CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 578

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: State bonding entities. Changes the membership of the Indiana development finance authority, and renames it as the Indiana finance authority (IFA). Transfers the powers and duties of the state office building commission, the transportation finance authority, and the recreational development authority to the IFA. Establishes the office of public finance director. Requires the IFA to establish a state debt management plan. Authorizes the IFA to issue bonds for the wastewater and drinking water revolving loan programs. Requires the IFA to administer the wastewater and drinking water revolving loan programs, the supplemental drinking water and wastewater assistance programs, and the environmental remediation revolving loan program. Transfers to the IFA powers and duties of the budget agency and department of environmental management with respect to the programs. Repeals provisions concerning certain duties relating to the administration of the programs. Combines the health facility financing authority and the educational facilities authority into a new health and educational facility financing authority. Renames the housing finance authority as the housing and community development authority. Requires the IFA, the health and educational facility financing authority, and the housing and community development authority to adopt investment policies, and permits them to enter into swap agreements subject to those policies. Provides that certain actions taken by the IFA and the Indiana bond bank that might establish a moral obligation are subject to review by the budget committee and approval by the budget director. Replaces the director of the department of financial institutions with the public finance director on the board of directors of the Indiana bond bank. Changes the membership of the housing and community development authority. Transfers to the Indiana housing and community development authority responsibility for: (1) the administration of the individual development account program; (2) the administration of the homeowner education account program; and (3) the approval of contributions and programs for purposes of determining eligibility for the neighborhood assistance tax credit. Makes the issuance of bonds by the housing and community development authority, the port commission, or the state fair commission subject to the approval of the governor. Reduces the maximum term of bonds issued by the port commission from 50 years to 35 years. Establishes the Indiana broadband development program to be administered by the IFA to encourage the development of affordable broadband services and networks in underserved areas in Indiana. Prohibits the White River state park development commission and the Indiana political subdivision risk management commission

from issuing bonds after June 30, 2005. Provides that the budget agency may request and consider the recommendation of the staff of the IFA with respect to the approval of certain bond issues by state universities. Makes provisions concerning surety bonds and annual reporting requirements consistent in various statutes governing bonding entities. Repeals provisions concerning the organization and administration of entities that are replaced by the IFA. Repeals criminal penalties for conflicts of interest under the state office building commission statute. Legalizes bonds, notes, contracts, and obligations previously issued or entered into by certain bonding entities. Makes other conforming changes. **(This conference committee report: (1) deletes SECTIONS 76 and 77 of the bill concerning investment by local units of government in obligations issued by the State of Israel; (2) inserts provisions establishing a broadband development program to be administered by IFA; (3) broadens the types of projects for which the IFA may use the business development loan fund by removing the requirement that a project be an industrial development project; (4) changes effective dates; and (5) resolves technical conflicts with other bills.)**

Effective: May 15, 2005; July 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 578 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-10.9-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-21, IC 4-13.5, IC 8-1-33, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.**

SECTION 2. IC 4-4-10.9-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1.5. "Authority" refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 3. IC 4-4-10.9-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.1. "Broadband development program" refers to the Indiana broadband development program established by IC 8-1-33-15.**

SECTION 4. IC 4-4-10.9-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.2. "Broadband development project" means a project authorized by the broadband development program under IC 8-1-33.**

SECTION 5. IC 4-4-10.9-11, AS AMENDED BY P.L.4-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Except as provided in subsection (b), "industrial development project" includes:

(1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, environmental, or otherwise) the development or expansion of which serves the public purposes set forth in IC 4-4-11-2;

(2) educational facility projects; ~~and~~

(3) child care facility projects; **and**

(4) broadband development projects.

(b) For purposes of the industrial development guaranty fund program, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and high technology infrastructure (as defined in ~~IC 4-4-8-1)),~~ IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

(1) A pollution control facility.

(2) A manufacturing enterprise.

(3) A business service enterprise involved in:

(A) computer and data processing services; or

(B) commercial testing services.

(4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.

(5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.

(6) An agricultural enterprise in which:

(A) the enterprise operates pursuant to a producer or growout agreement; and

(B) the output of the enterprise is processed predominantly in Indiana.

(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.

(8) A recycling market development project.

(9) A high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).

(10) A broadband development project.

SECTION 6. IC 4-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. This chapter may be cited as "The Indiana ~~development~~ finance authority law".

SECTION 7. IC 4-4-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The legislature makes the following findings of fact:

(1) That there currently exists in certain areas of the state critical conditions of unemployment, **inadequate drinking water, inadequate wastewater and storm water management,** or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation contamination, and noise pollution, and that these conditions may well exist, from time to time, in other areas of the state.

(2) That in some areas of the state such conditions are chronic and of long standing and that without remedial measures they may become so in other areas of the state.

(3) That economic insecurity due to unemployment, **inadequate drinking water, inadequate wastewater and storm water management,** or environmental pollution is a menace to the health, safety, morals, and general welfare of not only the people of the affected areas but of the people of the entire state.

(4) That involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker and ultimately upon the state in the form of public assistance and unemployment compensation.

(5) That security against unemployment and the resulting spread of indigency and economic stagnation in the areas affected can best be provided by:

(A) the promotion, attraction, stimulation, rehabilitation, and revitalization of industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products;

(B) the promotion and stimulation of international exports; and

(C) the education, both formal and informal, of people of all ages throughout the state by the promotion, attraction, construction, renovation, rehabilitation, and revitalization of and assistance to educational facility projects.

(6) That the present and prospective health, safety, morals, right to gainful employment, and general welfare of the people of the state require as a public purpose **the provision of safe drinking water, the provision of wastewater and storm water management,** the abatement or control of pollution, the promotion of increased educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) for people of all ages through new, expanded, or revitalized educational facility projects or through assisting educational facility projects, and the promotion of employment creation or retention through development of new and expanded industrial development projects, rural development projects, mining operations, and agricultural operations that involve the processing of agricultural products.

(7) That there is a need to stimulate a larger flow of private investment funds from commercial banks, investment bankers, insurance companies, other financial institutions, and individuals

into such industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority to create a financing pool for industrial development projects **and carrying out the purposes of IC 13-18-13 and IC 13-18-21** promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the provision of safe drinking water;

(F) the provision of wastewater and storm water management;

~~(E)~~ **(G)** the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

~~(F)~~ **(H)** increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate.

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana ~~development~~ finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state;

(2) promoting the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of all the people of the state by the promotion, development, and assistance of educational facility projects;

(3) promoting affordable farm credit and agricultural loan financing at interest rates that are consistent with the needs of borrowers for farming and agricultural enterprises;

(4) preventing and remediating environmental pollution, including water pollution, air pollution, sewage and solid waste disposal, radioactive waste, thermal pollution, radiation contamination, and noise pollution affecting the health and well-being of the people of the state by:

(A) the promotion and development of industrial development projects; and

(B) carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(5) promoting the provision of safe and adequate drinking water and wastewater and storm water management to positively affect the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21;

(6) otherwise positively affecting the public health and well-being by carrying out the purposes of IC 13-18-13 and IC 13-18-21; and

~~(5)~~ **(7)** promoting affordable and accessible child care for the people of the state by the promotion and development of child care facilities.

SECTION 8. IC 4-4-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. (a) The general assembly makes the following findings of fact in addition to those set forth in section 2 of this chapter:**

(1) There are currently numerous bodies corporate and politic of the state, with separate decision making and borrowing authority, that may issue bonds, notes, obligations, and otherwise access the financial markets.

(2) Consolidation of this decision making and borrowing authority may provide economic efficiencies and management synergies and enable the state to communicate, with a single voice, with the various participants in the financial markets, including credit rating agencies, investment bankers, investors, and municipal bond insurers and other credit enhancers.

(b) In addition to the purposes set forth in section 2 of this chapter, the authority is established for the purpose of permitting the consolidation of certain bodies in a single body of decision making concerning access to the capital and financial markets in the name of, or for the benefit of, the state.

(c) The authority is authorized to carry out the public purposes provided for in the affected statutes through a single entity in order to achieve the purposes of this section.

SECTION 9. IC 4-4-11-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.7. (a) This article shall be liberally construed to effect the purposes of this article.**

(b) To the extent that the provisions of this article are inconsistent with the provisions of any other general, special, or

local law, the provisions of this article are controlling and supersede all other laws.

SECTION 10. IC 4-4-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) There is created **for the public purposes set forth in section 2.5 of this chapter** a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, to be known as the Indiana ~~development~~ finance authority. **The authority is separate and apart from the state in its corporate and sovereign capacity, and though separate from the state, the exercise by the authority of its powers constitutes an essential governmental, public, and corporate function.**

(b) The authority shall be composed of the following ~~nine (9)~~ **five (5)** members:

(1) The ~~lieutenant governor, or the lieutenant governor's~~ **budget director, or the budget director's** designee, **who shall serve as chairman of the authority.**

(2) The treasurer of state, or the treasurer of state's designee.

(3) ~~Seven (7)~~ **Three (3)** members appointed by the governor, no more than ~~four (4)~~ **two (2)** of whom may be from the same political party.

(c) All members shall be residents of the state.

SECTION 11. IC 4-4-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. ~~All~~ Appointments to the authority ~~shall be~~ **under section 4(b)(3) of this chapter are** for terms of four (4) years. Each member ~~shall hold~~ **appointed to the authority under section 4(b)(3) of this chapter:**

(1) holds office for the term of this appointment; ~~and shall continue~~

(2) continues to serve after expiration of ~~his~~ **the** appointment until ~~his~~ **a** successor is appointed and qualified; ~~Any member shall be~~

(3) is eligible for reappointment; ~~Any member~~ **and**

(4) may be removed from office by the governor **with or without cause** and serves at ~~his~~ **the** pleasure **of the governor.**

The governor shall fill a vacancy for the unexpired term of any member appointed under section 4(b)(3) of this chapter.

SECTION 12. IC 4-4-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) ~~The governor shall name the chairman from among the members to serve as chairman at the pleasure of the governor.~~ The members shall elect from among their number a vice chairman and other officers as they may determine.

(b) The members of the authority ~~appointed by the governor under section 4(b)(3) of this chapter are entitled to a per diem allowance for attending meetings equal to that provided by law for members of the general assembly. All the members of the authority shall receive reimbursement for actual and necessary expenses on the same basis as state employees.~~ **are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Members are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.**

SECTION 13. IC 4-4-11-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The powers of the authority are vested in the members. ~~Five (5)~~ **Three (3)** members of the authority constitute a quorum for the transaction of business. The affirmative vote of at least ~~five (5)~~ **three (3)** members is necessary for any action to be taken by the authority. Members may vote by written proxy delivered in advance to any other member who is present at the meeting. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

SECTION 14. IC 4-4-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. The ~~lieutenant~~ governor shall ~~serve as the secretary-manager of the authority. The secretary-manager shall~~ **appoint the public finance director, who shall serve at the pleasure of the governor. The public finance director shall:**

(1) administer, manage, and direct the affairs and activities of the authority **and the employees of the authority** in accordance with the policies and under the control and direction of the members ~~The secretary-manager shall~~ **of the authority;**

(2) approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant, and expenses incidental to the operation of the authority; ~~The secretary-manager shall~~ **and**

(3) perform other duties as may be directed by the members **of the authority** in carrying out the purposes of ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**

SECTION 15. IC 4-4-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~secretary-manager~~ **public finance director** shall attend the meetings of the members of the authority, shall keep a record of the proceedings of the authority, and shall maintain and be custodian of all books, documents, and papers filed with the authority and its official seal. The ~~secretary-manager~~ **public finance director** may make copies of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that the copies are true copies. All persons dealing with the authority may rely upon ~~such~~ **these** certificates.

SECTION 16. IC 4-4-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. **(a)** The authority may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and such other officers, agents, and employees, permanent or temporary, as it considers necessary to carry out the efficient operation of the authority, and shall determine their qualifications, duties, compensation, and terms of service. **The authority shall fix the compensation of the public finance director.**

(b) The members **of the authority** may ~~delegate~~ **adopt a resolution delegating** to:

(1) a member of the authority;

(2) the ~~secretary-manager~~ **public finance director;** or

(3) one (1) or more agents or employees of the authority; ~~such~~ administrative duties ~~as~~ **that** they consider proper, including the powers

of the authority set forth in this section.

(c) Employees of the authority shall not be considered employees of the state.

SECTION 17. IC 4-4-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. ~~Before:~~

~~(1) the issuance of any bonds or guaranteed participating loans under this chapter, IC 4-4-21, or IC 15-7-5, or~~

~~(2) the providing of any performance bond guarantees under IC 4-4-21;~~

(a) Each member of the authority, **the public finance director, and any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks, before beginning the individual's duties,** shall execute a surety bond in the penal sum of ~~twenty-five~~ **fifty** thousand dollars ~~($25,000).~~ **($50,000).** To the extent ~~any member of the authority~~ **an individual described in this section** is already covered by a bond required by state law, the ~~member~~ **individual** need not obtain another bond so long as the bond required by state law is in at least the penal sum specified in this section and covers the ~~member's~~ **individual's** activities for the authority. In lieu of a bond, the chairman of the authority may execute a blanket surety bond covering each member and the employees or other officers of the authority. Each surety bond shall be conditioned upon the faithful performance of the **individual's** duties ~~of the office of the member~~ and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each ~~member~~ **individual described in this section** shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the authority.

(b) The public finance director, before beginning the public finance director's duties, must:

(1) execute a surety bond as provided in subsection (a); or

(2) be included in the coverage of a blanket surety bond described in subsection (a).

SECTION 18. IC 4-4-11-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14.5. (a) As used in this section, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.**

(b) The authority, after consulting with the treasurer of state, the Indiana bond bank, the budget agency, and the Indiana commission for higher education, shall establish and periodically update a state debt management plan. The plan must include at least the following provisions with respect to debt issued or to be issued by the authority, other bodies corporate and politic of the state, and state educational institutions:

(1) An inventory of existing debt.

(2) Projections of future debt obligations.

(3) Recommended criteria for the appropriate use of debt as a means to finance capital projects.

(4) Recommended strategies to minimize costs associated with debt issuance.

(5) An analysis of the impact of debt issued by all bodies corporate and politic and state educational institutions on the state budget.

(6) Recommended guidelines for the prudent issuance of debt that creates a moral obligation of the state to pay all or part of the debt.

(7) Recommended policies for the investment of:

(A) proceeds of bonds, notes, or other obligations issued by bodies corporate and politic and state educational institutions; and

(B) other money, funds, and accounts owned or held by a body corporate and politic.

(8) Recommended policies for the establishment of a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the Internal Revenue Code.

(9) Recommended policies for the preparation of financial disclosure documents, including official statements accompanying debt issues, comprehensive annual financial reports, and continuing disclosure statements. The recommended policies must include a provision for approval by the budget director of any statements or reports that include a discussion of the state's economic and fiscal condition.

(10) Potential opportunities to more effectively and efficiently authorize and manage debt.

(11) Recommendations to the budget director, the governor, and the general assembly with respect to financing of capital projects.

The recommendations to the general assembly under subdivision (11) must be in an electronic format under IC 5-14-6.

SECTION 19. IC 4-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, **guidelines,** and ~~regulations~~ **policies** not inconsistent with ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business **under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.**

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, ~~and~~ execute, **and enforce** contracts and all other instruments necessary, ~~or~~ convenient, **or desirable** for the ~~performance of its duties and the exercise of its powers and functions under this chapter, IC 4-4-21, and IC 15-7-5.~~ **purposes of the authority or pertaining to:**

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes. Notwithstanding any other law, the:**

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes,** subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.**

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including **participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21,** borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, **purpose permitted under IC 13-18-13 and IC 13-18-21,** or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) **Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority,** invest: ~~any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to IC 5-13, or any obligations or securities which are permitted investments for bond proceeds or any construction, debt service, or reserve funds secured under the trust indenture or resolution pursuant to which bonds are issued.~~

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) **Fix and revise periodically, and charge and** collect, fees and charges as the authority determines to be reasonable in connection with: ~~its~~

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; **and**

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.**

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease, or rent such industrial development project for any use.

(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt

obligations of the users or developers.
(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.
(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.
(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.
(31) Adopt rules **and guidelines** governing its activities authorized under ~~this chapter, IC 4-4-21, and IC 15-7-5,~~ **the affected statutes.**
(32) Use the proceeds of bonds to make guaranteed participating loans.
(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.
(34) Sell and guarantee securities.
(35) Make guaranteed participating loans under IC 4-4-21-26.
(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.
(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of ~~this chapter or IC 4-4-21.~~ **the affected statutes.**
(38) Provide financial counseling services to Indiana exporters.
(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.
(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.
(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.
(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund

created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

~~(46)~~ **(51)** Do any act necessary or convenient to the exercise of the powers granted by ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. **The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.**

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana health and educational facility financing authority established by IC 5-1-16-2, the Indiana housing finance authority established by

IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by IC 15-1.5-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana health and educational facility financing authority, the Indiana housing finance authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 20. IC 4-4-11-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15.1. (a) The authority shall:

(1) **without complying with IC 4-22-2,** adopt

~~(A) rules under IC 4-22-2; or~~

~~(B)~~ a policy

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.

