



January 23, 2004

SENATE BILL No. 269

DIGEST OF SB 269 (Updated January 22, 2004 9:05 am - DI nm)

Citations Affected: IC 4-10; IC 6-1.1; IC 36-1; noncode.

Synopsis: State and local operating expenditure cap. Limits increases in operating expenditures of the state and political subdivisions to the rate of inflation. Provides several exceptions. Provides for the deposit of revenues exceeding the operating expenditure limit in an entity's rainy day fund and requires a specified percentage of the excess revenues to be used for property tax relief. Makes related changes.

Effective: July 1, 2004.

Miller

January 8, 2004, read first time and referred to Committee on Rules and Legislative Procedure.
January 22, 2004, amended; reassigned to Committee on Finance.

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SB 269—LS 7080/DI 13+



January 23, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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SENATE BILL No. 269



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

- 1 SECTION 1. IC 4-10-21-0.5 IS ADDED TO THE INDIANA CODE
- 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2004]: **Sec. 0.5. (a) As used in this chapter, "operating expenses"**
- 4 **refers to operating expenses, as determined under the standards**
- 5 **prescribed by the state board of accounts, of state agencies that are**
- 6 **to be paid from any fund or source.**
- 7 **(b) The term includes, but is not limited to, payments for the**
- 8 **following:**
- 9 **(1) Personal services, including payments for salaries and**
- 10 **wages to officers and employees of the state (either regular or**
- 11 **temporary), payments for compensation awards, and the**
- 12 **employer's share of Social Security, health insurance, life**
- 13 **insurance, disability insurance, and retirement fund**
- 14 **contributions.**
- 15 **(2) Supplies, materials, and parts.**
- 16 **(3) Grants, subsidies, refunds, and awards.**
- 17 **(4) Travel.**

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- 1 **(5) Machinery, implements, tools, furniture, furnishings,**
- 2 **vehicles, and other articles that have a calculable period of**
- 3 **service that exceeds twelve (12) calendar months.**
- 4 **(6) Other administrative expenses.**
- 5 **(7) Services other than personal services.**
- 6 **(c) The term does not include the following:**
- 7 **(1) Capital expenses, as determined under generally accepted**
- 8 **accounting principles.**
- 9 **(2) Expenditures for any of the following:**
- 10 **(A) Transfers of money among the state general fund, the**
- 11 **property tax replacement fund, and the counter-cyclical**
- 12 **revenue and economic stabilization fund.**
- 13 **(B) Reserve fund deposits.**
- 14 **(C) Refunds of intergovernmental transfers.**
- 15 **(D) Payment of judgments against the state and settlement**
- 16 **payments made to avoid a judgment against the state,**
- 17 **other than a judgment or settlement payment for failure to**
- 18 **pay a contractual obligation or a personnel expenditure.**
- 19 **(E) Distributions or allocations of state tax revenues to a**
- 20 **unit of local government under IC 36-7-13, IC 36-7-26,**
- 21 **IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.**
- 22 **(F) Motor vehicle excise tax replacement payments.**
- 23 **(G) Distributions of state tax revenues collected under**
- 24 **IC 7.1 that are payable to cities and towns.**
- 25 **(3) Expenditures from federal funds or gifts designated for a**
- 26 **particular purpose.**
- 27 **SECTION 2. IC 4-10-21-9 IS ADDED TO THE INDIANA CODE**
- 28 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 29 **1, 2004]: Sec. 9. (a) The budget agency shall determine the inflation**
- 30 **multiplier under this section.**
- 31 **(b) Not later than March 1 in each year, the budget agency shall**
- 32 **determine the extent to which the general level of prices in the**
- 33 **United States has increased in the previous year above the general**
- 34 **level of prices that existed in the year preceding the previous year.**
- 35 **The computation must be based on:**
- 36 **(1) the Consumer Price Index for Urban Wage Earners and**
- 37 **Clerical Workers: U.S. City Average, All Items, updated**
- 38 **monthly by the Bureau of Labor Statistics of the United States**
- 39 **Department of Labor; or**
- 40 **(2) a successor index issued by the government of the United**
- 41 **States to indicate increases in the general level of prices in the**
- 42 **United States;**

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used on a consistent basis from year to year.

(c) The budget agency shall determine the inflation multiplier for an ensuing state fiscal year under the following STEPS:

STEP ONE: Express the percentage increase in the general level of prices determined under subsection (b) as a decimal number rounded to the nearest one thousandth (0.001). If the budget agency determines that the general level of prices in the United States has decreased, the percentage increase shall be treated as zero (0).

