



April 6, 1999

ENGROSSED SENATE BILL No. 514

DIGEST OF SB 514 (Updated March 30, 1999 10:59 am - DI 101)

Citations Affected: IC 4-4; IC 5-14; noncode.

Synopsis: Twenty-first century growth fund. Establishes the Indiana twenty-first century growth fund for the purpose of providing grants or loans for economic development projects by Indiana higher education institutions, Indiana businesses, and Indiana nonprofit corporations and organizations. Establishes the Indiana twenty-first century growth fund board to develop specific criteria and make determinations with respect to grant applicants. Provides that grants and loans must be approved by the budget agency. Requires a report by the board on the success of the funding, including any findings or recommendations the board believes are pertinent.

Effective: July 1, 1999.

Gard, Blade, Simpson, Zakas

(HOUSE SPONSORS — KLINKER, BUELL, CROSBY, BEHNING)

January 19, 1999, read first time and referred to Committee on Rules and Legislative Procedure; reassigned to Committee on Planning and Economic Development.

February 8, 1999, amended, reported favorably — Do Pass; reassigned to Committee on Finance.

March 1, 1999, amended, reported favorably — Do Pass.

March 4, 1999, read second time, ordered engrossed.

March 5, 1999, engrossed.

March 8, 1999, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 10, 1999, read first time and referred to Committee on Commerce and Economic Development.

April 5, 1999, amended, reported — Do Pass.

ES 514—LS 7517/DI 44+



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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 514

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

- 1 SECTION 1. IC 4-4-5.1 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:
4 **Chapter 5.1. Indiana Twenty-First Century Growth Fund**
5 **Sec. 1. As used in this chapter, "board" refers to the Indiana**
6 **twenty-first century growth fund board established by section 6 of**
7 **this chapter.**
8 **Sec. 2. As used in this chapter, "fund" refers to the Indiana**
9 **twenty-first century growth fund established by section 3 of this**
10 **chapter.**
11 **Sec. 3. (a) The Indiana twenty-first century growth fund is**
12 **established to provide grants or loans to support proposals for**
13 **economic development in one (1) or more of the following areas:**
14 **(1) To increase the capacity of Indiana institutions of higher**
15 **education, Indiana businesses, and Indiana nonprofit**
16 **corporations and organizations to compete successfully for**

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1 federal or private research and development funding.

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

4 (3) To assist with diversifying Indiana's economy by focusing
5 investment in biotechnology, information technology, and
6 other high technology industry clusters requiring high skill,
7 high wage employees.

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

11 (b) The fund shall be administered by the budget agency. The
12 fund consists of appropriations from the general assembly and gifts
13 and grants to the fund. The budget agency shall review each
14 recommendation. The budget agency, after review by the budget
15 committee, may approve, deny, or modify grants and loans
16 recommended by the board. Money in the fund may not be used to
17 provide a recurring source of revenue for the normal operating
18 expenditures of any project.

19 (c) The treasurer of state shall invest the money in the fund not
20 currently needed to meet the obligations of the fund in the same
21 manner as other public funds may be invested.

22 (d) The money in the fund at the end of a state fiscal year does
23 not revert to the state general fund but remains in the fund to be
24 used exclusively for the purposes of this chapter.

25 **Sec. 4. (a)** An application requesting a grant or loan from the
26 fund must be targeted to one (1) or more of the areas listed in
27 section 3 of this chapter.

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

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

36 (1) A fully elaborated technical research or business plan,
37 whichever applies, that is appropriate for review by outside
38 experts as provided in this chapter.

39 (2) A detailed financial analysis that includes the commitment
40 of resources by other entities that will be involved in the
41 project.

42 (3) A statement of the economic development potential of the



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1 project, such as:

2 (A) a statement of the way in which support from the fund
3 will lead to significantly increased funding from federal or
4 private sources and from private sector research partners;
5 or

6 (B) a projection of the jobs to be created.

7 (4) The identity, qualifications, and obligations of the
8 applicant.

9 (5) Any other information that the board considers
10 appropriate.

