

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>11</b>
<b>NO:</b>	<b>0</b>

**MR. SPEAKER:**

*Your Committee on Public Health, to which was referred House Bill 1334, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 16-18-2-26.2 IS ADDED TO THE INDIANA
- 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE APRIL 1, 1998]: **Sec. 26.2. "Assets", for purposes of**
- 6 **IC 16-21-10, has the meaning set forth in IC 16-21-10-2.**
- 7 SECTION 2. IC 16-18-2-64.6 IS ADDED TO THE INDIANA
- 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 9 [EFFECTIVE APRIL 1, 1998]: **Sec. 64.6. "Community benefit**
- 10 **assets", for purposes of IC 16-21-10, has the meaning set forth in**
- 11 **IC 16-21-10-3.**
- 12 SECTION 3. IC 16-18-2-64.7 IS ADDED TO THE INDIANA
- 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 14 [EFFECTIVE APRIL 1, 1998]: **Sec. 64.7. "Community benefit**
- 15 **purposes", for purposes of IC 16-21-10, has the meaning set forth**
- 16 **in IC 16-21-10-4.**

1 SECTION 4. IC 16-18-2-139.5 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE APRIL 1, 1998]: **Sec. 139.5. "For-profit entity", for**  
 4 **purposes of IC 16-21-10, has the meaning set forth in**  
 5 **IC 16-21-10-5.**

6 SECTION 5. IC 16-18-2-250.5 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE APRIL 1, 1998]: **Sec. 250.5. "Nonprofit entity", for**  
 9 **purposes of IC 16-21-10, has the meaning set forth in**  
 10 **IC 16-21-10-6.**

11 SECTION 6. IC 16-18-2-251, AS AMENDED BY P.L.144-1996,  
 12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 APRIL 1, 1998]: Sec. 251. (a) "Nonprofit hospital", for purposes of  
 14 IC 16-21-9, has the meaning set forth in IC 16-21-9-3.

15 (b) "Nonprofit hospital", for purposes of IC 16-21-10, has the  
 16 meaning set forth in IC 16-21-10-7.

17 SECTION 7. IC 16-18-2-314.5 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE APRIL 1, 1998]: **Sec. 314.5. "Related party", for**  
 20 **purposes of IC 16-21-10, has the meaning set forth in**  
 21 **IC 16-21-10-8.**

22 SECTION 8. IC 16-18-2-353.7 IS ADDED TO THE INDIANA  
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 24 [EFFECTIVE APRIL 1, 1998]: **Sec. 353.7. "Transaction", for**  
 25 **purposes of IC 16-21-10, has the meaning set forth in**  
 26 **IC 16-21-10-9.**

27 SECTION 9. IC 16-21-10 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 29 APRIL 1, 1998]:

30 **Chapter 10. Conversion of Nonprofit Hospitals**

31 **Sec. 1. (a) Except as provided in subsection (b), this chapter**  
 32 **applies to a nonprofit hospital that intends to enter into a**  
 33 **transaction with a for-profit entity or another nonprofit entity.**

34 **(b) This chapter does not apply to the following:**

35 **(1) A physician or licensed health care provider contract**  
 36 **with a hospital or community health center.**

37 **(2) A contract between a licensed hospital and the following:**

38 **(A) A physician or a group of physicians.**

1                   **(B) A licensed health care provider or a group of**  
 2                   **licensed health care providers.**

3           **(3) A transaction:**

4                   **(A) involving a transfer of community benefit assets of**  
 5                   **a licensed hospital with a book value of less than one**  
 6                   **million dollars (\$1,000,000), net of accumulated**  
 7                   **depreciation as of the date of the closing date of the**  
 8                   **intended transaction;**

9                   **(B) enabling a party to finance the purchase of assets,**  
 10                   **refinance assets, mortgage or pledge assets already**  
 11                   **owned by a nonprofit hospital, for-profit entity,**  
 12                   **nonprofit entity, or related party, whether or not in its**  
 13                   **usual course of business;**

14                   **(C) between or among a nonprofit hospital and affiliated**  
 15                   **nonprofit entities that are part of a common line of**  
 16                   **ownership or control; or**

17                   **(D) for which a letter of intent or memorandum of**  
 18                   **understanding or similar documentation was executed**  
 19                   **before March 31, 1998.**

20                   **Sec. 2. As used in this chapter, "assets" means real, personal,**  
 21                   **tangible, and intangible property and rights in property, including**  
 22                   **cash, buildings, equipment, investments, and contracts with other**  
 23                   **entities.**

