



January 18, 2017

## SENATE BILL No. 128

DIGEST OF SB 128 (Updated January 17, 2017 11:41 am - DI 84)

**Citations Affected:** IC 4-4; IC 6-1.1; IC 8-10; IC 8-15.5; IC 8-15.7; IC 8-23; IC 36-1; IC 36-9.

**Synopsis:** Regional infrastructure development. Authorizes a local port authority to apply for a "FASTLANE" grant from the Federal Highway Administration (or a grant from any other federal grant program) for highway funding. Authorizes a local port authority to construct and maintain a highway within the boundaries of the local port authority. Authorizes a county, city, or town to establish a cumulative fund for the purpose of funding local port authority highway projects. Allows one or more counties to establish a regional supplemental highway funding authority (authority). Provides that the primary purpose of an authority is to negotiate and enter into an agreement with the department of transportation (INDOT) or a local port authority to provide local matching funds to INDOT or the local port authority to be used to offset the nonfederal share of the costs of construction or reconstruction of a state highway, bypass, or interstate highway that will increase an existing state highway's traffic capacity  
(Continued next page)

**Effective:** Upon passage.

---

---

### Messmer

---

---

January 4, 2017, read first time and referred to Committee on Homeland Security and Transportation.

January 17, 2017, reported favorably — Do Pass; reassigned to Committee on Appropriations.

---

---

SB 128—LS 6384/DI 120



within the boundaries of the authority. Establishes a regional supplemental highway fund (fund) for each authority. Provides that the Indiana finance authority shall administer the fund. Provides that an authority may issue bonds payable from the fund. Allows INDOT, when determining its long range construction program, to give special priority to construction projects for which an authority has agreed to provide local matching funds. Allows a county, municipality, or township within the boundaries of an authority to transfer money to a fund from the county's, municipality's, or township's general fund or rainy day fund (or other available fund). Allows a property owner in a county that is a participant in an authority to make a contribution to a fund by public subscription and voluntary property tax levy. Provides that a property owner who wishes to make a contribution to a fund must: (1) execute a voluntary property tax levy agreement (agreement) to impose a tax rate on the property owner's real property; and (2) record the agreement with the county recorder's office. Specifies that a tax rate imposed under an agreement must be at least \$0.05 but not more than \$0.50 on each \$100 of assessed valuation of the property. Provides that the tax rate imposed under an agreement must expire on the assessment date following the maturity date of bonds that are issued and payable solely from the authority's fund. Requires the county fiscal officer to transfer to the fund all property tax collection amounts received from a voluntary property tax levy. Authorizes the fiscal body of a county that is a participant in an authority to adopt a resolution to place a supplemental highway funding referendum tax levy on the ballot. Provides that, if a majority of individuals who vote in the referendum vote in favor of the referendum, the county is authorized to impose a levy: (1) not greater than the amount approved in the referendum; and (2) for the number of years for which bonds that are issued and payable solely from the authority's fund will be outstanding. Provides that the county's referendum tax levy may not be considered in determining any other property tax levy imposed by the county. Provides that money received from the county's referendum tax levy must be transferred to the fund. Amends provisions of the public-private partnership statutes to include an authority. Appropriates money in the fund.



January 18, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## SENATE BILL No. 128

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

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

1       SECTION 1. IC 4-4-11-2, AS AMENDED BY P.L.233-2013,  
2       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 2. (a) The legislature makes the following  
4       findings of fact:

5           (1) That there currently exists in certain areas of the state critical  
6           conditions of unemployment, inadequate drinking water,  
7           inadequate wastewater and storm water management, or  
8           environmental pollution, including water pollution, air pollution,  
9           sewage and solid waste, radioactive waste, thermal pollution,  
10          radiation contamination, and noise pollution, and that these  
11          conditions may well exist, from time to time, in other areas of the  
12          state.

13          (2) That in some areas of the state such conditions are chronic and  
14          of long standing and that without remedial measures they may  
15          become so in other areas of the state.

16          (3) That economic insecurity due to unemployment, inadequate  
17          drinking water, inadequate wastewater and storm water

SB 128—LS 6384/DI 120



management, or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;

(B) the promotion and stimulation of international exports; and

(C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose the provision of safe drinking water, the provision of wastewater and storm water management, the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, insurance companies, other financial institutions, and individuals into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports,



and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects and carrying out the purposes of IC 13-18-13 and IC 13-18-21 promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the provision of safe drinking water;

(F) the provision of wastewater and storm water management;

(G) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

(H) increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of



educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) 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 promotion and development of industrial development projects; and

(B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(7) promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities; ~~and~~

(8) carrying out the purposes of IC 5-1-17.5 concerning a motorsports investment district; **and**

**(9) administering a regional supplemental highway fund established under IC 36-9-43-14.**

SECTION 2. IC 6-1.1-18-12, AS AMENDED BY P.L.232-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted each year to account for the change in assessed value of real property that results from:

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;

