeds transferred to the trust under IC 8-14-15.1-5.5 or section 10 of this chapter, and any income that accrues from the investment of these proceeds.

Sec. 6. The chairperson of the authority shall enter into a trust agreement on behalf of the authority with the treasurer of state in conformity with IC 30-4-2-1. Any provision of the trust agreement entered into under this section that is inconsistent with the provisions or intent of this chapter is void and of no further force or effect.

Sec. 7. A trust established under this chapter must be an irrevocable trust and may not be revoked or terminated by the authority or any other person, nor may it be amended or altered by the authority or any other person. However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.

Sec. 8. The treasurer of state shall act as the trustee of the trust.

Sec. 9. (a) The trustee shall:

- (1)** administer and manage the trust;
- (2)** invest the money in the trust; and
- (3)** deposit in the trust any interest that accrues from the investment of these funds.

(b) Notwithstanding IC 5-13, the trustee shall invest the money



in the trust not currently needed to meet the obligations of the trust in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the trustee may not invest the money in the trust in equity securities. The trustee shall also comply with the prudent investor rule set forth in IC 30-4-3.5. The trustee may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the trust and may pay the state expenses incurred under those contracts from the trust.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

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

Sec. 10. (a) The principal of the trust may be used to make and secure lease rental payments that:

- (1) are payable from grant proceeds from the federal government; and
- (2) will be used to pay bonds or notes issued by the authority pursuant to IC 5-1.3.

(b) If grant proceeds received from the federal government are not in an amount sufficient to pay a lease rental payment described in subsection (a), the authority shall notify the trustee when the lease rental payment is due and the amount of the shortfall. Upon receiving notice from the authority, the trustee shall promptly transfer moneys in the trust in the amount of the shortfall to or at the direction of the authority for the purpose of making the lease rental payment.

(c) If a transfer is made under subsection (b), the state budget director shall transfer funds from the state general fund to the trust, in an amount equal to the transfer made under subsection (b). The state budget director shall submit a report to the budget committee within thirty (30) days after the transfer to the trust.

Sec. 11. IC 30-4 (trust code) applies to a trust established under this chapter.

Sec. 12. (a) Except as otherwise required by section 10 of this chapter, the principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2021, and March 15 every five (5) years thereafter, the treasurer of state shall transfer all interest accruing to the trust to the major moves construction fund.



Sec. 13. The report required under IC 30-4-5-12 is a public record. The attorney general may petition for an accounting as permitted by IC 30-4-5-12.

Sec. 14. (a) This section applies if a person does any of the following with respect to a trust created under this chapter:

- (1) Commits a breach of the trust.**
- (2) Violates the mandate of the trust or trust agreement.**
- (3) Violates a duty imposed by this chapter, the trust agreement, or IC 30-4.**

(b) The attorney general may petition a court to impose one (1) or more of the remedies described in IC 30-4-5.5-1.

Sec. 15. Any records, files, or documents relating to the trust may be examined by the state board of accounts at a time selected by the state board of accounts. The trustee shall upon request of the state board of accounts:

- (1) produce and submit any records, files, or documents related to the trust; and**
- (2) assist in every way the state board of accounts in its work in making an examination.**

SECTION 80. IC 8-14-17-1, AS ADDED BY P.L.203-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3**.

SECTION 81. IC 8-14.5-2-2, AS AMENDED BY P.L.235-2005, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. "Authority" refers to the Indiana finance authority established ~~under IC 4-4-11~~ **by IC 5-1.2-3**.

SECTION 82. IC 8-15-2-4, AS AMENDED BY P.L.85-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

- (1) "Authority" refers to the Indiana finance authority established under ~~IC 4-4-11~~ by IC 5-1.2-3.**
- (2) "Capitalized interest" means:**
 - (A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and**
 - (B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which**



revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any new or existing express highway, limited access facility, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. "Project" or "toll road project" also includes a project connecting the state of Indiana with an adjacent state. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;



- (F) financing charges and capitalized interest;
- (G) the cost of funding any reserves to secure the payment of toll road revenue bonds;
- (H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;
- (I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
- (J) administrative expense;
- (K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and
- (L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the



provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

SECTION 83. IC 8-15-2-14.7, AS AMENDED BY P.L.47-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

(b) An appropriation made by the general assembly to the development authority may be distributed to the development authority only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(c) An appropriation made by the general assembly to the development authority may be distributed to the development authority only after:

- (1) the budget committee has reviewed; and
- (2) the director of the office of management and budget has approved;

the comprehensive strategic development plan submitted in accordance with IC 36-7.5-3-4.

(d) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay the amount, if any, appropriated by the general assembly to the development authority **revenue** fund established under IC 36-7.5-4-1.

(e) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

SECTION 84. IC 8-15-3-0.5, AS ADDED BY P.L.218-2017, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.5. As used in this chapter, "authority" refers to the Indiana finance authority established ~~under IC 4-4-11:~~ **by IC 5-1.2-3.**

SECTION 85. IC 8-15.5-1-2, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority, a private entity, and, where applicable, a governmental entity. Except as provided in this article, no law, procedure, proceeding, publication,



notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Before the authority or the department may issue a request for proposals for or enter into a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a toll road project, the general assembly must adopt a statute authorizing the imposition of tolls. However, during the period beginning July 1, 2011, and ending June 30, 2021, and notwithstanding subsection (c), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement to authorize an operator to impose tolls for the operation of motor vehicles on all or part of the following projects:

- (1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).
- (2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.
- (3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.
- (4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

However, neither the authority nor the department may issue a request for proposals for a public-private agreement under this article that would authorize an operator to impose tolls unless the budget committee has reviewed the request for proposals.

(c) Before the authority or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

- (1) Imposing tolls on motor vehicles for use of Interstate Highway 69.
- (2) Imposing tolls on motor vehicles for use of a nontolled



highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

(d) The general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement for a freeway project.

(e) The authority may enter into a public-private agreement for a facility project if the general assembly, by statute, authorizes the authority to enter into a public-private agreement for the facility 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 86. IC 8-15.5-2-3.2, AS ADDED BY P.L.213-2015, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3.2. "Facility project" means a project to plan, design, acquire, construct, reconstruct, equip, improve, extend, expand, lease, operate, repair, manage, maintain, or finance any of the following that are or will be owned by or leased in the name of the state or the authority and are the subject of a public-private agreement under this article:

(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.

SECTION 87. IC 8-15.5-4-2, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. A request for proposals issued by the authority must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.

(3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to



assure full understanding of and responsiveness to the solicitation requirements.

(4) A statement concerning any other information that the authority may consider in evaluating the proposals.

(5) A statement that to be considered an eligible offeror, the offeror, any private entity described in section 7(d) of this chapter with respect to the offeror, or any predecessor to the private entity must have completed a comparable project in North America within two (2) years of the date of the submission of the offeror's proposal.

(5) (6) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:

(A) discussions; or

(B) negotiations;

with eligible offerors to other eligible offerors.

SECTION 88. IC 8-15.5-4-7, AS AMENDED BY P.L.205-2013, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The authority shall negotiate with one (1) or more responsible offerors who submit proposals that are determined to be reasonably capable of being selected for a public-private agreement and may seek to obtain a final offer from one (1) or more responsible offerors.

(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private agreement, the authority must consider all the following:

(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.

(2) The financial strength of the responsible offeror, including its capitalization.

(3) The experience of the responsible offeror, **or predecessor to the offeror**, in other ~~similar~~ **comparable** projects in **North America** and the quality of the responsible offeror's **or predecessor's** past or present performance on other ~~similar or equivalent comparable~~ **comparable** projects in **North America that have been completed within two (2) years of the date of the submission of the offeror's proposal.**

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.



(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider:

- (1) the offeror or operator; ~~as well as;~~
- (2) any affiliate of the offeror or operator;**
- (3) any party or affiliate of the offeror or operator that the offeror's proposal sets forth as a party or affiliate that may enter into a substantive contract with the offeror or operator to carry out the obligations of the offeror or operator under the public-private agreement with respect to the construction, operations, or rehabilitation of the project; and**
- (4) any private entity that controls the actions of ~~the offeror or operator;~~ **those considered by the authority under subdivisions (1) through (3).**

SECTION 89. IC 8-15.5-4-8, AS AMENDED BY P.L.205-2013, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

- (1) **subject to a responsible offeror complying with subsection (b),** make a preliminary selection of an offeror as the operator for the project, whose final offer is referred to in this article as the "selected offer"; or
- (2) terminate the request for proposal process.

(b) Before the authority may consider an offeror for a preliminary selection, the authority must have received a certificate from the offeror that includes the information required to be considered under section 7(b)(4) and 7(d) of this chapter that is dated not more than fifteen (15) days and not fewer than ten (10) days before the date of the authority's public meeting at which the authority will make a final selection.

SECTION 90. IC 8-15.5-5-2, AS AMENDED BY P.L.91-2014, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. A public-private agreement entered into under this article must provide for the following:

- (1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.
- (2) Provisions for a:
 - (A) lease, franchise, or license of the project and the real



property owned by the authority upon which the project is located or is to be located; or

(B) management agreement or other contract to operate the project and the real property owned by the authority upon which the project is located or is to be located;

for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state or by a governmental entity, or both.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

~~(6)~~ (7) Grounds for termination of the public-private agreement by the authority or the operator.

~~(7)~~ (8) The date of termination of the operator's authority and duties under this article.

~~(8)~~ (9) Procedures for amendment of the agreement.