24                   **Sec. 3. As used in this chapter, "community benefit assets"**  
 25                   **means every asset that has been used in connection with furthering**  
 26                   **community benefit purposes during the previous year, including**  
 27                   **any health care activity that includes education, prevention,**  
 28                   **promotion of community health, indigent care, or any other**  
 29                   **charitable purpose.**

30                   **Sec. 4. As used in this chapter, "community benefit purposes"**  
 31                   **means those purposes that an entity may qualify for exemption**  
 32                   **under Section 501(c)(3) of the Internal Revenue Code or for similar**  
 33                   **activity engaged in by a for-profit entity.**

34                   **Sec. 5. As used in this chapter, "for-profit entity" means a**  
 35                   **business corporation, partnership, limited liability company, joint**  
 36                   **venture, or any other entity that is not exempt from federal income**  
 37                   **tax under Section 501 of the Internal Revenue Code.**

38                   **Sec. 6. As used in this chapter, "nonprofit entity" means a**

1        **nonprofit business corporation or another entity that is exempt**  
2        **from federal income tax under Section 501 of the Internal Revenue**  
3        **Code.**

4        **Sec. 7. As used in this chapter, "nonprofit hospital" means a**  
5        **hospital that is licensed under IC 16-21-2 and that:**

6            **(1) is a nonprofit corporation or entity that is exempt from**  
7            **federal income tax under Section 501 of the Internal Revenue**  
8            **Code; or**

9            **(2) is owned, controlled, or operated, directly or indirectly,**  
10          **by a nonprofit corporation or entity that is exempt from**  
11          **federal income tax under Section 501 of the Internal Revenue**  
12          **Code.**

13        **Sec. 8. As used in this chapter, "related party" means an**  
14        **individual, a business, a corporation, a partnership, a limited**  
15        **liability company, a joint venture, a trust, or a for-profit entity that**  
16        **owns or controls, is owned or controlled by, or operates under**  
17        **common ownership or control of a party to a transaction.**

18        **Sec. 9. As used in this chapter, "transaction" means a transfer,**  
19        **a sale, a lease, a merger, a conversion, an option, an exchange, a**  
20        **restructuring, a consolidation, a gift, a conveyance, or other**  
21        **disposition of an ownership, management, or membership interest**  
22        **in a nonprofit hospital or its assets, to a for-profit entity or a**  
23        **nonprofit entity through joint venture, operating agreement, or**  
24        **any other means.**

25        **Sec. 10. (a) Not later than ninety (90) days before the**  
26        **anticipated closing of a transaction, a nonprofit hospital that**  
27        **intends to engage in the transaction shall give written notice to the**  
28        **following:**

29            **(1) The secretary of state.**

30            **(2) The state health commissioner.**

31            **(3) The attorney general.**

32        **(b) The written notice under subsection (a) must include the**  
33        **following information:**

34            **(1) The name, address, and telephone number of each party**  
35            **to the transaction.**

36            **(2) The name, address, and telephone number of each**  
37            **attorney or other person representing the parties to the**  
38            **transaction.**

- 1           **(3) A general summary of the transaction.**
- 2           **(4) A general description of the assets involved in the**
- 3           **transaction and the intended use of the assets after the**
- 4           **closing of the intended transaction.**
- 5           **(5) A general summary of all collateral transactions that**
- 6           **relate to the transaction, including the names, addresses, and**
- 7           **telephone numbers of the parties involved in the collateral**
- 8           **transactions.**

9           **(c) The notice and information required under this section are**  
 10 **public records.**

11           **Sec. 11. Not later than thirty (30) days after the nonprofit**  
 12 **hospital sends the written notice required under section 10 of this**  
 13 **chapter the parties to the transaction shall do the following:**

14           **(1) Select a hearing officer to conduct the public hearing**  
 15 **required by this section and determine the time and place of**  
 16 **the public hearing. The location of the public hearing must**  
 17 **be located in the county where the principal place of business**  
 18 **of the nonprofit hospital is located. The site for the public**  
 19 **hearing must be agreed upon by the secretary of state and**  
 20 **the state health commissioner.**

21           **(2) Publish a public notice of the time and place for the**  
 22 **public hearing not less than three (3) consecutive times in at**  
 23 **least one (1) newspaper of general circulation in the county**  
 24 **where the nonprofit hospital has its principal place of**  
 25 **business.**

26           **Sec. 12. (a) The hearing officer shall hold a public hearing on**  
 27 **the intended transaction not less than ten (10) days after the last**  
 28 **publication of the public notice.**