STEP TWO: Determine the sum of the STEP ONE amount and one (1).

(d) The budget agency shall publish the inflation multiplier applicable to the ensuing state fiscal year in the Indiana Register not later than June 1 of the year in which it is determined.

SECTION 3. IC 4-10-21-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) As used in this section, "encumbrance" means an accounting notation made for budget control purposes to record a commitment to use any part of an appropriation to pay an unpaid obligation.

(b) As used in this section, "inflation multiplier" refers to the inflation multiplier determined for a state fiscal year under section 9 of this chapter.

(c) As used in this section, "state agencies" mean:

- (1) all offices, officers, boards, commissions, departments, divisions, bureaus, committees, agencies, authorities, councils, or other instrumentalities of the state;
- (2) all hospitals, penal institutions, and other institutional enterprises of the state;
- (3) the judicial department of the state; and
- (4) the legislative department of the state.

(d) Notwithstanding any other provision, the total amount of expenditures, encumbrances, and delayed payments made by all state agencies for operating expenses in each state fiscal year beginning after June 30, 2005, may not exceed the amount determined under the following STEPS:

STEP ONE: Determine the sum of:

- (A) the expenditures made in the immediately preceding state fiscal year for operating expenses; and
- (B) the encumbrances made in the immediately preceding state fiscal year for operating expenses that are outstanding on July 1 of the current state fiscal year.

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STEP TWO: Multiply the result determined under STEP ONE by the inflation multiplier determined for the state fiscal year.

(e) This section may be enforced in a private individual or class action suit. Successful plaintiffs are allowed costs and reasonable attorney's fees. The state may recover costs and reasonable attorney's fees only if a suit against the state is ruled frivolous.

SECTION 4. IC 4-10-21-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. (a) This section applies only if state revenue collected in a state fiscal year exceeds the maximum total expenditures that may be expended in the state fiscal year, as determined under sections 5 and 10 of this chapter.**

(b) Notwithstanding any other provision, an amount determined under the following STEPS shall be transferred at the close of the state fiscal year to the counter-cyclical revenue and economic stabilization fund (rainy day fund) established by IC 4-10-18-2 from each fund administered by a state agency:

STEP ONE: Determine the result of:

- (A) the balance of the fund as of June 30; divided by**
- (B) the total balances of all funds administered by all state agencies.**

STEP TWO: Multiply the STEP ONE result by the amount by which state revenue collected in the state fiscal year exceeds the maximum total expenditures that may be expended in the state fiscal year, as determined under sections 5 and 10 of this chapter.

SECTION 5. IC 6-1.1-1-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8.9. (a) As used in this article, "operating expenses" refers to operating expenses, as determined under the standards established by the state board of accounts, of a political subdivision that are to be paid from any fund or source.**

(b) The term includes payments for the following:

- (1) Personal services, including payments for salaries and wages to officers and employees of the state (either regular or temporary), payments for compensation awards, and the employer's share of Social Security, health insurance, life insurance, disability insurance, and retirement fund contributions.**
- (2) Supplies, materials, and parts.**
- (3) Grants, subsidies, refunds, and awards.**

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- 1 (4) Travel.
- 2 (5) Machinery, implements, tools, furniture, furnishings,
- 3 vehicles, and other articles that have a calculable period of
- 4 service that exceeds twelve (12) calendar months.
- 5 (6) Other administrative expenses.
- 6 (7) Services other than personal services.
- 7 (c) The term does not include the following:
- 8 (1) Capital expenses, as determined under the standards
- 9 prescribed by the state board of accounts.
- 10 (2) Expenditures for any of the following:
- 11 (A) Transfers of money among the funds of the political
- 12 subdivisions.
- 13 (B) Reserve fund deposits.
- 14 (C) Refunds of intergovernmental transfers.
- 15 (D) Payment of judgments against the political subdivision
- 16 and settlement payments made to avoid a judgment against
- 17 the political subdivision, other than a judgment or
- 18 settlement payment for failure to pay a contractual
- 19 obligation or a personnel expenditure.
- 20 (E) Debt service.
- 21 (3) Expenditures from federal funds or gifts designated for a
- 22 particular purpose.
- 23 SECTION 6. IC 6-1.1-18-11 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) If there is a
- 25 conflict between the provisions of this chapter (**other than a conflict**
- 26 **with section 12 or 13 of this chapter**) and the provisions of
- 27 IC 6-1.1-19 or IC 6-1.1-18.5, the provisions of the latter two (2)
- 28 chapters control with respect to the adoption of, review of, and
- 29 limitations on budgets, tax rates, and tax levies.
- 30 (b) **If there is a conflict between section 12 or 13 of this chapter**
- 31 **and any other law, unless the other law, through language enacted**
- 32 **in an act adopted after March 15, 2004, expressly states otherwise,**
- 33 **the provisions of section 12 and 13 of this chapter control with**
- 34 **respect to the adoption of, review of, and limitations on the**
- 35 **budgets, tax rates, and tax levies of a taxing unit.**
- 36 SECTION 7. IC 6-1.1-18-13 IS ADDED TO THE INDIANA CODE
- 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 38 1, 2004]: Sec. 13. (a) **This section applies to all political subdivisions**
- 39 **except school corporations.**
- 40 (b) **The department of local government finance shall compute**
- 41 **a new inflation multiplier under this subsection before March 1,**
- 42 **2005, and March 1 in each year thereafter. The inflation multiplier**