~~(9)~~ (10) Provisions requiring the completion of all environmental analyses of the project required by state and federal law in the manner and at the times required by the appropriate state and federal agencies.

~~(10)~~ (11) An expedited method for resolving disputes between or among the authority, the parties to the public-private agreement, and units of local government that contain any part of the project, as required by IC 8-15.5-10-8.

SECTION 91. IC 8-15.5-5-3, AS AMENDED BY P.L.213-2015, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning the following:

(1) Review and approval by the authority of the operator's plans for the development and operation of the project.

(2) Inspection by the authority of construction of or improvements to the project.

(3) Maintenance by the operator of a policy or policies of public



liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and employees and to enable the continued operation of the project.

~~(4)~~ **(4)** Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

~~(5)~~ **(4)** Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

~~(6)~~ **(5)** Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the user fees collected by the operator in the operation and management of a toll road project or a facility project, if applicable.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator, if any.

~~(7)~~ **(6)** Financing obligations of the operator and the authority, including entering into agreements for the benefit of the financing parties.

~~(8)~~ **(7)** Apportionment of expenses between the operator and the authority.

~~(9)~~ **(8)** The rights and duties of the operator, the authority, and other state and local governmental entities with respect to use of the project, including the state police department and other law enforcement and public safety agencies.

~~(10)~~ **(9)** Arbitration or other dispute resolution mechanisms or remedies for the settlement of claims and other disputes arising under the agreement.

~~(11)~~ **(10)** Payment of money to either party upon default or delay, or upon termination of the public-private agreement, with the payments to be used:

(A) in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, lost profits, or other amounts as provided in the agreement;

(B) to retire or refinance indebtedness related to the project or the public-private agreement; or

(C) for any other purpose mutually agreeable to the operator and the authority.

~~(12)~~ **(11)** Indemnification of the operator by the authority under conditions specified in the agreement.

~~(13)~~ **(12)** Assignment, subcontracting, or other delegation of responsibilities of the operator or the authority under the



agreement to third parties, including other private entities, the department, and other state agencies.

~~(14)~~ **(13)** Sale or lease to the operator of personal property related to the project.

~~(15)~~ **(14)** Provisions for private commercial development or private use for a facility project.

~~(16)~~ **(15)** Other lawful terms and conditions to which the operator and the authority mutually agree.

SECTION 92. IC 8-15.5-5-6.1, AS ADDED BY P.L.218-2017, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6.1. (a) If a public-private agreement is terminated or the authority exercises its right or remedies under the public-private agreement with respect to the project before the completion of the construction, reconstruction, improvement, extension, or expansion of the project as specified by the public-private agreement, the authority, subject to subsection (b), may take any or all of the following actions in order to facilitate completion of the project:

(1) Employ or contract with contractors, subcontractors, suppliers, architects, engineers, and such other advisers, consultants, and agents as may be necessary in its judgment to complete the project, and to fix their compensation.

(2) Contract with or enter into a public-private agreement with a new operator, and to fix its compensation.

(3) Assume and assign any contracts, subcontracts, and supply agreements.

(4) Enter into one (1) or more agreements with the department to manage the completion of the project, in which case the department may employ or contract with contractors, subcontractors, suppliers, architects, engineers, and such other advisers, consultants, and agents as may be necessary in its judgment to complete the project, and to fix their compensation.

(5) Issue bonds and refunding bonds under ~~IC 4-4-11~~ **IC 5-1.2** or IC 8-14.5-6 to provide funding for the completion of the project, to provide funding for any losses or additional costs incurred by the authority under the public-private agreement, or to refund any bonds previously issued by the authority.

(6) Such other actions as the authority considers reasonable and appropriate in order to complete the project.

(b) Any actions taken by the authority under subsection (a)(2) or (a)(5) must be submitted to the budget committee for review. The budget committee shall hold a meeting and conduct a review of the actions taken by the authority under this section not later than thirty



(30) days after the date the authority submits its actions for review.

(c) Unless otherwise provided by federal law, neither the authority, the department, nor any operator, contractor, or subcontractor engaged in completion of the project under this section is required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or any other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

SECTION 93. IC 8-15.5-8-1, AS AMENDED BY P.L.91-2014, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. Notwithstanding ~~IC 4-4-11-36.1(b); IC 4-4-11-36.1(e);~~ **IC 5-1.2-9-27**, or any other law, a project and tangible personal property used exclusively in connection with a project that are:

- (1) owned by the authority or a governmental entity and leased, franchised, licensed, or otherwise conveyed to an operator; or
- (2) acquired, constructed, or otherwise provided by an operator in connection with a project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

SECTION 94. IC 8-15.5-8-1.5, AS ADDED BY P.L.91-2014, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1.5. Notwithstanding ~~IC 4-4-11-36.1(b); IC 4-4-11-36.1(e);~~ **IC 5-1.2-9-27**, or any other law, any interest in a project, including all tangible personal property used exclusively in connection with a project, that is:

- (1) owned by:
 - (A) the authority;
 - (B) an adjacent state or commonwealth; or
 - (C) a political subdivision or instrumentality of an adjacent state or commonwealth; and
- (2) acquired, constructed, or otherwise provided in connection with a project by:
 - (A) an operator;
 - (B) an adjacent state or commonwealth; or
 - (C) a political subdivision or instrumentality of an adjacent state or commonwealth;



is considered to be public property devoted to an essential public and governmental function and purpose. This property, and a leasehold estate, franchise, license, or other interests in the property, is exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

SECTION 95. IC 8-15.5-10-3, AS AMENDED BY P.L.213-2015, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

- (1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or
- (2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds or refunding bonds under ~~IC 4-4-11~~ IC 5-1.2-4 to provide funds for any amounts identified under this article but is not required to comply with IC 8-9.5-8-10.

(d) If the agreement that is submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the agreement not later than ninety (90) days after the date the agreement is submitted for review.

SECTION 96. IC 8-15.5-11-3, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The toll road fund is established to provide funds to:

- (1) pay or defease certain bonds in the manner provided by this chapter;
 - (2) pay amounts owed by the authority in connection with the execution and performance of a public-private agreement under this article, including operating expenses of the authority; and
 - (3) make distributions to the next generation trust fund and the major moves construction fund.
- (b) The authority shall hold, administer, and manage the fund.
- (c) Expenses of administering the fund shall be paid from money in



the fund.

(d) The fund consists of the following:

- (1) Money received from an operator under a public-private agreement.
- (2) Appropriations, if any, made by the general assembly.
- (3) Grants and gifts intended for deposit in the fund.
- (4) Interest, premiums, gains, or other earnings on the fund.
- (5) Amounts transferred to the fund under subsection (i).
- (6) Amounts transferred to the fund under IC 8-14-14-6(a)(5).

(e) The authority shall establish the following separate accounts within the fund:

- (1) The bond retirement account.
- (2) The administration account.
- (3) The eligible project account.

(f) Money in the fund shall be deposited, paid, and secured in the manner provided by ~~IC 4-4-11-32~~ **IC 5-1.2-4-19**. Notwithstanding IC 5-13, the authority shall invest the money in the fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the authority.

(g) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(i) As soon as practicable after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall determine the total balance remaining in all toll road funds and accounts established under IC 8-15-2. Subject to any applicable trust indentures securing toll road bonds, the authority may retain from those funds and accounts the amounts necessary to pay outstanding obligations with respect to the operation of the Indiana Toll Road incurred before the effective date of the public-private agreement, and shall transfer all remaining balances in the toll road funds and accounts to the fund.

SECTION 97. IC 8-15.5-11-4, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Before any allocations are made from the fund under this chapter, the authority shall determine:

- (1) the extent to which outstanding bonds issued by the authority under IC 8-14.5-6 or IC 8-15-2 should be repaid, defeased, or



otherwise retired;

(2) the total amount necessary to repay, defease, or otherwise retire the bonds selected by the authority for repayment, defeasance, or retirement; and

(3) the total amount necessary to pay the amounts owed by the authority related to the execution and performance of a public-private agreement under this article, including establishing reserves, plus the amount necessary to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection (c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be allocated to the eligible project account. Money in this account may be used only for the purposes described in section 3(a)(3) of this chapter. Within thirty (30) days after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall transfer

(1) five hundred million dollars (\$500,000,000) of the money in the eligible project account to the next generation trust fund established under IC 8-14-15; and

(2) the remainder of the money in the eligible project account to the major moves construction fund.

In addition, any amounts transferred to the fund under section 3(i) of



this chapter after the date described in this subsection shall be transferred to the major moves construction fund.

SECTION 98. IC 8-15.7-2-3, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. "Authority" or "Indiana finance authority" refers to the Indiana finance authority established by ~~IC 4-4-11-4.~~ **IC 5-1.2-3.**

SECTION 99. IC 8-15.7-8-6, AS AMENDED BY P.L.163-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

- (1) Issue bonds, debt, or other obligations under ~~IC 4-4-11,~~ **IC 5-1.2-4**, IC 8-15-2, or IC 8-15.7-9.
- (2) Enter into loan agreements or other credit facilities.
- (3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.
- (4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:
 - (A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or
 - (B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a public-private agreement.

(b) The department and an operator may transfer any interest in property that the department or operator has to the authority to secure the financing.

(c) If items submitted for review under subsection (a)(4) provide for any tolls, the budget committee shall hold a meeting and conduct a review of the items not later than ninety (90) days after the date the items are submitted for review.

