

# HOUSE BILL No. 1624

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-12.

**Synopsis:** Higher education funding. Eliminates state government approval requirements for a state university to acquire, construct, remodel, renovate, furnish, or equip a specific project. Provides a general assembly covenant that it will make fee replacement appropriations to cover debt service on state university bonds.

**Effective:** July 1, 1999.

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**Murphy**

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January 21, 1999, read first time and referred to Committee on Ways and Means.

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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.

## HOUSE BILL No. 1624



A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

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

1 SECTION 1. IC 20-12-5.5-4 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. To pay the cost of a  
 3 project authorized under this chapter, the following funds may be used:  
 4 (1) Any funds appropriated for the project by the current or any  
 5 preceding general assembly. ~~subject to allocation of the funds by~~  
 6 ~~the state budget agency, with approval of the governor.~~  
 7 (2) Any funds derived from the issuance and sale of bonds by the  
 8 trustees of any of the higher education institutions. ~~so long as the~~  
 9 ~~issuance of the bonds which are to be supported by mandatory~~  
 10 ~~student fees assessed all students has been approved by the~~  
 11 ~~general assembly for each applicable project.~~  
 12 (3) Any funds derived from earnings, farm, and miscellaneous  
 13 sales, or other receipts. ~~so long as each project to construct~~  
 14 ~~buildings or facilities of a cost of greater than ninety thousand~~  
 15 ~~dollars (\$90,000) or each project to purchase or lease-purchase~~  
 16 ~~land, buildings or facilities the principal value of which exceeds~~  
 17 ~~fifty thousand dollars (\$50,000) is reviewed by the commission~~

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1 for higher education and approved by the governor, on  
2 recommendation of the budget agency.

3 (4) Any federal funds granted and allowed a higher education  
4 institution for a project to construct buildings or facilities. so long  
5 as each project of a cost of greater than ninety thousand dollars  
6 (\$90,000) or each project to purchase or lease-purchase land;  
7 buildings or facilities the principal value of which exceeds fifty  
8 thousand dollars (\$50,000) is reviewed by the commission for  
9 higher education and approved by the governor, on  
10 recommendation of the budget agency.

11 (5) Any available funds derived from gifts, bequests, devises, or  
12 from any other source not listed in provisions subdivisions (1)  
13 through (4). of this section so long as each project to construct  
14 buildings or facilities of a cost of greater than ninety thousand  
15 dollars (\$90,000) or each project to purchase or lease-purchase  
16 land; buildings or facilities the principal value of which exceeds  
17 fifty thousand dollars (\$50,000) is reviewed by the commission  
18 for higher education and approved by the governor, on  
19 recommendation of the budget agency.

20 SECTION 2. IC 20-12-5.5-5 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. The general  
22 assembly may appropriate fee replacement monies for the replacement  
23 of student fees dedicated to pay the principal and interest costs of  
24 bonds as approved by the general assembly; and for lease-purchase  
25 costs. **If the general assembly makes such an appropriation, the**  
26 **appropriation must cover the period necessary to pay the principal**  
27 **and interest costs of the bonds, and the general assembly covenants**  
28 **with the purchasers of the bonds that the appropriation will not be**  
29 **terminated so long as the bonds are outstanding.**

30 SECTION 3. IC 20-12-5.5-7 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) As used in this  
32 section, "qualified energy savings project" means a facility alteration  
33 designed to reduce energy consumption costs or other operating costs,  
34 including the following:

- 35 (1) Providing insulation of the facility and systems within the  
36 facility.  
37 (2) Installing or providing for window and door systems,  
38 including:  
39 (A) storm windows and storm doors;  
40 (B) caulking or weatherstripping;  
41 (C) multi-glazed windows and doors;  
42 (D) heat absorbing or heat reflective glazed and coated