SECTION 21. IC 4-4-11-15.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.3. The authority may not:**

(1) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the affected statutes;

(2) emit bills of credit, or accept deposits of money for time or demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings association, or any other kind of financial institution; or

(3) engage in any form of private or commercial banking business.

SECTION 22. IC 4-4-11-15.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 15.4. (a) The authority may issue bonds or notes and invest or loan the proceeds of those bonds or notes to a participant (as defined in IC 13-11-2-151.1) for the purposes of:**

(1) the wastewater revolving loan program established by IC 13-18-13-1; and

(2) the drinking water revolving loan program established by IC 13-18-21-1.

(b) If the authority loans money to or purchases debt securities of a political subdivision (as defined in IC 13-11-2-164(a) and IC 13-11-2-164(b)), the authority may, by the resolution approving the bonds or notes, provide that subsection (c) is applicable to the political subdivision.

(c) Notwithstanding any other law, to the extent that any department or agency of the state, including the treasurer of state,

is the custodian of money payable to the political subdivision (other than for goods or services provided by the political subdivision), at any time after written notice to the department or agency head from the authority that the political subdivision is in default on the payment of principal or interest on the obligations then held or owned by or arising from an agreement with the authority, the department or agency shall withhold the payment of that money from that political subdivision and pay over the money to the authority for the purpose of paying principal of and interest on bonds or notes of the authority. However, the withholding of payment from the political subdivision and payment to the authority under this section must not adversely affect the validity of the obligation in default.

SECTION 23. IC 4-4-11-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16.5. (a) There is created the business development loan fund that shall be used by the authority as a nonlapsing, revolving fund. The business development loan fund consists of the following:

(1) Money appropriated by the general assembly.

(2) The repayment proceeds of loans made to businesses from the fund.

(3) Money received from any other source.

(b) Subject to subsection (c), the authority may make a loan from the business development loan fund to a business located in Indiana if the authority makes a written finding that the loan would accomplish the purposes of this chapter by enabling the business to carry out ~~an industrial development~~ **a** project **or projects** that will do any of the following:

(1) Improve the technological capacity or productivity of the business.

(2) Enhance the protection of Indiana's environment.

(3) Permit the business to expand facilities, establish new facilities, or make site improvements or infrastructure improvements.

(c) With respect to any loan made under this section, a loan agreement with the authority must contain the following terms:

(1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.

(2) The term of the loan, which must not be later than fifteen (15) years from the date of the loan.

(3) The repayment schedule.

(4) The interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all expenses of the authority in making the loan.

(5) Any other terms and provisions that the authority requires.

SECTION 24. IC 4-4-11-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) The authority shall have the power to borrow money and to issue its bonds from time to time in such principal amounts as the authority determines shall be necessary to provide sufficient funds to carry out its purposes, including:

(1) carrying out the powers stated in this chapter, except the powers pertaining to the guaranty program; ~~and in IC 15-7-5-16 through IC 15-7-5-20;~~

(2) the payment of interest on bonds of the authority;

(3) the establishment of reserves to secure the bonds; and

(4) all other expenditures of the authority incident to, necessary, and convenient to carry out its purposes and powers.

(b) The authority may also issue bonds in the manner **and for the purposes** provided by ~~IC 4-4-21 and IC 15-7-5.~~ **the affected statutes.**

SECTION 25. IC 4-4-11-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 30. The members of the authority, the officers and employees of the authority, **the public finance director,** any agents of the authority, and any other persons executing bonds issued under ~~this chapter~~ **the affected statutes** are not subject to personal liability or accountability by reason of any act authorized by ~~this chapter,~~ **the affected statutes,** including without limitation the issuance of bonds, the failure to issue bonds, the execution of bonds, and the making of guarantees.

SECTION 26. IC 4-4-11-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 32. All money received by the authority, except as provided in ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the authority as the authority shall authorize or by wire transfer or other electronic means authorized by the authority. All deposits of money shall, if required by the authority, be secured in a manner that the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits. Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** are trust funds to be held and applied solely as provided in ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes.** The resolution authorizing any obligations, or trust agreement or indenture securing the same, may provide that any of the money may be temporarily invested pending the disbursement thereof, and shall provide that any officer with whom or any bank or trust company with which the money shall be deposited shall act as trustee of the money and shall hold and apply the same for the authorized purposes of the authority, subject to regulations as ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes, the authority's investment policy,** and the resolution or trust agreement or indenture may provide.

SECTION 27. IC 4-4-11-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. **(a)** All expenses incurred by the authority in carrying out ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** shall be payable solely from funds provided under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes,** and nothing in ~~this chapter~~ **the affected statutes** shall be construed to authorize the authority to incur indebtedness or liability ~~or~~

~~behalf of or payable by~~ **of** the state or any political subdivision of it.

(b) The authority shall annually prepare a budget that allocates the expenses incurred by the authority in an equitable manner among the various financing programs administered by the authority.

SECTION 28. IC 4-4-11-36.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 36.1. (a) Except as provided in subsections (b) through (c), all property, both tangible and intangible, acquired or held by the authority under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** is declared to be public property used for public and governmental purposes, and all such property and income therefrom shall at all times be exempt from all taxes imposed by this state, any county, any city, or any other political subdivision of this state, except for the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) Property owned by the authority and leased to a person for an industrial development project is not public property. The property and the industrial development project are subject to all taxes of the state or any county, city, or other political subdivision of the state in the same manner and subject to the same exemptions as are applicable to all persons.

(c) Any industrial development project financed by a loan under the authority of this chapter shall not be considered public property and shall not be exempt from any taxes of this state, or any county, city, or other political subdivision thereof, except for pollution control equipment.

(d) An agricultural enterprise or rural development project financed by a loan under the authority of this chapter or IC 15-7-5 shall not be considered public property and shall not be exempt from Indiana taxes or any county, city, or other political subdivision of the state.

(e) This section does not provide a tax exemption for a financial institution that receives a guaranteed participating loan or an exporter that receives an eligible export loan or performance bond guarantee under this chapter or IC 4-4-21.

SECTION 29. IC 4-4-11-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 38. The authority shall, following the close of each fiscal year, submit an annual report of its activities **under the affected statutes** for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of such report by making a request for it to the chairman of the authority.~~ **the budget committee, and the general assembly. A report submitted to the general assembly must be in an electronic format under IC 5-14-6.** Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 30. IC 4-4-11-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 39. The issuance of bonds and the promulgation of rules under ~~this chapter, IC 4-4-21, or IC 15-7-5,~~ **the affected statutes** need not comply with the requirements of any other state laws applicable thereto. No proceedings, notice, or approval shall be required for the issuance of any bonds or any

instrument or the security therefor, except as provided in ~~this chapter.~~ **the affected statutes.** All agricultural enterprises, rural development projects, and industrial development projects for which funds are advanced, loaned, or otherwise provided by the authority under this chapter or IC 15-7-5 must be in compliance with any land use, zoning, subdivision, and other laws of this state applicable to the land upon which the agricultural enterprise, rural development project, or industrial development project is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued to finance an agricultural enterprise, rural development project, or industrial development project.

SECTION 31. IC 4-4-11-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 40. **Except as provided in IC 13-18-13 or IC 13-18-21,** all income and assets of the authority are for its own use without appropriation, but shall revert to the state general fund if the authority by resolution transfers money to the state general fund or if the authority is dissolved.

SECTION 32. IC 4-4-11-44.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 44.6. (a) For purposes of this section, "program" refers to:**

(1) a program defined in IC 13-11-2-172(a) through IC 13-11-2-172(b); and

(2) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21.

(b) Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions:

(1) a participant receiving financial assistance in connection with a program may invest and reinvest funds that constitute, replace, or substitute for the proceeds of bonds or other evidence of indebtedness sold to the authority under the program, together with any account or reserves of a participant not funded with the proceeds of the bonds or other evidence of indebtedness purchased by the authority but which secure or provide payment for those bonds or other evidence of indebtedness, in any instrument or other investment authorized under a resolution of the authority; and

(2) a participant that is obligated to make payments on bonds or other evidence of indebtedness purchased in connection with the operation of a program may invest and reinvest funds that constitute, replace, or substitute for the proceeds of those bonds or other evidence of indebtedness, together with any account or reserves of a participant not funded with the proceeds of the bonds or other evidence of indebtedness purchased under the program but which secure or provide payment for those bonds or other evidence of indebtedness, in any instrument or other investment authorized under a resolution of the authority.

SECTION 33. IC 4-4-11.2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this

chapter, "authority" refers to the Indiana ~~development~~ finance authority.

SECTION 34. IC 4-4-11.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. As used in this chapter, ~~"IDFA"~~ **"IFA"** refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 35. IC 4-4-11.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7.5. As used in this chapter, "issuer" means ~~IDFA,~~ **IFA,** IHFA, ISMEL, a local unit, or any other issuer of bonds that must procure volume under the volume cap.

SECTION 36. IC 4-4-11.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. (a) The volume cap shall be allocated annually among categories of bonds in accordance with section 19 of this chapter. Those categories are as follows:

(1) Bonds issued by the ~~IDFA.~~ **IFA.**

(2) Bonds issued by the IHFA.

(3) Bonds issued by the ISMEL.

(4) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

(A) Division A - Agricultural, Forestry, and Fishing;

(B) Division B - Mining;

(C) Division C - Construction;

(D) Division D - Manufacturing;

(E) Division E - Transportation; and

(F) Division F - Wholesale Trade;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(3), 142(a)(4), 142(a)(5), 142(a)(6), 142(a)(8), 142(a)(9), or 142(a)(10) of the Internal Revenue Code.

(5) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:

(A) Division G - Retail Trade;

(B) Division H - Finance, Insurance, and Real Estate;

(C) Division I - Services;

(D) Division J - Public Administration; and

(E) Division K - Miscellaneous;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(7) or 144(c) of the Internal Revenue Code.

(b) For purposes of determining the SIC category of a facility, the determination shall be based upon the type of activity engaged in by the user of the facility within the facility in question, rather than upon the ultimate enterprise in which the developer or user of the facility is engaged.

SECTION 37. IC 4-4-11.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) On or before January 1 of each year, the ~~IDFA~~ **IFA** shall determine the dollar amount of the volume cap for that year.

(b) Each year the volume cap shall be allocated among the categories

specified in section 18 of this chapter as follows:

Type of Bonds	Percentage of Volume Cap
Bonds issued by the ~~IDFA~~ **IFA**	9%
Bonds issued by the IHFA	28%
Bonds issued by the ISMEL	1%
Bonds issued by local units or other issuers under section 18(a)(3) of this chapter	42%
Bonds issued by local units or other issuers under section 18(a)(4) of this chapter	20%

(c) Except as provided in subsection (d), the amount allocated to a category represents the maximum amount of the volume cap that will be reserved for bonds included within that category.

(d) The ~~IDFA~~ **IFA** may adopt a resolution to alter the allocations made by subsection (b) for a year if it determines that the change is necessary to allow maximum usage of the volume cap and to promote the health and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

(e) The governor may, by executive order, establish for a year a different dollar amount for the volume cap, different bond categories, and different allocations among the bond categories than those set forth in or established under this section and section 18 of this chapter if it becomes necessary to adopt a different volume cap and bond category allocation system in order to allow maximum usage of the volume cap among the bond categories then subject to the volume cap and to promote the health, welfare, and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

SECTION 38. IC 4-4-11.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. The ~~secretary-manager of IDFA~~ **public finance director appointed under IC 4-4-11-9** may delegate any of the duties prescribed by this chapter to any employees of the ~~IDFA.~~ **IFA.**

SECTION 39. IC 4-4-11.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 39. (a) Notwithstanding IC 5-15-5.1, the ~~IDFA~~ **IFA** has the sole authority to prescribe and furnish forms used in the administration of this chapter.

(b) The ~~IDFA~~ **IFA** may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter. The guidelines may establish procedures, criteria, and conditions for each category of bonds identified in sections 18 and 19 of this chapter. However, the guidelines may not be inconsistent with the requirements of Section 146 of the Internal Revenue Code.

SECTION 40. IC 4-4-11.5-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 40. To qualify for a grant of volume cap, an applicant must do the following:

(1) Apply for the grant in conformity with the procedures established by the ~~IDFA.~~ **IFA.**

(2) Provide the information reasonably requested by ~~IDFA~~ **the IFA** to carry out this chapter.

(3) Meet the criteria established by ~~IDFA~~ **the IFA** for the category of bond for which the application is filed.

(4) Pay the fees established by ~~IDFA.~~ **the IFA.**

SECTION 41. IC 4-4-11.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 41. ~~IDFA~~ **The IFA** shall establish a written:

(1) application procedure for the granting of a portion of the volume cap to an applicant; and

(2) procedure for filing carryforward elections.

SECTION 42. IC 4-4-11.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 42. ~~IDFA~~ **The IFA** shall establish written criteria for the selection of grant applications from among the applicants that qualify for the grant under section 40 of this chapter. The criteria must promote the health and well-being of the residents of Indiana by promoting the public purposes served by each of the bond categories subject to the volume cap.

SECTION 43. IC 4-4-11.5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 43. ~~IDFA~~ **The IFA** may establish conditions for the termination of a grant of volume cap. The conditions may include requirements such as the following:

(1) That the amount of volume cap granted may not be substantially higher than the amount of actual bonds issued.

(2) That the issuer issue bonds within the time specified by ~~IDFA.~~ **the IFA.**

SECTION 44. IC 4-4-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "authority" refers to the Indiana ~~development~~ finance authority established by IC 4-4-11.

SECTION 45. IC 4-4-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "authority" refers to the Indiana ~~development~~ finance authority.

SECTION 46. IC 4-4-28-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Each community development corporation shall annually provide the ~~department of commerce~~ **Indiana housing finance authority** with information needed to determine:

(1) the number of accounts administered by the community development corporation;

(2) the length of time each account under subdivision (1) has been established; and

(3) the amount of money an individual has deposited into each account under subdivision (1) during the preceding twelve (12) months.

(b) The ~~department of commerce~~ **Indiana housing finance authority** shall use the information provided under subsection (a) to deposit the correct amount of money into each account as provided in section 12 of this chapter.

SECTION 47. IC 4-4-28-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) The

~~department of commerce~~ **Indiana housing finance authority** shall allocate, for each account that has been established after June 30, 2001, for not more than four (4) years, including any time in which an individual held an individual development account under this chapter before July 1, 2001, three dollars ($3) for each one dollar ($1) an individual deposited into the individual's account during the preceding twelve (12) months. However, the ~~department's~~ **authority's** allocation under this subsection may not exceed nine hundred dollars ($900) for each account described in this subsection.

(b) Not later than June 30 of each year, the ~~department of commerce~~ **Indiana housing finance authority** shall deposit into each account established under this chapter the appropriate amount of money determined under this section. However, if the individual deposits the maximum amount allowed under this chapter on or before December 31 of each year, the individual may request in writing that the ~~department of commerce~~ **authority** allocate and deposit the matched funds under subsection (a) into the individual's account not later than forty-five (45) days after the ~~department of commerce~~ **authority** receives the written request.

(c) Money from a federal block grant program under Title IV-A of the federal Social Security Act may be used by the state to provide money under this section for deposit into an account held by an individual who receives assistance under IC 12-14-2.

SECTION 48. IC 4-4-28-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) An individual must request and receive authorization from the community development corporation that administers the individual's account before withdrawing money from the account for any purpose.

(b) An individual who is denied authorization to withdraw money under subsection (a) may appeal the community development corporation's decision to the ~~department of commerce~~ **Indiana housing finance authority** under rules adopted by the ~~department of commerce~~ **authority** under IC 4-22-2.

SECTION 49. IC 4-4-28-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. (a) Each community development corporation shall annually:

(1) evaluate the individual development accounts administered by the community development corporation; and

(2) submit a report containing the evaluation information to the ~~department of commerce.~~ **Indiana housing finance authority.**

(b) Two (2) or more community development corporations may work together in carrying out the purposes of this chapter.

SECTION 50. IC 4-4-28-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. The ~~department of commerce~~ **Indiana housing finance authority** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 51. IC 4-6-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The unit shall cooperate with the ~~department of commerce~~ **Indiana housing authority** in the development and implementation of the home ownership education programs established under ~~IC 4-4-3-8(b)(15).~~

IC 5-20-1-4(g).