SECTION 100. IC 8-16-1-0.1, AS AMENDED BY P.L.235-2005, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.1. As used in this chapter:

"Authority" refers to the Indiana finance authority established ~~under~~ ~~IC 4-4-11.~~ **by IC 5-1.2-3.**

"Department" refers to the Indiana department of transportation.

SECTION 101. IC 8-21-12-3, AS AMENDED BY P.L.235-2005,



SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established ~~under IC 4-4-11.~~ **by IC 5-1.2-3.**

SECTION 102. IC 8-22-3.5-3, AS AMENDED BY P.L.182-2009(ss), SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) As used in this chapter, "qualified airport development project" means an airport development project that has a cost of the project (as defined in ~~IC 4-4-10.9-5~~) **IC 5-1.2-2**) greater than:

- (1) five hundred million dollars (\$500,000,000), if the project is to be located in a county having a consolidated city; or
- (2) two hundred fifty thousand dollars (\$250,000), if the project is to be located in:
 - (A) a city described in section 1(2) or 1(7) of this chapter; or
 - (B) in a county described in section 1(3), 1(4), 1(5), or 1(6) of this chapter.

Except as provided by subsection (b), the term includes any portion or expansion of the original qualified airport development project used by one (1) or more successor tenants.

(b) For purposes of section 9 of this chapter, the definition of "qualified airport development project" does not include any portion of, or expansion of, the original qualified airport development project used by a successor tenant unless the commission adopts a resolution to amend the definition to include that portion or expansion.

SECTION 103. IC 8-23-1-13, AS AMENDED BY P.L.235-2005, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. "Authority" refers to the Indiana finance authority established ~~under IC 4-4-11.~~ **by IC 5-1.2-3.**

SECTION 104. IC 9-21-5-2, AS AMENDED BY P.L.188-2015, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) Except when a special hazard exists that requires lower speed for compliance with section 1 of this chapter, the slower speed limit specified in this section or established as authorized by section 3 of this chapter is the maximum lawful speed. A person may not drive a vehicle on a highway at a speed in excess of the following maximum limits:

- (1) Thirty (30) miles per hour in an urban district.
- (2) Fifty-five (55) miles per hour, except as provided in subdivisions (1), (3), (4), (5), (6), and (7).
- (3) Seventy (70) miles per hour on a highway on the national system of interstate and defense highways located outside of an



urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000), except as provided in subdivision (4).

(4) Sixty-five (65) miles per hour for a vehicle (other than a bus) having a declared gross weight greater than twenty-six thousand (26,000) pounds on a highway on the national system of interstate and defense highways located outside an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000).

(5) Sixty-five (65) miles per hour on:

(A) U.S. 20 from the intersection of U.S. 20 and County Road 17 in Elkhart County to the intersection of U.S. 20 and U.S. 31 in St. Joseph County;

(B) U.S. 31 from the intersection of U.S. 31 and U.S. 20 in St. Joseph County to the boundary line between Indiana and Michigan; and

(C) a highway classified by the Indiana department of transportation as an INDOT Freeway.

(6) On a highway that is the responsibility of the Indiana finance authority established by ~~IC 4-4-11~~: **IC 5-1.2-3**:

(A) seventy (70) miles per hour for:

(i) a motor vehicle having a declared gross weight of not more than twenty-six thousand (26,000) pounds; or

(ii) a bus; or

(B) sixty-five (65) miles per hour for a motor vehicle having a declared gross weight greater than twenty-six thousand (26,000) pounds.

(7) Sixty (60) miles per hour on a highway that:

(A) is not designated as a part of the national system of interstate and defense highways;

(B) has four (4) or more lanes;

(C) is divided into two (2) or more roadways by:

(i) an intervening space that is unimproved and not intended for vehicular travel;

(ii) a physical barrier; or

(iii) a dividing section constructed to impede vehicular traffic; and

(D) is located outside an urbanized area (as defined in 23 U.S.C. 101) with a population of at least fifty thousand (50,000).

(8) Fifteen (15) miles per hour in an alley.

(b) A person who violates subsection (a) commits a Class C



infraction.

SECTION 105. IC 11-8-8-1, AS ADDED BY P.L.173-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in ~~IC 4-13.5-1-1~~. **IC 5-1.2-2.**

SECTION 106. IC 13-11-2-16, AS AMENDED BY P.L.233-2017, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of ~~IC 13-18-13, IC 13-18-21, IC 13-18-25, and IC 13-19-5~~, refers to the Indiana finance authority created under ~~IC 4-4-11~~.

SECTION 107. IC 13-11-2-29, AS AMENDED BY P.L.233-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 29. "Clean Water Act", for purposes of this chapter, ~~IC 13-18-13, IC 13-18-22, and IC 13-18-23, and IC 13-18-25~~, refers to:

- (1) 33 U.S.C. 1251 et seq.; and
- (2) regulations adopted under 33 U.S.C. 1251 et seq.

SECTION 108. IC 13-11-2-71, AS AMENDED BY P.L.189-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 71. "Environmental management laws" refers to the following:

- (1) IC 13-12-2 and IC 13-12-3.
- (2) IC 13-13.
- (3) IC 13-14.
- (4) IC 13-15.
- (5) IC 13-16.
- (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- (7) IC 13-18-10, IC 13-18-10.5, IC 13-18-12, ~~IC 13-18-13-31~~, **IC 5-1.2-10**, and IC 13-18-15 through IC 13-18-20.
- (8) IC 13-19-1 **and** IC 13-19-4. ~~and IC 13-19-5-17.~~
- (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, IC 13-20-17.7, IC 13-20-19 through IC 13-20-21, and IC 13-20-22-21.
- (10) IC 13-22.
- (11) IC 13-23.
- (12) IC 13-24.
- (13) IC 13-25-1 through IC 13-25-5.
- (14) IC 13-27-8.
- (15) IC 13-30, except IC 13-30-1.

SECTION 109. IC 13-11-2-83 IS REPEALED [EFFECTIVE JULY



1, 2018]. Sec. 83. (a) "Financial assistance agreement"; for purposes of IC 13-18-13, refers to an agreement between:

- (1) the Indiana finance authority; and
- (2) a participant under IC 13-18-13;

establishing the terms and conditions of a loan or other financial assistance; including forgiveness of principal if allowed under federal law; by the state to the participant under that chapter.

(b) "Financial assistance agreement"; for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

- (1) is approved by the budget agency; and
- (2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement"; for purposes of IC 13-18-21, refers to an agreement between:

- (1) the Indiana finance authority; and
- (2) a participant under IC 13-18-21;

establishing the terms and conditions of a loan or other financial assistance; including forgiveness of principal if allowed under federal law; by the state to the participant under IC 13-18-21.

(d) "Financial assistance agreement"; for purposes of IC 13-18-25, refers to an agreement between:

- (1) the Indiana finance authority; and
- (2) a participant under IC 13-18-25;

establishing the terms and conditions of a loan or other financial assistance; including forgiveness of principal.

SECTION 110. IC 13-11-2-87, AS AMENDED BY P.L.233-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

(f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

(g) "Fund"; for purposes of IC 13-18-13, refers to the wastewater revolving loan fund established by IC 13-18-13-2.

(h) "Fund"; for purposes of IC 13-18-21, refers to the drinking water



revolving loan fund established by IC 13-18-21-2. The term does not include the supplemental fund established by IC 13-18-21-22.

(i) "Fund", for purposes of IC 13-18-25, refers to the infrastructure assistance fund established by IC 13-18-25-2.

(j) "Fund", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(k) "Fund", for purposes of IC 13-20-4, refers to the municipal waste transportation fund.

(l) (g) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

(m) (h) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

(n) (i) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

(o) (j) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

(p) (k) "Fund", for purposes of IC 13-23-6, refers to the underground petroleum storage tank trust fund.

(q) (l) "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to the underground petroleum storage tank excess liability trust fund (or ELTF).

(r) (m) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

(s) (n) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

(t) (o) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

SECTION 111. IC 13-11-2-98, AS AMENDED BY P.L.113-2014, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 98. "Hazardous substance", for purposes of:

(1) ~~IC 13-19-5;~~

(2) (1) IC 13-25-4; and

(3) (2) IC 13-25-5;

has the meaning set forth in Section 101 of CERCLA (42 U.S.C. 9601). The term includes any substance that the board determines to be hazardous under environmental management laws.

SECTION 112. IC 13-11-2-151.1 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 151.1: "Participant" means the following:

(1) For purposes of IC 13-18-13:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements



for a purpose eligible for assistance under the Clean Water Act.

(2) For purposes of the drinking water revolving loan program under IC 13-18-21:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Safe Drinking Water Act.

(3) For purposes of the supplemental drinking water and wastewater assistance program under IC 13-18-21-21 through IC 13-18-21-29:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under IC 13-18-21-21 through IC 13-18-21-29.

(4) For purposes of the infrastructure assistance program under IC 13-18-25:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter into contractual arrangements for assistance under IC 13-18-25.

SECTION 113. IC 13-11-2-164 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 164. (a) "Political subdivision", for purposes of IC 13-18-13, means:

(1) a political subdivision (as defined in IC 36-1-2);

(2) a regional water, sewage, or solid waste district organized under:

(A) IC 13-26; or

(B) IC 13-3-2 (before its repeal July 1, 1996); or

(3) a local public improvement bond bank organized under IC 5-1.4.