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- 1 windows and doors;  
 2 (E) additional glazing;  
 3 (F) reduction in glass area; and  
 4 (G) other modifications that reduce energy consumption.
- 5 (3) Installing automatic energy control systems.  
 6 (4) Modifying or replacing heating, ventilating, or air  
 7 conditioning systems.  
 8 (5) Unless an increase in illumination is necessary to conform to  
 9 Indiana laws or rules or local ordinances, modifying or replacing  
 10 lighting fixtures to increase the energy efficiency of the lighting  
 11 system without increasing the overall illumination of a facility.  
 12 (6) Providing for other energy conservation measures that reduce  
 13 energy consumption or reduce operating costs.
- 14 (b) As used in this section, "qualified provider" means a person or  
 15 business experienced in the design, implementation, and installation of  
 16 energy and operational cost savings systems.
- 17 (c) As used in this section, "energy cost savings contract" means a  
 18 contract between a higher education institution and a qualified provider  
 19 for the implementation of at least one (1) qualified energy savings  
 20 project and related measures.
- 21 (d) A higher education institution may undertake a qualified energy  
 22 savings project as provided in this section. ~~If the part of the qualified~~  
 23 ~~energy savings project related to real property improvements is greater~~  
 24 ~~than five hundred thousand dollars (\$500,000); the project must be~~  
 25 ~~reviewed by the commission for higher education and approved by the~~  
 26 ~~governor and the budget director on the recommendation of the budget~~  
 27 ~~committee. A qualified energy savings project does not require the~~  
 28 ~~prior approval of the general assembly; notwithstanding the source of~~  
 29 ~~payment for the project or bonds issued to fund the project.~~
- 30 (e) A higher education institution may submit a request for  
 31 proposals to qualified providers for an energy cost savings contract and  
 32 may enter into an energy cost savings contract with a qualified provider  
 33 under this section. The contract must provide that all payments, except  
 34 obligations on termination of the contract before its expiration, are to  
 35 be made over time. The contract may provide that energy cost savings  
 36 are guaranteed by the qualified provider to the extent necessary to  
 37 make payments for the qualified energy savings project. A qualified  
 38 provider shall provide a sufficient bond to the higher education  
 39 institution for the installation and the faithful performance of all the  
 40 measures included in the contract. The contract may also include  
 41 contracts for building operation programs and maintenance and  
 42 management or similar agreements with the qualified provider to

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- 1 reduce energy or operational costs.
- 2 (f) A request for proposals must include the following:
- 3 (1) The name and address of the higher education institution.
- 4 (2) The name, address, title, and phone number of a contact
- 5 person.
- 6 (3) The date, time, and place where proposals must be received.
- 7 (4) Evaluation criteria for assessing the proposals.
- 8 (5) A reasonably functional description of the facilities to be
- 9 covered by the request for proposals or the maximum dollar cost
- 10 of the qualified energy savings project subject to the request for
- 11 proposals, or both.
- 12 (6) Any other stipulations and clarifications the higher education
- 13 institution may require.
- 14 (g) The higher education institution shall select the qualified
- 15 provider and enter into an energy cost savings contract or contracts for
- 16 a qualified energy savings project that best meets the needs of the
- 17 higher education institution. The higher education institution shall
- 18 provide public notice of the meeting at which it proposes to award an
- 19 energy cost savings contract by publication one (1) time, at least ten
- 20 (10) days in advance, in newspapers described in IC 4-1-5-1. The
- 21 public notice must disclose the names of parties to the proposed energy
- 22 cost savings contract and contain a reasonably functional description
- 23 of the qualified energy savings project and the measures covered by the
- 24 contract and project.
- 25 (h) After reviewing proposals submitted under this section, a higher
- 26 education institution may enter into energy cost savings contracts with
- 27 a qualified provider if the higher education institution reasonably
- 28 expects that the cost of a qualified energy savings project
- 29 recommended in the proposal would not exceed the amount to be saved
- 30 in either energy or operational costs, or both, within the ten (10) year
- 31 period following the date installation is complete if the
- 32 recommendations in the proposal are followed. An energy cost savings
- 33 contract may also include a guaranty from the qualified provider to the
- 34 higher education institution that either the energy or operational cost
- 35 savings, or both, will meet or exceed the cost of the energy cost savings
- 36 projects not later than ten (10) years after the date installation is
- 37 complete.
- 38 (i) Energy cost and operational savings realized from a qualified
- 39 energy savings project and an energy cost savings contract shall not
- 40 reduce the amount of state appropriations otherwise available to the
- 41 higher education institution.
- 42 SECTION 4. IC 20-12-6-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) Each corporation  
 2 shall deposit to the credit of a special fund to be established and  
 3 designated as the building facilities fund of the corporation or the  
 4 institution under its control:

- 5 (1) all building facilities fees collected by the corporation; and  
 6 (2) to the extent provided or required by any resolution or trust  
 7 indenture (referred to in section 7 of this chapter) adopted or  
 8 approved by the governing board of the issuing corporation, all  
 9 other fees, income, or funds pledged to secure the payment of  
 10 bonds, and the interest thereon, issued under this chapter.