(2) a general reassessment of real property under IC 6-1.1-4-4; or

(3) a reassessment under a county's reassessment plan prepared



1 under IC 6-1.1-4-4.2.  
 2 (d) The statutes to which subsection (a) refers are:  
 3 (1) IC 8-10-5-17;  
 4 **(2) IC 8-10-5-17.5;**  
 5 ~~(2)~~ **(3)** IC 8-22-3-11;  
 6 ~~(3)~~ **(4)** IC 8-22-3-25;  
 7 ~~(4)~~ **(5)** IC 12-29-1-1;  
 8 ~~(5)~~ **(6)** IC 12-29-1-2;  
 9 ~~(6)~~ **(7)** IC 12-29-1-3;  
 10 ~~(7)~~ **(8)** IC 12-29-3-6;  
 11 ~~(8)~~ **(9)** IC 13-21-3-12;  
 12 ~~(9)~~ **(10)** IC 13-21-3-15;  
 13 ~~(10)~~ **(11)** IC 14-27-6-30;  
 14 ~~(11)~~ **(12)** IC 14-33-7-3;  
 15 ~~(12)~~ **(13)** IC 14-33-21-5;  
 16 ~~(13)~~ **(14)** IC 15-14-7-4;  
 17 ~~(14)~~ **(15)** IC 15-14-9-1;  
 18 ~~(15)~~ **(16)** IC 15-14-9-2;  
 19 ~~(16)~~ **(17)** IC 16-20-2-18;  
 20 ~~(17)~~ **(18)** IC 16-20-4-27;  
 21 ~~(18)~~ **(19)** IC 16-20-7-2;  
 22 ~~(19)~~ **(20)** IC 16-22-14;  
 23 ~~(20)~~ **(21)** IC 16-23-1-29;  
 24 ~~(21)~~ **(22)** IC 16-23-3-6;  
 25 ~~(22)~~ **(23)** IC 16-23-4-2;  
 26 ~~(23)~~ **(24)** IC 16-23-5-6;  
 27 ~~(24)~~ **(25)** IC 16-23-7-2;  
 28 ~~(25)~~ **(26)** IC 16-23-8-2;  
 29 ~~(26)~~ **(27)** IC 16-23-9-2;  
 30 ~~(27)~~ **(28)** IC 16-41-15-5;  
 31 ~~(28)~~ **(29)** IC 16-41-33-4;  
 32 ~~(29)~~ **(30)** IC 20-46-2-3 (before its repeal on January 1, 2009);  
 33 ~~(30)~~ **(31)** IC 20-46-6-5;  
 34 ~~(31)~~ **(32)** IC 20-49-2-10;  
 35 ~~(32)~~ **(33)** IC 36-1-19-1;  
 36 ~~(33)~~ **(34)** IC 23-14-66-2;  
 37 ~~(34)~~ **(35)** IC 23-14-67-3;  
 38 ~~(35)~~ **(36)** IC 36-7-13-4;  
 39 ~~(36)~~ **(37)** IC 36-7-14-28;  
 40 ~~(37)~~ **(38)** IC 36-7-15.1-16;  
 41 ~~(38)~~ **(39)** IC 36-8-19-8.5;  
 42 ~~(39)~~ **(40)** IC 36-9-6.1-2;



1       ~~(40)~~ **(41)** IC 36-9-17.5-4;  
 2       ~~(41)~~ **(42)** IC 36-9-27-73;  
 3       ~~(42)~~ **(43)** IC 36-9-29-31;  
 4       ~~(43)~~ **(44)** IC 36-9-29.1-15;  
 5       ~~(44)~~ **(45)** IC 36-10-6-2;  
 6       ~~(45)~~ **(46)** IC 36-10-7-7;  
 7       ~~(46)~~ **(47)** IC 36-10-7-8;  
 8       ~~(47)~~ **(48)** IC 36-10-7.5-19;  
 9       ~~(48)~~ **(49)** IC 36-10-13-5;  
 10       ~~(49)~~ **(50)** IC 36-10-13-7;  
 11       ~~(50)~~ **(51)** IC 36-10-14-4;  
 12       ~~(51)~~ **(52)** IC 36-12-7-7;  
 13       ~~(52)~~ **(53)** IC 36-12-7-8;  
 14       ~~(53)~~ **(54)** IC 36-12-12-10;  
 15       ~~(54)~~ **(55)** a statute listed in IC 6-1.1-18.5-9.8; and  
 16       ~~(55)~~ **(56)** any statute enacted after December 31, 2003, that:  
 17           (A) establishes a maximum rate for any part of the:  
 18               (i) property taxes; or  
 19               (ii) special benefits taxes;  
 20           imposed by a political subdivision; and  
 21           (B) does not exempt the maximum rate from the adjustment  
 22           under this section.  
 23       (e) For property tax rates imposed for property taxes first due and  
 24       payable after December 31, 2013, the new maximum rate under a  
 25       statute listed in subsection (d) is the tax rate determined under STEP  
 26       EIGHT of the following STEPS:  
 27           STEP ONE: Except as provided in subsection (g), determine the  
 28           maximum rate for the political subdivision levying a property tax  
 29           or special benefits tax under the statute for the previous calendar  
 30           year.  
 31           STEP TWO: Determine the actual percentage change (rounded to  
 32           the nearest one-hundredth percent (0.01%)) in the assessed value  
 33           of the taxable property from the previous calendar year to the year  
 34           in which the affected property taxes will be imposed.  
 35           STEP THREE: Determine the three (3) calendar years that  
 36           immediately precede the year in which the affected property taxes  
 37           will be imposed.  
 38           STEP FOUR: Compute separately, for each of the calendar years  
 39           determined in STEP THREE, the actual percentage change  
 40           (rounded to the nearest one-hundredth percent (0.01%)) in the  
 41           assessed value (before the adjustment, if any, under  
 42           IC 6-1.1-4-4.5) of the taxable property from the preceding year.





STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The STEP FIVE result.

STEP SEVEN: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP SIX percentage, if any.

STEP EIGHT: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SEVEN percentage, if any.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

(g) This subsection applies only when calculating the maximum rate for taxes due and payable in calendar year 2013. The STEP ONE result is the greater of the following:

(1) The actual maximum rate established for property taxes first due and payable in calendar year 2012.

(2) The maximum rate that would have been established for property taxes first due and payable in calendar year 2012 if the maximum rate had been established under the formula under this section, as amended in the 2012 session of the general assembly.

(h) This subsection applies only when calculating the maximum rate allowed under subsection (e) for the Vincennes Community School Corporation with respect to property taxes first due and payable in 2014. The subsection (e) STEP ONE result for the school corporation's capital projects fund is nineteen and forty-two hundredths cents (\$0.1942).

(i) This subsection does not apply when calculating the maximum rate for the Vincennes Community School Corporation. This subsection applies only when calculating the maximum rate for a school corporation's capital projects fund for taxes due and payable in calendar year 2016. The subsection (e) STEP ONE result for purposes of the calculation of that maximum rate is the greater of the following:

(1) The actual maximum rate established for the school corporation's capital projects fund for property taxes first due and payable in calendar year 2015.

(2) The maximum rate that would have been established for the school corporation's capital projects fund for property taxes first



1 due and payable in calendar year 2015 if the formula specified in  
 2 subsection (e) had been in effect for the determination of  
 3 maximum rates for each calendar year after 2006.

4 SECTION 3. IC 6-1.1-20.6-7.5, AS AMENDED BY P.L.205-2013,  
 5 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]: Sec. 7.5. (a) A person is entitled to a credit against  
 7 the person's property tax liability for property taxes first due and  
 8 payable after 2009. The amount of the credit is the amount by which  
 9 the person's property tax liability attributable to the person's:

- 10 (1) homestead exceeds one percent (1%);
- 11 (2) residential property exceeds two percent (2%);
- 12 (3) long term care property exceeds two percent (2%);
- 13 (4) agricultural land exceeds two percent (2%);
- 14 (5) nonresidential real property exceeds three percent (3%); or
- 15 (6) personal property exceeds three percent (3%);

16 of the gross assessed value of the property that is the basis for  
 17 determination of property taxes for that calendar year.

