

First Regular Session 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 ENROLLED ACT No. 507

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AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 4-3-22-16, AS AMENDED BY P.L.187-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) As used in this section, "coordinator" means the following:

- (1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).
- (2) An ombudsman designated under IC 13-28-3-2.
- (3) An ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6**.

(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit to the OMB written comments concerning the impact of proposed legislation on small business.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.

SECTION 2. IC 4-4-5.2 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Emerging Technology Grant Fund).

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SECTION 3. IC 4-4-10.9-1.2, AS AMENDED BY P.L.155-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, ~~IC 4-4-11.4~~, IC 4-4-11.6, IC 4-4-21, IC 4-13.5, IC 5-1-16, IC 5-1-16.5, IC 5-1-17.5, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 14-28-5.

SECTION 4. IC 4-4-11.4 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Additional Authority: Twenty-First Century Research and Technology Fund).

SECTION 5. IC 4-4-19 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Trademarks for Use on Indiana Products).

SECTION 6. IC 4-4-32 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Twenty-First Century Research and Technology Fund Grant Office).

SECTION 7. IC 4-4-35 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Office of Small Business and Entrepreneurship).

SECTION 8. IC 4-22-2-28, AS AMENDED BY P.L.5-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 28. (a) The following definitions apply throughout this section:

(1) "Ombudsman" refers to the small business ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6.**

(2) "Total estimated economic impact" means the direct annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).

(b) The ombudsman:

(1) shall review a proposed rule that:

(A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and

(B) is referred to the ombudsman by an agency under IC 4-22-2.1-5(c); and

(2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the ombudsman may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in writing to the ombudsman concerning the ombudsman's comments or suggested alternatives before adopting the proposed rule under section



29 of this chapter.

(c) Subject to subsection (e) and not later than fifty (50) days before the public hearing for a proposed rule required by section 26 of this chapter, an agency shall submit the proposed rule to the office of management and budget for a review under subsection (d), if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on all regulated persons. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the office of management and budget in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.

(d) Except as provided in subsection (e), before the adoption of the rule, and not more than forty-five (45) days after receiving a proposed rule under subsection (c), the office of management and budget shall prepare, using the data and assumptions provided by the agency proposing the rule, along with any other data or information available to the office of management and budget, a fiscal impact statement concerning the effect that compliance with the proposed rule will have on:

- (1) the state; and
- (2) all persons regulated by the proposed rule.

The fiscal impact statement must contain the total estimated economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal impact statement is a public document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request and to the agency proposing the rule. The agency proposing the rule shall consider the fiscal impact statement as part of the rulemaking process and shall provide the office of management and budget with the information necessary to prepare the fiscal impact statement, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The office of management and budget may also receive and consider applicable information from the regulated persons affected by the rule in preparation of the fiscal impact statement.

(e) With respect to a proposed rule subject to IC 13-14-9:

- (1) the department of environmental management shall give written notice to the office of management and budget of the



proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars (\$500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.

(g) For purposes of this section, a rule is fully implemented after:

(1) the conclusion of any phase-in period during which:

(A) the rule is gradually made to apply to certain regulated persons; or

(B) the costs of the rule are gradually implemented; and

(2) the rule applies to all regulated persons that will be affected by the rule.

In determining the total estimated economic impact of a proposed rule under this section, the agency proposing the rule shall consider the annual economic impact on all regulated persons beginning with the first twelve (12) month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total estimated economic impact of a rule under this section.

(h) An agency shall provide the legislative council in an electronic format under IC 5-14-6 with any analysis, data, and description of assumptions submitted to the office of management and budget under this section or section 40 of this chapter at the same time the agency submits the information to the office of management and budget. The office of management and budget shall provide the legislative council in an electronic format under IC 5-14-6 any fiscal impact statement and related supporting documentation prepared by the office of management and budget under this section or section 40 of this chapter at the same time the office of management and budget provides the fiscal impact statement to the agency proposing the rule. Information submitted under this subsection must identify the rule to which the information is related by document control number assigned by the publisher.

(i) An agency shall provide the legislative council in an electronic format under IC 5-14-6 with any economic impact or fiscal impact

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statement, including any supporting data, studies, or analysis, prepared for a rule proposed by the agency or subject to readoption by the agency to comply with:

- (1) a requirement in section 19.5 of this chapter to minimize the expenses to regulated entities that are required to comply with the rule;
- (2) a requirement in section 24 of this chapter to publish a justification of any requirement or cost that is imposed on a regulated entity under the rule;
- (3) a requirement in IC 4-22-2.1-5 to prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented;
- (4) a requirement in IC 4-22-2.5-3.1 to conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive, or that would otherwise minimize the economic impact of the proposed rule on small businesses;
- (5) a requirement in IC 13-14-9-3 or IC 13-14-9-4 to publish information concerning the fiscal impact of a rule or alternatives to a rule subject to these provisions; or
- (6) a requirement under any other law to conduct an analysis of the cost, economic impact, or fiscal impact of a rule;

regardless of whether the total estimated economic impact of the proposed rule is more than five hundred thousand dollars (\$500,000), as soon as practicable after the information is prepared. Information submitted under this subsection must identify the rule to which the information is related by document control number assigned by the publisher.