11 An applicant for a grant or loan from the fund may request that
12 certain information that is submitted by the applicant be kept
13 confidential. The board shall make a determination of
14 confidentiality as soon as is practicable. If the board determines
15 that the information should not be kept confidential, the applicant
16 may withdraw its application and the board must return the
17 information before making it part of any public record.

18 (d) An application for a grant or loan from the fund submitted
19 by an academic researcher must be made through the office of the
20 president of the researcher's academic institution with the express
21 endorsement of that institution's president. An application for a
22 grant or loan from the fund submitted by a private researcher
23 must be made through the office of the highest ranking officer of
24 the researcher's institution with the express endorsement of the
25 institution. Any other application must be made through the office
26 of the highest ranking officer of the entity submitting the
27 application. In the case of an application for a grant or loan from
28 the fund that is submitted jointly by one (1) or more researchers or
29 entities, the application must be endorsed by each institution or
30 entity as required by this subsection.

31 Sec. 5. (a) The board has the following powers:

32 (1) To accept, analyze, and approve applications under this
33 chapter.

34 (2) To contract with experts for advice and counsel.

35 (3) To employ staff to assist in carrying out this chapter,
36 including assistance to applicants who wish to apply for a
37 grant or loan from the fund, analyzing proposals, working
38 with experts engaged by the board, and preparing reports and
39 recommendations for the board.

40 (4) To approve and recommend applications for grants or
41 loans from the fund to the budget committee and budget
42 agency.



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

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

7 (c) The board shall make final funding determinations for
8 applications for grants or loans from the fund that will be
9 submitted to the budget agency for review and approval. In
10 making these determinations, the board may make a finding that
11 it is appropriate to use a peer review panel to assist it in making
12 determinations. In determining the composition and duties of a
13 peer review panel, the board shall consider the National Institute
14 of Health and the National Science Foundation as models.

15 (d) The peer review panel shall be chosen by and report to the
16 board. The members of the panel must have extensive experience
17 in federal research funding. A panel member may not have a
18 relationship with any private entity or academic institution in
19 Indiana that would constitute a conflict of interest for the panel
20 member.

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

27 Sec. 6. (a) The Indiana twenty-first century growth fund board
28 is established. The board consists of the following:

- 29 (1) The lieutenant governor, who shall serve as chairperson of
30 the board.
31 (2) Two (2) representatives from separate Indiana public
32 research institutions of higher education to be appointed by
33 the governor.
34 (3) A representative of an Indiana private research institution
35 of higher education to be appointed by the governor.
36 (4) A representative from a high technology business to be
37 appointed by the governor.
38 (5) A representative from a business with high research and
39 development expenditures in Indiana to be appointed by the
40 governor.
41 (6) A representative from the venture or growth capital
42 industry to be appointed by the governor.



- 1 **(7) One (1) individual who has expertise in economic**
- 2 **development to be appointed by the governor.**
- 3 **(8) One (1) individual who has expertise in academic research,**
- 4 **technology transfer, or collaborative relationships between**
- 5 **the public and private sectors to be appointed by the**
- 6 **governor.**
- 7 **A board member appointed by the governor serves a term of two**
- 8 **(2) years.**
- 9 **(b) A board member with a conflict of interest with respect to**
- 10 **an application for a grant or loan from the fund shall abstain from**
- 11 **any discussion, consideration, or vote on the application.**
- 12 **(c) When making appointments under subsection (a), the**
- 13 **governor shall consider the geographic areas of the state**
- 14 **represented on the board.**
- 15 **Sec. 7. The governor shall fill a vacancy on the board for the**
- 16 **remainder of the unexpired term. Except for the ex officio board**
- 17 **member, the governor may replace a board member at any time.**
- 18 **Sec. 8. A quorum for a meeting of the board consists of five (5)**
- 19 **voting members.**
- 20 **Sec. 9. Five (5) affirmative votes are required for the board to**
- 21 **take action.**
- 22 **Sec. 10. Members of the board are not entitled to per diem**
- 23 **allowances or reimbursement of expenses for their service on the**
- 24 **board.**
- 25 **Sec. 11. The board may use money in the fund to cover**
- 26 **administrative expenses incurred in carrying out the requirements**
- 27 **of this chapter.**
- 28 **SECTION 2. IC 5-14-3-4 IS AMENDED TO READ AS FOLLOWS**
- 29 **[EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The following public records**
- 30 **are excepted from section 3 of this chapter and may not be disclosed by**
- 31 **a public agency, unless access to the records is specifically required by**
- 32 **a state or federal statute or is ordered by a court under the rules of**
- 33 **discovery:**
- 34 **(1) Those declared confidential by state statute.**
- 35 **(2) Those declared confidential by rule adopted by a public**
- 36 **agency under specific authority to classify public records as**
- 37 **confidential granted to the public agency by statute, **including****
- 38 ****those records declared confidential by the twenty-first****
- 39 ****century growth fund board under IC 4-4-5.1.****
- 40 **(3) Those required to be kept confidential by federal law.**
- 41 **(4) Records containing trade secrets.**
- 42 **(5) Confidential financial information obtained, upon request,**