18 (b) This subsection applies to property taxes first due and payable  
 19 after 2009. Property taxes imposed:

- 20 (1) after being approved by the voters in a referendum or local
- 21 public question; **or**
- 22 **(2) under the terms of a voluntary property tax levy**
- 23 **agreement executed by a property owner under IC 36-9-43.5;**

24 shall not be considered for purposes of calculating a person's credit  
 25 under this section.

26 (c) This subsection applies to property taxes first due and payable  
 27 after 2009. As used in this subsection, "eligible county" means only a  
 28 county for which the general assembly determines in 2008 that limits  
 29 to property tax liability under this chapter are expected to reduce in  
 30 2010 the aggregate property tax revenue that would otherwise be  
 31 collected by all units of local government and school corporations in  
 32 the county by at least twenty percent (20%). Property taxes imposed in  
 33 an eligible county:

- 34 (1) to pay debt service:
- 35 (A) on bonds issued before July 1, 2008; or
- 36 (B) on bonds that:
- 37 (i) are issued to refund bonds originally issued before July
- 38 1, 2008; and
- 39 (ii) have a maturity date that is not later than the maturity
- 40 date of the bonds refunded;
- 41 (2) to make lease payments on leases entered into before July 1,
- 42 2008, to secure bonds;



(3) to make lease payments on leases:

(A) that are amended to refund bonds secured by leases entered into before July 1, 2008; and

(B) that have a term that is not longer than the term of the leases amended; or

(4) to make lease payments on leases:

(A) that secure bonds:

(i) issued to refund bonds originally issued before July 1, 2008; and

(ii) that have a maturity date that is not later than the maturity date of the bonds refunded; and

(B) that have a term that ends not later than the maturity date of the bonds refunded;

shall not be considered for purposes of calculating a person's credit under this section.

SECTION 4. IC 8-10-5-8, AS AMENDED BY P.L.229-2011, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A port authority is an instrumentality of the state and shall have full power and authority independent of any political subdivision to do the following:

(1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.

(2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.

(3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.

(4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:

(A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or

(B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable



1           waters of the state.

2           (5) Acquire, own, hold, sell, lease, or operate real or personal

3           property for the authorized purposes of the port authority.

4           (6) Apply to the proper authorities of the United States pursuant

5           to appropriate law for the right to establish, operate, and maintain

6           foreign trade zones within the limits of the port authority and

7           establish, operate, and maintain such foreign trade zones.

8           (7) Exercise the right of eminent domain to appropriate any land,

9           rights, rights-of-way, franchises, easements, or other property

10          necessary or proper for the construction or the efficient operation

11          of any facility **or highway project** of the port authority, award

12          damages to landowners for real estate and property rights

13          appropriated and taken or injuriously affected, and in case the

14          board of directors of the port authority cannot agree with the

15          owners, lessees, or occupants of any real estate selected by them

16          for the purposes herein set forth, proceed to procure the

17          condemnation of the same as hereinafter provided, and in addition

18          thereto, when not in conflict or inconsistent with the express

19          provisions of this chapter, proceed under the general laws of the

20          state of Indiana governing the condemnation of lands and the

21          rights-of-way for other public purposes which may be in force at

22          the time, and the provisions of such laws are hereby extended to

23          ports and harbors, **to highways under section 8.3 of this**

24          **chapter**, and to the properties of port authorities as provided for

25          herein so far as the same are not in conflict or inconsistent with

26          the terms of this chapter. In any such proceeding prosecuted by

27          the board of directors of a port authority to condemn or

28          appropriate any land or the use thereof or any right therein for

29          purposes permitted by this chapter, the board and all owners and

30          holders of property or rights therein sought to be taken shall be

31          governed by and have the same rights as to procedure, notices,

32          hearings, assessments of benefits and awards, and payments

33          thereof as are now or may hereafter be prescribed by law for the

34          appropriation and condemnation of real estate, and such property

35          owners shall have like powers and rights as to remonstrance and

36          of appeals to the circuit or superior courts in the county in which

37          such property sought to be appropriated is located. However, the

38          payment of all damages awarded for all lands and property or

39          interests or rights therein appropriated under the provisions of this

40          chapter shall be paid entirely out of funds under the control of

41          such port authority, except for the following:

42                (A) Upon written application of any property owner affected,



1 any municipal corporation, or, as to areas outside the  
 2 boundaries of a municipal corporation, any county,  
 3 participating in the creation of a port authority, after ten (10)  
 4 days written notice to the port authority and public hearing had  
 5 thereon, may revoke the right of eminent domain to be  
 6 exercised by the port authority as to any parcel or parcels of  
 7 land inside its borders within sixty (60) days after the port  
 8 authority has by resolution announced the lands, rights,  
 9 rights-of-way, franchises, easements, or other property to be  
 10 taken.

11 (B) Nothing herein contained shall authorize a port authority  
 12 to take or disturb property or facilities belonging to any public  
 13 corporation, public utility, or common carrier, which property  
 14 or facilities are necessary and convenient in the operation of  
 15 such public corporation, public utility, or common carrier,  
 16 unless provision is made for the restoration, relocating, or  
 17 duplication of such property or facilities, or upon the election  
 18 of such public corporation, public utility, or common carrier,  
 19 for the payment of compensation, if any at the sole cost of the  
 20 port authority, subject to the following:

21 (i) If any restoration or duplication proposed to be made  
 22 hereunder shall involve a relocation of such property or  
 23 facilities, the new facilities and location shall be of at least  
 24 comparable utilitarian value and effectiveness and such  
 25 relocation shall not impair the ability of the public utility or  
 26 common carrier to compete in its original area of operation.

27 (ii) Provisions for restoration or duplication shall be  
 28 described in detail in the resolution for appropriation passed  
 29 by the port authority.

30 (8) Accept, receive, and receipt for federal moneys, and other  
 31 moneys, either public or private, for the acquisition, construction,  
 32 enlargement, improvement, maintenance, equipment, or operation  
 33 of a port or harbor or other navigation facilities, and sites therefor  
 34 and comply with the provisions of the laws of the United States  
 35 and any rules and regulations made thereunder for the expenditure  
 36 of federal moneys upon such ports and other navigation facilities.