SECTION 9. IC 4-22-2-28.1, AS AMENDED BY P.L.187-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 28.1. (a) This section applies to the following:

- (1) A rule for which the notice required by section 23 of this chapter or by IC 13-14-9-3 is published by an agency or the board (as defined in IC 13-13-8-1).
- (2) A rule for which:
  - (A) the notice required by IC 13-14-9-3; or
  - (B) an appropriate later notice for circumstances described in subsection (g);

is published by the department of environmental management after June 30, 2006.

(b) As used in this section, "coordinator" refers to the small business regulatory coordinator assigned to a rule by an agency under subsection



(e).

(c) As used in this section, "director" refers to the director or other administrative head of an agency.

(d) As used in this section, "small business" has the meaning set forth in IC 5-28-2-6.

(e) For each rulemaking action and rule finally adopted as a result of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):

(1) in the case of a proposed rule, the notice of intent to adopt the rule published under section 23 of this chapter; or

(2) in the case of a rule proposed by the department of environmental management or the board (as defined in IC 13-13-8-1), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies;

must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule, the name, address, telephone number, and electronic mail address of the small business ombudsman designated under ~~IC 4-4-35-8~~, **IC 5-28-17-6**, and a statement of the resources available to regulated entities through the small business ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6**. Subject to subsection (f), in the case of a rule finally adopted, the final rule, as published in the Indiana Register, must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or the board (as defined in IC 13-13-8-1) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 or in the findings published under IC 13-14-9-8(b)(1), whichever applies, and in the publication of the final rule in the Indiana Register:

(1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3;

(2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;



- (3) if applicable, a statement of:
- (A) the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5; and
  - (B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and
- (4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection (h) and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection (h) and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

(h) The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

- (1) Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.
- (2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.
- (3) Any penalties, sanctions, or fines imposed for noncompliance with the rule.
- (4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman



designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

(i) The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

- (1) for public inspection and copying at the offices of the agency under IC 5-14-3; and
- (2) electronically through electronic gateway access.

(j) The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

- (1) not later than ten (10) days after the date on which the rule is submitted to the publisher under section 35 of this chapter; and
- (2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

(k) Not later than November 1 of each year, the director shall:

- (1) compile the records received from all of the agency's coordinators under subsection (j);
- (2) prepare a report that sets forth:
  - (A) the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;
  - (B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;
  - (C) the total number of staff serving as coordinators under this section during the most recent state fiscal year;
  - (D) the agency's costs in complying with this section during the most recent state fiscal year; and
  - (E) the projected budget required by the agency to comply with this section during the current state fiscal year; and
- (3) deliver the report to the legislative council in an electronic



format under IC 5-14-6 and to the small business ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6.**

SECTION 10. IC 4-22-2-29, AS AMENDED BY P.L.109-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 29. (a) As used in this section, "small business ombudsman" refers to the small business ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6.**

(b) After an agency has complied with sections 26, 27, and 28 of this chapter, the agency may:

- (1) adopt a rule that is identical to a proposed rule published in the Indiana Register under section 24 of this chapter;
- (2) subject to subsection (c), adopt a rule that consolidates part or all of two (2) or more proposed rules published in the Indiana Register under section 24 of this chapter and considered under section 27 of this chapter;
- (3) subject to subsection (c), adopt part of one (1) or more proposed rules described in subdivision (2) in two (2) or more separate adoption actions; or
- (4) subject to subsection (c), adopt a revised version of a proposed rule published under section 24 of this chapter and include provisions that did not appear in the published version, including any provisions recommended by the small business ombudsman under IC 4-22-2.1-6(a), if applicable.

(c) An agency may not adopt a rule that substantially differs from the version or versions of the proposed rule or rules published in the Indiana Register under section 24 of this chapter, unless it is a logical outgrowth of any proposed rule as supported by any written comments submitted:

- (1) during the public comment period; or
- (2) by the small business ombudsman under IC 4-22-2.1-6(a), if applicable.

SECTION 11. IC 4-22-2.1-4.5, AS ADDED BY P.L.109-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4.5. As used in this chapter, "small business ombudsman" refers to the small business ombudsman designated under ~~IC 4-4-35-8~~. **IC 5-28-17-6.**

SECTION 12. IC 5-11-1-9, AS AMENDED BY P.L.181-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every public office and officer, state office, state institution, and entity.



(b) An examination of an entity deriving:

- (1) less than fifty percent (50%); or
- (2) subject to subsection (h), at least fifty percent (50%) but less than two hundred thousand dollars (\$200,000) if the entity is organized as a not-for-profit corporation;

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money received by the entity.

(c) The examination of an entity described in subsection (b) may be waived by the state examiner if the state examiner determines in writing that all disbursements of public money during the period subject to examination were made for the purposes for which the money was received. However, the:

- (1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs **shall be examined by the state board of accounts unless the examination is waived under subsection (i)**; and
- (2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs shall be examined by the state board of accounts.