SECTION 52. IC 4-8.1-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) As used in this section, "private entity" means a corporation or other business entity that uses facilities that were financed, in whole or in part, with the proceeds of bonds issued by the Indiana ~~transportation~~ finance authority **under IC 8-9.5, IC 8-14.5, or IC 8-21-12.**

(b) If a private entity makes a payment to the state under an agreement requiring the recipient to make such a payment upon failure to achieve prescribed levels of investment, employment, or wages at the facilities described in subsection (a), the payment shall be deposited in the state general fund.

SECTION 53. IC 4-12-8.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The regional health care construction account is established for the purpose of providing funding for state psychiatric hospitals and developmental centers, regional health centers, or other health facilities designed to provide crisis treatment, rehabilitation, or intervention for adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs. The account consists of:

(1) amounts, if any, that any statute requires to be distributed to the account from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the account from other sources; and

(3) grants, gifts, and donations intended for deposit in the account.

(b) The budget agency shall administer the account. Money in the account at the end of a state fiscal year does not revert to the state general fund but remains available for expenditure.

(c) Money in the account may be used for:

(1) the construction, equipping, renovation, demolition, refurbishing, or alteration of existing or new state hospitals, regional health centers, or other health facilities; or

(2) lease rentals to the ~~state office building commission~~ **Indiana finance authority under IC 4-13.5** or other public or private providers of such facilities.

(d) Money in the account shall be used to pay any outstanding lease rentals before making any other payments from the account.

(e) Money in the account is annually appropriated for the purposes described in this chapter.

SECTION 54. IC 4-13-12.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) The department shall provide, at no cost to the society, a site acceptable to the society for the construction of the building by the society.

(b) The department may, alone, with the ~~state office building commission,~~ **Indiana finance authority,** the Indiana White River state park development commission, or any other entity do the following in relation to the construction of the building by the society:

(1) Acquire a site by purchase, lease, or other appropriate method.

(2) Provide related exterior improvements for the building.

(c) Notwithstanding the term limitation for a lease under IC 4-20.5-5-7, the department may enter into a lease under subsection

(b) for a term of not more than ninety-nine (99) years.

SECTION 55. IC 4-13.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this article:

"Commission" ~~refers to the state office building commission.~~ **means the Indiana finance authority established by IC 4-4-11-4.**

"Communications system infrastructure" has the meaning set forth in IC 5-26-5-1.

"Construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

"Correctional facility" means a building, a structure, or an improvement for the custody, care, confinement, or treatment of committed persons under IC 11.

"Department" refers to:

(1) the integrated public safety commission, for purposes of a facility consisting of communications system infrastructure; and

(2) the Indiana department of administration, for purposes of all other facilities.

"Mental health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of persons with mental or addictive disorders.

"Facility" means all or any part of one (1) or more buildings, structures, or improvements (whether new or existing), or parking areas (whether surface or an above or below ground parking garage or garages), owned or leased by the commission **under this article** or the state for the purpose of:

(1) housing the personnel or activities of state agencies or branches of state government;

(2) providing transportation or parking for state employees or persons having business with state government;

(3) providing a correctional facility;

(4) providing a mental health facility;

(5) providing a regional health facility; or

(6) providing communications system infrastructure.

"Person" means an individual, a partnership, a corporation, a limited liability company, an unincorporated association, or a governmental entity.

"Regional health facility" means a building, a structure, or an improvement for the care, maintenance, or treatment of adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs.

"State agency" means an authority, a board, a commission, a committee, a department, a division, or other instrumentality of state government, but does not include a state educational institution (as defined in IC 20-12-0.5-1).

SECTION 56. IC 4-13.5-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. This article:**

(1) applies to the Indiana finance authority only when acting as the commission under this article for the purposes set forth in this article; and

(2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

SECTION 57. IC 4-13.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The commission may:

~~(1) adopt and alter an official seal;~~

~~(2) adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business and prescribe rules and policies in connection with the performance of its functions and duties;~~

~~(3)~~ **(1)** accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with any attached conditions;

~~(4)~~ **(2)** acquire real property, or any interest in real property, by lease, conveyance (including purchase) in lieu of foreclosure, or foreclosure, own, manage, operate, hold, clear, improve, and construct facilities on real property, and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real property, or interests in real property or facilities on real property, if the use is necessary or appropriate to the purposes of the commission;

~~(5)~~ **(3)** procure insurance against any loss in connection with its operations in amounts, and from insurers, as it considers necessary or desirable;

~~(6)~~ **(4)** borrow funds as set forth in IC 4-13.5-4 and issue revenue bonds of the commission, payable solely from revenues, as set forth in IC 4-13.5-4, or from the proceeds of bonds issued under this article and earnings on bonds, or both, for the purpose of carrying out its purposes under this article, including paying all or any part of the cost of acquisition or construction of any one (1) or more facilities, or for the purpose of refunding any other bonds or loan contracts of the commission;

~~(7)~~ **(5)** establish reserves or sinking funds from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds;

~~(8)~~ **(6)** invest any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement, in obligations of the state, the United States, or their agencies or instrumentalities, and other obligors as may be permitted under the terms of any resolution authorizing the issuance of the commission's bonds or other obligations;

~~(9)~~ **(7)** include in any borrowing or issue amounts considered necessary by the commission to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time after the period of construction or, if the facility is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees, and other

expenses necessary or incident to the borrowing or issue;

~~(10) employ fiscal consultants, engineers, bond counsel, other special counsel (with the approval of the attorney general), real estate counselors, appraisers, architectural historians, and other consultants, employees, and agents as required in the judgment of the commission, and fix and pay their compensation from funds available to the commission for the payment of compensation;~~

~~(11)~~ **(8)** make, execute, and effectuate contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this article;

~~(12)~~ **(9)** acquire in the name of the commission by the exercise of the right of condemnation, in the manner provided in this section, public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this article; and

~~(13)~~ **(10)** do any and all acts and things necessary, proper, or convenient to carry out this article.

(b) The commission may provide for facilities for state agencies or branches of state government if the general assembly, by statute:

(1) finds that the state needs renovation, refurbishing, or alteration of existing facilities or construction of additional facilities; and

(2) authorizes the commission to provide for the facilities.

In providing for the facilities, the commission shall proceed under this article.

(c) If the commission is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, it may proceed to procure the condemnation of the property under IC 32-24-1. The commission may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the commission of the property involved; **and**

(3) sets out any other facts that the commission considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the commission, in the circuit or superior court of the county in which the real property is located.

(d) The title to all property acquired in any manner by the commission shall be held in the name of the commission.

SECTION 58. IC 4-13.6-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "commission" ~~refers to the state office building commission~~ **means the Indiana finance authority** established by ~~IC 4-13.5-1-1.5.~~ **IC 4-4-11-4.**

SECTION 59. IC 4-13.6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The department may recommend to the governor that an energy cost savings contract be

entered into by the ~~state office building~~ commission under IC 4-13.5-1.5.

SECTION 60. IC 4-21.5-2-5, AS AMENDED BY P.L.4-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. This article does not apply to the following agency actions:

(1) The issuance of a warrant or jeopardy warrant for the collection of taxes.

(2) A determination of probable cause or no probable cause by the civil rights commission.

(3) A determination in a factfinding conference of the civil rights commission.

(4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.

(5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.

(6) An agency action related to an offender within the jurisdiction of the department of correction.

(7) A decision of the Indiana economic development corporation, the office of tourism development, the department of environmental management, the tourist information and grant fund review committee, the Indiana ~~development~~ finance authority, the corporation for innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11

concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

SECTION 61. IC 4-22-2-37.1, AS AMENDED BY HEA 1262-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

~~(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.~~

~~(9)~~ **(8)** An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

~~(10)~~ **(9)** A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

~~(11)~~ **(10)** An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

~~(12)~~ **(11)** An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

~~(13)~~ **(12)** An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

~~(14)~~ **(13)** An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

~~(15)~~ **(14)** An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

~~(16)~~ **(15)** An emergency rule adopted by the department of natural

resources under IC 14-10-2-5.

~~(17)~~ **(16)** An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

~~(18)~~ **(17)** An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

~~(19)~~ **(18)** An emergency rule adopted by the department of financial institutions under IC 28-15-11.

~~(20)~~ **(19)** An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

~~(21)~~ **(20)** An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22)~~ **(21)** An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

~~(23)~~ **(22)** An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

~~(24)~~ **(23)** An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

~~(25)~~ **(24)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

~~(26)~~ **(25)** An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

~~(27)~~ **(26)** An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

~~(28)~~ **(27)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

~~(29)~~ **(28)** An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

~~(30)~~ **(29)** A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is

accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j) and (k), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13), (a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28),~~ **(a)(27),** the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection ~~(a)(29)~~ **(a)(28)** may not exceed the period for which the original rule was in effect. A rule adopted under subsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection **(a)(24),** (a)(25), ~~(a)(26),~~ or ~~(a)(28)~~ **(a)(27)** may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection ~~(a)(14),~~ **(a)(13),** for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9),~~ ~~(a)(13),~~ **(a)(8), (a)(12),** or ~~(a)(30)~~ **(a)(29)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection **(a)(24) or** (a)(25) ~~or (a)(26)~~ expires not later than January 1, 2006.

(k) A rule described in subsection ~~(a)(29)~~ **(a)(28)** expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

SECTION 62. IC 5-1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana health **and educational** facility financing authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The

term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;
(D) habilitation, rehabilitation, or therapeutic services; or
(E) any related supporting services;
regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;
(2) is a residential facility for:
(A) the physically, mentally, or emotionally disabled;
(B) the physically or mentally ill; or
(C) the elderly; or
(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:
(1) owned or used by a participating provider;
(2) located:
(A) in Indiana; or
(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and
(3) utilized, directly or indirectly:
(A) in:
(i) health care;
(ii) habilitation, rehabilitation, or therapeutic services;
(iii) medical research;
(iv) the training or teaching of health care personnel; or
(v) any related supporting services;
(B) to provide a residential facility for:
(i) the physically, mentally, or emotionally disabled;
(ii) the physically or mentally ill; or
(iii) the elderly; or
(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:
(1) is located in Indiana or outside Indiana;
(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:
(A) in Indiana; or
(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;
(3) is:
(A) licensed under IC 12-25, IC 16-21, IC 16-28, or

corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability, aging, and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 63. IC 5-1-16-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.1. Sections 19 through 35 of this chapter:**

(1) apply to the authority only when acting for the purposes set forth in this chapter; and

(2) do not apply to the authority when acting under any other statute for any other purpose.

SECTION 64. IC 5-1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is created, with such duties and powers as are set forth in this chapter, a public body politic and corporate, not a state agency, but an independent public instrumentality exercising essential public functions, to be known as the Indiana health **and educational** facility financing authority.

(b) The authority shall be governed by **the following** seven (7) members: ~~appointed by the governor, including:~~

~~(1) at least one (1) trustee, director, officer, or employee of a health care provider or an association of health care providers;~~

~~(2) at least one (1) person who has experience in the field of state and municipal finance, either as a partner, officer, or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio; and~~

~~(3) at least one (1) person who has experience in the hospital building construction field or the hospital equipment field.~~

(1) The governor or the governor's designee, who shall serve as chairman of the authority.

(2) The public finance director appointed under IC 4-4-11-9, or the public finance director's designee.

(3) The state health commissioner, or the state health

commissioner's designee.

(4) Four (4) members appointed by the governor, two (2) of whom must be knowledgeable in health care or public finance and investment matters related to health care, and two (2) of whom must be knowledgeable in higher education or public finance and investment matters related to higher education.

(c) All members must be Indiana residents. Not more than ~~four (4)~~ **three (3) of the** members of the authority **appointed under subsection (b)(4)** may be members of the same political party.

SECTION 65. IC 5-1-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The terms of members **appointed by the governor** begin upon appointment. ~~All subsequent appointments are for terms of~~ **The term of office of a member of the authority appointed by the governor is** four (4) years. **However, these members serve at the pleasure of the governor.** Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Vacancies in the membership of the authority shall be filled for the unexpired term by appointment by the governor. Each member shall hold office for the term of ~~his~~ **the member's** appointment and until ~~his~~ **the member's** successor shall have been appointed and qualified. Members may be reappointed. ~~Any member may be removed from office by the governor for incompetency, neglect of duty, or malfeasance in office.~~

SECTION 66. IC 5-1-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. The members shall elect ~~a chairman,~~ a vice chairman and other officers. The members may not be compensated for their services but they shall be reimbursed for their actual and necessary expenses as determined by the authority.

SECTION 67. IC 5-1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~members of the authority may~~ **governor shall** appoint an executive director **for the authority** who shall serve at the pleasure of the ~~members~~ **governor** and receive compensation as fixed by the members. The executive director, who shall serve as the ex officio secretary of the authority, shall administer, manage, and direct the employees of the authority under the direction of the members. The executive director shall approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority ~~He~~ **and** shall perform other duties directed by the members in carrying out this chapter.

SECTION 68. IC 5-1-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The executive director shall attend the meetings of the members of the authority, shall keep a record of the proceedings of the authority, and shall maintain all books, documents, and papers filed with the authority, the minutes of the authority, and its official seal. ~~He~~ **The executive director** may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates. ~~If an executive director is not appointed, the members of the authority shall designate a member~~

~~or an employee of the authority as the person responsible for carrying out the duties set out in sections 7 and 8 of this chapter.~~

SECTION 69. IC 5-1-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. The authority may employ employees necessary to carry out the operation of the authority, and shall determine their qualifications, duties, compensation, and terms of office without the approval of or consent by any other state official. The members may delegate to one (1) or more agents or employees of the authority such administrative duties as they consider proper. The authority may also contract with any entity, **including the Indiana finance authority,** to provide ~~administrative~~ staff or ~~clerical~~ services, including the functions of the executive director, under such terms as the authority determines.

SECTION 70. IC 5-1-16-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. Any member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in any transaction with the authority shall immediately disclose the nature and extent of the interest in writing to the authority as soon as the member or employee has knowledge of the actual or prospective interest. Disclosure shall be announced in open meeting and entered upon the minutes of the authority. Upon disclosure, the member or employee shall not participate in any action by the authority authorizing the transaction. However, such an interest shall not invalidate actions by the authority with the participation of the disclosing member or employee prior to the time when the member or employee became aware of the interest or should reasonably have become aware of the interest.**

SECTION 71. IC 5-1-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. Before the issuance of any bonds under this chapter:

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If ~~the executive director of the authority~~ **an individual described in subdivisions (1) through (3)** is already covered by a bond required by state law, the ~~executive director~~ **individual** need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the ~~executive director's~~ **individual's** activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the **individual's** duties, ~~of the office of the member, executive director, employee, or officer,~~ and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 72. IC 5-1-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

(1) To have perpetual succession as a public body politic and corporate and an independent public instrumentality exercising essential public functions.

(2) To adopt, amend, and repeal bylaws and rules consistent with this chapter, to regulate its affairs, to carry into effect the powers and purposes of the authority and conduct its business, which rules and bylaws may be adopted by the authority without complying with IC 4-22-2.

(3) To sue and be sued in its own name.

(4) To have an official seal.

(5) To maintain an office in Indiana.

(6) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(7) To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.

(8) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.

(9) To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.

(10) To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

(11) To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with this chapter.

(12) To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health

facility property to be located within a health facility.

(13) To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.

(14) To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(15) To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.

(16) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

(17) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.

(18) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.

(19) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(20) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(21) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(22) Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, **and notwithstanding IC 5-13,** to invest: ~~any funds not needed for immediate disbursement, including any funds held in reserve, in such indebtedness or obligations designated by the authority for investments of its funds held under this chapter.~~

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's

custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(23) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.

(24) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.

(25) To sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(26) To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

(27) Subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

(c) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 73. IC 5-1-16-13.1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13.1. (a) The authority shall:

(1) adopt

~~(A) rules under IC 4-22-2; or~~

~~(B)~~ a policy

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted ~~by rule or policy~~ under this section must be consistent with state law and approved by the governor.

SECTION 74. IC 5-1-16-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 35. The authority shall submit an annual report of its activities for the preceding fiscal year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. ~~Each member of the general assembly who requests a written copy of the report from the chairman of the authority shall be sent a written copy.~~ Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 75. IC 5-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the ~~director of the department of financial institutions,~~ **public finance director appointed under IC 4-4-11-9, who shall be the** director ex officio; and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until his successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing ~~his~~ **the director's** duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with ~~his~~ **the director's** duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the ~~state~~ budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

SECTION 76. IC 5-1.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be

issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana ~~development~~ finance authority.