37 (9) Maintain such funds as it deems necessary.

38 (10) Direct its agents or employees, when properly identified in  
 39 writing, and after at least five (5) days written notice, to enter  
 40 upon lands within the confines of its jurisdiction in order to make  
 41 surveys and examinations preliminary to location and  
 42 construction of works for the purposes of the port authority,



without liability of the port authority or its agents or employees except for actual damage done.

(11) Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority.

(12) Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port.

(13) Borrow money and secure the borrowing by a pledge of the following:

(A) Accounts receivable.

(B) A security interest in capital equipment for which the proceeds of the loan are used.

(C) Other security, including the excess of unobligated revenues over operating expenses.

(b) The term of a loan authorized by subsection (a)(13) may not exceed:

(1) thirty-five (35) years, in the case of a loan made before July 1, 2011; or

(2) twenty-five (25) years, in the case of a loan made after June 30, 2011.

SECTION 5. IC 8-10-5-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.2. (a) A port authority may apply for, accept, and expend funds from the following sources for the purposes set forth in section 8.3 of this chapter:**

**(1) A federal grant award under 23 U.S.C. 117 for nationally significant freight and highway projects (commonly known as "FASTLANE" grants).**

**(2) A federal grant award that is authorized to be made directly to the port authority under any other federal grant program with a highway project component.**

**(b) If the proposed location of a highway under this section is within the boundaries of a metropolitan planning commission, the port authority must consult with the metropolitan planning commission before applying for a federal grant described in subsection (a).**

SECTION 6. IC 8-10-5-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.3. (a) The powers under this section are in addition to the other powers granted under this chapter.**



1 (b) In coordination with the Indiana department of  
2 transportation, a port authority may do the following:

3 (1) Finance, construct, reconstruct, operate, and maintain a  
4 highway within the boundaries of the port authority.

5 (2) Acquire land, easements, and rights-of-way for the  
6 purposes of subdivision (1).

7 (c) The powers granted to a port authority under this section  
8 extend throughout the entire jurisdictional area of the port  
9 authority as set forth in section 7(1) of this chapter even if the  
10 highway will not directly serve a port or harbor.

11 (d) To the extent required by federal law, a port authority that  
12 undertakes a highway project under this section and this chapter  
13 shall comply with the laws, rules, and regulations applicable for the  
14 expenditure of federal money received from:

15 (1) the Highway Trust Fund (23 U.S.C.); or

16 (2) any other federal fund or program;

17 for projects within Indiana and within the boundaries of the port  
18 authority.

19 (e) A port authority that undertakes a highway project under  
20 this section and this chapter has the power of eminent domain as  
21 set forth in section 8(7) of this chapter. The port authority's power  
22 of eminent domain extends to any property located within the  
23 jurisdictional area of the port authority as set forth in section 7(1)  
24 of this chapter for the purpose of carrying out this section.

25 (f) The port authority may negotiate and enter into a  
26 supplemental funding agreement with a regional supplemental  
27 highway funding authority under IC 36-9-43-15.

28 SECTION 7. IC 8-10-5-8.7, AS AMENDED BY P.L.229-2011,  
29 SECTION 101, IS AMENDED TO READ AS FOLLOWS  
30 [EFFECTIVE UPON PASSAGE]: Sec. 8.7. (a) The board of directors  
31 may, by resolution, recommend to the governing body of the  
32 municipality or municipalities creating the port authority that they  
33 authorize general obligations, mortgage, or revenue bonds for any one  
34 (1) or more of the following purposes:

35 (1) To acquire or improve port or harbor sites.

36 (2) To acquire, construct, extend, alter, or improve structures,  
37 ways, facilities, or equipment necessary for the proper operation  
38 of the port authority or the port or harbor within its jurisdiction.

39 (3) To construct or improve a highway as authorized under  
40 section 8.3 of this chapter.

41 ~~(3)~~ (4) To refund outstanding bonds and matured interest coupons  
42 and issue and sell refunding bonds for that purpose.



(b) Before making a recommendation authorized by subsection (a), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days before the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county, counties, or other municipalities involved, a notice of the date, time, place, and purpose of the hearing. If there is only one (1) newspaper, one (1) notice is sufficient.

(c) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 applies as fully to mortgage bonds as to general obligation or revenue bonds.

(d) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(e) The governing body shall fix the date, time, and place of payment of principal and interest, but no issue may have a maturity date later than:

- (1) forty (40) years after date of issue, in the case of bonds issued before July 1, 2011; or
- (2) twenty-five (25) years after date of issue, in the case of bonds issued after June 30, 2011.

(f) Bonds issued under this chapter, together with the interest thereon, are tax exempt.

(g) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest on the bonds.

(h) This chapter does not affect obligations existing before July 1, 2010, on outstanding bonds. If a board of directors or a port authority is discontinued, as provided in section 4 of this chapter, the primary obligations on its bonds remain unaffected. In addition, the city or county or municipalities involved in the issuance of bonds shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion in the bonds.

SECTION 8. IC 8-10-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The board of directors of a port authority shall prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities **and highways**, including such maps, profiles, and other data





and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority. Upon the completion of such plan, the board of directors shall cause notice by publication as provided in section 1 of this chapter, to be given in each county in which there is a political subdivision participating in the creation of the port authority, and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection thereof at their office by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan which time shall be not less than ten (10) nor more than thirty (30) days from the date of last publication of said notice. Any interested person may file written objections to such plan, provided such objections are filed with the secretary of the board of directors at his office not less than five (5) days prior to the date fixed for said hearing. After said hearing, the board of directors may adopt such plan with any modifications or amendments thereto as the official plan of the port authority.

SECTION 9. IC 8-10-5-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 17.5. (a) The board of directors of any port authority may, by resolution, recommend to any county, city, or town that a cumulative local highway project fund be established under IC 6-1.1-41 to provide funds for the construction or improvement of a highway as authorized under section 8.3 of this chapter, including the purchase and development of land within the jurisdiction of the port authority.**

**(b) To provide for the cumulative local highway project fund, a county, city, or town fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed ten cents (\$0.10) on each one hundred dollars (\$100) on all taxable property within the county, city, or town.**

**(c) The revenue from a tax collected under subsection (b) shall be held in the cumulative local highway project fund established under subsection (a).**

SECTION 10. IC 8-10-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. The board of directors of a port authority may enter into such contracts or other arrangements with the United States government, or any department thereof, with persons, railroads, or other corporations, with public corporations, and with the state government of this or other states, with



counties, municipalities, townships, **regional supplemental highway funding authorities**, or other governmental agencies created by or under the authority of the laws of the state of Indiana, including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states as may be necessary or convenient for the exercise of powers granted by the provisions of this chapter, including the making of surveys, investigations, or reports thereon, provided that such contracts or arrangements shall not be in violation of the Indiana Constitution. The board of directors may purchase, lease, or acquire land or other property in any county of the state of Indiana and in adjoining states for the accomplishment of an authorized purpose of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction, and may let contracts or spend money for making such improvements or development of port facilities in adjoining states.