(d) On every examination under this section, inquiry shall be made as to the following:

- (1) The financial condition and resources of each municipality, office, institution, or entity.
- (2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.
- (3) The methods and accuracy of the accounts and reports of the person examined.

The examinations may be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

- (1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored information for the purpose of making an examination.



(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions.

(h) The definitions in IC 20-24-1 apply throughout this subsection. Appropriations, public funds, taxes, and other sources of public money received by a nonprofit corporation as a charter school or organizer of a charter school for the purposes of a charter school may not be counted for the purpose of applying subsection (b)(2). Unless the nonprofit corporation receives other public money that would qualify the nonprofit corporation for a full examination of all accounts and financial affairs of the entity under subsection (b)(2), an examination of a charter school or organizer of a charter school must be limited to matters relevant to the use of the public money received for the charter school. This subsection does not prohibit the state examiner, personally or through the deputy examiners, field examiners, or private examiners, from examining the accounts in which appropriations, public funds, taxes, or other sources of public money are applied that are received by a nonprofit corporation as a charter school or organizer of a charter school relating to the operation of the charter school.

**(i) The state examiner may waive the examination of the Indiana**



**economic development corporation and a nonprofit subsidiary corporation established under IC 5-28-5-13 if:**

**(1) an independent certified public accounting firm conducts an examination under IC 5-28-3-2(c) of:**

**(A) the Indiana economic development corporation and the Indiana economic development corporation's funds, accounts, and financial affairs; and**

**(B) the nonprofit subsidiary corporation;**

**for the year;**

**(2) the Indiana economic development corporation submits the examination report to the state board of accounts; and**

**(3) the state board of accounts reviews the examination report and determines that the examination and examination report comply with the uniform compliance guidelines, directives, and standards established by the state board of accounts.**

**(j) Notwithstanding the waiver of an examination of the Indiana economic development corporation and its nonprofit subsidiary corporation by the state examiner, the state board of accounts may examine the Indiana economic development corporation and its nonprofit subsidiary corporation at any time.**

SECTION 13. IC 5-14-1.5-3.6, AS AMENDED BY P.L.154-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3.6. (a) This section applies only to a governing body of the following:

(1) A charter school (as defined in IC 20-24-1-4).

(2) A public agency of the state, including a body corporate and politic established as an instrumentality of the state.

(3) An airport authority or a department of aviation under IC 8-22.

(b) A member of a governing body who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:

(1) the member;

(2) all other members participating in the meeting;

(3) all members of the public physically present at the place where the meeting is conducted; and

(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following

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requirements for a member of the governing body to participate in a meeting by electronic communication:

- (1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution, by the commission for higher education, **by the board of the Indiana economic development corporation**, or by the board of directors of the Indiana secondary market for education loans, as established, incorporated, and designated under IC 21-16-5-1. The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:
  - (A) two (2) of the members; or
  - (B) one-third (1/3) of the members.
- (2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

- (1) meets all requirements of this chapter; and
- (2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:

- (1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.
- (2) Subject to subsection (e), limit the number of members who



may participate in any one (1) meeting by electronic communication.

(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.

(4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.

(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this subdivision, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:

(A) the member votes with the majority; and

(B) the official action is adopted or defeated by one (1) vote.

(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic communication may vote on official action only if, subject to subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.



(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body, the charter school, the airport, or the public agency.

(i) Nothing in this section affects a public agency's or charter school's right to exclude the public from an executive session in which a member participates by electronic communication.

SECTION 14. IC 5-28-3-2, AS AMENDED BY P.L.181-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

(b) **Except as provided in IC 5-11-1-9(i)**, the corporation and the corporation's funds, accounts, and financial affairs shall be examined by the state board of accounts. ~~as required by IC 5-11-1-9.~~

**(c) The board may engage an independent certified public accounting firm to conduct an examination of:**

- (1) the corporation and the corporation's funds, accounts, and financial affairs; and**
- (2) a nonprofit subsidiary corporation established under IC 5-28-5-13.**

**The examination must comply with the uniform compliance guidelines, directives, and standards established by the state board of accounts. If an independent certified public accounting firm conducts an examination, the corporation shall submit a copy of the examination report to the state board of accounts not later than the next date on which the corporation is required to file its financial reports under IC 5-11-1-4.**

SECTION 15. IC 5-28-4-2, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board is composed of the following ~~twelve~~ ~~(12)~~ members, none of whom may be members of the general assembly:

- (1) The governor.
- (2) Eleven (11) individuals appointed by the governor.
- (3) The members (if any) appointed by the governor under subsection (c).**

The individuals appointed under subdivision (2) **and the individuals appointed under subsection (c)** must be employed in or retired from



the private or nonprofit sector or academia.

(b) When making appointments under subsection (a)(2), the governor shall appoint the following:

(1) At least five (5) members belonging to the same political party as the governor.