(b) "Political subdivision", for purposes of IC 13-18-21 and IC 13-18-25, means:

(1) a political subdivision (as defined in IC 36-1-2);

(2) a regional water, sewage, or solid waste district organized under:

(A) IC 13-26; or

(B) IC 13-3-2 (before its repeal July 1, 1996);

(3) a local public improvement bond bank organized under IC 5-1.4;

(4) a qualified entity described in IC 5-1.5-1-8(4) that is a public



water utility described in IC 8-1-2-125; or

(5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).

(c) "Political subdivision", for purposes of IC 13-19-5, has the meaning set forth in IC 36-1-2-13 and includes a redevelopment district under IC 36-7-14 or IC 36-7-15.1.

SECTION 114. IC 13-11-2-165, AS AMENDED BY P.L.133-2012, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 165. "Pollution control laws" refers to the following:

- (1) IC 13-12-4 and IC 13-12-5.
- (2) IC 13-17, except for the following:
 - (A) IC 13-17-3-15.
 - (B) IC 13-17-7.
 - (C) IC 13-17-8-10.
 - (D) IC 13-17-10.
 - (E) IC 13-17-11.
 - (F) IC 13-17-13.
- (3) IC 13-18, except for the following:
 - (A) IC 13-18-12 and ~~IC 13-18-13~~. **IC 5-1.2-10.**
 - (B) IC 13-18-15 through IC 13-18-20.
- (4) IC 13-19-3.
- (5) IC 13-20-16 and IC 13-20-17.

SECTION 115. IC 13-11-2-172, AS AMENDED BY P.L.233-2017, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 172. (a) "Program", for purposes of IC 13-18-13, refers to the wastewater revolving loan program established by IC 13-18-13-1.

(b) "Program", for purposes of IC 13-18-21, refers to the drinking water revolving loan program established by IC 13-18-21-1. The term does not include the supplemental program.

(c) "Program", for purposes of IC 13-18-25, refers to the infrastructure assistance program established by IC 13-18-25-1.

(d) "Program", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan program established by IC 13-19-5-1.

(e) "Program", for purposes of IC 13-23, refers to an underground storage tank release:

- (1) detection;
- (2) prevention; and
- (3) correction;

program created in accordance with the requirements of IC 13-23 or



IC 13-7-20 (before its repeal).

SECTION 116. IC 13-11-2-177.3, AS AMENDED BY P.L.233-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 177.3. "Public water system", for purposes of this chapter, IC 13-18-11, IC 13-18-16, IC 13-18-20.5, ~~IC 13-18-21~~, ~~IC 13-18-25~~, and other environmental management laws, has the meaning set forth in 42 U.S.C. 300f.

SECTION 117. IC 13-11-2-186 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 186. "Remediation", for purposes of ~~IC 13-19-5~~ and IC 13-25-5, means any of the following:

- (1) Actions necessary to:
 - (A) prevent;
 - (B) minimize; or
 - (C) mitigate;

damages to the public health or welfare or to the environment that may otherwise result from a release or threat of a release.

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

- (3) The cleanup or removal of released hazardous substances or petroleum from the environment.

SECTION 118. IC 13-11-2-195.5, AS AMENDED BY P.L.233-2017, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 195.5. "Safe Drinking Water Act", for purposes of this chapter, ~~IC 13-18-21~~, and ~~IC 13-18-25~~, refers to:

- (1) 42 U.S.C. 300f et seq.; and
- (2) regulations adopted under 42 U.S.C. 300f et seq.

SECTION 119. IC 13-11-2-223.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 223.5. "Storm water management program", for purposes of ~~IC 13-18-21~~ and ~~IC 13-18-25~~, means a program that is consistent with the requirements in:

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

SECTION 120. IC 13-11-2-226 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 226. "Supplemental fund", for purposes of ~~IC 13-18-13~~ and ~~IC 13-18-21~~, refers to the supplemental drinking water and



wastewater assistance fund established by IC 13-18-21-22.

SECTION 121. IC 13-11-2-227 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 227. "Supplemental program"; for purposes of IC 13-18-13 and IC 13-18-21, refers to the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21.

SECTION 122. IC 13-18-13 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Wastewater Revolving Loan Program).

SECTION 123. IC 13-18-21 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Drinking Water Revolving Loan Program).

SECTION 124. IC 13-18-25 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Infrastructure Assistance Program).

SECTION 125. IC 13-19-5 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Environmental Remediation Revolving Loan Program).

SECTION 126. IC 13-23-7-2, AS AMENDED BY P.L.96-2016, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. Sources of money for the ELTF are the following:

- (1) Appropriations from the general assembly.
- (2) Gifts and donations intended for deposit in the fund.
- (3) Inspection fees paid under IC 16-44-2.
- ~~(4) Bond revenue under IC 4-4-11.2-7(a)(1).~~
- ~~(5)~~ (4) Any other money authorized to be deposited in or appropriated to the trust fund.

SECTION 127. IC 13-25-4-1, AS AMENDED BY P.L.220-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) The hazardous substances response trust fund is established. The purpose of the fund is to accumulate and maintain a source of money for the following purposes:

- (1) Financing contracts or cooperative agreements between the state and the President of the United States under Section 104 of CERCLA (42 U.S.C. 9604).
- (2) Providing state assistance in the form of supplies, materials, services, and equipment to:
 - (A) prevent the release of a hazardous substance or contaminant; or
 - (B) control, contain, isolate, neutralize, remove, store, or dispose of any hazardous substance or contaminant already released into or on the air, land, or waters of Indiana.
- (3) Financing response actions that are:
 - (A) undertaken or authorized by the commissioner with respect to sites in Indiana; and
 - (B) considered by the commissioner to be necessary to protect



the public health or welfare or the environment from the release or threatened release of a hazardous substance or contaminant.

(4) Paying expenses related to releases of regulated substances other than petroleum from underground storage tanks under IC 13-23-13-7.

(5) Paying administrative and personnel expenses incurred by the state in responding to releases or threats of releases of hazardous substances or contaminants.

(6) Paying claims for the reimbursement of necessary response costs incurred by persons that have received preauthorization from the commissioner for reimbursement.

(7) Providing grants for household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(8) Paying administrative and personnel expenses incurred by the department in implementing and administering household hazardous waste and conditionally exempt small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(9) Transferring funds to the ~~environmental remediation revolving loan~~ **Indiana brownfields** fund established by ~~IC 13-19-5-2.~~ **IC 5-1.2-12-3.**

(10) Paying administrative and personnel expenses incurred by the state in evaluating proposed modifications of restrictive covenants under IC 13-14-2-9.

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

SECTION 128. IC 14-8-2-16.4 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 16.4. "Authority", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-0.5.~~

SECTION 129. IC 14-8-2-48, AS AMENDED BY P.L.133-2012, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 48. (a) "Commission", except as provided in this section, refers to the natural resources commission.

(b) "Commission", for purposes of IC 14-13-1, has the meaning set forth in IC 14-13-1-1.

(c) "Commission", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-2.

(d) "Commission", for purposes of IC 14-13-4, has the meaning set forth in IC 14-13-4-1.

(e) "Commission", for purposes of IC 14-13-5, has the meaning set forth in IC 14-13-5-1.



(f) "Commission", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-2.

~~(g)~~ "Commission", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-3.

~~(h)~~ (g) "Commission", for purposes of IC 14-20-11, has the meaning set forth in IC 14-20-11-1.

~~(i)~~ (h) "Commission", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-1.

~~(j)~~ (i) "Commission", for purposes of IC 14-30-1, has the meaning set forth in IC 14-30-1-2.

~~(k)~~ (j) "Commission", for purposes of IC 14-30-2, has the meaning set forth in IC 14-30-2-2.

~~(l)~~ (k) "Commission", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-2.

~~(m)~~ (l) "Commission", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-2.

~~(n)~~ (m) "Commission", for purposes of IC 14-33-20, has the meaning set forth in IC 14-33-20-2.

SECTION 130. IC 14-8-2-60 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 60: "Cost", for purposes of IC 14-14-1, has the meaning set forth in IC 14-14-1-4.

SECTION 131. IC 14-8-2-95 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 95: "Flood control program", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-1.

SECTION 132. IC 14-8-2-107, AS AMENDED BY P.L.219-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 107. "Fund" has the following meaning:

- (1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.
- (2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.
- (3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.
- (4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.
- (5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.
- (6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.
- (7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.
- (8) For purposes of IC 14-13-1, the meaning set forth in



- IC 14-13-1-2.
- (9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.
- (10) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-30.
- (11) For purposes of IC 14-19-8, the meaning set forth in IC 14-19-8-1.
- (12) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.
- (13) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.
- (14) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.
- (15) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.
- (16) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.
- (17) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.
- (18) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.
- (19) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.
- (20) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.
- (21) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.
- ~~(22) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.~~
- ~~(23)~~ **(22)** For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.
- ~~(24)~~ **(23)** For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.
- ~~(25)~~ **(24)** For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-1.
- ~~(26)~~ **(25)** For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.
- ~~(27)~~ **(26)** For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.
- ~~(28)~~ **(27)** For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.
- ~~(29)~~ **(28)** For purposes of IC 14-34-14, the meaning set forth in



IC 14-34-14-1.

~~(30)~~ **(29)** For purposes of IC 14-34-19-1.3, the meaning set forth in IC 14-34-19-1.3(a).

~~(31)~~ **(30)** For purposes of IC 14-34-19-1.5, the meaning set forth in IC 14-34-19-1.5(a).

~~(32)~~ **(31)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 133. IC 14-8-2-117 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~117~~: "Governing board", for purposes of IC ~~14-28-5~~, has the meaning set forth in IC ~~14-28-5-3~~.