SECTION 11. IC 8-15.5-2-9.7, AS ADDED BY P.L.91-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.7. "Unit of local government" means a:

- (1) county;
- (2) city;
- (3) town; ~~or~~
- (4) township; **or**
- (5) regional supplemental highway funding authority (as established under IC 36-9-43);**

located in Indiana.

SECTION 12. IC 8-15.7-2-12, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. "Political subdivision" has the meaning set forth in IC 36-1-2-13 **and also includes a regional supplemental highway funding authority established under IC 36-9-43.**

SECTION 13. IC 8-15.7-5-3, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. In the public-private agreement, the department may agree to make grants or loans for the development or operation, or both, of the qualifying project from amounts received from the federal government, any agency or instrumentality of the federal government, or any state or local agency, **including a regional supplemental highway funding authority established under IC 36-9-43.**

SECTION 14. IC 8-15.7-8-3, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The authority or the department may agree



to make grants or loans for any combination of the development, financing, or operation of a qualifying project from amounts received from the federal, state, or local government or any agency or instrumentality of the federal, state, or local government, **including a regional supplemental highway funding authority established under IC 36-9-43.**

SECTION 15. IC 8-15.7-15-1, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A political subdivision (~~as defined in IC 36-1-2-13~~) may not take any action that would impair a public-private agreement under this article.

SECTION 16. IC 8-23-2-6, AS AMENDED BY P.L.135-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:

(1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.

(2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.

(3) Enter into:

(A) a contract with the Indiana finance authority under IC 8-9.5-8-7; or

(B) a lease with the Indiana finance authority under IC 8-9.5-8-8;

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

(4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.

(5) Hire attorneys.

(6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.

(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.

(8) Execute all documents and instruments necessary to carry out its responsibilities.

(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are



necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:

(A) qualify the department for; and

(B) receive;

federal government funding on a full or participating basis.

(10) Adopt rules under IC 4-22-2 to carry out its responsibilities, including emergency rules in the manner provided under IC 4-22-2-37.1.

(11) Establish regional offices.

(12) Adopt a seal.

(13) Perform all actions necessary to carry out the department's responsibilities.

(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:

(A) the facilities are located in a highway, street, or road; and

(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.

(15) Reimburse a utility:

(A) in whole or in part for extraordinary costs of relocation of facilities;

(B) in whole for unnecessary relocations;

(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;

(D) in whole for relocations covered by IC 8-1-9; and

(E) to the extent that a relocation is a taking of property without just compensation.

(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

**(17) Negotiate and enter into a supplemental funding agreement with a regional supplemental highway funding authority under IC 36-9-43.**

(b) In the performance of contracts and leases with the Indiana finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(c) The department shall:



(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

**(d) In the case of a port authority that undertakes a highway project under IC 8-10-5-8.3, the department shall cooperate with the port authority and shall provide assistance to the port authority in furtherance of the highway project.**

SECTION 17. IC 8-23-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The department shall prepare, formally adopt, and publish a long-range program of its future activities with regard to the construction of highways under its jurisdiction. The sufficiency rating principle shall be applied, as far as it is practicable, in determining the projects to be included in the long-range construction program and may be applied by districts. The long-range program must contain an estimate of revenues that will become available during that period and a statement of intention with respect to the construction and other related work to be done.

**(b) In determining the projects to be included in the long-range construction program under subsection (a), the department may give special priority to projects for which local matching funds have been committed under a supplemental funding agreement under IC 36-9-43, notwithstanding the sufficiency rating principle applied under subsection (a). The department shall consider and determine the following factors when special priority is given to a project under this subsection:**

**(1) The economic impact of the project on the county or counties from which local matching funds will be received for the project.**

**(2) The level of state and local financial commitment and the potential return on investment from the project.**

SECTION 18. IC 8-23-12-4, AS AMENDED BY P.L.4-2005, SECTION 118, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The department shall annually adopt from its long range program and publish a biennial work program of construction to be accomplished within the following two (2) fiscal years. This biennial work program must consist of a list of projects listed in order of urgency.

**(b)** In case of emergencies and disasters resulting in the necessity for completely unforeseen demands for construction, or if unforeseen difficulties arise in the acquisition of rights-of-way, materials, labor, or equipment necessary for proposed construction or the availability of funds, a deviation from the adopted biennial work program **under subsection (a)** is permitted.

**(c)** For purposes of this section, the relative urgency of proposed construction shall be determined by a consideration of:

- (1)** the physical condition;
- (2)** the safety and service characteristics of the highways under consideration; and
- (3)** the economic needs of the area served by the highways.

**The department may also consider the factors set forth in section 2(b)(1) and 2(b)(2) of this chapter in determining the relative urgency of a proposed construction project that is given special priority in the department's long-range program.**

**(d)** In arriving at and making a determination **under this section**, the department shall utilize all studies, data, and information made available to it from any appropriate source, including economic data, relative to affected areas, from the Indiana economic development corporation.

SECTION 19. IC 36-1-8-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. **(a)** This section applies only to a unit located within the boundaries of a regional supplemental highway funding authority established under IC 36-9-43-11.

**(b)** The fiscal body of a unit may, by ordinance or resolution, transfer a prescribed amount, for a prescribed period, to a regional supplemental highway fund established under IC 36-9-43-14.

**(c)** The amounts transferred by a unit under subsection (b) may be from:

- (1)** the general fund or rainy day fund of the unit; or
- (2)** any other fund of the unit that is not otherwise restricted for specified use by the terms of the fund.

SECTION 20. IC 36-9-43 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:



**Chapter 43. Regional Supplemental Highway Funding Authority**

**Sec. 1.** As used in this chapter, "authority" refers to a regional supplemental highway funding authority established under section 11 of this chapter.