(2) At least three (3) members who belong to a major political party (as defined in IC 3-5-2-30) other than the party of which the governor is a member.

**(c) In addition to the members appointed under subsection (a)(2), the governor may appoint not more than three (3) additional members to the board. If the governor appoints more than one (1) additional member to the board under this subsection, at least one (1) of the additional members must belong to a major political party (as defined in IC 3-5-2-30) other than the party of which the governor is a member.**

SECTION 16. IC 5-28-4-3, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The term of office of an appointed member of the board is four (4) years.

(b) Each member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified. A member is eligible for reappointment.

(c) Members of the board appointed under section 2(a)(2) **or 2(c)** of this chapter serve at the pleasure of the governor.

SECTION 17. IC 5-28-4-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~Seven (7) members constitute~~ **(a) The following constitutes** a quorum for the transaction of business **by the board of the corporation:**

**(1) Seven (7) members, if:**

**(A) no additional members are appointed under section 2(c) of this chapter; or**

**(B) one (1) additional member is appointed under section 2(c) of this chapter.**

**(2) Eight (8) members, if either two (2) or three (3) additional members are appointed under section 2(c) of this chapter.**

**(b) The following number of affirmative vote of at least seven (7) members votes is necessary for action to be taken by the board:**

**(1) The affirmative vote of at least seven (7) members, if:**

**(A) no additional members are appointed under section 2(c) of this chapter; or**

**(B) one (1) additional member is appointed under section**



**2(c) of this chapter.**

**(2) The affirmative vote of at least eight (8) members, if either two (2) or three (3) additional members are appointed under section 2(c) of this chapter.**

**(c) Members of the board** may not vote by proxy.

SECTION 18. IC 5-28-5-13, AS AMENDED BY P.L.181-2015, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) Notwithstanding section 12 of this chapter, the board may establish a nonprofit subsidiary corporation to solicit and accept private sector funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

- (1) must use money received under subsection (a) to carry out in any manner the purposes and programs under this article;
- (2) must report to the budget committee each year concerning:
  - (A) the use of money received under subsection (a); and
  - (B) the balances in any accounts or funds established by the subsidiary corporation; and
- (3) may deposit money received under subsection (a) in an account or fund that is:
  - (A) administered by the subsidiary corporation; and
  - (B) not part of the state treasury.

(c) **Except as provided in IC 5-11-1-9(i)**, the state board of accounts shall audit a subsidiary corporation established under this section.

SECTION 19. IC 5-28-7-5, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) The ~~training~~ **skills enhancement** fund is established within the state treasury to be used exclusively for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

- (1) Expenses of administering the fund.
- (2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) 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 other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 20. IC 5-28-7-6, AS ADDED BY P.L.167-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2017]: Sec. 6. (a) The corporation may award grants from the ~~training 2000~~ **skills enhancement** fund to school corporations and charter schools to support cooperative arrangements with businesses for training students.

(b) A school corporation or a charter school must apply to the corporation for a grant under this section in the manner prescribed by the corporation.

(c) The corporation may consult with Indiana works councils to develop the application and eligibility requirements for grants awarded under this section.

SECTION 21. IC 5-28-16-2, AS AMENDED BY P.L.213-2015, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The Indiana twenty-first century research and technology fund is established within the state treasury to provide grants or loans to support proposals for economic development in one (1) or more of the following areas:

(1) To increase the capacity of Indiana postsecondary educational institutions, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal or private research and development funding.

(2) To stimulate the transfer of research and technology into marketable products.

(3) To assist with diversifying Indiana's economy by focusing investment in biomedical research and biotechnology, information technology, development of alternative fuel technologies, development and production of fuel efficient vehicles, and other high technology industry clusters requiring high skill, high wage employees.

(4) To encourage an environment of innovation and cooperation among universities and businesses to promote research activity.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) ~~proceeds of bonds issued by the Indiana finance authority under IC 4-4-11.4 for deposit in the fund;~~ and

(3) ~~(2)~~ loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

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(e) The budget committee shall review programs and initiatives and corresponding investment policies established by the board. ~~The corporation shall report semiannually to the budget committee on activity within the fund.~~ The budget agency shall review each recommendation to verify and approve available funding and compliance with the established investment policy. Money in the fund may not be used to provide a recurring source of revenue for the normal operating expenditures of any project.

(f) 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 other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(g) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

SECTION 22. IC 5-28-16-4, AS AMENDED BY P.L.145-2016, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) The board has the following powers:

- (1) To accept, analyze, and approve applications under this chapter.
- (2) To contract with experts for advice and counsel.
- (3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.
- (4) To approve applications for grants or loans from the fund, subject to budget agency review under section 2(e) of this chapter.
- (5) To establish programs and initiatives with corresponding investment policies.

(b) The board shall give priority to applications for grants or loans from the fund that:

- (1) have the greatest economic development potential; and
- (2) require the lowest ratio of money from the fund compared with the combined financial commitments of the applicant and those cooperating on the project.