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1 from a person. However, this does not include information that is
2 filed with or received by a public agency pursuant to state statute.

3 (6) Information concerning research, including actual research
4 documents, conducted under the auspices of an institution of
5 higher education, including information:

6 (A) concerning any negotiations made with respect to the
7 research; and

8 (B) received from another party involved in the research.

9 (7) Grade transcripts and license examination scores obtained as
10 part of a licensure process.

11 (8) Those declared confidential by or under rules adopted by the
12 supreme court of Indiana.

13 (9) Patient medical records and charts created by a provider,
14 unless the patient gives written consent under IC 16-39.

15 (b) Except as otherwise provided by subsection (a), the following
16 public records shall be excepted from section 3 of this chapter at the
17 discretion of a public agency:

18 (1) Investigatory records of law enforcement agencies. However,
19 certain law enforcement records must be made available for
20 inspection and copying as provided in section 5 of this chapter.

21 (2) The work product of an attorney representing, pursuant to
22 state employment or an appointment by a public agency:

23 (A) a public agency;

24 (B) the state; or

25 (C) an individual.

26 (3) Test questions, scoring keys, and other examination data used
27 in administering a licensing examination, examination for
28 employment, or academic examination before the examination is
29 given or if it is to be given again.

30 (4) Scores of tests if the person is identified by name and has not
31 consented to the release of his scores.

32 (5) The following:

33 (A) Records relating to negotiations between the department
34 of commerce, the Indiana development finance authority, the
35 film commission, the Indiana business modernization and
36 technology corporation, or economic development
37 commissions with industrial, research, or commercial
38 prospects, if the records are created while negotiations are in
39 progress.

40 (B) Notwithstanding clause (A), the terms of the final offer of
41 public financial resources communicated by the department of
42 commerce, the Indiana development finance authority, the film

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- 1 commission, the Indiana business modernization and
 2 technology corporation, or economic development
 3 commissions to an industrial, a research, or a commercial
 4 prospect shall be available for inspection and copying under
 5 section 3 of this chapter after negotiations with that prospect
 6 have terminated.
- 7 (C) When disclosing a final offer under clause (B), the
 8 department of commerce shall certify that the information
 9 being disclosed accurately and completely represents the terms
 10 of the final offer.
- 11 (6) Records that are intra-agency or interagency advisory or
 12 deliberative material, including material developed by a private
 13 contractor under a contract with a public agency, that are
 14 expressions of opinion or are of a speculative nature, and that are
 15 communicated for the purpose of decision making.
- 16 (7) Diaries, journals, or other personal notes serving as the
 17 functional equivalent of a diary or journal.
- 18 (8) Personnel files of public employees and files of applicants for
 19 public employment, except for:
- 20 (A) the name, compensation, job title, business address,
 21 business telephone number, job description, education and
 22 training background, previous work experience, or dates of
 23 first and last employment of present or former officers or
 24 employees of the agency;
- 25 (B) information relating to the status of any formal charges
 26 against the employee; and
- 27 (C) information concerning disciplinary actions in which final
 28 action has been taken and that resulted in the employee being
 29 disciplined or discharged.
- 30 However, all personnel file information shall be made available
 31 to the affected employee or his representative. This subdivision
 32 does not apply to disclosure of personnel information generally on
 33 all employees or for groups of employees without the request
 34 being particularized by employee name.
- 35 (9) Minutes or records of hospital medical staff meetings.
- 36 (10) Administrative or technical information that would
 37 jeopardize a recordkeeping or security system.
- 38 (11) Computer programs, computer codes, computer filing
 39 systems, and other software that are owned by the public agency
 40 or entrusted to it and portions of electronic maps entrusted to a
 41 public agency by a utility.
- 42 (12) Records specifically prepared for discussion or developed