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1 determined under this subsection applies to the year in which it is
 2 computed. The inflation multiplier to be used in the year is the
 3 amount determined under STEP THREE of the following formula:
 4 **STEP ONE: Determine the extent to which the general level**
 5 **of prices in the United States has increased in the previous**
 6 **year above the general level of prices that existed in the year**
 7 **immediately preceding the previous year. The computation**
 8 **must be based on:**
 9 (A) the Consumer Price Index for Urban Wage Earners
 10 and Clerical Workers: U.S. City Average, All Items,
 11 updated monthly by the Bureau of Labor Statistics of the
 12 United States Department of Labor; or
 13 (B) a successor index issued by the government of the
 14 United States to indicate increases in the general level of
 15 prices in the United States.
 16 Express the increase as a decimal number rounded to the
 17 nearest one thousandth (0.001). If the department of local
 18 government finance determines that the general level of prices
 19 in the United States has decreased, the percentage increase
 20 shall be treated as zero (0).
 21 **STEP TWO: Determine the sum of the STEP ONE amount**
 22 **and one (1).**
 23 **STEP THREE: Add the STEP TWO amount and:**
 24 (A) One hundredth (0.01), if result under item (iii) is
 25 greater than one and two hundredths (1.02).
 26 (i) Divide the total assessed value of all the taxable
 27 property in the political subdivision in the year
 28 immediately preceding the ensuing year by the total
 29 assessed value of all the taxable property in the political
 30 subdivision in the year preceding the ensuing year by
 31 two (2).
 32 (ii) Divide the sum of the assessed value of all taxable
 33 property in all political subdivisions in the year
 34 immediately preceding the ensuing year by the sum of
 35 the assessed value of all taxable property in all political
 36 subdivisions in the year preceding the ensuing year by
 37 two (2).
 38 (iii) Divide the result determined under item (i) by the
 39 result determined under item (ii); or
 40 (B) zero (0) if the result under clause (A)(iii) is not greater
 41 than one and two hundredths (1.02).
 42 The department of local government finance shall certify the

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1 inflation multiplier for a political subdivision to the fiscal body of
2 the political subdivision and the county clerk for each county in
3 which the political subdivision is located.

4 (c) In addition to complying with any other budget, property tax
5 levy, and property tax rate limits imposed by law, a political
6 subdivision must comply with the expenditure limit imposed by this
7 section.

8 (d) Except as authorized by section 14 of this chapter, a political
9 subdivision may not in a year:

10 (1) pay operating expenses (except from an amount
11 encumbered in a previous year); or

12 (2) encumber money to pay year after the end of the year
13 operating expenses incurred in the year;

14 in an amount that, in the aggregate, exceeds the total operating
15 expenditure limit for the year, as determined under subsection (e).

16 (e) The total operating expenditure limit applicable to a political
17 subdivision in a year is equal to the amount determined under
18 STEP TWO of the following formula:

19 STEP ONE: Determine the lesser of the following:

20 (A) The total amount:

21 (i) paid for operating expenses in the immediately
22 preceding year (excluding amounts paid from an
23 encumbrance made in the year preceding the current
24 year by two (2)); and

25 (ii) encumbered in the immediately preceding year to
26 pay after the end of the immediately preceding year
27 operating expenses incurred in the immediately
28 preceding year.

29 (B) For years after December 31, 2005, the total operating
30 expenditure limit determined under this subsection for the
31 year.

32 However, if the political subdivision was not in existence for
33 the immediately preceding year, the department of local
34 government finance shall establish the initial amount to be
35 used under this STEP.