(c) The board shall make final funding determinations for applications for grants or loans from the fund, subject to budget agency review under section 2(e) of this chapter. In making a determination on a proposal intended to obtain federal or private research funding, the board shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

- (1) The scientific merit of the proposal.

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(2) The predicted future success of federal or private funding for the proposal.

(3) The ability of the researcher to attract merit based scientific funding of research.

(4) The extent to which the proposal evidences interdisciplinary or interinstitutional collaboration among two (2) or more Indiana postsecondary educational institutions or private sector partners, as well as cost sharing and partnership support from the business community.

The purposes for which grants and loans may be made include erecting, constructing, reconstructing, extending, remodeling, improving, completing, equipping, and furnishing research and technology transfer facilities.

(d) The peer review panel shall be chosen by and report to the board. In determining the composition and duties of a peer review panel, the board shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or postsecondary educational institution in Indiana that would constitute a conflict of interest for the panel member.

(e) In making a determination on any other application for a grant or loan from the fund involving a proposal to transfer research results and technologies into marketable products or commercial ventures, the board shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.

(f) A grant or loan from the fund may not be submitted for review by the budget agency under section 2(e) of this chapter unless the grant or loan has received a positive recommendation from a peer review panel described in this section.

(g) The corporation shall report quarterly to the budget committee **and the legislative council** concerning grants and loans made under this chapter. **The report must be in an electronic format under IC 5-14-6. The report for the fourth quarter of a state fiscal year must be submitted at the same time the annual report is submitted under section 6 of this chapter.**

SECTION 23. IC 5-28-16-6, AS AMENDED BY P.L.145-2016, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. The corporation shall submit an annual report to the **budget committee and the legislative council** before September 1 of each year. The report must be in an electronic format under IC 5-14-6 and must contain the following information concerning fund



activity in the preceding state fiscal year:

- (1) The name of each entity receiving a grant from the fund.
- (2) The location of each entity sorted by:
  - (A) county, in the case of an entity located in Indiana; or
  - (B) state, in the case of an entity located outside Indiana.
- (3) The amount of each grant awarded to each entity.

SECTION 24. IC 5-28-17-1, AS AMENDED BY P.L.187-2014, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) The corporation shall do the following to carry out this chapter:

- (1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.
- (2) Approve and administer loans from the small business development fund established by IC 5-28-18.
- (3) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.
- (4) Establish and administer the small and minority business financial assistance program under IC 5-28-20.
- (5) Assist small businesses in obtaining state and federal tax incentives.
- (6) Operate the Indiana small business development centers.**
- (7) Maintain, through the small business development centers, a statewide network of public, private, and educational resources to inform, among other things, small businesses of the state and federal programs under which the businesses may obtain financial assistance or realize reduced costs through programs such as the small employer health insurance pooling program under IC 27-8-5-16(8).**

- (b) The corporation may do the following to carry out this chapter:
  - (1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.
  - (2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.
  - (3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.
  - (4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.
  - (5) Establish a statewide network of public, private, and

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educational resources to assist the organization and development of new enterprises.

(6) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(7) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(8) Approve and administer loans from the small business development fund established by IC 5-28-18.

**(9) Develop and administer programs to support the growth of small businesses.**

~~(9)~~ **(10)** Coordinate state funded programs that assist the organization and development of new enterprises.

SECTION 25. IC 5-28-17-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 6. The corporation shall designate an employee to be the small business ombudsman. The small business ombudsman shall carry out the following duties:**

**(1) Work with state agencies to permit increased enforcement flexibility and the ability to grant common sense exemptions for first time offenders of state rules and policies, including, notwithstanding any other law, policies for the compromise of interest and penalties related to a listed tax (as defined in IC 6-8.1-1-1) and other taxes and fees collected or administered by a state agency.**

**(2) Work with state agencies to seek ways to consolidate forms and eliminate the duplication of paperwork, harmonize data, and coordinate due dates.**

**(3) Coordinate with OMB (as defined in IC 4-3-22-3) to perform cost benefit analyses.**

**(4) Work with state agencies to monitor any outdated, ineffective, or overly burdensome information requests from state agencies to small businesses.**

**(5) Carry out the duties specified under IC 4-22-2-28 and IC 4-22-2.1 to review proposed rules and participate in rulemaking actions that affect small businesses.**

**(6) Coordinate with the ombudsman designated under IC 13-28-3-2 and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under IC 4-22-2-28.1 and IC 13-28-3.**

**(7) Prepare written and electronic information for periodic**



distribution to small businesses describing the small business services provided by coordinators (as defined in IC 4-3-22-16) and work with the office of technology established by IC 4-13.1-2-1 to place information concerning the availability of these services on state Internet web sites that the small business ombudsman or a state agency determines are most likely to be visited by small business owners and managers.

(8) Assist in training agency coordinators who will be assigned to rules under IC 4-22-2-28.1(e).

(9) Investigate and attempt to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

State agencies shall cooperate with the small business ombudsman to carry out the purpose of this section. The department of state revenue and the department of workforce development shall establish a program to distribute the information described in subdivision (7) to small businesses that are required to file returns or information with these state agencies.