SECTION 77. IC 5-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (c), and** in order to assure the maintenance of the required debt service reserve in any reserve fund, **a resolution authorizing the bank to issue bonds or notes may include a provision stating that:**

(1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; **and**

(2) the chairman annually, before December 1, shall make and deliver to the general assembly ~~his~~ **a** certificate stating the sum

required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 78. IC 5-1.5-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) **Except as provided in subsection (d),** whenever a reserve fund for an issue of bonds or notes issued to purchase securities specified in section 1(b) of this chapter does not contain the required debt service reserve (as defined in IC 5-1.5-5-1(b)), the chairman of the board shall immediately:

(1) transfer to the reserve fund the amount needed to restore the required debt service reserve first from the capital interest fund and, to the extent necessary, from the capital principal fund; and

(2) certify the amounts transferred to the general assembly.

(b) The general assembly may appropriate to the bank for deposit in the capital principal fund the amount transferred from the fund to restore required debt service reserves. Nothing in this subsection creates a debt or a liability of the state to make any appropriation.

(c) Appropriations made to the capital principal fund do not revert to the state general fund at the end of any fiscal year.

(d) Notwithstanding any other law, and except as provided by subsection (e), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates

the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(e) If the budget committee does not conduct a review of a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

SECTION 79. IC 5-13-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. "Industrial development project" has the meaning set forth in IC 4-4-10.9-11 and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana ~~development~~ finance authority may make a loan or lease guarantee.

SECTION 80. IC 5-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) The board for depositories exercises essential public functions, and has a perpetual existence. The board has all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including but not limited to the powers to do the following:

(1) Adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate its affairs and to effect the powers and purposes of the board, all without the necessity of adopting a rule under IC 4-22-2.

(2) Adopt its budget on a calendar year or fiscal year as it shall determine.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within Indiana as it may designate.

(6) Make and execute contracts and all other instruments with either public or private entities.

(7) Communicate with the employees of the Indiana ~~development~~ finance authority to the extent reasonably desirable in working on a guarantee of an industrial development obligation or credit enhancement obligation.

(8) Deposit all uninvested funds of the public deposit insurance fund in a separate account or accounts in financial institutions that are designated as depositories to receive state funds under IC 5-13-9.5. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of

the board as it shall authorize.

(9) Take any other act necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(b) In enforcing any obligation of the borrower or any other person under the documents evidencing a guarantee, the board may renegotiate the guarantee, modify the rate of interest, term of the industrial development obligation or credit enhancement obligation, payment of any installment of principal or interest, or any other term of any documents, settle any obligation on the security or receipt of property or the other terms as in its discretion it deems advantageous to the public deposit insurance fund, and take any other action necessary or convenient to such enforcement.

(c) The records of the board for depositories relating to negotiations between it and prospects for industrial development obligation or credit enhancement obligation guarantees are excepted from the provisions of IC 5-14-3-3.

SECTION 81. IC 5-13-12-7, AS AMENDED BY P.L.4-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off

against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

(1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(3) In bonds, notes, certificates, and other valid obligations of a state, or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.

(4) In bonds or other obligations of the ~~state office building commission.~~ **Indiana finance authority issued under IC 4-13.5.**

(5) In investments permitted the state under IC 5-13-10.5.

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars ($8,000,000).

(7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.

(8) In bonds, notes, or other valid obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing finance authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars ($14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars ($24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars ($20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11,** and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana ~~development~~ finance authority **issued under IC 4-4-11;**

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars ($34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars ($12,000,000).

(f) For purposes of subsection (e), the available balance of the

insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) Except as provided in section 4 of this chapter, all interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).

(i) The board shall, when directed by the state board of finance constituted by IC 4-9.1-1-1, purchase the loan made by the state board of finance under IC 4-10-18-10(i). The loan shall be purchased by the board at a purchase price equal to the total of:

(1) the principal amount of the loan;

(2) the deferred interest payable on the loan; and

(3) accrued interest to the date of purchase by the board.

Members of the board and any officers or employees of the board are not subject to personal liability or accountability by reason of the purchase of the loan under this subsection.

SECTION 82. IC 5-13-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The board for depositories, in making the industrial development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

(1) A guarantee shall be made only of industrial development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).

(2) Each industrial development obligation or credit enhancement obligation must be guaranteed not only by the board but also by the Indiana ~~development~~ finance authority created by IC 4-4-11. Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the industrial development obligation or credit enhancement documents, the amount of the loss, up to two million dollars ($2,000,000), shall first be paid by the industrial development project guaranty fund created by IC 4-4-11-16, and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the industrial development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana ~~development~~ finance authority. Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the industrial development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the industrial development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the industrial development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of (i) and (ii); or

(iv) other document; and

(B) in lease transactions by the guaranteed party's rights as owner of the leased property.

(5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision (2), must not exceed:

(A) the lesser of:

(i) ninety percent (90%) of the unpaid balance of the obligation; or

(ii) ninety percent (90%) of the appraised fair market value of the real estate;

if the obligation is backed by real estate;

(B) the lesser of:

(i) seventy-five percent (75%) of the unpaid balance of the obligation; or

(ii) seventy-five percent (75%) of the appraised fair market value of the equipment;

if the obligation is backed by equipment; or

(C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.

(6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the industrial development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.

(b) The following conditions apply to the making of bond bank obligation guarantees under section 7(d)(7) of this chapter:

(1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.

(2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.

(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder.".

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

SECTION 83. IC 5-13-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. With regard to direct obligations of the Indiana ~~development~~ finance authority that have been issued in conjunction with an industrial development project undertaken by the authority, including those obligations that are guaranteed by the board under this chapter or purchased by the board under section 7(d)(8) of this chapter, the board may upon the request of the authority permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate document securing the direct obligations, if the board in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project.

SECTION 84. IC 5-14-1.5-6.1, AS AMENDED BY SEA 335-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.
(2) For discussion of strategy with respect to any of the following:
(A) Collective bargaining.
(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
(C) The implementation of security systems.
(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.
However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.
(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.
(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana ~~development~~ finance authority, or economic development commissions.
(5) To receive information about and interview prospective employees.
(6) With respect to any individual over whom the governing body has jurisdiction:
(A) to receive information concerning the individual's alleged misconduct; and
(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:
(i) a physician; or
(ii) a school bus driver.
(7) For discussion of records classified as confidential by state or federal statute.
(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.
(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.
(10) When considering the appointment of a public official, to do the following:
(A) Develop a list of prospective appointees.
(B) Consider applications.
(C) Make one (1) initial exclusion of prospective appointees from further consideration.
Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees

must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 85. IC 5-14-3-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4.7. (a) Records relating to negotiations between the Indiana finance authority and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the authority if the records are created while negotiations are in progress.**

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the authority 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 subsection (b), the authority shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

SECTION 86. IC 5-20-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. ~~Authority Creation, Membership, Terms, Expenses.~~ (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing ~~finance~~ **and community development** authority". The authority shall consist of the ~~director of the department of financial institutions, the director of the department of commerce, the state treasurer and four (4) persons appointed by the governor, no more than two (2) of whom~~ **following seven (7) members:**

(1) The lieutenant governor or the lieutenant governor's designee.

(2) The treasurer of state, or the treasurer of state's designee.

(3) The public finance director of the Indiana finance authority, or the public finance director's designee.

(4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. ~~Of the members first appointed by the governor, two (2) shall be designated to serve for a term of three (3) years and two (2) for a term of four (4) years from the dates of their appointments, but thereafter~~ Members of the authority ~~shall be~~ appointed **by the governor shall serve** for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. **However,** any appointed member of the authority shall be removable at ~~will by~~ **the pleasure of** the governor, with or without cause. A member of the authority shall receive no compensation for ~~his~~ **the member's** services but shall be entitled to **reimbursement for** the necessary expenses, including traveling expenses, incurred in the discharge of ~~his~~ **the member's** duties. Each member shall hold office until ~~his~~ **the member's** successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The ~~authority shall employ~~ **governor shall appoint** an executive director **for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ** legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the functions of the executive director and employees of the authority, under such terms as the authority determines.

SECTION 87. IC 5-20-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 3.5. Before the issuance of any bonds under this chapter:**

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand

dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

SECTION 88. IC 5-20-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(2) to make or participate in the making of mortgage loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or

foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance

and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) **notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority,** to invest: ~~any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement in obligations of the state, the United States, or their agencies or instrumentalities and such other obligors as may be permitted under the terms of any resolution authorizing the issuance of the authority's obligations;~~

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for the developmentally disabled or for the mentally ill or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for the developmentally disabled or for the mentally ill;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate

income families; ~~and~~

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing; **and**

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall structure and administer any program conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:

(1) each mortgage loan is made as a first mortgage loan for real property:

(A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;

(B) for a purchase price of not more than ninety-five thousand dollars ($95,000);

(C) to be used as the purchaser's principal residence; and

(D) for which the purchaser has made a down payment in an amount determined by the authority;

(2) no mortgage loan exceeds seventy-five thousand dollars ($75,000);

(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and

(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.

(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:

(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by

mortgage loans purchased by the authority under subsection (c); and

(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:

(A) been a full-time state employee, teacher, judge, police officer, or firefighter;

(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;

(C) been receiving retirement benefits from the retirement plan; or

(D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.

(e) Beginning with the 1991 program year, the authority, when directed by the governor, shall administer:

(1) the rental rehabilitation program established by the Housing Assistance Act of 1937 (42 U.S.C. 1437o); and

(2) federal funds allocated to the rental rehabilitation program under the Housing Assistance Act of 1937 (42 U.S.C. 1437o).

(f) The authority may contract with the division of family and children and the department of commerce so that the authority may administer the program and funds described under subsection (e) for program years before 1991.

(g) Beginning May 15, 2005, the authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

SECTION 89. IC 5-20-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. ~~Authority Authorization and Operation of Revenue Bond Financing.~~ (a) **Subject to the approval of the governor,** the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and

the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions **and subject to the approval of the governor,** issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

SECTION 90. IC 5-20-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, **the budget committee,** and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

SECTION 91. IC 5-20-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 27. (a) The home ownership education account**

within the state general fund is established to support the home ownership education programs established under section 4(g) of this chapter. The account is administered by the authority.

(b) The home ownership education account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

SECTION 92. IC 5-26-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the ~~state office building commission~~ **Indiana finance authority** from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.

SECTION 93. IC 5-28-8-4, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, "qualified entity" means the state, a political subdivision of the state, an agency of the state or a political subdivision of the state, a nonprofit corporation, or the Indiana ~~development~~ finance authority established under IC 4-4-10.9 and IC 4-4-11.

SECTION 94. IC 5-28-25-1, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter, "eligible entity" means:

(1) a city;
(2) a town;
(3) a county;
(4) a special taxing district;
(5) an economic development commission established under IC 36-7-12;
(6) a nonprofit corporation;
(7) a corporation established under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to distribute water for domestic and industrial use;
(8) a regional water, sewage, or solid waste district;
(9) a conservancy district that includes in its purpose the distribution of domestic water or the collection and treatment of waste; or
(10) the Indiana ~~development~~ finance authority established under IC 4-4-11.

SECTION 95. IC 6-3.1-9-1, AS AMENDED BY P.L.4-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Business firm" means any business entity authorized to do business in the state of Indiana that has state tax liability.

"Community services" means any type of counseling and advice,

emergency assistance, medical care, recreational facilities, housing facilities, or economic development assistance to individuals, groups, or neighborhood organizations in an economically disadvantaged area.

"Crime prevention" means any activity which aids in the reduction of crime in an economically disadvantaged area.

"Economically disadvantaged area" means an enterprise zone, or any area in Indiana that is certified as an economically disadvantaged area by the Indiana ~~economic development corporation~~ **housing finance authority** after consultation with the community services agency. The certification shall be made on the basis of current indices of social and economic conditions, which shall include but not be limited to the median per capita income of the area in relation to the median per capita income of the state or standard metropolitan statistical area in which the area is located.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who resides in an economically disadvantaged area that enables the individual to prepare for better life opportunities.

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Job training" means any type of instruction to an individual who resides in an economically disadvantaged area that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment.

"Neighborhood assistance" means either:

(1) furnishing financial assistance, labor, material, and technical advice to aid in the physical or economic improvement of any part or all of an economically disadvantaged area; or

(2) furnishing technical advice to promote higher employment in any neighborhood in Indiana.

"Neighborhood organization" means any organization, including but not limited to a nonprofit development corporation:

(1) performing community services in an economically disadvantaged area; and

(2) holding a ruling:

(A) from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; and

(B) from the department of state revenue that the organization is exempt from income taxation under IC 6-2.5-5-21.

"Person" means any individual subject to Indiana gross or adjusted gross income tax.

"State fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

"State tax liability" means the taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); and

(2) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Tax credit" means a deduction from any tax otherwise due and payable under IC 6-3 or IC 6-5.5.

SECTION 96. IC 6-3.1-9-2, AS AMENDED BY P.L.4-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) A business firm or a person who contributes to a neighborhood organization or who engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm or person, or for community services or crime prevention in an economically disadvantaged area shall receive a tax credit as provided in section 3 of this chapter if the ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** approves the proposal of the business firm or person, setting forth the program to be conducted, the area selected, the estimated amount to be invested in the program, and the plans for implementing the program.

(b) The ~~board of the~~ Indiana ~~economic development corporation,~~ **housing finance authority,** after consultation with the community services agency and the commissioner of revenue, may adopt rules for the approval or disapproval of these proposals.

SECTION 97. IC 6-3.1-9-4, AS AMENDED BY P.L.4-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. (a) Any business firm or person which desires to claim a tax credit as provided in this chapter shall file with the department, in the form that the department may prescribe, an application stating the amount of the contribution or investment which it proposes to make which would qualify for a tax credit, and the amount sought to be claimed as a credit. The application shall include a certificate evidencing approval of the contribution or program by the ~~board of the~~ Indiana ~~economic development corporation.~~ **housing finance authority.**

(b) The ~~board of the~~ Indiana ~~economic development corporation~~ **housing finance authority** shall give priority in issuing certificates to applicants whose contributions or programs directly benefit enterprise zones.

(c) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 5 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the department of state revenue a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to an organization for an approved program or purpose, or permanently set aside in a special account to be used solely for an approved program or purpose.

(d) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period.

SECTION 98. IC 6-3.1-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "qualified investment" means costs that:

(1) result from work performed in Indiana to conduct a voluntary remediation, whether or not under IC 13-25-5, that involves the remediation of a brownfield;
(2) are not recovered by a taxpayer from another person after the taxpayer has made a good faith effort to recover the costs;
(3) are not paid from state financial assistance;
(4) result in taxable income to any other Indiana taxpayer; and
(5) are approved by the department of environmental management and the Indiana ~~development~~ finance authority under section 12 of this chapter.

SECTION 99. IC 6-3.1-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:

(1) The taxpayer does the following:
(A) Makes a qualified investment in that taxable year.
(B) Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.
(C) Submits a plan to the legislative body that:
(i) describes the taxpayer's proposed redevelopment of the property;
(ii) indicates the sources and amounts of money to be used for the remediation and proposed redevelopment of the property; and
(iii) estimates the value of the remediation and proposed redevelopment.
(D) Certifies to the legislative body that the taxpayer:
(i) has never had an ownership interest in an entity that contributed; and
(ii) has not contributed;
to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority.
(2) The legislative body, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution:
(A) determining that:
(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and
(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;
(B) determining that the taxpayer:
(i) has never had an ownership interest in an entity that contributed; and
(ii) has not contributed;
to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana ~~development~~ finance authority;

and

(C) approving the credit.

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

(1) the development of housing;

(2) the development of green space;

(3) the development of high technology businesses; or

(4) the creation or retention of high paying jobs.

SECTION 100. IC 6-3.1-23-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana ~~development~~ finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) Upon receipt of a request under subsection (a), the department of environmental management and the Indiana ~~development~~ finance authority shall:

(1) examine the costs under the standards adopted by the department of environmental management; and

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation for which costs have been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 101. IC 6-3.1-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of state revenue.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department

of environmental management and the Indiana ~~development~~ finance authority under section 12(c) of this chapter.

(2) Either:

(A) an official copy of the certification referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

(3) Proof of payment of the certified qualified investment.

(4) A copy of the legislative body's resolution adopted under section 5(a)(2) of this chapter.

(5) Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 102. IC 6-3.1-23-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The amount of tax credits allowed under this chapter may not exceed one million dollars ($1,000,000) in a state fiscal year unless the Indiana ~~development~~ finance authority determines under subsection (e) that money is available for additional tax credits in a particular state fiscal year. However, if the maximum amount of tax credits allowed under this subsection exceeds the amount available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5), the maximum amount of tax credits allowed under this subsection is reduced to the amount available.