36 STEP TWO: Multiply the STEP ONE amount by the inflation
37 multiplier for the year.

38 (f) Any part of a payment or an encumbrance for a payment
39 that, when added to all other payments and encumbrances for
40 operating expenses made in a budget year, exceeds the total
41 operating expenditure limit for the political subdivision, is void.

42 (g) The amount of revenue not dedicated to a particular purpose

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1 that is received in a year by a political subdivision and that exceeds
2 the total operating expenditure limit for the year must be:

- 3 (1) used, after appropriation, to pay capital expenditures; or
- 4 (2) deposited in the political subdivision's rainy day fund
- 5 established under IC 36-1-8-5.1.

6 (h) This section may be enforced, subject to the public lawsuit
7 provisions in IC 34, in a private individual or class action suit.
8 Successful plaintiffs are allowed costs and reasonable attorney's
9 fees. The political subdivision may recover costs and reasonable
10 attorney's fees only if a suit against the political subdivision is
11 ruled frivolous.

12 SECTION 8. IC 6-1.1-18-14 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2004]: **Sec. 14. (a) A political subdivision, other than a school
15 corporation, may appeal to the department of local government
16 finance in the manner provided by IC 6-1.1-18.5 to increase its
17 total operating expenditure limit by more than the maximum
18 amount allowed under section 13 of this chapter.**

19 (b) If in an appeal commenced under subsection (a) the
20 department of local government finance determines that any of the
21 following conditions apply, the department of local government
22 finance may increase the political subdivision's total operating
23 expenditure limit by more than the maximum amount allowed
24 under section 13 of this chapter, but by not more than the
25 minimum amount necessary to meet the conditions that form the
26 basis of order:

- 27 (1) A political subdivision needs an additional increase to
- 28 extend services to an area that has been annexed by the
- 29 political subdivision.
- 30 (2) The political subdivision needs an additional increase as
- 31 the result of additional responsibilities arising from an repel
- 32 invasion, an insurrection, hostilities, or another emergency
- 33 declared by the governor.
- 34 (3) The political subdivision needs an additional increase to
- 35 provide a new service that is substantially different from
- 36 services provided in preceding years.
- 37 (4) The political subdivision needs the additional increase and
- 38 one (1) or more other political subdivisions agree to decrease
- 39 their total operating expenditure limits in an amount that
- 40 offsets the increase.
- 41 (5)The political subdivision needs the additional increase to
- 42 provide goods or services that the political subdivision is

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- required to provide under a court order.
- (6) The political subdivision needs the additional increase to meet another emergency that presents a high risk of injury or death to one (1) or more individuals.
- (7) The political subdivision has additional revenues as a result of an increase in an income tax rate under IC 6-3.5.

(c) The maximum increase allowed under section 13 of this chapter does not limit an increase in the total operating expenditure limit authorized under subsection (b). For purposes of computing the maximum allowable increase under section 13 of this chapter, a political subdivision's total operating expenditure limit for a particular calendar year does not include that part of an increase authorized under subsection (b) unless the department of local government finance determines that the additional increase must be permanent to meet the conditions that form the basis of the order.

(d) The department of local government finance shall, upon its own motion, or upon appeal filed under IC 6-1.1-17-13, decrease a political subdivision's total operating expenditure limit for a year if the department finds, after a hearing, any of the following conditions:

- (1) A decrease is needed because the political subdivision has significantly reduced or eliminated one (1) or more services that it previously provided.
- (2) A decrease is appropriate because the total operating expenditure limit substantially exceeds the amount reasonably necessary for the political subdivision to provide essential governmental services.
- (3) A decrease is needed because total operating expenditure limit exceeds available revenues.

SECTION 9. IC 6-1.1-21-10, AS AMENDED BY P.L.192-2002(SS), SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) There is established a property tax replacement fund board to consist of the commissioner of the department, the commissioner of the department of local government finance, the director of the budget agency, and two (2) ex officio nonvoting representatives of the general assembly of the state of Indiana. The speaker of the house of representatives shall appoint one (1) member of the house as one (1) of the ex officio nonvoting representatives, and the president pro tempore of the senate shall appoint one (1) senator as the other ex officio nonvoting representative, each to serve at the will of the appointing officer. The

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1 commissioner of the department shall be the chairman of the board, and
2 the director of the budget agency shall be the secretary of the board.

3 (b) Except as provided in section 10.5 of this chapter, the schedule
4 to be used in making distributions to county treasurers during the
5 periods set forth in section 4(b) of this chapter is as follows:

6	January	0.00%
7	February	0.00%
8	March	16.70%
9	April	16.70%
10	May	0.00%
11	June	0.00%
12	July	16.60%
13	August	0.00%
14	September	16.70%
15	October	16.70%
16	November	16.60%
17	December	0.00%

18 The board may authorize the department to distribute the estimated
19 distributions to counties earlier than what is required under section 4(b)
20 of this chapter.