SECTION 134. IC 14-8-2-196 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~196~~: "Park", for purposes of IC ~~14-14-1~~, has the meaning set forth in IC ~~14-14-1-5~~.

SECTION 135. IC 14-8-2-197 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~197~~: "Park project", for purposes of IC ~~14-14-1~~, has the meaning set forth in IC ~~14-14-1-6~~.

SECTION 136. IC 14-14-1 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Recreational Development Commission).

SECTION 137. IC 14-25-7-18, AS AMENDED BY P.L.233-2017, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 18. (a) As used in this section, "authority" refers to the Indiana finance authority established by ~~IC 4-4-11-4~~. **IC 5-1.2-3.**

(b) As used in this section, "quality assurance review" means a process of reviewing and verifying water resources data with the goal of assuring the reliability of the data. The term includes the application of certain objectives, principles, and policies already in use at the Indiana geological and water survey in maintaining consistency in water resources data and accountability to the scientific community and general public.

(c) The authority shall perform a quality assurance review of the water resources data compiled from the reports submitted by owners of significant water withdrawal facilities under:

(1) section 15 of this chapter; and

(2) IC 13-2-6.1-1 and IC 13-2-6.1-7 (before their repeal);

beginning with the reports submitted for the 1985 calendar year.

(d) The authority may enter into contracts with one (1) or more professionals or state educational institutions under which the professionals or state educational institutions will perform some or all of the duties imposed on the authority by this section. The authority may compensate the professionals or state educational institutions for work performed under this section with:

(1) money from the drinking water revolving loan fund



established by ~~IC 13-18-21-2~~; **IC 5-1.2-10-3**; or

(2) any other funds appropriated to the authority.

(e) In performing the quality assurance review required by this section, the authority shall use the water resources data in a manner that:

(1) protects the confidential information of owners of significant water withdrawal facilities; and

(2) is consistent with IC 5-14-3-4.

(f) The authority shall present the results of the quality assurance review performed under this section, as those results become available, to the water rights and use section of the department's division of water. The water rights and use section shall maintain the results in the data base of data extracted from reports submitted by owners of significant water withdrawal facilities under section 15 of this chapter (and IC 13-2-6.1-1 and IC 13-2-6.1-7 before their repeal).

SECTION 138. IC 14-28-5 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Flood Control Revolving Fund).

SECTION 139. IC 14-33-7-7, AS AMENDED BY P.L.4-2005, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) To pay the costs of establishing a district, including general, legal, and administrative costs and costs incident to preparing the district plan, money may be obtained from one (1) or a combination of the following methods:

(1) Gifts, loans, or grants from a state or federal agency, or both.

(2) Gifts from any source.

(3) The collection of the special benefit tax.

(4) Borrowing from private or public sources in anticipation of the collection of the tax.

(5) Advances from the general fund of the county under section 15 of this chapter.

(6) Borrowing from the economic development fund created by IC 5-28-8 for any of the purposes in IC 14-33-1-1.

(7) Borrowing from the flood control revolving fund created by ~~IC 14-28-5~~ **IC 5-1.2-13** for any of the purposes in IC 14-33-1-1.

(b) All persons, agencies, and departments charged with the administration and supervision of funds such as those created by IC 5-28-8 and ~~IC 14-28-5~~ **IC 5-1.2-13** may make loans and advances to a district. The procedures, terms, and conditions of the loans must be the same as provided in the statutes establishing the funds but shall be modified and supplemented to fit this article to facilitate the financing of districts.

(c) This section does not preclude the borrowing of money for the



following:

- (1) Establishing the district.
- (2) General, legal, and administrative costs.
- (3) Costs incident to preparing the district plan in conjunction with borrowing of money to pay construction costs.

SECTION 140. IC 15-13-10-3, AS ADDED BY P.L.2-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Subject to the approval of the governor, the commission may, by resolution, authorize and issue revenue bonds to:

- (1) pay all or part of the cost of a project; or
- (2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue must:

- (1) be dated; and
- (2) mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall:

- (1) determine the form of the bonds; and
- (2) fix:
 - (A) the denomination of the bonds; and
 - (B) the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds must be signed in the name of the commission by:

- (1) the commission chairperson; or
- (2) the facsimile signature of the commission chairperson.

(g) The official seal of the commission, or a facsimile of the seal, must be:

- (1) affixed to the bonds; and
- (2) attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds must be sold in accordance with IC 21-32-3.

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(l) The commission shall cooperate with and use the assistance of the Indiana finance authority established under ~~IC 4-4-11~~ by **IC 5-1.2-3** in the issuance of the bonds.

SECTION 141. IC 16-18-2-338.5, AS AMENDED BY P.L.162-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 338.5. "State authority", for purposes of IC 16-22, means the Indiana finance authority established by ~~IC 4-4-11-4~~. **IC 5-1.2-3.**

SECTION 142. IC 16-22-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The governing board may lease real or personal property, with or without an option to purchase, on reasonable terms and conditions. If a lease agreement gives the hospital an option to purchase the property and if any part of the lease rental is to be applied on the purchase price if the option is exercised, the agreement shall be treated as a purchase and is subject to this chapter and other Indiana laws relating to purchases by county hospitals.

(b) The governing board may authorize the purchase or lease of a hospital building from the **Indiana finance** authority ~~or an authority referred to in IC 5-1-16-1~~. **established by IC 5-1.2-3.**

SECTION 143. IC 16-22-5-15, AS AMENDED BY P.L.162-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any purposes other than that for which the cumulative building fund was established, except for the following:

- (1) A lease entered into with an authority or the Indiana finance authority under ~~IC 5-1-16~~ **IC 5-1.2-7** may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.
- (2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

SECTION 144. IC 16-22-8-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 2.3. As used in this chapter, "bond bank" means the local public improvement bond bank established pursuant to IC 5-1.4 by the city located in the county in**



which the corporation is established.

SECTION 145. IC 16-22-8-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 2.5. As used in this chapter, "building authority" means the building authority established pursuant to IC 36-9-13 by the county in which the corporation is established.**

SECTION 146. IC 16-22-8-56 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 56. (a) This section applies notwithstanding any other law.**

(b) A pledge of revenues, other money, or property made by the corporation to secure the repayment of its bonds or leases entered into with the building authority, regardless of when it was made, is binding from the time the pledge is, or was, made. The pledge, as of the date the pledge is or was made, creates a statutory lien upon these revenues, other money, or property of the corporation so pledged at the time the pledge is, or was, made. Revenues, other money, or property pledged and then received by the corporation, or which after the pledge may be held, possessed, maintained or controlled by, or otherwise in the custody of:

- (1) any other political subdivision of the state; or**
- (2) any department, agency, or instrumentality of a political subdivision of the state;**

under any other law, are immediately subject to the statutory lien of the pledge, with the statutory lien immediately and automatically attaching to the revenues, other money, or property pledged, without any further act. The statutory lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise, against the corporation, regardless of whether the parties have notice of any lien. No resolution, ordinance, indenture, or any other instrument by which a pledge is created needs to be filed or recorded except in the records of the corporation.

(c) To the extent that the corporation has pledged any revenues, other money, or property to secure the repayment of its bonds or leases entered into with the building authority, the following apply:

- (1) The revenues, other money, or property so pledged and then received by the corporation, or which after the pledge, may be held, possessed, maintained or controlled by, or otherwise in the custody of:**
 - (A) any other political subdivision of the state; or**



(B) any department, agency, or instrumentality of a political subdivision of the state;

under any other law, up to an amount necessary to pay debt service on or to maintain a reserve fund or any required coverage ratio in any calendar year or bond year with respect to such an obligation, shall be used for the repayment of the obligation and for no other purpose until the obligation for that calendar year or bond year is fully paid in accordance with its terms.

(2) The corporation is prohibited from consenting to or permitting, and shall never be construed as consenting to or permitting, without the consent of one hundred percent (100%) of the owners of all its bonds then outstanding and those bonds then outstanding that are secured by the leases entered into with the building authority, the use of the pledged revenues for any purpose, except as described in subdivision (1).

(3) The revenues, other money, or property, which after the pledge, may be held, possessed, maintained or controlled by, or otherwise in the custody of:

(A) any other political subdivision of the state; or

(B) any department, agency, or instrumentality of a political subdivision of the state;

under any other law, and that would otherwise be available for distribution to the corporation, are automatically subject to a statutory lien for purposes of section 58 of this chapter.

(4) The corporation has no legal or equitable right to any of these revenues, other money, or property, which after the pledge may be held, possessed, maintained or controlled by, or otherwise in the custody of any other political subdivision of the state, or any department, agency, or instrumentality of a political subdivision of the state under any other law, and that would otherwise be available for distribution to the corporation, until:

(A) any reduction permitted under section 58 of this chapter has been applied; and

(B) the revenues, other money, or property have been or are required to be distributed to and received by the corporation.

(5) The corporation is prohibited from consenting to or permitting, and shall never be construed as consenting to or permitting, the use of any of the revenues, other money, or



property that is reduced pursuant to section 58 of this chapter for any other purpose, other than the purposes described in section 58 of this chapter.

SECTION 147. IC 16-22-8-57 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 57. (a) This section applies notwithstanding any other law.**

(b) The corporation is required to pay in full the principal of, and interest and premium, if any, on, or rental payments under, its bonds or leases entered into with the building authority, in accordance with the terms of these bonds or leases.