11 Each building facilities fund shall be used only for the purposes stated  
 12 in section 4 of this chapter, and in connection with the issuance of  
 13 bonds under the provisions of this chapter, the uses may be further  
 14 limited by the provisions stated in the resolution or the trust indenture  
 15 (referred to in section 7 of this chapter), adopted or approved by the  
 16 governing board of the issuing corporation.

17 (b) The corporations may deposit to the credit of their respective  
 18 building facilities funds, or may use for any of the purposes of this  
 19 chapter without so depositing, any other funds which may be available  
 20 for any of such purposes, from whatever source derived, including but  
 21 not limited to:

- 22 (1) student tuition and other fees, earnings, charges, rentals,  
 23 interest on permanent endowment funds or other interest, or other  
 24 income;  
 25 (2) gifts or grants from the federal government or any federal  
 26 agency or instrumentality or any public or private corporation,  
 27 association, or person; and  
 28 (3) state appropriations. ~~made specifically for any of the purposes~~  
 29 ~~of this chapter.~~

30 (c) The building facilities fees and such other funds as may from  
 31 time to time be deposited to the credit of the respective building  
 32 facilities funds are appropriated to the corporation for the uses  
 33 provided in this chapter without the necessity for any future  
 34 appropriations.

35 (d) The money in the building facilities funds may be accumulated  
 36 and held by the corporations for the purposes of this chapter and  
 37 invested by the corporations pending the use thereof, and interest,  
 38 dividends, or gains resulting from such investments shall be credited  
 39 to such funds.

40 (e) In the event bonds shall be issued in anticipation of the  
 41 collection of building facilities fees, the issuing corporation shall fix,  
 42 charge, and collect such fees in amounts sufficient, together with other



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1 available funds, to pay ~~the~~ the interest on and the principal of such  
 2 bonds, in accordance with the terms thereof, so long as any of the  
 3 bonds shall be outstanding.

4 SECTION 5. IC 20-12-6-17 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Except for notes  
 6 issued under section 8.5 of this chapter and except as provided in  
 7 subsections (d) and (e), no bonds shall be issued for a project by the  
 8 corporations under this chapter unless the general assembly:

9 (1) has specifically approved the project to be financed through  
 10 the issuance and sale of these bonds; and

11 (2) has provided the amount of bonds which may be issued to  
 12 fund the costs of acquiring, constructing, remodeling, renovating,  
 13 furnishing, or equipping the specific project approved.

14 (b) In addition to and in connection with the amount of bonds that  
 15 may be issued by a corporation for a specific project as provided in  
 16 subsection (a)(2), the corporations **A corporation** may also issue bonds  
 17 in amounts necessary to provide funds for debt service reserves, bond  
 18 or reserve insurance, and other costs ~~without additional approval by the~~  
 19 ~~general assembly~~, if these costs are incidental to the issuance of bonds  
 20 for the project.

21 (c) The bonds regardless of when the amount of bonds was  
 22 approved by the general assembly, may be issued in an amount not  
 23 exceeding

24 (1) the amount of bonds approved by the general assembly  
 25 together with the amounts described in subsection (b); plus

26 (2) the amount of the discount below par value, if bonds are sold  
 27 at a price below par value under IC 4-1-5-1.

28 (d) Bonds may be issued by a corporation without the approval of  
 29 the general assembly if, after the issuance, the total amount of  
 30 outstanding bonds issued by the corporation without approval will not  
 31 exceed one million dollars (\$1,000,000). However, the bonds must be  
 32 approved as provided in section 16 of this chapter.

33 (e) Bonds may be issued by a corporation without the approval of  
 34 the general assembly to finance a qualified energy savings project (as  
 35 defined in IC 20-12-5.5) if:

36 (1) annual operating savings to a corporation arising from the  
 37 implementation of a qualified energy savings project are  
 38 reasonably expected to be at least equal to annual debt service  
 39 requirements on bonds issued for this purpose in each fiscal year;  
 40 and

41 (2) the amount of bonds that may be issued by each corporation,  
 42 other than refunding bonds and exclusive of costs described in

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1 subsections (b) and (c); does not exceed ten million dollars  
2 (\$10,000,000).  
3 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE  
4 JULY 1, 1999]: IC 20-12-5.5-2; IC 20-12-5.5-6; IC 20-12-6-16;  
5 IC 20-12-8-6; IC 20-12-8-7.

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