(b) The department shall record the time of filing of each return claiming a credit under section 13 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(c) If the total credits approved under this section equal the maximum amount allowable in a state fiscal year, a return claiming the credit filed later in that same fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by section 13 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

(d) The department of state revenue shall report the total credits granted under this chapter for each state fiscal year to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall transfer to the state general fund an amount equal to the total credits granted from the subaccount of the environmental remediation revolving loan fund (IC 13-19-5).

(e) At the end of each state fiscal year, the Indiana ~~development~~ finance authority may determine whether money is available in the subaccount of the environmental remediation revolving loan fund (IC 13-19-5) to provide tax credits in excess of the amount set forth in subsection (a) in the subsequent state fiscal year.

(f) Before December 31 of each year, the Indiana ~~development~~

finance authority may assess the demand for tax credits under this chapter and determine whether the need for other brownfield activities is greater than the need for tax credits. If the Indiana ~~development~~ finance authority determines that the need for other brownfield activities is greater than the need for tax credits, the authority may set aside up to three-fourths (3/4) of the amount of allowable tax credits for the subsequent state fiscal year and use it for other brownfield projects.

(g) Except as provided in subsection (h), the Indiana ~~development~~ finance authority may use money set aside under subsection (f) for any permissible purpose.

(h) Money specifically appropriated for tax credits may not be set aside for another use.

SECTION 103. IC 6-3.1-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. The Indiana ~~development~~ finance authority, after consulting with the department of environmental management and the budget agency and without complying with IC 4-22-2, may adopt guidelines to govern the administration of this chapter.

SECTION 104. IC 8-1-8.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The fund may be used only to defray a portion of the cost of additional capacity (related to a steel facility's consumption of electricity in Public Service of Indiana's system) added to the Public Service of Indiana system and in any rate proceeding before the utility regulatory commission involving the cost of this new capacity, the fund will be allocated to the ratepayers of Public Service of Indiana. The utility regulatory commission shall determine the specific ratemaking methodology for allocation and distribution of the ratepayer protection fund to Public Service of Indiana's ratepayers in an order and present the order to the Indiana ~~development~~ finance authority. The Indiana ~~development~~ finance authority shall disburse the fund based on the order of the utility regulatory commission.

SECTION 105. IC 8-1-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 33. Indiana Broadband Development Program

Sec. 1. (a) The general assembly finds that certain areas of Indiana are not being adequately served with broadband services.

(b) The general assembly declares that it is a valid public purpose for the Indiana finance authority to issue bonds and notes, and loan the proceeds of those bonds and notes to the program, so that the authority may provide for financing or refinancing to broadband developers and broadband operators serving underserved areas.

Sec 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area.

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. As used in this chapter, "broadband developer" means

a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

Sec. 5. As used in this chapter, "broadband development program" or "program" refers to the Indiana broadband development program established by section 15 of this chapter.

Sec. 6. As used in this chapter, "broadband infrastructure" includes all facilities, hardware, and software and other intellectual property used for and necessary to provide broadband services in underserved areas of Indiana, including voice, video, and data.

Sec. 7. As used in this chapter, "broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than two hundred (200) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than two hundred (200) kilobits per second, the voice transmission capacity may be less than two hundred (200) kilobits per second. The authority shall annually reconsider the two hundred (200) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

Sec. 9. As used in this chapter, "development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and includes all the following:

(1) The costs for the planning, acquiring, leasing, constructing and maintaining of the broadband infrastructure.

(2) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.

(3) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.

(4) Carrying charges during construction.

(5) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.

(6) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.

(7) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.

(8) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or part of the broadband infrastructure.

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a rural electric membership corporation, a limited or general partnership, a joint venture, a limited liability company, or a governmental entity, including a body corporate and politic, political subdivision, municipal corporation, school, college,

university, hospital, health care facility, library, or nonprofit organization. The term does not include the state.

Sec. 11. (a) As used in this chapter, "relevant services" refers to:

(1) cable service (as defined in 47 U.S.C. 522(6));

(2) telecommunications service (as defined in 47 U.S.C. 153(46)); and

(3) information service (as defined in 47 U.S.C. 153(20)).

(b) The term includes:

(1) advanced services (as defined in 47 CFR 51.5);

(2) broadband service; and

(3) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

Sec. 12. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. The term includes any entity:

(1) owned, operated, or controlled by a political subdivision; or

(2) in which a political subdivision otherwise has an interest, whether direct or indirect.

Sec. 13. As used in this chapter, "underserved area" means an area within Indiana that the authority determines does not have a person that:

(1) provides broadband service in the area at the time of the authority's inquiry under section 14 of this chapter; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's inquiry under section 14 of this chapter.

Sec. 14. (a) The authority shall conduct an inquiry to determine underserved areas within Indiana. The authority shall send a request to each person that provides a relevant service within one hundred (100) miles of the proposed broadband service area. A request under this subsection must inquire as to whether the person:

(1) provides broadband service; or

(2) intends to provide broadband service not later than three (3) months after the date of the authority's request under this subsection;

in the proposed broadband service area. This section does not empower the authority to require providers of broadband service to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information.

(b) The authority may determine that there is not a person that provides or intends to provide broadband service in the proposed broadband service area if the authority's inquiry under subsection (a) results in any of the following:

(1) The authority does not receive a response to any of the requests sent under subsection (a) within twenty (20) days after the date the requests were sent.

(2) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding

provide broadband service in the proposed broadband service area at the time of the request; and

(B) determines that no person responding actually provides broadband service in the designated area.

(3) The authority:

(A) receives one (1) or more responses to a request under subsection (a) that indicate that the persons responding intend to provide broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's request under subsection (a); and

(B) determines, after the appropriate amount of time, that no person responding actually provided broadband service in the proposed broadband service area not later than three (3) months after the date of the authority's written request under subsection (a).

Sec. 15. (a) The Indiana broadband development program is established in order to encourage the provision of affordable broadband services and networks that will:

(1) ensure the long term growth of and the enhancement and delivery of services by the business, educational, medical, commercial, nonprofit, and governmental entities in underserved areas in Indiana; and

(2) benefit residential, commercial, public, governmental, and nonprofit entities in underserved areas in Indiana.

(b) The authority shall administer the broadband development program.

Sec. 16. (a) The powers of the authority under this chapter include all those necessary to carry out and effectuate the purposes of this chapter, including the following:

(1) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for the authority's money.

(2) To receive and distribute state or local funding, including grants, loans, and appropriations.

(3) To make loans or grants to broadband developers and broadband operators that will acquire, construct, maintain, and operate all or part of the broadband infrastructure serving underserved areas.

(4) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers in underserved areas, in conjunction with broadband infrastructure financed by the authority.

(5) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(6) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs

of Indiana and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in Indiana to maximize the interconnectivity and efficiencies of the broadband infrastructure.

(7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses.

(b) As part of an application for financing under this chapter, a broadband developer or broadband operator must file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public with respect to the availability of broadband services. The authority may not approve an application unless a plan is submitted under this subsection.

SECTION 106. IC 8-9.5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~section 2 of this chapter.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).

SECTION 107. IC 8-9.5-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) The rural transportation road fund is established as a special revenue fund to be administered by the ~~transportation~~ **Indiana** finance authority.

(b) The money in the rural transportation road fund at the end of any state fiscal year does not revert to any other fund.

(c) The treasurer of state may invest the money in the rural transportation road fund in the manner provided by law for investing money in the state general fund.

(d) The rural transportation road fund is to be used only for the purpose of supplementing the revenues received by the ~~transportation~~ **Indiana** finance authority as tolls imposed for the use of any toll road or toll bridge project.

SECTION 108. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) **when acting under an affected statute (as defined in IC 4-4-10.9-1.2),** the ~~commission~~ **Indiana finance authority** established ~~under IC 4-13.5;~~ **by IC 4-4-11;**

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; ~~or~~

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana health and educational facility financing authority established by IC 5-1-16; and

(6) the Indiana housing finance authority established by IC 5-20-1.

SECTION 109. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission; ~~shall give a surety bond to the state in the penal sum of twenty-five thousand dollars ($25,000) and~~

(2) the secretary-treasurer; **and**

(3) any other employee or agent of the commission authorized

by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the **individual's** duties, ~~of the office,~~ to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence.

(e) Each member shall be reimbursed for ~~his~~ **the member's** actual expenses necessarily incurred in the performance of ~~his~~ **the member's** duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

SECTION 110. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) **Subject to the approval of the governor,** the commission is hereby authorized to provide by resolution, at one **(1)** time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding ~~fifty (50)~~ **thirty-five (35)** years from the date thereof, as may be determined by the commission**,** and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the

commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ **the officer** had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

SECTION 111. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the commission's ports and projects. The accounts, books, and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the commission's ports and projects.

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, ~~Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission.~~ **the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.** Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 112. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, **and subject to subsection (b),** the commission, in connection with any self-liquidating project, shall have the following powers notwithstanding any other provision of this article to the contrary:

~~(a)~~ **(1)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be issued without regard to any maximum interest rate limitation in this article or any other

law.

~~(b)~~ **(2)** The revenue bonds issued by the commission to finance the cost of such self-liquidating project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

~~(c)~~ **(3)** IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

(b) The issuance of revenue bonds by the commission under this chapter is subject to the approval of the governor.

SECTION 113. IC 8-14.5-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 4. This article:**

(1) applies to the authority only when acting for the purposes set forth in this article; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 114. IC 8-14.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 115. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain public improvements, such as roads and streets, sewerlines, waterlines, and sidewalks for manufacturing or commercial activities within a county through which a toll road passes if these improvements are within the county and are within an area that is located:

(A) ten (10) miles on either side of the center line of a toll road project; or

(B) two (2) miles on either side of the center line of any limited

access highway that interchanges with a toll road project;

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ten (10) miles of the center line of a toll road project and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) assist in developing existing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 116. IC 8-15-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any express highway, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the

construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;

(F) financing charges and capitalized interest;

(G) the cost of funding any reserves to secure the payment of toll road revenue bonds;

(H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;

(I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(J) administrative expense;

(K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and

(L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

SECTION 117. IC 8-16-1-0.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 0.1. As used in this chapter:

"Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

"Department" refers to the Indiana department of transportation.

SECTION 118. IC 8-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) The authority shall have the power:

~~(1) to establish bylaws and, under IC 4-22-2, rules and regulations for its own government;~~

~~(2)~~ **(1)** to make and enter into all contracts or agreements; and

~~(3)~~ **(2)** to do all things necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(b) The authority may employ engineering, architectural, and construction experts, inspectors, and such other employees as may be necessary in its opinion to implement this chapter and fix their compensation, all of whom shall do such work as the authority may direct. All expenses so incurred by the authority shall be paid solely from funds provided under the authority of this chapter.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 119. IC 8-21-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "authority" ~~means~~ **refers to** the ~~transportation~~ **Indiana** finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 120. IC 8-21-12-10.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 121. IC 8-23-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. "Authority" refers to the Indiana ~~transportation~~ finance authority established under ~~IC 8-9.5-8-2.~~ **IC 4-4-11.**

SECTION 122. IC 8-23-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 4.1. The department is responsible for the following activities:

(1) The identification, development, coordination, and implementation of the state's transportation policies.

(2) The approval of applications for federal transportation grants from funds allocated to the state:

(A) from the Highway Trust Fund (23 U.S.C.);

(B) from the Aviation Trust Fund (49 U.S.C.);

(C) through the Federal Transit Administration (49 U.S.C. 5301 et seq.); or

(D) from any other federal grant that has a transportation component.

(3) The review, revision, adoption, and submission of budget proposals.

(4) The construction, reconstruction, improvement, maintenance, and repair of:

(A) state highways; and

(B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.

(5) The administration of programs as required by law, including the following:

(A) IC 8-3-1 (railroads).

(B) IC 8-3-1.5 (rail preservation).

(C) IC 8-21-1 (aeronautics).

(D) IC 8-21-9 (airports).

(E) IC 8-21-11 (aviation development program).

SECTION 123. IC 8-23-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:

(1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.

(2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.

(3) Enter into:

(A) a contract with the Indiana ~~transportation~~ finance authority

under IC 8-9.5-8-7; or

(B) a lease with the Indiana ~~transportation~~ finance authority under IC 8-9.5-8-8;

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

(4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.

(5) Hire attorneys.

(6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.

(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.

(8) Execute all documents and instruments necessary to carry out its responsibilities.

(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:

(A) qualify the department for; and

(B) receive;

federal government funding on a full or participating basis.

(10) Adopt rules under IC 4-22-2 to carry out its responsibilities.

(11) Establish regional offices.

(12) Adopt a seal.

(13) Perform all actions necessary to carry out the department's responsibilities.

(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:

(A) the facilities are located in a highway, street, or road; and

(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.

(15) Reimburse a utility:

(A) in whole or in part for extraordinary costs of relocation of facilities;

(B) in whole for unnecessary relocations;

(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;

(D) in whole for relocations covered by IC 8-1-9; and

(E) to the extent that a relocation is a taking of property without just compensation.

(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

(b) In the performance of contracts and leases with the Indiana ~~transportation~~ finance authority, the department has authority under

IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(c) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

SECTION 124. IC 9-21-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The maximum speed limits set forth in section 2 of this chapter may be altered as follows:

(1) By local jurisdictions under section 6 of this chapter.

(2) By the Indiana department of transportation under section 12 of this chapter.

(3) By the ~~transportation~~ **Indiana** finance authority under IC 8-15-2-17.2.

(4) For the purposes of speed limits on a highway on the national system of interstate and defense highways, by order of the commissioner of the Indiana department of transportation to conform to any federal regulation concerning state speed limit laws.

(5) In worksites, by all jurisdictions under section 11 of this chapter.

SECTION 125. IC 9-21-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) Subject to subsection (b), the Indiana department of transportation, the ~~transportation~~ **Indiana** finance authority, or a local authority may establish temporary maximum speed limits in their respective jurisdictions and in the vicinity of a worksite without conducting an engineering study and investigation required under this article. The establishing authority shall post signs notifying the traveling public of the temporary maximum speed limits established under this section.

(b) Worksite speed limits set under this section must be ten (10) miles below the maximum established speed limit. A worksite speed limit may not exceed forty-five (45) miles per hour in any location.

SECTION 126. IC 13-11-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of **IC 13-18-13, IC 13-18-21, and** IC 13-19-5, refers to the Indiana ~~development~~ finance authority created under IC 4-4-11.

SECTION 127. IC 13-11-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, refers to an agreement between:

(1) the ~~budget agency;~~ **Indiana finance authority;** and

(2) a ~~political subdivision;~~ **participant under IC 13-18-13;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision.~~ **participant under that chapter.**

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:

(1) the ~~budget agency;~~ **Indiana finance authority;** and

(2) a participant **under IC 13-18-21;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant **under IC 13-18-21.**

SECTION 128. IC 13-11-2-151.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 151.1. "Participant" **means the following:**

(1) For purposes of IC 13-18-13:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Clean Water Act.

(2) For purposes of ~~this chapter and~~ **the drinking water revolving loan program under** IC 13-18-21: ~~means:~~

~~(1)~~ **(A)** a political subdivision; or

~~(2)~~ **(B)** any ~~other owner or operator of a public water system.~~ **person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under the Safe Drinking Water Act.**

(3) For purposes of the supplemental drinking water and wastewater assistance program under IC 13-18-21-21 through IC 13-18-21-29:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant permitted by law to enter contractual arrangements for a purpose eligible for assistance under IC 13-18-21-21 through IC 13-18-21-29.

SECTION 129. IC 13-11-2-195.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 195.5. "Safe Drinking Water**

Act", for purposes of this chapter and IC 13-18-21, refers to:

(1) 42 U.S.C. 300f et seq.; and

(2) regulations adopted under 42 U.S.C. 300f et seq.

SECTION 130. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the

administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period described under sections 1 through 6 of this chapter.

SECTION 131. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a ~~political subdivision;~~ **participant;**

(4) the Indiana bond bank; ~~or~~

(5) the authority; or

~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 132. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. **(a)** Money in the

fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 133. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, **the supplemental fund,** and **the** supplemental program ~~except as provided under section 6 of~~ **in accordance with** this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program and supplemental program.~~

~~(4) Cooperate with the budget agency in preparing~~ **(3) Prepare** and ~~providing~~ **provide** program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Clean Water Act.

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9) Prepare jointly with the budget agency, annual reports concerning the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this~~

~~subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(8) Be the point of contact with participants and other interested persons in preparing and providing program information.