(c) With respect to these bonds or leases, the corporation is prohibited from consenting to or permitting, and shall never be construed as consenting to or permitting, without the consent of one hundred percent (100%) of the owners of all the bonds then outstanding and those bonds then outstanding that are secured by those leases, to any of the following:

- (1) An extension of the stated maturity or a reduction in the principal amount of, or a reduction in the rate or an extension of the time of payment of interest on, the bonds.**
- (2) An extension of the due date or a reduction in the amount of a rental payment under the leases.**
- (3) The creation of any lien on the revenues, other money, or property pledged to these bonds or leases, which is senior or prior to the lien upon the revenues, other money, or property pledged to these bonds or leases.**
- (4) A reduction in the aggregate principal amount of the bonds or aggregate amount of rental payments under the leases.**
- (5) The granting of a privilege, priority, or preference to any of the bonds or any bonds secured by the leases over any other of these bonds.**
- (6) Any amendment or modification of the powers, remedies, rights, duties, privileges, or immunities of the owners of the bonds.**

SECTION 148. IC 16-22-8-58 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 58. (a) Upon receiving notice from the bond bank that the corporation has failed to pay when due the principal of or interest on the obligations of the corporation then held, owned by, or arising from an agreement with the bond bank, the controller of the county in which the**



corporation is established shall do the following:

(1) Reduce the amount of any revenues, other money, or property that are pledged to pay the obligations, that:

(A) are held, possessed, maintained, controlled, or otherwise in the custody of the county in which the corporation is established or a department, an agency, or an instrumentality of the county in which the corporation is established; and

(B) would otherwise be available for distribution to the corporation under any other law;

by an amount equal to the amount of the unpaid obligations.

(2) Pay the amount by which the revenues, other money, or property that are pledged to pay the obligations is reduced under subdivision (1) to the bond bank to pay the principal of and interest on the bonds or other obligations of the bond bank directly related to the applicable defaulted obligations of the corporation.

(3) Notify the corporation that the revenues, other money, or property, which would otherwise be available for distribution to the corporation, has been reduced by an amount necessary to satisfy all or part of the unpaid obligations to the bond bank.

(b) Any reductions under subsection (a) must be used only for the purpose of paying the principal of and interest on the bonds or other obligations of the bond bank that are directly related to the applicable defaulted obligations of the corporation and that the bond bank has failed to pay and for no other purpose.

(c) Notwithstanding any other law, the corporation has no legal or equitable right to any revenues, other money, or property that are pledged to pay the principal of and interest on the bonds or other obligations of the bond bank, which are held, possessed, maintained, controlled or otherwise in the custody of any other political subdivision of the state, or any department, agency, or instrumentality of a political subdivision of the state, that would otherwise be available for distribution to the political subdivision, until:

(1) any reduction permitted under this section has been applied; and

(2) the revenues, other money, or property have been or are required to be distributed to and received by the corporation.

(d) This section shall be interpreted liberally so that the county, in which the corporation is established, shall, to the extent



permitted under Indiana law, ensure that the obligations of the corporation held or owned by or arising from an agreement with the bond bank, are paid when due. However, this section does not create a debt of the state or any other political subdivision.

(e) The withholding of a payment from or the reduction of a payment to the corporation and the payment to the bond bank under this section must not adversely affect the validity of the obligation of the corporation in default.

SECTION 149. IC 16-22-8-59 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 59. (a) If the corporation is designated as a "distressed political subdivision" by the distressed unit appeal board pursuant to IC 6-1.1-20.3-6.5, upon receipt of the notice of the designation from the distressed unit appeal board, the controller and the county treasurer of the county in which the corporation is established shall take any and all actions necessary to immediately and automatically distribute to the bond bank, after any reductions required by section 58 of this chapter, any revenues, other money, or property that are pledged to pay the principal of or interest on the obligations of the corporation held or owned by or arising from an agreement with the bond bank, which are held, possessed, maintained, controlled, or otherwise in the custody of the county in which the corporation is established, or any department, agency, or instrumentality of the county, which would otherwise be available for distribution to the corporation under any other law.

(b) Upon receipt of the revenues or money, the bond bank shall retain the amount necessary to pay the debt service on all of its bonds for the one (1) year period following the date of the receipt of the revenues or money, for which bonds the corporation is directly or indirectly obligated to pay, pursuant to the corporation's bonds or leases entered into with the building authority. The bond bank shall deposit the amount retained with the trustee or trustees for the bonds and then distribute the remainder to the corporation. The amounts required to be deposited with the trustee or trustees shall be reduced by any other money held by the trustee or trustees and available for the debt service, except any reserves required to be held by the trustee or trustees, but shall be increased by any amount necessary to restore any reserves to their required levels. The revenues, other money, or property of the corporation that are required to be deposited with the trustee or trustees pursuant to this subsection shall



continue in full force and effect until the time the distressed unit appeal board terminates the corporation's status as a distressed political subdivision pursuant to IC 6-1.1-20.3-13.

(c) Notwithstanding any other law, the corporation has no legal or equitable right to any revenues, other money, or property that are pledged to pay the principal of or interest on the obligations of the corporation held or owned by or arising from an agreement with the bond bank, which are held, possessed, maintained, controlled or otherwise in the custody of:

- (1) any other political subdivision of the state; or**
- (2) any department, agency, or instrumentality of a political subdivision of the state;**

that would otherwise be available for distribution to the corporation, unless and until the revenues, other money, or property have been or are required to be distributed to and received by the corporation.

SECTION 150. IC 21-29-3-3, AS AMENDED BY P.L.182-2009(ss), SECTION 365, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Subject to subsections (b) through (d), any state educational institution may enter into and modify, amend, or terminate one (1) or more swap agreements that the state educational institution determines to be necessary or desirable in connection with or incidental to the issuance, carrying, or securing of obligations. Swap agreements entered into by a state educational institution must:

- (1) contain the provisions (including payment, term, security, default, and remedy provisions); and
- (2) be with the parties;

that the state educational institution determines are necessary or desirable after due consideration is given to the creditworthiness of the parties.

(b) A state educational institution may not:

- (1) enter into, modify, amend, or terminate any swap agreement without the specific approval of the public finance director appointed under ~~IC 4-4-11-9~~; **IC 5-1.2-3-6**;
- (2) enter into any swap agreement under this section other than for the purpose of managing an interest rate or similar risk that arises in connection with or incidental to the issuance, carrying, or securing of obligations by the state educational institution; or
- (3) carry on a business of acting as a dealer in swap agreements.

(c) A swap agreement is considered as being entered into in connection with or incidental to the issuance, carrying, or securing of



obligations if:

- (1) the swap agreement is entered into not more than one hundred eighty (180) days after the issuance of the obligations and specifically indicates the agreement's relationship to the obligations;
- (2) the board of trustees of the state educational institution specifically designates the swap agreement as having a relationship to the particular obligations;
- (3) the swap agreement amends, modifies, or reverses a swap agreement described in subdivision (1) or (2); or
- (4) the terms of the swap agreement bear a reasonable relationship to the terms of the obligations.

(d) Payments to be made by a state educational institution to any other party under a swap agreement are payable only from the same source or sources of funds from which the related obligations are payable.

SECTION 151. IC 21-47-2-3, AS AMENDED BY P.L.233-2017, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) The survey shall do the following:

- (1) Provide geological information about the water, energy, and mineral resources and geologically related hazards of Indiana.
- (2) Provide services that include:
 - (A) the archiving of rock cores, well cuttings, other subsurface geological information, and other physical and chemical data on geological materials; and
 - (B) the collection and storage of data.
- (3) Provide public service, information, and educational programs.
- (4) Engage in research.
- (5) Participate in cooperative studies and contractual projects with the department of natural resources and other agencies of state and federal government.
- (6) Participate in cooperative studies and contractual projects with state educational institutions and private educational institutions.
- (7) Disseminate published maps and reports and digital data.

(b) The survey may also do the following through contractual agreements:

- (1) Provide the department of natural resources with information on the geological occurrence of ground water and the vulnerability of this resource to contamination.
- (2) Provide to the department of natural resources and other state agencies geological information needed for the effective



regulation of the mineral, water, and energy resources of Indiana.

(3) At the request of the department of natural resources, perform geotechnical investigations for a variety of mine reclamation programs.

(4) Provide general geotechnical consultation and assistance as may be needed from time to time.

(5) Provide technical assistance including, but not limited to, mapping and data collection as requested by the Indiana finance authority established by ~~IC 4-4-11~~; **IC 5-1.2-3**.

SECTION 152. IC 22-2-15-2, AS ADDED BY P.L.110-2010, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) The department shall develop guidelines and procedures for investigating questions and complaints concerning employee classification and a plan for implementation of those guidelines and procedures.

(b) The guidelines and procedures must do the following:

(1) Cover at least the following:

(A) Who is eligible to file a complaint. The guidelines and procedures must allow any aggrieved person to file a complaint and must indicate what evidence is needed to initiate an investigation.

(B) Applicable and appropriate penalties, taking into consideration:

(i) the financial impact on both employers and misclassified employees; and

(ii) whether the employer has previously misclassified employees.

(C) Mechanisms to share data with appropriate state agencies to assist those agencies in determining compliance with and enforcing state laws concerning misclassified employees and to recoup contributions owed, depending on the level of culpability.

(D) Record keeping requirements for contractors, including any records necessary for the department to investigate alleged violations concerning misclassification of employees.

(E) Investigative procedures.

(2) Apply to public works and private work projects for ~~the~~ construction industry (as ~~described~~ **defined** in ~~IC 4-13.5-1-1(3)~~; **IC 5-1.2-2**), including demolition.