SECTION 26. IC 5-28-36-6, AS ADDED BY P.L.233-2013, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. This chapter expires June 30, ~~2017~~: **2019**.

SECTION 27. IC 5-28-36-8 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 8. Each state fiscal year, the aggregate amount of the grants that the corporation makes under this chapter during the state fiscal year may not exceed fifty percent (50%) of the sum of:

- (1) the money in the fund at the beginning of the state fiscal year; and
- (2) the amounts received by the fund during the state fiscal year, including:
  - (A) appropriations to the fund by the general assembly; and
  - (B) the repayment of any principal and interest on a loan awarded under section 5 of this chapter.

SECTION 28. IC 5-28-36-9, AS ADDED BY P.L.213-2015, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Notwithstanding ~~sections section 7 and 8~~ of this chapter, the corporation shall make at least the following grants from the fund before June 15, ~~2015~~: **2017**:

- (1) A grant to Henry County of ~~four two~~ **two** hundred thousand dollars (~~\$400,000~~) (**\$200,000**) to enhance the viability of ~~for~~ the New Castle Motorsports Park. by means of improvements to the track ~~public~~ access.



(2) A grant to the town of Brownsburg of one million dollars (\$1,000,000) for the following categories of infrastructure improvements to enhance the viability of the Lucas Oil Raceway:

- (A) Track public access;
- (B) Track competition features;
- (C) Fan support areas.

**(2) A grant to the city of Winchester of forty-nine thousand dollars (\$49,000) to enhance the viability of the Winchester Speedway by making improvements that add seating capacity.**

SECTION 29. IC 5-28-37 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Indiana Regional City Fund).

SECTION 30. IC 5-28-38-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 0.5. As used in this chapter, "development authority" includes both:**

- (1) the northwest Indiana regional development authority established by IC 36-7.5-2-1; and**
- (2) a regional development authority established under IC 36-7.6-2-3.**

SECTION 31. IC 5-28-38-2, AS ADDED BY P.L.213-2015, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 2. The Indiana regional cities development fund is established within the state treasury to do the following:**

- (1) Support the corporation's regional cities initiative.**
- (2) Provide grants or loans to support proposals for economic development.**

SECTION 32. IC 5-28-38-3, AS ADDED BY P.L.213-2015, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 3. The fund consists of:**

- (1) money deposited into the fund under IC 6-8.1-3-25;
- (2) appropriations from the general assembly;
- (3) grants, gifts, and donations intended for deposit in the fund;  
**and**
- (4) interest deposited into the fund under section 5 of this chapter;  
**and**
- (5) loan repayments.**

SECTION 33. IC 5-28-38-4, AS ADDED BY P.L.213-2015, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 4. The corporation shall administer the fund. The following may be paid from money in the fund:**

- (1) Expenses of administering the fund.
- (2) ~~Nonrecurring~~ Administrative expenses incurred to carry out



the purposes of this chapter.

SECTION 34. IC 5-28-38-5, AS ADDED BY P.L.213-2015, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. 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 other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund. **Interest from loans made under this chapter shall be deposited in the fund.**

SECTION 35. IC 5-28-38-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. **The board has the following powers:**

- (1) To accept, analyze, approve, and deny applications under this chapter.**
- (2) To contract with experts for advice and counsel.**
- (3) To employ staff to assist in carrying out this chapter, including the following:**

**(A) Providing assistance to:**

- (i) applicants that wish to apply for a grant or loan from the fund; and**
- (ii) applicants that wish to submit a regional development plan for review and approval under section 10(d) of this chapter but that are not applying for a loan or grant from the fund.**

**(B) Analyzing proposals.**

**(C) Working with experts engaged by the board.**

**(D) Preparing reports and recommendations for the board.**

SECTION 36. IC 5-28-38-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. **(a) The board shall consider the following when reviewing applications for a grant or loan from the fund:**

- (1) Which projects have the greatest economic development potential.**
- (2) The degree of regional collaboration.**
- (3) The level of state and local financial commitment and potential return on investment.**
- (4) Any other criteria as determined by the board.**

**(b) The board shall make final funding determinations for applications for a grant or loan from the fund.**

**(c) The board may not approve an application for a grant or loan from the fund unless:**

- (1) the budget committee has reviewed the application; and**



**(2) the board finds that approving the application will have an overall positive return on investment for the state.**

SECTION 37. IC 5-28-38-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 9. (a) A development authority may submit an application to the corporation for a grant or loan from the fund.**

**(b) A successful applicant must meet the requirements of this section and be approved by the board. An application for a grant or loan from the fund must be made in a form prescribed by the board. An applicant shall provide all information that the board finds necessary to make the determinations required by this chapter.**

**(c) All applications for a grant or loan from the fund must include the following:**

- (1) A comprehensive development plan and timeline.**
- (2) A detailed financial analysis that includes the commitment of resources and a return on investment analysis.**
- (3) A demonstration of the regional and state impact that the grant or loan is expected to have.**
- (4) Any other information that the board considers appropriate.**