(9) Prepare or cause to be prepared each financial assistance agreement.

(10) Sign each financial assistance agreement.

(11) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 134. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

(A) available in the fund or supplemental fund; or

(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any participant

or party seeking to be a participant for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense for or otherwise excuses any act or omission of a participant otherwise required or imposed by law upon a participant.

SECTION 135. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2)~~ **(1)** charge a fee for services provided; **and**

~~(b) The department and the budget agency may~~

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ **participant** under this chapter, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 136. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority, in consultation with the department,** shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the ~~federal~~ Clean Water Act.

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions.~~

SECTION 137. IC 13-18-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems; ~~and~~

(ii) any purpose eligible for assistance under the Clean Water Act; and

(iii) other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure**

and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 138. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification

described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 139. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision.~~ **participant.**

SECTION 140. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 141. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions,~~ **participants;** or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions,~~ **participants;**

to the extent permitted by the ~~federal~~ Clean Water Act.

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) **or a pledge of property made by the authority under this section** is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority.** Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 142. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.~~

~~(2) A base reduced or more heavily subsidized interest rate, that:~~

~~(A) would be payable by political subdivisions whose median household incomes are:~~

~~(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and~~

~~(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.~~

~~(3) A base zero (0) or most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency,~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~under section 10 of this chapter, shall~~ **may** take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

Based on the factors set forth in subdivisions (1) through (4), more

than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

~~(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by political subdivisions; and~~

~~(2) loan payments made by and loan payments made to political subdivisions.~~

~~It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~

SECTION 143. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require that a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

(1) operate and maintain the wastewater collection and treatment system; and

(2) pay the obligations of the system.

SECTION 144. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision,~~ **participant,** other than money in payment for goods or services provided by the ~~political subdivision,~~ **participant;** and

(2) after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 145. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2,

~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern the administration of** this chapter.

SECTION 146. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the ~~budget agency~~ **authority** by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

(1) the provisions of this section; nor

(2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 147. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an

alternative to making loans or providing other financial assistance to ~~political subdivisions,~~ **participants,** the ~~budget agency~~ **authority** may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the ~~federal~~ Clean Water Act to or for the benefit of ~~political subdivisions,~~ **participants,** including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions~~ **participants** issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by ~~IC 13-18-13-2(c),~~ **section 2(e) of this chapter;** or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision~~ **participant** or for bonds issued by **the authority or** the Indiana bond bank, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by ~~political subdivisions~~ **participants** or of bonds issued by **the authority or** the Indiana bond bank.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 148. IC 13-18-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;
(2) the budget agency;
(3) a participant;
(4) the Indiana bond bank; ~~or~~
(5) the authority; or
~~(5)~~ **(6)** any person to which the ~~department, the budget agency~~ **authority** or a participant is obligated, as provided in the trust agreement or indenture.

~~The state board of finance must approve any trust agreement or indenture before execution.~~

(f) Except as provided in the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the~~ **other** money. ~~allotted to the state under 42 U.S.C. 300j-12.~~

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 149. IC 13-18-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to participants for the:
(A) planning;
(B) designing;
(C) construction;
(D) renovation;
(E) improvement;
(F) expansion; or
(G) any combination of clauses (A) through (F);
for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ or otherwise significantly further the health protection objectives of the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ and other activities necessary or convenient to complete these tasks.

(2) ~~Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.),~~ Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the ~~federal~~ Safe

Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the department and the budget agency may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.~~

~~(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).~~

~~(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq.,~~ **(b)** The ~~budget agency and the department~~ **authority** shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. ~~This is all the legal authority required by the state for the budget agency and the department to~~ **The authority shall** ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the ~~federal~~ Safe Drinking Water Act, ~~(42 U.S.C. 300f et seq.),~~ commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. ~~The department has primary responsibility to carry out this subsection.~~

~~(e)~~ **(c)** This chapter does not require the ~~budget agency~~ **authority** to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.

SECTION 150. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. The ~~department~~ **authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund,** the program, ~~except as provided by section 6 of this chapter.~~ **the supplemental fund, and the supplemental program in accordance with this chapter.**

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided in section 6 of this chapter.~~

~~(3) Cooperate with the budget agency in the administration and management of the program.~~

~~(4) Cooperate with the budget agency in preparing and providing~~

(3) Prepare and provide program **and supplemental program**

information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program **or the supplemental program.**

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government~~ **(7) Manage any payment system** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency,~~ annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~

(9) Be the point of contact with participants and other interested persons in preparing and providing program information.

(10) Prepare or cause to be prepared each financial assistance agreement.

(11) Sign each financial assistance agreement.

(12) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 151. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;
(C) bond counsel;
(D) special counsel;
(E) accountants; and
(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in the fund **and the supplemental fund;** or

(B) otherwise made available for the program **and the supplemental program.**

(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund, the program, the supplemental fund, and the supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 152. IC 13-18-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2)~~ **(1)** charge a fee for services provided; ~~(b) The department and the budget agency may~~ **and**

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

~~(c)~~ **(b)** A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 153. IC 13-18-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a)~~ The ~~department~~ **authority** shall use a priority ranking system ~~to recommend~~ **in making** loans or other financial assistance from the fund. The ~~department~~ **authority** shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

~~(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 154. IC 13-18-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for:

(i) planning, designing, constructing, renovating, improving, and expanding public water systems; ~~and~~

(ii) any purpose eligible for assistance under the Safe Drinking Water Act; and

(iii) for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4)~~ **(3)** Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 155. IC 13-18-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency.~~ **authority.**

(2) Unless otherwise provided by ~~rule,~~ **the guidelines of the authority,** the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 156. IC 13-18-21-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency.~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.

SECTION 157. IC 13-18-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the ~~federal~~ Safe Drinking Water Act. ~~(42 U.S.C. 300f et seq.).~~

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the department;

(2) the budget agency; ~~or~~

(3) the fund; **or**

(4) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 158. IC 13-18-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)), as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by participants other than participants described in subdivision (2) or (3); and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(2) A base reduced or more heavily subsidized interest rate that:~~

~~(A) is payable by a participant with median household incomes that are:~~

~~(i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and~~

~~(ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~

~~(3) A base of zero (0) or the most heavily subsidized interest rate that:~~

~~(A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.~~

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The ~~budget agency,~~ **authority,** in ~~recommending to the state board of finance~~ **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~(including all loans to participants that are not political subdivisions) under section 10 of this chapter,~~ may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans ~~made~~ **or other financial assistance** to different participants ~~in the same interest rate category.~~

~~(c) In financing the program, the Indiana bond bank and the Indiana development finance authority shall issue at the budget agency's request:~~

~~(1) revenue bonds payable from and secured by participants; and~~

~~(2) loan payments made by and to participants.~~

~~The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~ **or for different loans or other financial assistance to the same participants.**

SECTION 159. IC 13-18-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. The ~~budget agency~~ **authority** shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

SECTION 160. IC 13-18-21-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing a default. ~~Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.~~

(b) The withholding of payment from the participant and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 161. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may ~~jointly~~ adopt ~~rules under~~ **guidelines, without complying with** IC 4-22-2, ~~including emergency rules under IC 4-22-2-37.1,~~ to ~~implement~~ **govern**

the administration of this chapter.

SECTION 162. IC 13-18-21-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the ~~budget agency,~~ **authority,** and the ~~budget agency~~ **authority** may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency.~~ **authority.**

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the ~~department and the budget agency,~~ **authority,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

(1) provisions of this section; or

(2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 163. IC 13-18-21-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the ~~budget agency~~ **authority** may use the money in the fund to provide a leveraged loan program and other financial assistance

programs allowed by the ~~federal~~ Safe Drinking Water Act ~~(42 U.S.C. 300f et seq.)~~ to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank or the ~~Indiana development finance~~ authority.

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority,~~ or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 164. IC 13-18-21-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of

~~(1)~~ participants for the purposes described in ~~section 23(1) of this chapter; and~~

~~(2) political subdivisions for the purposes described in section 23(2)~~ **section 23** of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the

supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority,** the department, the budget agency, a participant, ~~the Indiana bond bank,~~ or any other person as provided in the trust agreement or indenture. ~~The state board of finance must approve the form of any trust agreement or indenture before execution.~~

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

(i) The authority shall administer, hold, and manage the supplemental fund.

SECTION 165. IC 13-18-21-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the ~~federal~~ Clean Water Act or the ~~federal~~ Safe Drinking Water Act.

SECTION 166. IC 13-18-21-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 24. The ~~budget agency~~ **authority** shall develop criteria to ~~recommend~~ **make or provide** grants, loans, or other financial assistance from the supplemental fund.

SECTION 167. IC 13-18-21-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. (a) The ~~budget agency~~ **authority** may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the ~~budget agency~~ **authority** may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties,** reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 168. IC 13-18-21-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency.~~ **authority.**

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

SECTION 169. IC 13-18-21-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the ~~budget agency.~~ **authority.**

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director.~~ **authority.**

SECTION 170. IC 13-18-21-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

(1) loans or evidences of other financial assistance; and

(2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency.~~ **authority.**

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the ~~department;~~ **authority;**

(2) the budget agency; or

(3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency.~~ **authority.**

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 171. IC 13-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. The environmental remediation revolving loan program is established to assist in the remediation of brownfields to encourage the rehabilitation, redevelopment, and reuse of real property by political subdivisions by providing **grants,** loans, forgivable loans, or other financial assistance to political subdivisions to conduct any of the following activities:

(1) Identification and acquisition of brownfields within a political subdivision as suitable candidates for redevelopment following the completion of remediation activities.

(2) Environmental assessment of identified brownfields and other activities necessary or convenient to complete the environmental assessments.

(3) Remediation activities conducted on brownfields, **including remediation of petroleum contamination.**

(4) The clearance of real property under IC 36-7-14-12.2 or IC 36-7-15.1-7 in connection with remediation activities.

(5) Other activities necessary or convenient to complete remediation activities on brownfields.

SECTION 172. IC 13-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) The environmental remediation revolving loan fund is established for the purpose of providing money for loans and other financial assistance, including grants, to or for the benefit of political subdivisions under this chapter. ~~The fund shall be administered by~~ The authority **shall**

administer, hold, and manage the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Grants and gifts intended for deposit in the fund.

(3) Repayments of loans and other financial assistance, including premiums, interest, and penalties.

(4) Proceeds from the sale of loans and other financial assistance under section 9 of this chapter.

(5) Interest, premiums, gains, or other earnings on the fund.

(6) Money transferred from the hazardous substances response trust fund under IC 13-25-4-1(a)(9).

(d) The authority 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.~~ **accordance with an investment policy adopted by the authority.** Interest, premiums, gains, or other earnings from these investments shall be credited to the fund.

(e) As an alternative to subsection (d), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the authority;

(2) a political subdivision;

~~(2)~~ **(3)** the Indiana bond bank; or

~~(3)~~ **(4)** any person to which the authority, the Indiana bond bank, or a political subdivision is obligated, including a trustee that is a financial institution for a grantor trust;

as provided in the trust agreement or indenture. The budget agency ~~and the state board of finance~~ must approve any trust agreement or indenture before its execution.

SECTION 173. IC 13-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. The authority shall do the following under this chapter:

(1) Be responsible for the management of all aspects of the program.

(2) Prepare and provide program information.

(3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by ~~rule or guidance document.~~ **guidelines of the authority.**

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

~~(7) Prepare annual reports concerning the fund and the program and submit the reports to the governor and the general assembly.~~

~~A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.~~

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison with the department to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

~~(8)~~ **(12)** Enter into memoranda of understanding, **as necessary,** with the department and the budget agency concerning the administration and management of the fund and the program.

SECTION 174. IC 13-19-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. **(a)** The authority may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) bond counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed under subdivision (1) from money available in the fund or otherwise made available for the program.

(3) Provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services.

(b) Notwithstanding any other law, the authority, program, or fund, or any person or agent acting on behalf of the authority or program, is not liable in damages or otherwise to any political subdivision for any act or omission in connection with a loan or other financial assistance, or any application, service, or other undertaking, allowed by or taken under this chapter.

(c) No direction given by or service or other undertaking allowed or taken under this chapter by the authority is a defense

for or otherwise excuses any act or omission of a political subdivision otherwise required or imposed by law upon a political subdivision.

SECTION 175. IC 13-19-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. **(a)** The authority may provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services, **and may charge a fee for:**

(1) services provided; and

(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

SECTION 176. IC 13-19-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The authority ~~shall develop~~ **may use** a priority ranking system ~~for~~ **in** making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation by the department under section ~~5(1)(A)~~ **3(8)(A)** and ~~section 5(1)(B).~~ **3(8)(B) of this chapter.**

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

SECTION 177. IC 13-19-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. ~~(a) Based on the priority ranking system established under section 8 of this chapter, the authority may make loans or provide other financial assistance from the fund to or for the benefit of a political subdivision under this section.~~

~~(b)~~ **(a)** A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish **guaranties,** reserves, or sinking funds, ~~or provide interest subsidies.~~ **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or**

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable

period after the completion of remediation.

(3) To pay consultant, advisory, and legal fees, and any other costs or expenses resulting from:

(A) the assessment, planning, or remediation of a brownfield; or

(B) the loan or other financial assistance.

~~(c) Upon the recommendation of the authority and the approval of the budget agency, the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies, shall be established by the state board of finance.~~

(b) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(c) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular political subdivision is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different political subdivisions or for different loans or other financial assistance to the same political subdivision.

(d) Not more than ten percent (10%) of the money available in the fund during a year may be loaned or otherwise provided to any one (1) political subdivision.

(e) Before a political subdivision may receive a loan or other financial assistance, including grants, from the fund, a political subdivision must submit the following:

(1) Documentation of community and neighborhood comment concerning the use of a brownfield on which remediation activities will be undertaken after remediation activities are completed.

(2) A plan for repayment of the loan or other financial assistance, if applicable.

(3) An approving opinion of a nationally recognized bond counsel if required by the authority.

(4) A summary of the environmental objectives of the proposed project.

(f) A political subdivision that receives a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

(g) ~~With the approval of the budget agency,~~ The authority may sell

or assign:

(1) loans or evidence of other financial assistance; and

(2) other obligations of political subdivisions evidencing the loans or other financial assistance from the fund;

at any price and on terms acceptable to the authority. Proceeds of sales or assignments under this subsection shall be deposited in the fund. A sale or an assignment under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the sale or assignment terms.

(h) The authority may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure other loans or financial assistance from the fund to or for the benefit of political subdivisions. The terms of a pledge under this subsection must be approved by the budget agency. Notwithstanding any other law, a pledge of property made by the authority and approved by the budget agency under this subsection is binding from the time the pledge is made. Revenues, other money, or other property pledged and then received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, ~~the department, the budget agency,~~ a trustee, or the fund, regardless of whether the parties have notice of a lien. A resolution, an indenture, or other instrument by which a pledge is created is not required to be filed or recorded, except in the records of the authority. ~~or the budget agency.~~ An action taken to enforce a pledge under this subsection and to realize the benefits of the pledge is limited to the property pledged. A pledge under this subsection does not create a liability or an indebtedness of the state or the authority except, in the case of the authority, strictly in accordance with the pledge terms.

SECTION 178. IC 13-19-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state, that is the custodian of money payable to a political subdivision, other than money in payment for goods or services provided by the political subdivision, after written notice from the budget director that the political subdivision is in default on the payment of principal or interest on a loan or evidence of other financial assistance, may:

(1) withhold payment of money from that political subdivision; and

(2) pay over the money to the authority, a trustee that is a financial institution for a grantor trust, or the Indiana bond bank, as directed by the ~~budget director,~~ **chairman of the authority,** for the purpose of curing the default.

However, the withholding of payment from the political subdivision and payment to the authority, a trustee, or the Indiana bond bank may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 179. IC 13-19-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority may

adopt guidelines ~~or guidance documents~~ without complying with IC 4-22-2 to ~~implement~~ **govern the administration of** this chapter.

SECTION 180. IC 13-19-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision must observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The:

(1) notes must be issued in accordance with a resolution or an ordinance; and

(2) proceeds must be used to carry out this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes on terms agreed to with the authority. The authority may purchase and ~~see~~ **sell** the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including renewals or extensions, mature in the amounts and at the times, not exceeding four (4) years from the date of original issuance, **that are** agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes to the authority. The political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. The notes are valid and binding obligations of the political subdivision and are enforceable in accordance with the terms of the notes and payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes. ~~However,~~ If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither this section nor the actual issuance by a political subdivision of its notes under subsection (b) relieves the political subdivision of its obligation to comply with the statutory requirements for the issuance of its bonds.