**Sec. 2.** As used in this chapter, "bypass" means a bypass highway around a municipality that is a state highway.

**Sec. 3.** As used in this chapter, "construction" means the planning, supervising, inspecting, actual building, draining, and all expenses incidental to the construction of:

- (1) a state highway or bypass; or
- (2) an interstate highway.

**Sec. 4.** As used in this chapter, "fund" refers to a regional supplemental highway fund established under section 14 of this chapter.

**Sec. 5.** As used in this chapter, "interstate highway" means only the routes that are included within the national system of interstate and defense highways.

**Sec. 6.** As used in this chapter, "port authority" refers to a port authority organized under IC 8-10-5.

**Sec. 7.** As used in this chapter, "reconstruction" means a widening or rebuilding of the state highway or bypass or any part of the state highway or bypass. The term includes the conversion of a state highway route to an interstate highway.

**Sec. 8.** As used in this chapter, "state highway" means a public highway or roadway (including bridges) for which the Indiana department of transportation is assigned responsibility for maintenance and repair. The term does not include an interstate highway.

**Sec. 9.** As used in this chapter, "supplemental funding agreement" refers to a supplemental funding agreement entered into under section 15 of this chapter between an authority and the Indiana department of transportation or a port authority.

**Sec. 10.** As used in this chapter, "traffic capacity" means the traffic capacity of an existing state highway or bypass as determined using the methods set forth in the Highway Capacity Manual published by the Transportation Research Board of the National Academy of Sciences.

**Sec. 11. (a)** A regional supplemental highway funding authority may be established by one (1) or more counties.

**(b)** The primary purpose of an authority is to facilitate the negotiation, execution, and administration of a supplemental



1 funding agreement to provide local matching funds to offset the  
 2 nonfederal share of the costs of the construction or reconstruction  
 3 of:

4 (1) a state highway or bypass; or

5 (2) an interstate highway;

6 that will increase an existing state highway's traffic capacity within  
 7 the boundaries of the county or counties of the authority.

8 (c) A county may participate in an authority established under  
 9 this section only if the fiscal body of the county adopts an  
 10 ordinance authorizing the county to participate in the authority.  
 11 An ordinance adopted by a fiscal body of a county must provide for  
 12 the payment of the administrative costs and any other costs of the  
 13 authority. If two (2) or more counties are participating in the  
 14 authority, the amount and manner of each county's share of the  
 15 payment of the authority's administrative costs and any other costs  
 16 shall be determined jointly by the fiscal body of each participating  
 17 county by adopting substantially similar ordinances.

18 (d) An authority must consist of three (3) members appointed by  
 19 the fiscal body of each county that is a participant in the authority.

20 (e) A member appointed to the authority under subsection (d)  
 21 serves a three (3) year term. However, a member may be removed  
 22 with or without cause by the fiscal body of the appointing county.

23 (f) A member of an authority is not entitled to:

24 (1) compensation for service on the authority; or

25 (2) any per diem, mileage, travel allowance, or expense  
 26 reimbursement in connection with the member's service on  
 27 the authority.

28 (g) An authority shall annually elect a president and a secretary  
 29 of the authority.

30 (h) Except as provided in section 17(3) of this chapter, the  
 31 authority may act by majority vote of its members. The authority  
 32 may adopt rules and procedures for breaking a tie vote.

33 (i) An authority shall notify the:

34 (1) Indiana finance authority;

35 (2) treasurer of state;

36 (3) department of local government finance; and

37 (4) county auditor in each county that is a participant in the  
 38 authority;

39 in writing promptly after the authority is established. A notice  
 40 provided under this subsection must include the date on which the  
 41 authority was established and the name of each county  
 42 participating in the authority.





**Sec. 12. An authority may do the following:**

- (1) Hold meetings as necessary.**
- (2) Apply for and accept federal funds from any of the following:**
  - (A) A federal grant award under 23 U.S.C. 117 for nationally significant freight and highway projects (commonly known as "FASTLANE" grants).**
  - (B) A federal grant award that is authorized to be made directly to the authority under any other federal grant program with a highway project component, other than a grant award under clause (A).**
- (3) Negotiate the terms of a supplemental funding agreement with:**
  - (A) the Indiana department of transportation; or**
  - (B) a port authority;**

**under section 15 of this chapter. Negotiation under this subsection may include the execution of a preliminary memorandum of understanding.**
- (4) Enter into a supplemental funding agreement with:**
  - (A) the Indiana department of transportation; or**
  - (B) a port authority;**

**as authorized under this chapter.**
- (5) Carry out the authority's duties and obligations under the terms of an agreement or contract.**
- (6) Sue and be sued.**
- (7) Hire attorneys.**
- (8) Issue bonds payable from the fund established under section 14 of this chapter. The bonds must be for the purposes set forth in this chapter. The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of bonds under this chapter.**
- (9) Do all acts or things necessary or proper to carry out this chapter.**

**Sec. 13. The authority may exercise the power of eminent domain for the purpose of carrying out this chapter and to award damages to landowners for real estate and property rights appropriated and taken. If the authority cannot agree with the owners, lessees, or occupants of any real estate selected by the authority for the purpose set forth in this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24. Relocation assistance under IC 8-23-17 shall be provided**



1 to any person displaced under this section.

2 Sec. 14. (a) A regional supplemental highway fund shall be  
3 established for each authority that is established under section 11  
4 of this chapter. The purpose of a fund is to provide a source from  
5 which local matching funds may be used under the terms of a  
6 supplemental funding agreement to pay a share of the costs  
7 necessary to construct or reconstruct a state highway, bypass, or  
8 interstate highway in a manner that increases an existing state  
9 highway's traffic capacity within the boundaries of an authority.  
10 The Indiana finance authority established under IC 4-4-11 shall  
11 administer a fund established under this section.

12 (b) A fund established under this section consists of the  
13 following:

- 14 (1) Amounts transferred under IC 36-1-8-7.5.
- 15 (2) Amounts transferred under IC 36-9-43.5-10.
- 16 (3) Amounts transferred under IC 36-9-43.7-15.
- 17 (4) Money received from the federal government.
- 18 (5) Gifts, contributions, donations, and private grants made  
19 to the fund.

20 (c) Money in a fund established under this section must be used  
21 only as provided in this chapter and as set forth under the terms of  
22 a supplemental funding agreement of the authority for which the  
23 fund is established.

24 (d) Money in the fund does not revert to any other fund.

25 (e) Money in the fund is continuously appropriated for the  
26 purposes of this chapter.