21 (c) The board is also authorized to transfer funds from the property
22 tax replacement fund for the purpose of providing financial aid to
23 school corporations as provided in IC 21-3. **However, if an amount is**
24 **transferred under IC 4-10-18-8 from the counter-cyclical revenue**
25 **and economic stabilization fund to the property tax replacement**
26 **fund, that amount that exceeds ten percent (10%) of the total state**
27 **general fund revenues for that state fiscal year shall be distributed**
28 **under this chapter as an additional eligible property tax**
29 **replacement amount and shall be used to replace revenues lost**
30 **from an additional taxpayer's property tax replacement credit**
31 **amount granted under subsection (d). There is annually**
32 **appropriated the amount necessary to make the distribution under**
33 **this subsection.**

34 (d) Each taxpayer of each county shall receive a credit for
35 property tax replacement in the amount of each taxpayer's
36 additional property tax replacement credit amount against the
37 taxpayer's tax liability as determined under section 5 of this
38 chapter. The additional property tax replacement credits under
39 this subsection shall be applied to the tax liability of a taxpayer in
40 conformity with the procedures prescribed by the department of
41 local government finance.

42 SECTION 10. IC 36-1-8-5.1, AS AMENDED BY P.L.173-2003,

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1 SECTION 19 AND P.L. 267-2003, SECTION 15, IS AMENDED TO
 2 READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.1. (a) A
 3 political subdivision may establish a rainy day fund *by the adoption of:*
 4 *(1) an ordinance, in the case of a county, city, or town; or*
 5 *(2) a resolution, in the case of any other political subdivision. (b) An*
 6 *ordinance or a resolution adopted under this section must specify the*
 7 *following:*

8 *(1) The purposes of the rainy day fund.*

9 *(2) The sources of funding for the rainy day fund.*

10 ~~(e)~~ to receive transfers of unused and unencumbered funds under:

11 (1) section 5 of this chapter;

12 (2) IC 6-3.5-1.1-21.1;

13 (3) IC 6-3.5-6-17.3;

14 (4) IC 6-3.5-7-17.3; and

15 **(5) IC 6-1.1-18-13.**

16 **(b) Money in a rainy day fund may be used for any**
 17 **governmental purpose of the political subdivision.** The rainy day
 18 fund is subject to the same appropriation process as other funds that
 19 receive tax money. Before making an appropriation from the rainy day
 20 fund, the fiscal body shall make a finding that the proposed use of the
 21 rainy day fund is consistent with the intent of the fund.

22 ~~(d)~~ **(c) This subsection applies only to amounts transferred to a**
 23 **rainy day fund under section 5 of this chapter.** In any fiscal year, a
 24 political subdivision may transfer *under section 5 of this chapter* not
 25 more than ten percent (10%) of the political subdivision's total *annual*
 26 budget *adopted under IC 6-1.1-17, for that fiscal year* to the rainy day
 27 fund.

28 ~~(e)~~ *A political subdivision may use only the funding sources*
 29 *specified in the ordinance or resolution establishing the rainy day fund*
 30 *unless the political subdivision adopts a subsequent ordinance or*
 31 *resolution authorizing the use of another funding source.*

32 (d) The department of local government finance may not reduce the
 33 actual or maximum permissible levy of a political subdivision as a
 34 result of a balance in the rainy day fund of the political subdivision.
 35 **However, if the balance of the rainy day fund exceeds ten per cent**
 36 **(10%) of the political subdivision's budget for a year, the excess**
 37 **money shall be used to temporarily reduce the levies of the political**
 38 **subdivision in one (1) or more subsequent years, as determined by**
 39 **the department of local government finance. Use of money from a**
 40 **rainy day fund to replace property taxes lost as a result of a levy**
 41 **reduction under this subsection shall be treated for all purposes as**
 42 **ad valorem property taxes.**



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1 SECTION 11. [EFFECTIVE JULY 1, 2004] (a) As used in this
2 SECTION, "political subdivision" has the meaning set forth in
3 IC 6-1.1-1-12.

4 (b) IC 4-10-21-10, as added by this act, applies only to
5 expenditures made after June 30, 2005.

6 (c) IC 6-1.1-18-13, as added by this act, applies only to
7 expenditures made after December 31, 2004.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 269, 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 and local administration and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

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

(Reference is to SB 269 as introduced.)

GARTON, Chairperson

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