SECTION 181. IC 13-19-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 13. (a) As an alternative to making loans or providing other financial assistance to political subdivisions, the authority ~~after obtaining the approval of the budget agency,~~ may use the money in the fund ~~or~~ **to** provide a leveraged loan program and other financial assistance programs to or for the benefit of political subdivisions, including using money in the fund to enhance a political subdivision's obligations under this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under ~~IC 5-1.5~~ **IC 4-4-11** or another law, including this chapter; or

(ii) any account established within the fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision or for bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds or other obligations issued by a trustee that is a financial institution for a grantor trust, **the authority,** or ~~by~~ the Indiana bond bank.

(b) The authority ~~and the budget agency~~ may enter into any agreements with:

(1) a trustee that is a financial institution for a grantor trust;

(2) the Indiana bond bank; or

(3) political subdivisions;

to carry out this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or an indebtedness of the state or of the authority except, in the case of the authority, strictly in accordance with the guarantee terms.

(d) Notwithstanding any other law, the authority is considered a qualified entity for purposes of IC 5-1.5.

SECTION 182. IC 13-19-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority may deposit appropriations or other money received under this chapter after June 30, 1999, into an account of the fund. The authority ~~shall~~ **may** use money deposited in the account to award forgivable loans to political subdivisions for remediation or other brownfield redevelopment activities. The authority shall, in the manner provided by section 11 of this chapter, adopt guidelines to establish a political subdivision's eligibility for a forgivable loan. The guidelines ~~must~~ **may** provide priority for projects that:

(1) involve abandoned gas stations or underground storage tank issues; or

(2) are located within one-half (0.5) mile of any of the following:

(A) A child care center (as defined by IC 12-7-2-28.4).

(B) A child care home (as defined by IC 12-7-2-28.6).

(C) A child caring institution (as defined by IC 12-7-2-29).

(D) A school age child care program (as defined by IC 12-17-12-5).

(E) An elementary or a secondary school attended by students in kindergarten or grades 1 through 12.

(b) Not more than twenty percent (20%) of the total amount of loans provided for a project under this chapter may be in the form of a forgivable loan.

(c) The financial assistance agreement for a project to be financed with a forgivable loan must specify economic development or redevelopment goals for the project that must be achieved before the political subdivision will be released from its obligation to repay the forgivable loan.

SECTION 183. IC 14-13-1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 30. (a) The acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project, may be financed in whole or in part by the issuance **before July 1, 2005,** of bonds payable solely out of the net income received from the operation of the real property, facility, betterment, or improvement.

(b) If the commission desires to finance an acquisition, a construction, or an improvement in whole or in part as provided in this section or sections 31 through 36 of this chapter, the commission must adopt a resolution authorizing the issuance of bonds. The resolution must set forth the following:

(1) The date on which the principal of the bonds matures, not exceeding forty (40) years from the date of issuance.

(2) The maximum interest rate to be paid on the bonds.

(3) Other terms and conditions upon which the bonds are issued.

(c) The commission shall take all actions necessary to issue the bonds in accordance with the resolution. The commission may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of any bonds to be issued under this chapter may not be brought after the fifteenth day following the receipt of bids for the bonds.

SECTION 184. IC 14-13-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 36. (a) The commission may issue refunding bonds **before July 1, 2005,** in the name of the commission for the following purposes:

(1) Refunding any bonds then outstanding and issued under this chapter or under IC 14-6-29 (before its repeal), including payment of redemption premium and interest accrued or to accrue to the date of redemption of the outstanding bonds.

(2) If considered advisable by the commission, constructing improvements, extensions, or enlargements of a facility, a betterment, or an improvement in connection with which the bonds to be refunded have been issued.

(b) The issuance of the refunding bonds, the maturity dates and other details, and all rights, duties, and obligations of the holders of the refunding bonds and of the commission with respect to the refunding bonds are subject to this chapter.

SECTION 185. IC 14-14-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 2.5. This article:**

(1) applies to the Indiana finance authority only when acting as the commission under this article for the purposes set forth in this article; and

(2) does not apply to the Indiana finance authority when

acting under any other statute for any other purpose.

SECTION 186. IC 14-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. As used in this chapter, "commission" ~~refers to the recreational development commission created by this chapter.~~ **means the Indiana finance authority established by IC 4-4-11-4.**

SECTION 187. IC 14-14-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. ~~The recreational development commission is created. The commission is a body both corporate and politic, and~~ The exercise by the commission of the powers conferred by this chapter in the acquisition, construction, improvement, operation, and maintenance of a park project is an essential governmental function of the state. **For purposes of this chapter,** the commission is a tax supported institution within the meaning of "agency" for the purposes of IC 34-30-9.

SECTION 188. IC 14-14-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 18. The commission may do the following:

~~(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.~~

~~(2) Adopt an official seal that may not be the seal of the state.~~

~~(3) Maintain a principal office at the place within Indiana the commission designates.~~

~~(4) Sue and be sued and plead and be impleaded in the commission's own name. All process shall be served on the commission by delivering a copy.~~

~~(A) to the principal office of the commission with the person in charge or with the secretary of the commission; and~~

~~(B) to the office of the attorney general.~~

~~(5)~~ **(1)** Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars ($20,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the commission determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place of receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety approved by the commission is required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

~~(6)~~ **(2)** Employ employees, fix their compensation, and define their duties.

~~(7)~~ **(3)** Contract for the following:

(A) Services, including services of engineers, architects, accountants, attorneys, financial advisers, project or construction managers, consultants, and experts as well as other contract services.

(B) Construction.

(C) Materials.

(D) Supplies.

~~(8)~~ **(4)** Conduct studies of the financial feasibility of proposed park projects.

~~(9)~~ **(5)** Use the services of professional and other personnel employed by a department or an agency of the state for purposes of studying the feasibility of or designing, constructing, or maintaining a park project.

~~(10)~~ **(6)** Receive and accept:

(A) from a federal agency grants for or in aid of the acquisition, construction, improvement, or development of a park project; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

~~(11)~~ **(7)** Provide coverage for the commission's employees under IC 27-7-2 and IC 22-4.

~~(12)~~ **(8)** Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

~~(13)~~ **(9)** Hold, use, administer, and expend the money appropriated or transferred to the commission, administer a general operating fund, the revolving fund created by this chapter, create and administer any other fund considered desirable, and enter into a covenant or pledge with respect to a fund created.

~~(14)~~ **(10)** Accept advances or grants from a state agency or fund authorized to make advances or grants and, for advances, enter into agreements concerning the repayment of the advance and repay the advances.

SECTION 189. IC 15-1.5-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14. Before the issuance of any bonds under this chapter:**

(1) the executive director of the commission;

(2) each member of the commission; and

(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by

state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the commission may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the commission. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the commission.

SECTION 190. IC 15-1.5-3-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 10. The commission shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the commission during that year.**

SECTION 191. IC 15-1.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. (a) **Subject to the approval of the governor,** the commission may, by resolution, authorize and issue revenue bonds to:

(1) pay all or part of the cost of a project; or

(2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue shall be dated and must mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall determine the form of the bonds and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds shall be signed in the name of the commission by the commission chairman or by the facsimile signature of the commission chairman.

(g) The official seal of the commission, or a facsimile of the seal, must be affixed to the bonds and attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and

incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds shall be sold in accordance with the requirements of IC 4-1-5.

(l) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds.

SECTION 192. IC 15-7-4.9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2.5. "Authority" refers to the Indiana ~~development~~ finance authority created by IC 4-4-11.

SECTION 193. IC 15-7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 194. IC 16-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any purposes other than that for which the cumulative building fund was established, except for the following:

(1) A lease entered into with an authority or the Indiana health **and educational** facility financing authority established under IC 5-1-16-2 may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.

(2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

SECTION 195. IC 20-12-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the state budget committee, budget agency, and the governor of the state of Indiana. **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 196. IC 20-12-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** respective trustees under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 197. IC 20-12-8-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. No bonds shall be issued by ~~said~~ **the** corporations under the provisions of this chapter without the specific approval of the ~~state~~ budget committee, budget agency, and the governor. ~~of the state of Indiana.~~ **The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.**

SECTION 198. IC 20-12-63-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 1.5. This chapter:**

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

SECTION 199. IC 20-12-63-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. For the purposes of this chapter, unless the context clearly requires otherwise, the following words are defined as follows:

(1) "Authority" ~~means~~ **refers to** the Indiana **health and** educational ~~facilities~~ **facility finance** authority **established by IC 5-1-16-2.**

(2) "Project" means:

(A) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a private institution of higher education; or

(B) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses.

(3) "Cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of such project, reserves for principal and interest, engineering, legal, architectural and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months subsequent to the estimated date of completion.

(4) "Bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

(5) "Bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued pursuant to this chapter.

(6) "Educational facility" means any property located within the state which:

(A) is suitable for:

(i) the instruction, feeding, recreation, or housing of students;

(ii) the conduct of research or other work of a private institution of higher education; or

(iii) use, by a private institution of higher education, in connection with any educational, research, or related or incidental activity conducted by the private institution of higher education;

(B) is suitable for use as or in connection with the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, firefighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theater, or utility;

(C) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(D) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(7) "Eligible member" means a corporation defined under IC 20-12-6-1 or any private institution of higher education.

(8) "Liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

(9) "Liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

(10) "Private institution of higher education" means a nonprofit educational institution with a principal office in Indiana that:

(A) is not owned or controlled by the state of Indiana or any political subdivision, agency, instrumentality, district, or municipality of the state of Indiana;

(B) is authorized by law to provide a program of education beyond the high school level;

(C) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(D) provides an educational program:

(i) for which the institution awards an associate degree;

(ii) for which the institution awards a bachelors degree;

(iii) admission into which is conditioned upon the prior attainment of a bachelor's degree or equivalent, for which the institution awards either a post graduate degree or provides not less than a two (2) year program which is acceptable for

full credit toward a post graduate degree; or

(iv) of two (2) years duration in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted on transfer by not less than three (3) institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; and

(F) does not discriminate in the admission of students on the basis of race, color, or creed.

(11) "Property" means any real, personal, or mixed property, or any interest therein, including, without limitation, any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(12) "Revenues" means with respect to any project the rents, fees, charges, and other income or profit derived therefrom.

(13) "Risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

SECTION 200. IC 20-12-63-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. The authority shall have the **following** functions and powers: ~~set forth in this section.~~

~~(1) The authority may adopt rules and bylaws for the regulation of the authority's business.~~

~~(2) The authority may adopt an official seal and alter the official seal.~~

~~(3) The authority may maintain an office at a place or places designated by the authority.~~

~~(4) The authority may sue and be sued, plead and be impleaded in the authority's own name.~~

~~(5)~~ **(1)** The authority may determine the location and character of any project to be financed under this chapter. The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this subdivision. The authority may designate a private institution of higher education as the authority's agent to carry out the authority of this subsection.

~~(6)~~ **(2)** The authority may issue bonds or fund and refund bonds as provided in this chapter.

~~(7)~~ **(3)** The authority may require that the rates, rents, fees, or charges established by a private institution of higher education are sufficient to discharge the institution's obligations to the authority but shall have no other jurisdiction over such rates, rents, fees, or

charges.

~~(8)~~ **(4)** The authority may establish rules for the use of a project or any portion thereof and designate a private institution of higher education as the authority's agent to establish rules for the use of a project undertaken for that institution.

~~(9)~~ **(5)** The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the authority's judgment, and fix their compensation.

~~(10)~~ **(6)** The authority may receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any portion thereof in either money, property, labor, or other things of value and, when required, use such funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

~~(11)~~ **(7)** The authority may make loans to any private institution of higher education for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the private institution of higher education. No such loan may exceed the total cost of the project as determined by such institution and approved by the authority.

~~(12)~~ **(8)** The authority may make loans to a private institution of higher education to refund outstanding obligations or advances issued, made, or given by such institution for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses. In addition, the authority may issue bonds and make loans to a private institution of higher education to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior to the date of the bond issue whenever the authority finds that such financing is in the public interest and either:

(A) alleviates a financial hardship upon the private institution of higher education;

(B) results in a lesser cost of education; or

(C) enables the private institution of higher education to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

~~(13)~~ **(9)** The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

~~(14)~~ **(10)** The authority may, for financing purposes, combine a project or projects and some or all future projects of any private institution or institutions of higher education provided that:

(A) the authority obtains the consent of all of the private institutions of higher education which are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(B) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds are held for the sole benefit of such series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be fully open end, thus providing for unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any provision of this chapter to the contrary, the authority may permit a private institution of higher education to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on such terms and conditions as the authority may prescribe.

~~(15)~~ **(11)** The authority may mortgage all or any portion of any project and any other educational facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a private institution of higher education as permitted by this chapter.

~~(16)~~ **(12)** The authority may join in a risk retention group with corporations (as defined in IC 20-12-6-1) or any private institution of higher education.

~~(17)~~ **(13)** The authority may do all things necessary to carry out the purposes of this chapter.

SECTION 201. IC 20-12-63-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 22. Except as otherwise provided in section 21(c) of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest: ~~any funds in:~~

~~(1) direct obligations of the United States of America;~~

~~(2) obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America;~~

~~(3) obligations of the federal banks for cooperatives, farm credit banks, federal home loan banks, Federal National Mortgage Association and Government National Mortgage Association; and~~

~~(4) certificates of deposit or time deposits constituting direct obligations of any bank as defined in IC 28-1-1 through IC 28-1-23, but only in those certificates of deposit or time deposits in banks which are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation, if then in existence.~~

~~Any such securities may be purchased at their offering or market price at the time of the purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.~~

(1) the authority's money, funds, and accounts;

(2) any money, funds, and accounts in the authority's custody; and

(3) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

SECTION 202. IC 20-12-63-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 26. (a) Notwithstanding any other provision of this chapter to the contrary, the authority may:

(1) finance the cost of an educational facility or refund outstanding indebtedness of a private institution of higher education, as authorized under section ~~11(12)~~ **11(8)** of this chapter; or

(2) finance the establishment of liability or other loss insurance reserves or the contribution of such reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses;

by issuing its bonds for the purpose of loaning the proceeds to a private institution of higher education for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes. Any such promissory notes shall have the same principal amounts, maturities, and interest rates as the bonds so being issued, may be secured by a first mortgage lien on the educational facility so being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to such exceptions as the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be payable solely out of the payments to be made on such promissory notes and under such agreement and shall not exceed in principal amount the cost of such educational facility, as determined by the private institution of higher education, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 15(c) of this chapter and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15(d) of this chapter as the authority may deem appropriate.

(b) In the event that an educational facility is financed and mortgaged pursuant to this section, the title to such facility shall remain in the private institution of higher education owning the same, subject

to the lien of the mortgage securing the promissory notes then being purchased, and there shall be no lease of such facility between the authority and such institution.

(c) The provisions of section 14 of this chapter shall not apply to any educational facility or any liability or other loss insurance reserves financed pursuant to this section, but the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the private institution of higher education issuing such promissory notes when:

(1) such bonds have been fully paid and retired or adequate provision has been made to pay and retire the same fully;

(2) all other conditions of the trust agreement or indenture creating such bonds have been satisfied; and

(3) the lien thereof has been released in accordance with the provisions thereof.

SECTION 203. IC 27-1-29-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 17. (a) As used in this section:

(1) "basic fund" refers to the political subdivision risk management fund established by this chapter; and

(2) "catastrophic fund" refers to the political subdivision catastrophic liability fund established by IC 27-1-29.1.

(b) **Before July 1, 2005,** the commission may issue its bonds or notes in amounts that it considers necessary to provide funds to:

(1) establish or maintain the reserve account in the catastrophic fund provided for in IC 27-1-29.1-8;

(2) provide for the payment of liabilities payable out of the basic fund to the extent such liabilities exceed the money in the basic fund; and

(3) pay, fund, or refund, regardless of when due, the principal of or interest or redemption premiums on bonds or notes issued under subdivision (1) or (2).

Bonds or notes issued under subdivision (2) must mature within three (3) years after their date of issuance.

(c) The bonds or notes of the commission may be issued and sold by the commission to the Indiana bond bank under IC 5-1.5.

(d) Every issue of bonds or notes is an obligation of the commission. An issue of bonds or notes under subsection (b)(1) is payable solely from assessments imposed by the commission under IC 27-1-29.1 on political subdivisions that are members of the catastrophic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under IC 27-1-29.1. An issue of bonds or notes under subsection (b)(2) is payable solely from assessments imposed by the commission under section 12 of this chapter on political subdivisions that are members of the basic fund, and the commission may secure such bonds or notes by a pledge of assessments imposed under section 12 of this chapter.