27 Sec. 15. An authority may enter into a supplemental funding  
28 agreement with the Indiana department of transportation or a port  
29 authority to contribute local matching funds to the Indiana  
30 department of transportation or a port authority to be used by the  
31 Indiana department of transportation or a port authority to pay a  
32 part or all of the nonfederal share of the costs necessary to  
33 construct or reconstruct:

- 34 (1) a state highway or bypass; or
- 35 (2) an interstate highway;

36 in a manner that will increase an existing state highway's traffic  
37 capacity within the boundaries of the county or counties of the  
38 authority.

39 Sec. 16. If the boundaries of the authority are located within the  
40 boundaries of a metropolitan planning commission, the authority  
41 shall consult with the planning commission:

- 42 (1) before applying for a federal grant described in section



12(2) of this chapter ("FASTLANE" grant); and  
 (2) before entering into a supplemental funding agreement  
 under section 15 of this chapter.

Sec. 17. A supplemental funding agreement must contain at least  
 the following provisions:

(1) The Indiana department of transportation or the port  
 authority, whichever is applicable, must commit to using  
 money it receives under a supplemental funding agreement  
 only for projects located within the boundaries of the county  
 or counties of the authority.

(2) The source of the money committed and pledged by an  
 authority for local funding under a supplemental funding  
 agreement may be from only money that is deposited in the  
 fund established for the authority under section 14 of this  
 chapter.

(3) The supplemental funding agreement must be signed by all  
 the members of the authority.

SECTION 21. IC 36-9-43.5 IS ADDED TO THE INDIANA CODE  
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]:

**Chapter 43.5. Voluntary Assessments for Supplemental  
 Highway Funding**

Sec. 1. This chapter applies only if the following conditions exist:

(1) The county is a participant in a regional supplemental  
 highway funding authority established under IC 36-9-43-11.

(2) Bonds are or will be issued that are payable solely out of  
 revenue in the regional supplemental highway fund  
 established under IC 36-9-43-14 for the regional supplemental  
 highway funding authority referenced in subdivision (1).

Sec. 2. As used in this chapter, "agreement" means a voluntary  
 property tax levy agreement executed by a property owner under  
 section 4 of this chapter.

Sec. 3. A property owner may contribute to a regional  
 supplemental highway fund established under IC 36-9-43-14 by  
 public subscription and voluntary property tax levy upon any or all  
 of the property owner's real property located in a county that is a  
 participant in a regional supplemental highway funding authority  
 established under IC 36-9-43-11.

Sec. 4. (a) A property owner who wishes to make a contribution  
 by public subscription and voluntary property tax levy under  
 section 3 of this chapter must execute a voluntary property tax levy  
 agreement to impose a property tax rate on the property owner's



1 real property located within the county.

2 (b) An agreement executed by a property owner under  
3 subsection (a) must impose an agreed upon property tax rate that  
4 is at least five cents (\$0.05) but not more than fifty cents (\$0.50) on  
5 each one hundred dollars (\$100) of assessed valuation that is in  
6 addition to all other property tax levies imposed by the county.

7 (c) The department of local government finance shall prescribe  
8 a standard form agreement that must be used for purposes of this  
9 section.

10 Sec. 5. An agreement under section 4 of this chapter must  
11 contain at least the following provisions:

12 (1) The agreement must contain a legal description of the  
13 property that includes the parcel number or key number of  
14 the property and the name of the city, town, or township in  
15 which the property is located.

16 (2) The agreement must set forth the property tax rate to be  
17 imposed on the property described in subdivision (1).

18 (3) The agreement must be executed and acknowledged by  
19 each individual or entity that is an owner of record of the  
20 property in the same manner as required by law in Indiana  
21 for the execution and acknowledgment of a deed.

22 (4) The agreement must specify that the voluntary tax rate is  
23 intended to run with the land and be binding on successors.

24 (5) The agreement may not be rescinded or modified by the  
25 property owner after the agreement has been validly recorded  
26 with the county recorder's office in the county in which the  
27 real property is located.

28 (6) The agreement must contain a specified end date after  
29 which the tax rate imposed under the terms of the agreement  
30 expires and may not be imposed on the property for the  
31 assessment date following the end date specified in the  
32 agreement. The specified end date under this subdivision must  
33 be the maturity date of the bonds described under section 1(2)  
34 of this chapter. If more than one (1) bond issuance has  
35 occurred, the maturity date must be the maturity date of the  
36 most recently issued bonds.

37 (7) The agreement must contain the serial number or other  
38 identifying number of the bonds referenced in subdivision (6)  
39 for which the maturity date of the bonds is specified as the  
40 end date and expiration of the agreement.

41 Sec. 6. A voluntary property tax rate shall be imposed:

42 (1) on real property described in an agreement; and



(2) at the tax rate specified in the agreement;  
beginning on the assessment date next following the date on which  
the agreement is recorded with the county recorder's office in the  
county in which the real property is located.

Sec. 7. A voluntary property tax rate may not be imposed on  
real property under the terms of an agreement for the assessment  
date next following the specified end date of the agreement as  
required under section 5(6) of this chapter.

Sec. 8. A property owner's voluntary property tax levy imposed  
under this chapter may not be considered in the determination of  
any other property tax levy imposed by the county. For purposes  
of computing the maximum permissible property tax levy under  
IC 6-1.1-18.5-3 or the credit for excessive property taxes under  
IC 6-1.1-20.6, the civil taxing unit's ad valorem property tax levy  
for a particular calendar year does not include a property owner's  
voluntary property tax levy imposed under this chapter.

Sec. 9. The fiscal body of a county may adopt an ordinance to  
waive any or all:

(1) county auditor's fees; and

(2) county recorder's fees;

that would otherwise be required to file and record an agreement  
in the county under this chapter.

Sec. 10. The county fiscal officer shall transfer all property tax  
collection amounts received from a voluntary property tax levy  
under this chapter to the regional supplemental highway fund  
established under IC 36-9-43-14 for the regional supplemental  
highway funding authority in which the county is participating  
under IC 36-9-43-11.

SECTION 22. IC 36-9-43.7 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
UPON PASSAGE]:

**Chapter 43.7. Supplemental Highway Funding Referendum Tax  
Levy**

**Sec. 1. This chapter applies only if the following conditions exist:**

(1) The county is a participant in a regional supplemental  
highway funding authority established under IC 36-9-43-11.

(2) Bonds are or will be issued that are payable solely out of  
revenue in the regional supplemental highway fund  
established under IC 36-9-43-14 for the regional supplemental  
highway funding authority referenced in subdivision (1).