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- 1 during discussion in an executive session under IC 5-14-1.5-6.1.
 2 However, this subdivision does not apply to that information
 3 required to be available for inspection and copying under
 4 subdivision (8).
- 5 (13) The work product of the legislative services agency under
 6 personnel rules approved by the legislative council.
- 7 (14) The work product of individual members and the partisan
 8 staffs of the general assembly.
- 9 (15) The identity of a donor of a gift made to a public agency if:
 10 (A) the donor requires nondisclosure of his identity as a
 11 condition of making the gift; or
 12 (B) after the gift is made, the donor or a member of the donor's
 13 family requests nondisclosure.
- 14 (16) Library or archival records:
 15 (A) which can be used to identify any library patron; or
 16 (B) deposited with or acquired by a library upon a condition
 17 that the records be disclosed only:
 18 (i) to qualified researchers;
 19 (ii) after the passing of a period of years that is specified in
 20 the documents under which the deposit or acquisition is
 21 made; or
 22 (iii) after the death of persons specified at the time of the
 23 acquisition or deposit.
- 24 However, nothing in this subdivision shall limit or affect
 25 contracts entered into by the Indiana state library pursuant to
 26 IC 4-1-6-8.
- 27 (17) The identity of any person who contacts the bureau of motor
 28 vehicles concerning the ability of a driver to operate a motor
 29 vehicle safely and the medical records and evaluations made by
 30 the bureau of motor vehicles staff or members of the driver
 31 licensing advisory committee. However, upon written request to
 32 the commissioner of the bureau of motor vehicles, the driver must
 33 be given copies of the driver's medical records and evaluations
 34 that concern the driver.
- 35 (c) Notwithstanding section 3 of this chapter, a public agency is not
 36 required to create or provide copies of lists of names and addresses,
 37 unless the public agency is required to publish such lists and
 38 disseminate them to the public pursuant to statute. However, if a public
 39 agency has created a list of names and addresses, it must permit a
 40 person to inspect and make memoranda abstracts from the lists unless
 41 access to the lists is prohibited by law. The following lists of names and
 42 addresses may not be disclosed by public agencies to commercial

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1 entities for commercial purposes and may not be used by commercial
2 entities for commercial purposes:

- 3 (1) A list of employees of a public agency.
4 (2) A list of persons attending conferences or meetings at a state
5 institution of higher education or of persons involved in programs
6 or activities conducted or supervised by the state institution of
7 higher education.
8 (3) A list of students who are enrolled in a public school
9 corporation if the governing body of the public school corporation
10 adopts a policy:
11 (A) prohibiting the disclosure of the list to commercial entities
12 for commercial purposes; or
13 (B) specifying the classes or categories of commercial entities
14 to which the list may not be disclosed or by which the list may
15 not be used for commercial purposes.

16 A policy adopted under subdivision (3) must be uniform and may not
17 discriminate among similarly situated commercial entities.

18 (d) Nothing contained in subsection (b) shall limit or affect the right
19 of a person to inspect and copy a public record required or directed to
20 be made by any statute or by any rule of a public agency.

21 (e) Notwithstanding any other law, a public record that is classified
22 as confidential, other than a record concerning an adoption, shall be
23 made available for inspection and copying seventy-five (75) years after
24 the creation of that record.

25 (f) Notwithstanding subsection (e) and section 7 of this chapter:

- 26 (1) public records subject to IC 5-15 may be destroyed only in
27 accordance with record retention schedules under IC 5-15; or
28 (2) public records not subject to IC 5-15 may be destroyed in the
29 ordinary course of business.