(3) Apply to any contractor that engages in construction and is authorized to do business in Indiana.

(4) Provide a remedy for an employer or a misclassified employee



in response to:

- (A) any retaliation that occurs as the result of an investigation or a complaint; and
 - (B) any complaints that the department determines are frivolous or that are filed for the purpose of harassment.
- (5) Provide that in carrying out this chapter the department has the same inspection, investigative, and enforcement powers that the department has in enforcing the labor laws of this state, including powers described in IC 22-1-1.
- (c) The guidelines and procedures may include other elements as determined by the department.
- (d) The department shall exempt the following from the guidelines and procedures developed under this chapter:
- (1) Residential construction of a single family home or duplex if the builder builds less than twenty-five (25) units each year.
 - (2) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier.

SECTION 153. IC 34-30-2-2 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 2: IC 4-4-11-30 and IC 4-4-21-23 (Concerning members, officers, employees, and agents of the Indiana finance authority for acts authorized by law):~~

SECTION 154. IC 34-30-2-3 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 3: IC 4-13.5-4-4(g) (Concerning the state for monetary damages for obligations of or violation by the Indiana finance authority):~~

SECTION 155. IC 34-30-2-8 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 8: IC 5-1-16-28 (Concerning bonds issued by the Indiana finance authority under IC 5-1-16):~~

SECTION 156. IC 34-30-2-8.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8.6. IC 5-1.2-4-8 (Concerning the state for monetary damages for obligations of or violation by the Indiana finance authority).**

SECTION 157. IC 34-30-2-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8.7. IC 5-1.2-4-17 (Concerning the Indiana finance authority).**

SECTION 158. IC 34-30-2-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8.8. IC 5-1.2-4-32 (Concerning**



loan or financial assistance under IC 5-1.2 governing the Indiana finance authority and the Indiana finance authority's addressing of brownfield contamination issues).

SECTION 159. IC 34-30-2-24.5, AS ADDED BY P.L.217-2017, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 24.5. IC 8-14-15-4(d) **(before its repeal)** (Concerning officers, directors, and employees of the Indiana finance authority and the treasurer of state for transfers made from the next generation trust fund to the next level Indiana trust and trust fund).

SECTION 160. IC 34-30-2-24.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 24.6. IC 8-14-15.1-5.5(b) (Concerning officers, directors, and employees of the Indiana finance authority and the treasurer of state for transfers made from the next level Indiana trust fund to the next generation trust fund).**

SECTION 161. IC 34-30-2-87 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 87. IC 5-1-16.5-41 (Concerning members of, and persons executing bonds for, the Indiana finance authority under IC 5-1-16.5).~~

SECTION 162. IC 35-52-5-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 2.4. IC 5-1.2-4-34 defines a crime concerning certain programs administered by the Indiana finance authority.**

SECTION 163. IC 35-52-13-2 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 2. IC 13-18-13-31 defines a crime concerning water pollution control.~~

SECTION 164. IC 35-52-13-3 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 3. IC 13-18-21-31 defines a crime concerning water pollution control.~~

SECTION 165. IC 35-52-13-4 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 4. IC 13-19-5-17 defines a crime concerning environmental remediation revolving loan program.~~

SECTION 166. IC 36-7-4-1104, AS AMENDED BY P.L.181-2016, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1104. (a) As used in this section, "state agency" means all agencies, boards, commissions, departments, and institutions, including state educational institutions, of the state.

(b) ADVISORY—AREA. This chapter does not restrict or regulate (or authorize any political subdivision, legislative body, plan commission, or board of zoning appeals to restrict or regulate) the exercise of the power of eminent domain by the state, by any state



agency, or by the Indiana finance authority (~~IC 4-4-11-4~~); **(IC 5-1.2-3)**, or the use of property owned or occupied by the state, by any state agency, or by the Indiana finance authority.

SECTION 167. IC 36-7.5-2-8, AS AMENDED BY P.L.252-2015, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Except as provided in subsection (c)**, the development authority must comply with IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding law and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to the development authority; or

(2) enter into a lease for property with the development authority; at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

(c) As an alternative to IC 36-1-12, the development authority may utilize and may comply with:

(1) IC 5-16;

(2) IC 5-23;

(3) IC 5-30;

(4) IC 5-32; or

(5) any combination of the articles listed in subdivisions (1)



through (4) as determined by the NWIRDA as appropriate; when acquiring, financing, and constructing a public work that is a development project (as defined in IC 36-7.5-4.5-5).

(d) The development authority may:

- (1) contract with;
- (2) assign to; or
- (3) delegate to;

a commuter transportation district or the NICTD to perform any duties and exercise any powers of the development authority under this chapter.

SECTION 168. IC 36-7.5-3-1, AS AMENDED BY P.L.192-2015, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The development authority shall do the following:

- (1) Subject to ~~section~~ **sections 1.5 and 1.7** of this chapter, assist in the coordination of local efforts concerning projects.
- (2) Assist a commuter transportation district, an airport authority, the Lake Michigan marina and shoreline development commission, a regional transportation authority, and a regional bus authority in coordinating regional transportation and economic development efforts.
- (3) Subject to ~~section~~ **sections 1.5 and 1.7** of this chapter, fund projects as provided in this article.
- (4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

SECTION 169. IC 36-7.5-3-1.5, AS AMENDED BY P.L.204-2016, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) **Except as provided in section 1.7 of this chapter**, this section applies to revenue received by the authority to the extent that the revenue has not been pledged or otherwise obligated to pay bonds or leases entered into before July 1, 2015, **for a project other than a rail project.**

(b) The authority may expend money received under this article to fund economic development projects only to the extent that:

- (1) the development board finds that the economic development project is a destination based economic development project evaluated under IC 36-7.5-2-1(4) or is consistent with:
 - (A) a duty imposed upon the development authority under section 1(2) or 1(4) of this chapter; or
 - (B) the Marquette Plan; and
- (2) funding the project is reviewed by the **state** budget committee



under subsection (c).

(c) The development board shall submit to the ~~state~~ budget committee for review and comment any proposal to fund an economic development project (including any destination based economic development project) under this article. The ~~state~~ budget committee shall review any proposal received under this subsection and may request that the authority appear at a public meeting of the ~~state~~ budget committee concerning the funding proposal. **This subsection does not apply to a rail project financed under IC 5-1.3.**

SECTION 170. IC 36-7.5-3-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.7. (a) This section applies to a rail project.**

(b) Notwithstanding section 1.5 of this chapter, and except for revenue received by the development authority and pledged or otherwise obligated to pay bonds or leases entered into before July 1, 2015, for a project other than a rail project, the development authority may expend money received under this article to fund a rail project.

SECTION 171. IC 36-7.5-4-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The development board shall establish and administer a development authority **revenue** fund.

(b) The development authority **revenue** fund consists of the following:

- (1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.
- (2) Local income tax revenue dedicated to economic development purposes by a county or city and transferred by the county or city to the fund.
- (3) Amounts distributed under IC 8-15-2-14.7.
- (4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.
- (5) Funds received from the federal government.
- (6) Appropriations to the fund by the general assembly.
- (7) Other local revenue appropriated to the fund by a political subdivision.
- (8) *Amounts transferred to the fund under IC 36-7.5-4.5.*
- ~~(9)~~ (9) Gifts, donations, and grants to the fund.



(c) ~~The development authority shall establish a development authority fund. The development board shall establish and administer a general account, a lease rental account, and such other any accounts in the fund as that~~ are necessary or appropriate to carry out the powers and duties of the development authority.

(d) The development board shall establish separate accounts for funding that are expressly committed to:

- (1) the mainline double tracking project; or**
- (2) the West Lake corridor project.**

(e) A separate fund or account may be established to comply with the requirements of:

- (1) a grant received from any federal agency or department;**
- (2) a grant received from the state;**
- (3) state appropriations;**
- (4) gifts, bequests, or donations;**
- (5) the issuance of obligations;**
- (6) the execution of leases; or**
- (7) any other purpose.**

(f) Except as otherwise provided by law, ~~or~~ agreement with holders of any obligations of the development authority, ~~or subsection (d), (g),~~ all money transferred to the development authority **revenue** fund under subsection (b)(1), (b)(2), and (b)(4) shall be ~~deposited in the lease rental account~~ and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. ~~However, any money Money deposited in the lease rental account and not used for the purposes of this subsection pledged to payment of any existing or future leases or reasonably necessary for the purposes of this article shall~~ may be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

~~(d)~~ **(g)** If the amount of money transferred to the development authority **revenue** fund under subsection (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

- (1) one and twenty-five hundredths (1.25); multiplied by
- (2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

all or a portion of the excess may instead be deposited in the general



account.

~~(e)~~ **(h)** Except as otherwise provided by law or agreement with the holders of obligations of the development authority, all other money and revenues of the development authority ~~may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account~~ may be used for any purpose authorized by this article.

~~(f)~~ **(i)** The development authority **revenue** fund shall be administered by the development authority.

~~(g)~~ **(j)** Money in the development authority **revenue** fund shall be used by the development authority to carry out this article and does not revert to any other fund.

(k) This section includes full authority for the creation of any fund or account by the development authority and for an agreement with any person to hold or manage a fund or account.