29           **(b) The purpose of the public hearing is to provide information**  
 30 **required under subsection (c) and receive comment from the public**  
 31 **and interested parties regarding the proposed transaction.**

32           **(c) The parties to the transaction shall present written**  
 33 **information at the public hearing that includes the following:**

34           **(1) The extent that the intended transaction impacts**  
 35 **activities that further community benefit purposes and is**  
 36 **consistent with community benefit purposes, including a**  
 37 **description of the resources that will be committed to**  
 38 **community benefit purposes following the transaction.**

- 1           **(2) Whether the intended transaction creates or has the**  
 2           **likelihood of creating an adverse effect on the access to or**  
 3           **availability or cost of health care services.**
- 4           **(3) Whether any director, officer, agent, or employee of the**  
 5           **entity will receive any community benefit asset or will benefit**  
 6           **directly or indirectly from the transaction, except for the**  
 7           **receipt of compensation for professional services relating to**  
 8           **the intended transaction for normal compensation for**  
 9           **services.**
- 10          **(4) The extent to which the nonprofit hospital used due**  
 11          **diligence in the selection of the entity that will receive the**  
 12          **community benefit assets and in the negotiation of the price**  
 13          **and other terms and conditions of the transaction.**
- 14          **(5) The extent to which the parties will continue to use the**  
 15          **nonprofit hospital's community benefit assets for community**  
 16          **benefit purposes following the transaction, or if applicable,**  
 17          **the proceeds of the disposition of the assets will be deposited**  
 18          **in a community benefit organization for community benefit**  
 19          **purposes.**
- 20          **(6) Whether any initial board of directors members of any**  
 21          **entity charged or created by the transaction will reside in or**  
 22          **near the communities affected by the transaction.**
- 23          **(7) Whether any community benefit organization established**  
 24          **to hold the proceeds of the disposition of assets is organized**  
 25          **for community benefit purposes as required under federal**  
 26          **and state law.**
- 27          **(d) The office of the attorney general may present information**  
 28          **at the public hearing.**
- 29          **Sec. 13. (a) The hearing officer conducting the public hearing**  
 30          **shall compile a summary report of the public hearing proceedings**  
 31          **and transmit the report, a notice of completion, and copies of all**  
 32          **written information presented at the hearing to the secretary of**  
 33          **state, state health commissioner, and attorney general.**
- 34          **(b) The parties to the intended transaction shall pay for all the**  
 35          **costs associated with the hearing officer, notices, public hearing,**  
 36          **and summary report.**
- 37          **Sec. 14. This chapter does not:**
- 38          **(1) affect the secretary of state's acceptance or denial of new,**

- 1           restated, or amended articles of incorporation;  
2           (2) affect the operation of state or federal antitrust laws or  
3           the attorney general's enforcement of those laws; or  
4           (3) create a private or governmental right or cause of action  
5           relating to the transaction or parties related to the  
6           transaction.

7           SECTION 10. [EFFECTIVE JULY 1, 1998]: (a) The general  
8           assembly finds the following:

- 9           (1) The health of the citizens of Indiana is one of Indiana's  
10           most important public concerns.  
11           (2) Indiana has an interest in protecting the continued  
12           existence of accessible, affordable health care.  
13           (3) Nonprofit hospitals have a substantive and beneficial role  
14           in the provision of health care to the citizens of Indiana,  
15           providing as part of their charitable mission uncompensated  
16           care to the uninsured or underinsured.  
17           (4) The general assembly believes that the public interest  
18           must be protected whenever the assets or revenue of a  
19           nonprofit hospital are transferred to a for-profit entity or  
20           nonprofit entity.

21           (b) The legislative council shall establish an interim study  
22           committee to study the following:

- 23           (1) The need for review or oversight by the state when a  
24           nonprofit hospital sells, merges, or transfers ownership of  
25           the hospital to a for-profit entity or another nonprofit entity.  
26           (2) Whether the charitable missions of nonprofit hospitals  
27           are being carried out in Indiana communities after nonprofit  
28           hospitals sell, merge, or transfer ownership of the hospitals  
29           to for-profit or nonprofit entities.  
30           (3) Any other topic assigned to the committee by the  
31           legislative council.

32           (c) The committee shall operate under the direction and rules

1       **of the legislative council and the committee shall issue a final**  
2       **report when directed to do so by the legislative council.**

3               **(d) This SECTION expires November 1, 1998.**

4       **SECTION 11. An emergency is declared for this act.**

(Reference is to HB 1334 as introduced.)

**and when so amended that said bill do pass.**

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Representative C. Brown