**(d) An applicant for a grant or loan from the fund may request that information that may be excepted from disclosure under IC 5-14-3 that is submitted by the applicant be kept confidential.**

SECTION 38. IC 5-28-38-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10. (a) A development authority may submit an application to the corporation under this section for review and approval of the development authority's regional development plan without applying for a grant or loan from the fund.**

**(b) The following apply to an application submitted by a development authority that is not applying for a grant or loan from the fund as part of the application:**

- (1) The application must be made in a form prescribed by the board.**
- (2) The application must include the following:**
  - (A) A comprehensive development plan and timeline.**
  - (B) A detailed financial analysis that includes the commitment of resources and a return on investment analysis.**
  - (C) A description of the expected local, regional, and state**



impact of the proposed projects included in the development plan.

**(D)** Any other information that the corporation finds useful or necessary for review and approval of the development plan.

**(c)** An application under this section may request that information that may be excepted from disclosure under IC 5-14-3 that is submitted by the applicant be kept confidential.

**(d)** The board shall review an application submitted under this section concerning a regional development plan. The board shall consider the following in reviewing an application:

- (1)** The overall economic development potential of the plan.
- (2)** The degree of regional collaboration under the plan.
- (3)** The level of state and local financial commitment required to implement the plan.
- (4)** The plan's conformance to any other review criteria established by the board.

**(e)** After review of an application under this section, the board may approve the development plan.

SECTION 39. IC 5-28-38-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 11. (a)** The board may invite employees of state agencies and outside experts to present analysis or opinions about any aspect of:

- (1)** an application under review for a grant or loan from the fund; or
- (2)** an application for review and approval of a regional development plan submitted under section 10 of this chapter.

**(b)** An employee of a state agency who participates in the review of an application may not receive compensation for the employee's presentation of the analysis or opinions.

SECTION 40. IC 5-28-38-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 12.** The corporation shall submit an annual report to the legislative council before November 1 of each year. The report must be in an electronic format under IC 5-14-6 and must contain the following information for each development authority that received a grant or loan from the fund in the preceding state fiscal year:

- (1)** The name of the development authority.
- (2)** The project for which the grant or loan was awarded to the development authority.



**(3) The amount of the grant or loan disbursed to the development authority.**

SECTION 41. IC 5-28-39 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

**Chapter 39. Trademarks for Use on Indiana Products**

**Sec. 1. As used in this chapter, "trademark" has the meaning set forth in IC 24-2-1-2.**

**Sec. 2. (a) The corporation shall devise a distinctive trademark and register it with the secretary of state under IC 24-2-1. The trademark must indicate in some way that the product to which it is affixed is substantially produced or assembled in Indiana.**

**(b) The corporation shall register the trademark with the United States Patent and Trademark Office.**

**Sec. 3. A person may apply to the corporation for permission to use the trademark described in section 2 of this chapter.**

**Sec. 4. The corporation may adopt rules under IC 4-22-2 or establish policies to provide:**

- (1) the conditions under which the trademark described in section 2 of this chapter may be used, which may include such criteria as the extent to which the product is actually produced or assembled in Indiana; and**
- (2) a procedure under which application for use of the trademark may be made.**

SECTION 42. IC 6-3.1-10-8, AS AMENDED BY P.L.4-2005, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) To be entitled to a credit, a taxpayer must request the Indiana economic development corporation to determine:

- (1) whether a purchase of an ownership interest in a business located in an enterprise zone is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) The Indiana economic development corporation shall find that a purchase is a qualified investment if:

- (1) the business is viable;
- (2) the business has not been disqualified from enterprise zone incentives or benefits under IC 5-28-15;
- (3) the taxpayer has a legitimate purpose for purchase of the ownership interest;
- (4) the purchase would not be made unless a credit is allowed under this chapter; and
- (5) the purchase is critical to the commencement, enhancement,



or expansion of business operations in the zone and will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the enterprise zone.

The Indiana economic development corporation may delay making a finding under this subsection if, at the time the request is filed under subsection (a), an urban enterprise zone association has made a recommendation that the business be disqualified from enterprise zone incentives or benefits under IC 5-28-15 and the board of the Indiana economic development corporation has not acted on that request. The delay by the Indiana economic development corporation may not last for more than sixty (60) days.

