

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.

SENATE ENROLLED ACT No. 514

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

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

SECTION 1. IC 4-4-5.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 5.1. Indiana Twenty-First Century Research and Technology Fund

Sec. 1. As used in this chapter, "board" refers to the Indiana twenty-first century research and technology fund board established by section 6 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the Indiana twenty-first century research and technology fund established by section 3 of this chapter.

Sec. 3. (a) The Indiana twenty-first century research and technology fund is established 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 institutions of higher education, 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

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marketable products.

(3) To assist with diversifying Indiana's economy by focusing investment in biomedical research and biotechnology, information technology, 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 shall be administered by the budget agency. The fund consists of appropriations from the general assembly and gifts and grants to the fund. The budget agency shall review each recommendation. The budget agency, after review by the budget committee, may approve, deny, or modify grants and loans recommended by the board. Money in the fund may not be used to provide a recurring source of revenue for the normal operating expenditures of any project.

(c) 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.

(d) 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 to be used exclusively for the purposes of this chapter.

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

(b) A successful applicant for a grant or loan from the fund 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 on an application 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 fully elaborated technical research or business plan, whichever applies, that is appropriate for review by outside experts as provided in this chapter.

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

(3) A statement of the economic development potential of the project, such as:

(A) a statement of the way in which support from the fund



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will lead to significantly increased funding from federal or private sources and from private sector research partners;
or

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

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

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

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

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

Sec. 5. (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 and recommend applications for grants or loans from the fund to the budget committee and budget agency.

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

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- (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 that will be submitted to the budget agency for review and approval. 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.
- (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 inter-institutional collaboration among two (2) or more Indiana institutions of higher education or private sector partners, as well as cost sharing and partnership support from the business community.

(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 academic 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.

Sec. 6. (a) The Indiana twenty-first century research and technology fund board is established. The board consists of the following:

- (1) The lieutenant governor, who shall serve as chairperson of the board.
- (2) Two (2) representatives from separate Indiana public



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research institutions of higher education to be appointed by the governor.

(3) A representative of an Indiana private research institution of higher education to be appointed by the governor.

(4) A representative from a high technology business to be appointed by the governor.

(5) A representative from a business with high research and development expenditures in Indiana to be appointed by the governor.

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

(7) One (1) individual who has expertise in economic development to be appointed by the governor.

(8) One (1) individual who has expertise in academic research, technology transfer, or collaborative relationships between the public and private sectors to be appointed by the governor.

A board member appointed by the governor serves a term of two (2) years.

(b) A board member with a conflict of interest with respect to an application for a grant or loan from the fund shall abstain from any discussion, consideration, or vote on the application.

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

Sec. 7. The governor shall fill a vacancy on the board for the remainder of the unexpired term. Except for the ex officio board member, the governor may replace a board member at any time.

Sec. 8. A quorum for a meeting of the board consists of five (5) voting members.

Sec. 9. Five (5) affirmative votes are required for the board to take action.

Sec. 10. Members of the board are not entitled to per diem allowances or reimbursement of expenses for their service on the board.

Sec. 11. The board may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter.

SECTION 2. IC 5-14-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by

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a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.**

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

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
- (4) Scores of tests if the person is identified by name and has not



consented to the release of his scores.

(5) The following:

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

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available

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to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

- (9) Minutes or records of hospital medical staff meetings.
- (10) Administrative or technical information that would jeopardize a recordkeeping or security system.
- (11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
- (12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).
- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:
 - (A) the donor requires nondisclosure of his identity as a condition of making the gift; or
 - (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.
- (16) Library or archival records:
 - (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.
- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver

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licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

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

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

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

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

- (f) Notwithstanding subsection (e) and section 7 of this chapter:
- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
 - (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 3. [EFFECTIVE JULY 1, 1999] (a) Before September

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1, 1999, the governor shall make the initial appointments to the Indiana twenty-first century research and technology fund board required by IC 4-4-5.1-6, as added by this act.

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

- (1) The increase in the capacity of Indiana institutions of higher education, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal research and development financing.
- (2) The amount of stimulation provided to the transfer of research and technology into marketable products.
- (3) The progress on diversifying Indiana's economy so that high skill and high wage jobs are created.
- (4) The improvement in innovation and cooperation among universities and business to promote research activity.
- (5) The amount of federal research funding that was obtained by Indiana public research institutions of higher education that was directly attributable to the existence of the Indiana twenty-first century research and technology fund.
- (6) A list of all applicants whose application has been acted upon either affirmatively or negatively by the board, the amount of money requested in the application, and the amount of money, if any, granted or loaned by the board.
- (7) Any other findings or recommendations the board desires to include.

(c) This SECTION expires January 1, 2001.

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