30 SECTION 3. [EFFECTIVE JULY 1, 1999] (a) **Before September**
31 **1, 1999, the governor shall make the initial appointments to the**
32 **Indiana twenty-first century growth fund board required by**
33 **IC 4-4-5.1-6, as added by this act.**

34 (b) **Before December 31, 2000, the Indiana twenty-first century**
35 **growth fund board shall submit a report to the governor and the**
36 **executive director of the legislative services agency for distribution**
37 **to the members of the general assembly covering the activities of**
38 **the Indiana twenty-first century growth fund board established by**
39 **IC 4-4-5.1-6, as added by this act, and the use of money in the**
40 **Indiana twenty-first century growth fund. The report must also**
41 **include findings on the following:**

- 42 (1) **The increase in the capacity of Indiana institutions of**



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- 1 higher education, Indiana businesses, and Indiana nonprofit
- 2 corporations and organizations to compete successfully for
- 3 federal research and development financing.
- 4 (2) The amount of stimulation provided to the transfer of
- 5 research and technology into marketable products.
- 6 (3) The progress on diversifying Indiana's economy so that
- 7 high skill and high wage jobs are created.
- 8 (4) The improvement in innovation and cooperation among
- 9 universities and business to promote research activity.
- 10 (5) The amount of federal research funding that was obtained
- 11 by Indiana public research institutions of higher education
- 12 that was directly attributable to the existence of the Indiana
- 13 twenty-first century growth fund.
- 14 (6) Any other findings or recommendations the board desires
- 15 to include.
- 16 (c) This SECTION expires January 1, 2001.

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SENATE MOTION

Mr. President: I move that Senate Bill 514, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Planning and Economic Development.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Economic Development, to which was referred Senate Bill No. 514, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 22, delete "and four (4)".

Page 3, line 23, delete "nonvoting".

Page 3, delete lines 26 through 33.

Page 3, line 34, delete "(4)" and insert "(2)".

Page 3, line 35, delete "(5)" and insert "(3)".

Page 3, line 36, delete "(6)" and insert "(4)".

Page 3, line 38, delete "(7)" and insert "(5)".

Page 3, line 40, delete "(8)" and insert "(6)".

Page 3, line 42, delete "(9)" and insert "(7)".

Page 4, line 3, delete "(10)" and insert "(8)".

Page 4, line 5, delete "A member of the general assembly appointed to the".

Page 4, delete lines 6 through 10.

Page 4, line 11, delete "(b)".

Page 4, run in lines 5 through 11.

Page 4, line 11, delete "section 5(8) through" and insert "**section 5(6) through 5(8)**".

Page 4, line 12, delete "5(10)".

Page 5, between lines 7 and 8, begin a new paragraph and insert:

"Sec. 13. Not later than September 1, 2000, and September 1 in each year thereafter, the board shall submit a written annual report to the executive director of the legislative services agency for distribution to the members of the legislative council. The report must include at least the following information:

- (1) The status of the fund as of June 30 of the immediately preceding state fiscal year.**
- (2) A description of the activities undertaken by the board, peer review panels, and the fund in the immediately preceding state fiscal year.**
- (3) Other pertinent information related to the results achieved through grants made under this chapter."**

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and when so amended that said bill do pass and be reassigned to the Senate Committee on Finance.

(Reference is to SB 514 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 514.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 514, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Page 3, line 21, after "5." insert "**(a)**".

Page 3, line 22, delete "eight (8)" and insert "**ten (10)**".

Page 3, between lines 38 and 39, begin a new line block indented and insert:

"(9) A representative from the venture growth or growth capital industry, to be appointed by the governor.

(10) A person who has expertise in economic development, to be appointed by the governor.

(b) When making appointments under subsection (a), the governor shall consider the geographic areas of the state represented on the board."

Page 3, line 39, delete "(a)".

Page 3, line 40, delete "5(8)" and insert "**5(10)**".

Page 4, line 1, delete "five (5)" and insert "**six (6)**".

Page 4, line 3, delete "Five (5)" and insert "**Six (6)**".

Page 5, delete lines 6 through 15.

and when so amended that said bill do pass.

(Reference is to SB 514 as printed February 9, 1999.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Zakas be added as coauthor of Senate Bill 514.

GARD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Senate Bill 514, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 514 as printed March 2, 1999.)

BOTTORFF, Chair

Committee Vote: yeas 14, nays 0.

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