**Sec. 2. (a)** The fiscal body of a county may adopt a resolution to  
place a referendum under this chapter on the ballot, as described



1 in sections 8 and 9 of this chapter.

2 (b) The fiscal body of the county shall certify a copy of the  
3 resolution to the department of local government finance.

4 Sec. 3. A referendum tax levy under this chapter may be put  
5 into effect only if a majority of the individuals who vote in a  
6 referendum that is conducted in accordance with this chapter  
7 approves the levy.

8 Sec. 4. The question to be submitted to the voters in the  
9 referendum under this chapter must read as follows:

10 "For the \_\_ (insert number) calendar year and the next  
11 \_\_\_\_\_ (insert the number of years for which the  
12 bonds referenced in section 1(2) of this chapter are or will be  
13 outstanding) calendar years immediately following the  
14 holding of this referendum, shall \_\_\_\_\_ (insert name of  
15 county) County impose a property tax rate that does not  
16 exceed \_\_\_\_\_ (insert amount) cents (\$0.\_\_) (insert  
17 amount) on each one hundred dollars (\$100) of assessed  
18 valuation that is in addition to all other property tax levies  
19 imposed by the county, and that will be used to provide  
20 funding for the payment of bonds issued to finance a part of  
21 the costs necessary to \_\_\_\_\_ (insert description of  
22 construction or reconstruction work), which will increase the  
23 traffic capacity of \_\_\_\_\_ (insert state highway route  
24 number)?".

25 Sec. 5. The voters in a referendum under this chapter may  
26 approve a levy that is imposed for the number of years for which  
27 the bonds referenced in section 1(2) of this chapter are or will be  
28 outstanding. A levy may not be reimposed or extended under this  
29 chapter.

30 Sec. 6. If a county fiscal body adopts a resolution under section  
31 2 of this chapter, the county fiscal body shall certify under  
32 IC 3-10-9-3 the question to be voted on at the referendum to the  
33 county election board.

34 Sec. 7. The county clerk, upon receiving a question certified by  
35 the county fiscal body under this chapter, shall call a meeting of the  
36 county election board to make arrangements for the referendum.

37 Sec. 8. (a) A referendum under this chapter shall be held in the  
38 next primary election or general election in which all the registered  
39 voters who are residents of the county are entitled to vote after  
40 certification of the public question under IC 3-10-9-3. The  
41 certification of the question must occur not later than noon:

42 (1) seventy-four (74) days before a primary election if the



1 public question is to be placed on the primary election ballot;  
 2 or

3 (2) on August 1 if the public question is to be placed on the  
 4 general election ballot.

5 However, if a primary election or general election will not be held  
 6 during the first year in which the public question is eligible to be  
 7 placed on the ballot under this chapter and if the county fiscal body  
 8 requests that the public question be placed on the ballot at a special  
 9 election, the public question shall be placed on the ballot at a  
 10 special election to be held on the first Tuesday after the first  
 11 Monday in May or November of the year. The certification of the  
 12 public question must occur not later than noon seventy-four (74)  
 13 days before a special election to be held in May (if the special  
 14 election is to be held in May) or noon on August 1 (if the special  
 15 election is to be held in November).

16 (b) If the referendum is not conducted at a primary election or  
 17 general election, the county shall pay all the costs of holding the  
 18 referendum.

19 Sec. 9. For purposes of a referendum under this chapter, each  
 20 county election board shall cause:

21 (1) the public question certified to the circuit court clerk by  
 22 the county fiscal body to be placed on the ballot in the form  
 23 prescribed by IC 3-10-9-4; and

24 (2) an adequate supply of ballots and voting equipment to be  
 25 delivered to the precinct election board of each precinct in  
 26 which the referendum is to be held.

27 Sec. 10. The individuals entitled to vote in a referendum under  
 28 this chapter are all the registered voters residing in the county.

29 Sec. 11. For purposes of a referendum under this chapter, each  
 30 precinct election board shall count the affirmative votes and the  
 31 negative votes cast in the referendum and shall certify those two (2)  
 32 totals to the county election board of the county in which the  
 33 referendum is held. The circuit court clerk of each county shall,  
 34 immediately after the votes cast in the referendum have been  
 35 counted, certify the results of the referendum to the county fiscal  
 36 body. Upon receiving the certification of all the votes cast in the  
 37 referendum, the county fiscal body shall promptly certify the  
 38 results of the referendum to the department of local government  
 39 finance. If a majority of the individuals who vote in the referendum  
 40 vote "yes" on the referendum question:

41 (1) the county is authorized to impose, for the calendar year  
 42 that next follows the calendar year in which the referendum



1 is held, a levy not greater than the amount approved in the  
2 referendum; and

3 (2) the levy may be imposed for the number of calendar years  
4 for which the bonds referenced in section 1(2) of this chapter  
5 are or will be outstanding as approved by the voters in the  
6 referendum.

7 Sec. 12. A county's referendum tax levy imposed under this  
8 chapter may not be considered in the determination of any other  
9 property tax levy imposed by the county. For purposes of  
10 computing the maximum permissible property tax levy under  
11 IC 6-1.1-18.5-3 or the credit for excessive property taxes under  
12 IC 6-1.1-20.6, the civil taxing unit's ad valorem property tax levy  
13 for a particular calendar year does not include a referendum tax  
14 levy imposed under this chapter.

15 Sec. 13. If a majority of the individuals who vote in a  
16 referendum under this chapter do not vote "yes" on the  
17 referendum question:

18 (1) the county may not impose a referendum tax levy under  
19 this chapter; and

20 (2) another referendum under this chapter may not be held  
21 for one (1) year after the date of the referendum.

22 Sec. 14. IC 6-1.1-20.6-7.5(b) applies to a referendum tax levy  
23 imposed under this chapter.

24 Sec. 15. The fiscal officer of each county for which a referendum  
25 tax levy is approved under this chapter shall transfer all property  
26 tax collection amounts received from a referendum tax levy under  
27 this chapter to the regional supplemental highway fund established  
28 under IC 36-9-43-14 for the regional supplemental highway  
29 funding authority in which the county is participating under  
30 IC 36-9-43-11.

31 SECTION 23. An emergency is declared for this act.





## COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 128, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 128 as introduced.)

CRIDER, Chairperson

Committee Vote: Yeas 9, Nays 0

SB 128—LS 6384/DI 120