SECTION 172. IC 36-7.5-4-2, AS AMENDED BY P.L.248-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsections (b) and (d), the fiscal officer of each city and county described in IC 36-7.5-2-3(b) shall each transfer three million five hundred thousand dollars (\$3,500,000) each year to the development authority for deposit in the development authority **revenue** fund established under section 1 of this chapter. However, if a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) ceases to be a member of the development authority and two (2) or more municipalities in the county have become members of the development authority as authorized by IC 36-7.5-2-3(i), the transfer of the local income tax revenue that is dedicated to economic development purposes that is required to be transferred under IC 6-3.6-11-6 is the contribution of the municipalities in the county that have become members of the development authority.

(b) This subsection applies only if:

- (1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;
- (2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and
- (3) the county described in IC 36-7.5-2-3(e) is an eligible county



participating in the development authority.

The fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five thousand dollars (\$2,625,000) each year to the development authority for deposit in the development authority **revenue** fund established under section 1 of this chapter. The fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars (\$875,000) each year to the development authority for deposit in the development authority **revenue** fund established under section 1 of this chapter.

(c) This subsection does not apply to Lake County, Hammond, Gary, or East Chicago. The following apply to the remaining transfers required by subsections (a) and (b):

(1) Except for transfers of money described in subdivision (4)(D), the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) Except as provided in subdivision (3), each fiscal officer shall transfer eight hundred seventy-five thousand dollars (\$875,000) to the development authority **revenue** fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) The fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars (\$656,250) to the development authority **revenue** fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, 2017. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars (\$218,750) to the development authority **revenue** fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any time before January 1, 2017.

(4) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any local income tax revenue that is dedicated to economic development purposes under IC 6-3.6-6 and



received under IC 6-3.6-9 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or city under IC 8-14-16.

(d) This subsection applies only to Lake County, Hammond, Gary, and East Chicago. The obligations of each city and the county under subsection (a) are satisfied by the distributions made by the auditor of state on behalf of each unit under IC 4-33-12-6(d) and IC 4-33-13-5(j). However, if the total amount distributed under IC 4-33 on behalf of a unit with respect to a particular state fiscal year is less than the amount required by subsection (a), the fiscal officer of the unit shall transfer the amount of the shortfall to the authority from any source of revenue available to the unit other than property taxes. The auditor of state shall certify the amount of any shortfall to the fiscal officer of the unit after making the distribution required by IC 4-33-13-5(j) on behalf of the unit with respect to a particular state fiscal year.

(e) A transfer made on behalf of a county, city, or town under this section after December 31, 2018:

(1) is considered to be a payment for services provided to residents by a rail project as those services are rendered; and

(2) does not impair any pledge of revenues under this article because a pledge by the development authority of transferred revenue under this section to the payment of bonds, leases, or obligations under this article or IC 5-1.3:

(A) constitutes the obligations of the northwest Indiana regional development authority; and

(B) does not constitute an indebtedness of a county, city, or town described in this section or of the state within the meaning or application of any constitutional or statutory provision or limitation.

(f) Neither the transfer of revenue as provided in this section nor the pledge of revenue transferred under this section is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

(1) The statutes governing local taxes, including the transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.



(2) Owners of bonds, leases, or other obligations to which local tax revenues have been pledged recognize that the regulation of local taxes has been extensive and consistent.

(3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.

(4) The state of Indiana has a legitimate interest in assisting the development authority in financing rail projects.

(g) All proceedings had and actions described in this section are valid pledges under IC 5-1-14-4 as of the date of those proceedings or actions and are hereby legalized and declared valid if taken before March 15, 2018.

SECTION 173. IC 36-7.5-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) This section applies to a unit that has previously:

(1) entered into an interlocal cooperation or other similar agreement;

(2) adopted an ordinance or resolution; or

(3) taken any other action offering to support and finance:

(A) a rail project or rail projects under this chapter; or

(B) the double tracking project under IC 36-7.5-4.5.

(b) The unit may use any legally available revenue to support and finance the projects described in subsection (a)(3), including additional revenue allocated each year for economic development under IC 6-3.6-6-9.

(c) Additional revenue allocated for economic development to support and finance the projects under this section shall be paid by the treasurer of state to the treasurer of the northwest Indiana regional development authority under section 2 of this chapter before certified distributions are made to the county or any civil taxing unit in the county or counties in which the unit is located.

(d) A transfer made on behalf of a unit under subsection (c) after December 31, 2018, is considered to be a payment for services provided to residents by a rail project as those services are rendered.

(e) A pledge by the development authority of transferred revenue under this section to the payment of bonds, leases, or obligations under this article or IC 5-1.3:

(1) constitutes the obligations of the northwest Indiana regional development authority; and

(2) does not constitute an indebtedness of:



(A) a unit described in this section; or

(B) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(f) Neither the transfer of revenue nor the pledge of revenue transferred under this section is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

(1) The statutes governing local income taxes, including the transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.

(2) Owners of bonds, leases, or other obligations to which local income tax revenues have been pledged recognize that the regulation of local income taxes has been extensive and consistent.

(3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.

(4) The state of Indiana has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects.

(g) All proceedings had and actions described in this section are valid pledges under IC 5-1-14-4 as of the date of those proceedings or actions and are hereby legalized and declared valid if taken before March 15, 2018.

SECTION 174. IC 36-7.5-4-3, AS AMENDED BY P.L.252-2015, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, ~~IC 36-7-13.5~~, or IC 36-9-3 or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the



development authority and amounts deposited in the development authority **revenue** fund.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana finance authority established by ~~IC 4-4-11-4~~ **IC 5-1.2-3** upon the terms determined by the development board and the Indiana finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

SECTION 175. IC 36-7.5-4-5, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.



(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority **revenue** fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
- (3) set forth the rights and remedies of bondholders and trustees; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

SECTION 176. IC 36-7.5-4-7, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority to an eligible political subdivision:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3) may contain provisions:
 - (A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and
 - (B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;
- (4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;



(5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) shall provide that the lease rental payments by the eligible political subdivision shall be made from the development authority **revenue** fund established by section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

SECTION 177. IC 36-7.5-4-18, AS ADDED BY P.L.248-2017, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **Subject to IC 5-1.3**, the development authority is the exclusive fiscal officer for and has final approval for financing a transportation project involving a rail project as ~~defined in IC 36-7.5-4.5-12:~~ **under this article.**

SECTION 178. IC 36-7.5-4.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "associate member" refers to a county or municipality that adopted an ordinance or resolution under section 16 of this chapter specifying that the county or municipality has chosen to become an associate member.**

SECTION 179. IC 36-7.5-4.5-2.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5.** As used in this chapter, "cash participant" refers to a county or municipality that has adopted an ordinance or resolution under section 16 of this chapter specifying that the county or municipality has chosen to become a cash participant.

SECTION 180. IC 36-7.5-4.5-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a)** This section applies to an associate member or cash participant that has committed to:

- (1) make a cash payment to the development authority; or
- (2) provide revenues to the development authority annually to make debt service payments annually for the life of any:
 - (A) bonds or obligations issued; or
 - (B) leases entered into;

by the development authority;

to finance the mainline double tracking project.

(b) A transfer of funds made by a cash participant or an associate member under this section after December 31, 2018, is considered to be a payment for services provided to residents by the mainline double tracking project (as described in section 12 of this chapter) as those services are rendered.

(c) A transfer of funds under this section does not constitute an indebtedness of:

- (1) an associate member;
- (2) a cash participant; or
- (3) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(d) A pledge by the development authority of transferred revenue under this section to the payment of bonds, leases, or obligations under this article or IC 5-1.3, to these bonds, leases, or obligations:

- (1) constitutes the obligations of the development authority; and
- (2) does not constitute an indebtedness of:
 - (A) an associate member;
 - (B) a cash participant; or
 - (C) the state;

within the meaning or application of any constitutional or statutory provision or limitation.

(e) Neither the transfer of revenue nor the pledge of revenue



transferred under this section is an impairment of contract within the meaning or application of any constitutional provision or limitation because of the following:

- (1) The statutes governing local government revenues, including the transferred revenue, have been the subject of legislation annually since 1973, and during that time the statutes have been revised, amended, expanded, limited, and recodified dozens of times.
- (2) Owners of bonds, leases, or other obligations to which local government revenues have been pledged recognize that the regulation of government revenues has been extensive and consistent.
- (3) All bonds, leases, or other obligations, due to their essential contractual nature, are subject to relevant state and federal law that is enacted after the date of a contract.
- (4) The state of Indiana has a legitimate interest in assisting the northwest Indiana regional development authority in financing rail projects, including the mainline double tracking project.

SECTION 181. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee for study during the 2018 legislative interim the subject of requiring performance and payment bonds for future public-private projects.

(b) This SECTION expires January 1, 2019.

SECTION 182. [EFFECTIVE JULY 1, 2018] (a) The general assembly recognizes that this act repeals IC 13-18-13 and SEA 362-2018 amends IC 13-18-13-11. The general assembly intends to repeal IC 13-18-13 effective July 1, 2018.

(b) The general assembly recognizes that this act repeals IC 13-18-21 and SEA 362-2018 amends IC 13-18-21-11. The general assembly intends to repeal IC 13-18-21 effective July 1, 2018.

(c) This SECTION expires June 30, 2019.

SECTION 183. [EFFECTIVE UPON PASSAGE] (a) If any provision of this act or the application of this act to any person or circumstances is invalid, the invalidity shall not affect the other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable in the manner provided by IC 1-1-1-8(b).

(b) If any provision of this act is determined to be



unconstitutional, all rights, powers, duties, and obligations under that provision shall revert to the respective holders of those rights, powers, duties and obligations as though the provision had never been in effect.

SECTION 184. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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