(c) If the Indiana economic development corporation finds that a purchase is a qualified investment, the ~~department~~ **Indiana economic development corporation** shall certify the percentage credit to be allowed under this chapter based upon the following:

- (1) A percentage credit of ten percent (10%) may be allowed based upon the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.
- (2) A percentage credit of two percent (2%) may be allowed for business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual.
- (3) A percentage credit of five percent (5%) may be allowed for business operations in the manufacturing codes of the SIC Manual.
- (4) A percentage credit of five percent (5%) may be allowed for high technology business operations (as defined in IC 5-28-15-1).
- (5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

| JOBS CREATED      | PERCENTAGE |
|-------------------|------------|
| Less than 11 jobs | 1%         |
| 11 to 25 jobs     | 2%         |
| 26 to 40 jobs     | 3%         |
| 41 to 75 jobs     | 4%         |
| More than 75 jobs | 5%         |

- (6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.
- (7) A percentage credit may be allowed for investments made in



real or depreciable personal property, as determined under the following table:

| AMOUNT OF INVESTMENT   | PERCENTAGE |
|------------------------|------------|
| Less than \$25,001     | 1%         |
| \$25,001 to \$50,000   | 2%         |
| \$50,001 to \$100,000  | 3%         |
| \$100,001 to \$200,000 | 4%         |
| More than \$200,000    | 5%         |

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

SECTION 43. IC 6-3.1-24-9, AS AMENDED BY P.L.250-2015, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018]: Sec. 9. ~~(a)~~ The total amount of tax credits that may be approved by the corporation under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed twelve million five hundred thousand dollars (\$12,500,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under this chapter.

~~(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2020. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2020, an unused tax credit attributable to an investment occurring before January 1, 2021.~~

SECTION 44. IC 6-3.1-26-26 IS REPEALED [EFFECTIVE JANUARY 1, 2018]. Sec. 26. ~~(a) This chapter applies to taxable years beginning after December 31, 2003.~~

~~(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, 2020. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2021, forward to a taxable year beginning after December 31, 2020, in the manner provided by section 15 of this chapter.~~

SECTION 45. IC 13-19-5-8, AS AMENDED BY P.L.178-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2017]: Sec. 8. The authority may 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 3(8)(A) and 3(8)(B) of this chapter.
- ~~(3) An award of a grant or loan to a project under IC 5-28-37-7(a) that:~~
  - ~~(A) involves a property at which a release of petroleum from an underground storage tank has occurred or is suspected to have occurred; and~~
  - ~~(B) is ineligible for assistance from the underground petroleum storage tank excess liability trust fund under IC 13-23-7.~~
- ~~(4)~~ **(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.

SECTION 46. IC 36-7-12-36, AS AMENDED BY P.L.1-2006, SECTION 563, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 36. ~~In order to:~~

- ~~(1) disseminate information describing the benefits of all economic development commissions;~~
- ~~(2) provide for efficient operations of all commissions; and~~
- ~~(3) allow the Indiana economic development corporation, on a recommendation basis, to assist all commissions in their endeavors;~~

~~(a) Each commission shall file a report, within thirty (30) days after its initial meeting and on each subsequent January 31, with the fiscal body that it serves. and with the director of the Indiana economic development corporation. These reports must be in writing on a form prescribed by the Indiana economic development corporation and must contain all information required in that form.~~

**(b) A report under subsection (a) must contain:**

- (1) information on the operations, activities, and financial expenditures of the commission during the preceding calendar year; and**

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**(2) any other information required by the fiscal body that the commission serves.**

SECTION 47. IC 36-7.6-2-14, AS ADDED BY P.L.232-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. (a) The office of management and budget shall contract with a certified public accountant for an annual financial audit of each development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to any development authority.

(b) The certified public accountant shall present an audit report not later than four (4) months after the end of each calendar year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period.

(c) A development authority shall pay the cost of the annual financial audit under subsection (a). In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of a development authority. A development authority shall pay the cost of any audit by the state board of accounts.

**(d) The office of management and budget may waive the requirement that a certified public accountant perform an annual financial audit of a development authority for a particular year if the development authority certifies to the office of management and budget that the development authority had no financial activity during that year.**

SECTION 48. IC 36-7.6-3-5, AS AMENDED BY P.L.178-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

- (1) The proposed projects to be undertaken or financed by the development authority.
- (2) The following information for each project included under subdivision (1):
  - (A) Timeline and budget.
  - (B) The return on investment.
  - (C) The projected or expected need for an ongoing subsidy.
  - (D) Any projected or expected federal matching funds.

(b) The development authority shall, not later than January 1 of the second year following the year in which the development authority is



established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget and the Indiana economic development corporation. However, a development authority that has already submitted its comprehensive strategic development plan as part of an application for a grant or a loan under IC 5-28-37 (**before its repeal**) or IC 5-28-38 is not required to resubmit its comprehensive strategic development plan under this subsection.

**SECTION 49. [EFFECTIVE JULY 1, 2017] (a) As used in this SECTION, "corporation" means the Indiana economic development corporation.**

**(b) As used in this SECTION, "office" means the office of small business and entrepreneurship.**

**(c) On July 1, 2017, all powers, duties, agreements, and liabilities of the office relating to the Indiana small business development center are transferred to the corporation.**

**(d) On July 1, 2017, all records and property, including appropriations and other funds, under the control of the office relating to the Indiana small business development center are transferred to the corporation.**

**(e) After June 30, 2017, a reference to the office with respect to the Indiana small business development center in any statute, rule, or other document is considered a reference to the corporation.**

**(f) This SECTION expires July 1, 2019.**

**SECTION 50. An emergency is declared for this act.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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