(e) A bond or note of the commission:

(1) is not a debt, liability, loan of credit, or pledge of the faith and credit of the state; and

(2) must contain on its face a statement that the commission is

obligated to pay principal and interest, and the redemption premium, if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond or note.

(f) The state pledges to and agrees with the holders of the bonds or notes issued under this chapter that the state will not:

(1) limit or restrict the rights vested in the commission to fulfill the terms of any agreement made with the holders of its bonds or notes; or

(2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

(g) The bonds or notes of the commission are negotiable instruments for all purposes of IC 26-1, subject only to the provisions of the bonds and notes for registration.

(h) Bonds or notes of the commission must be authorized by resolution of the commission, may be issued in one (1) or more series, and must:

(1) bear the date;

(2) mature at the time or times;

(3) be in the denomination;

(4) be in the form;

(5) carry the conversion or registration privileges;

(6) have the rank or priority;

(7) be executed in the manner;

(8) be payable from the sources in the medium of payment at the place inside or outside the state; and

(9) be subject to the terms of redemption;

as the resolution of the commission or the trust agreement securing the bonds or notes provides.

(i) Bonds or notes may be issued under this chapter without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this chapter.

(j) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(k) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the commission at the times and

under the circumstances set forth in the authorizing resolution.

(l) Bonds or notes of the commission may be sold at public or private sale at such price, either above or below the principal amount, as the commission fixes. If bonds or notes of the commission are to be sold at public sale, the commission shall comply with IC 5-1-11 and shall publish notice of the sale in accordance with IC 5-3-1-2 in two (2) newspapers published and of general circulation in Indianapolis.

(m) The commission may periodically issue its notes under this chapter and pay and retire the principal of the notes, pay the interest due on the notes, or fund or refund the notes from proceeds of bonds or of other notes or from other funds or money of the commission available for that purpose in accordance with a contract between the commission and the holders of the notes.

(n) The commission may secure any bonds or notes issued under this chapter by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana.

(o) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the holders of any such bonds or notes as are reasonable and proper and not in violation of law.

(p) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(q) In addition to the provisions of subsections (n) through (p), any trust agreement or resolution may contain other provisions the commission considers reasonable and proper for the security of the holders of any bonds or notes.

(r) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from assessments, revenues, or assets pledged or assigned to the payment of the principal of and the interest on bonds and notes or from any other funds available to the commission.

(s) Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

(t) All bonds or notes issued under this chapter are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and government purpose and the bonds and notes, the interest thereon, the proceeds received by a holder from the sale of the bonds or notes to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, and proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

SECTION 204. IC 28-5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. (a) Every company

may exercise all the powers conferred upon domestic corporations by IC 23-1 but only to the extent that those powers may be necessary, convenient, or expedient to accomplish the purposes for which it is organized. Subject to the restrictions and limitations contained in this chapter, every company may exercise the following powers:

(1) To issue, negotiate, and sell its secured or unsecured certificates of investment or indebtedness, subject to subdivision (17), upon terms and conditions, in any form, and payable at times that are not inconsistent with this chapter and, subject to subsection (c), bearing a rate of interest approved by the department.

(2) To make, purchase, discount, or otherwise acquire extensions of credit under IC 24-4.5.

(3) To lend money without security or upon the security of comakers, personal endorsement, or the mortgage of real or personal property or the mortgage or pledge of bailment leases or rentals due and to become due thereunder and other choses in action, and to contract for interest, discount, fees, charges, or other consideration fixed or permitted by any laws of Indiana concerning interest, discount, or usury.

(4) To discount, purchase, or otherwise acquire notes, bills of exchange, acceptances, bailment leases, and the property covered thereby or the rentals due or to become due thereunder or other choses in action and, subject to such restrictions the department imposes, to become owner or lessor of personal or real property acquired upon the request and for the use of a customer, and to incur additional obligations incident to becoming an owner or lessor of the property. The liability of a lessee under the lease does not constitute an obligation (as defined in section 8 of this chapter).

(5) To purchase or construct buildings and hold legal title to them, to be leased for public purposes to municipal corporations or other public authorities having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration, the lessee shall become owner of the building.

(6) To invest in bonds, notes, or certificates which are:

(A) the direct or indirect obligations of the United States or of the state;

(B) obligations of mutual funds or financial institutions if the obligations represent a participation in a fund invested in, or are secured by, direct or indirect obligations of the United States owned by the mutual fund or financial institution;

(C) the direct obligations of a civil or school county, township, city, town, other taxing district, municipality of Indiana;

(D) a special taxing district in Indiana;

(E) issued by or in the name of:

(i) the trustees of Indiana University;

(ii) the trustees of Purdue University;

(iii) the trustees of Ball State University;

(iv) the trustees of Indiana State University; or

(v) the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63;**

(F) issued by or in the name of any municipality of Indiana and payable from the revenues to be derived from the operation of facilities for the production or distribution of water, electricity, gas, or from the operation of sewage works; or

(G) the obligations of any Indiana toll road commission, public library, or schoolhouse holding corporation first mortgage bonds;

which district, municipality, taxing unit, or corporation is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted for a period of more than six (6) months within the five (5) year period immediately preceding the purchase of the securities.

(7) To invest in bonds, notes, or debentures rated in one (1) of the first four (4) classifications established by one (1) or more standard rating services specified by the department that satisfy requirements of marketability prescribed periodically by the department that are the obligations of a person, a firm, a limited liability company, a corporation, a state, a territory, an insular possession of the United States, or a county, township, town, city, taxing district, or municipality thereof which is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted within the five (5) year period immediately preceding the purchase of the securities and other investment securities prescribed by the department by rule. As used in this section, the term "investment securities" means marketable obligations evidencing indebtedness of a person, firm, limited liability company, or corporation in the form of bonds, notes, or debentures commonly known as "investment securities" and the definition of the term "investment securities" prescribed by the department by rule. Except as is otherwise provided in this chapter or otherwise permitted by law, nothing contained in this subdivision authorizes the purchase by an industrial loan and investment company of shares of stock or other securities, unless the purchase is necessary to prevent loss under a debt previously contracted in good faith and stocks or other securities so purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

(8) To invest in bonds or debentures issued under and by the authority of the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1429), or of the Home Owners' Loan Act (12 U.S.C. 1461 through 1468), or obligations issued by or for farm credit banks, and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(9) To invest in insured shares of an insured savings association organized under the laws of Indiana, and in insured shares of an insured federal savings association whose principal place of business is located in Indiana; and in certificates of indebtedness or investment of an industrial loan and investment company

organized under the laws of Indiana. However, not more than twenty percent (20%) of the resources of the company may be invested in the insured shares of any such association nor more than ten percent (10%) of sound capital in such certificates of industrial loan and investment companies.

(10) To make loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain insurance from the administrator.

(11) To make loans secured by mortgage on real property or leasehold, insured by the federal housing administrator, or makes a commitment to insure and to obtain insurance from the administrator.

(12) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities insured by national mortgage associations.

(13) To discount, purchase, or otherwise acquire charge accounts, and drafts and bills of exchange evidencing charge accounts and to impose and collect monthly service charges and maintenance charges on charge accounts, drafts, or bills of exchange which are owned or acquired in amounts agreed upon between the company and the obligor, or obligors, on charge accounts, drafts, and bills of exchange.

(14) To purchase or otherwise acquire property, real or personal, tangible or intangible, in which the company has a security interest to secure a debt owing to the company contracted in good faith or the purchase or acquisition of which property is considered expedient to prevent loss from a debt owing to the company contracted in good faith, and for such purpose to engage in any lawful business considered necessary or expedient by the company to preserve, protect, or make saleable the property. Property thus purchased or acquired shall be sold and disposed of within two (2) years, or a longer period permitted by the department, after the purchase or acquisition.

(15) To act as trustee of a trust created in the United States and forming part of a stock bonus, pension, or profit sharing plan that is qualified for tax treatment under Section 401(d) of the Internal Revenue Code, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, if the funds of that trust or account are only invested in certificates of investment or indebtedness of the company or in obligations or securities issued by that company. All funds held under this subdivision in a fiduciary capacity may be commingled by the company for appropriate investment purposes. However, individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision.

(16) To do anything necessary and appropriate to obtain or maintain federal deposit insurance under the Federal Deposit

Insurance Corporation Act (12 U.S.C. 1811 through 1833e) or insurance under any other federal or Indiana law providing insurance for certificates of investment or indebtedness issued by a company. A company that obtains and maintains federal deposit insurance is not required to obtain approval from the department concerning the rate of interest payable on, or the form, the terms, or the conditions of the certificates of investment or indebtedness, and the company may exercise all of the powers that are conferred upon institutions maintaining federal deposit insurance that are not in conflict with Indiana law.

(17) To become a member of a federal home loan bank and acquire, own, pledge, sell, assign, or otherwise dispose of shares of the capital stock of a federal home loan bank.

(18) To borrow money and procure advances from a federal home loan bank and to transfer, assign to, and pledge with the federal home loan bank any of the bonds, notes, contracts, mortgages, securities, or other property of the company held or acquired as security for the payment of the loans and advances.

(19) To possess and exercise all rights, powers, and privileges conferred upon and do and perform all acts and things required of members or shareholders of a federal home loan bank, or by the provisions of 12 U.S.C. 1421 through 1449.

(20) Subject to section 6.3 of this chapter, to exercise the rights and privileges (as defined in section 6.3(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, applies to loans, advances of credit, or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

(c) If any national or state chartered bank or savings association is not limited by law with regard to the rate of interest payable on any type or category of checking account, savings account, or deposit, certificate of deposit, membership share, or other account, then industrial loan and investment companies are similarly not limited with regard to the interest payable on certificates of investment or indebtedness.

SECTION 205. IC 34-30-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. IC 4-4-11-30 and IC 4-4-21-23 (Concerning members, officers, employees, and agents of the Indiana ~~development~~ finance authority for acts authorized by law).

SECTION 206. IC 34-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. IC 4-13.5-4-4(g) (Concerning the state for monetary damages for obligations of or violation by the ~~state office building commission).~~ **Indiana finance authority).**

SECTION 207. IC 34-30-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. IC 5-1-16-28 (Concerning bonds issued ~~for an~~ **by the** Indiana health **and educational** facility financing authority **under IC 5-1-16).**

SECTION 208. IC 34-30-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 25. IC 8-14.5-6-11 (Concerning the state for violations of IC 8-14.5 or for payments of bonds or notes of the Indiana ~~transportation~~ finance authority).

SECTION 209. IC 34-30-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 87. IC 20-12-63-15 (Concerning members of, and persons executing bonds for, the Indiana **health and** educational ~~facilities~~ **facility finance** authority **under IC 20-12-63).**

SECTION 210. IC 36-7-15.2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. The determination of the commission to create a district under this chapter must be approved by ordinance of the legislative body of the unit before the commission transmits its resolution to the Indiana ~~development~~ finance authority and the department of state revenue under section 16 of this chapter.

SECTION 211. IC 36-7-15.2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. Within thirty (30) days after the approval of the creation of the district by the unit under section 15 of this chapter, the commission shall transmit to the department of state revenue and the Indiana ~~development~~ finance authority the following:

(1) A certified copy of the resolution designating the district.

(2) A complete list of street names and the range of street numbers of each street located within the district.

(3) Information concerning the proposed redevelopment and economic development of the district, which information may be modified from time to time after the initial filing.

(4) A certificate by the presiding officer of the commission stating that the commission will pursue the implementation of the plan for the redevelopment and economic development of the district in an expeditious manner.

SECTION 212. THE FOLLOWING ARE REPEALED [EFFECTIVE MAY 15, 2005]: IC 4-13.5-1-1.5; IC 4-13.5-1-2; IC 4-13.5-1-3.1; IC 4-13.5-1-4; IC 4-13.5-5; IC 5-1-16-10; IC 8-9.5-8-2; IC 8-9.5-8-3; IC 8-9.5-8-4.1; IC 8-14.5-3-8; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-21-4; IC 13-18-21-6; IC 13-19-5-4; IC 13-19-5-5; IC 13-19-5-16; IC 14-14-1-8; IC 14-14-1-9; IC 14-14-1-10; IC 14-14-1-11; IC 14-14-1-12; IC 14-14-1-13; IC 14-14-1-14; IC 14-14-1-15; IC 14-14-1-15.5; IC 20-12-63-4; IC 20-12-63-5; IC 20-12-63-6; IC 20-12-63-7; IC 20-12-63-8; IC 20-12-63-9; IC 20-12-63-10; IC 20-12-63-11.5; IC 20-12-63-27.5.

SECTION 213. [EFFECTIVE MAY 15, 2005] **(a) As used in this SECTION, "entity" means the following:**

(1) The Indiana development finance authority.

(2) The state office building commission.

(3) The Indiana transportation finance authority.

(4) The recreational development commission.

(b) As used in this SECTION, "IFA" means the Indiana finance authority established by IC 4-4-11-4, as amended by this act.

(c) On May 15, 2005, all powers, duties, and liabilities of each entity are transferred to the IFA, as the successor agency.

(d) On May 15, 2005, all records and property of each entity, including appropriations and other funds under the control or supervision of the entity, are transferred to the IFA, as the successor agency.

(e) After May 14, 2005, any amounts owed to an entity before May 15, 2005, are considered to be owed to the IFA, as the successor agency.

(f) After May 14, 2005, a reference to an entity in a statute, rule, or other document is considered a reference to the IFA, as the successor agency.

(g) All powers, duties, and liabilities of an entity with respect to bonds issued by that entity in connection with any trust agreement or indenture securing those bonds are transferred to the IFA, as the successor agency. The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of an entity remain unchanged, although the powers, duties, and liabilities of the entity have been transferred to the IFA, as the successor agency.

SECTION 214. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, and liabilities of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(b) On May 15, 2005, all records and property of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

including appropriations and other funds under their control or supervision, are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(c) After May 14, 2005, any amounts owed to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

before May 15, 2005, are considered to be owed to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(d) After May 14, 2005, a reference to:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

in a statute, rule, or other document is considered a reference to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

(e) All powers, duties, and liabilities of:

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

with respect to bonds issued in connection with any trust

agreement or indenture securing those bonds are transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency. The rights of the trustee under any trust agreement or indenture described in this subsection and the rights of the holders of any bonds described in this subsection remain unchanged, although the powers, duties, and liabilities of the issuer have been transferred to the Indiana health and educational facility financing authority established by IC 5-1-16-2, as amended by this act, as the successor agency.

SECTION 215. [EFFECTIVE MAY 15, 2005] **(a) On May 15, 2005, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:**

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) through (3).

(b) On May 15, 2005, all records, money, and other property of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the Indiana finance authority as the successor agency for the limited purposes described in subdivisions (1) through (3).

(c) After May 14, 2005, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After May 14, 2005, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before May 15, 2005, shall be treated as if they were withdrawn under IC 4-22-2-41.

(e) On May 15, 2005, all powers, duties, agreements, and liabilities of the Indiana bond bank, the Indiana department of environmental management, and the budget agency with respect to:

(1) the outstanding bonds issued for:

(A) the wastewater revolving loan program established by IC 13-18-13-1; or

(B) the drinking water revolving loan program established by IC 13-18-21-1; and

(2) any trust agreement or indenture, security agreement, purchase agreement, or other undertaking entered into in connection with the bonds described in subdivision (1);

are transferred to the Indiana finance authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2). The rights of the trustee and the bondholders with respect to any bonds or any trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in this subsection remain the same, although the powers, duties, agreements, and liabilities of the Indiana bond bank have been transferred to the Indiana finance authority and the Indiana finance authority shall be considered to have assumed all those powers, duties, agreements, and liabilities as if the Indiana finance authority were the Indiana bond bank for those limited purposes.

SECTION 216. [EFFECTIVE MAY 15, 2005] **(a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by:**

(1) the establishment of the Indiana finance authority; and

(2) changing the name of the Indiana housing finance authority to the Indiana housing and community development authority, as provided by IC 5-20-1-3, as amended by this act.

(b) This SECTION expires July 1, 2006.

SECTION 217. [EFFECTIVE MAY 15, 2005] **After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, as the successor agency.**

SECTION 218. [EFFECTIVE MAY 15, 2005] **(a) A representative of the Indiana finance authority shall, at a meeting of the budget committee before January 1, 2006, present a report concerning the implementation of this act.**

(b) This SECTION expires July 1, 2006.

SECTION 219. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana development finance authority;

(2) the state office building commission;

(3) the Indiana transportation finance authority; and

(4) the recreational development commission;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 4-4-11-5, as amended by this act, the initial terms of office of the three (3) members appointed by the governor to the Indiana finance authority are as follows:

(1) One (1) member for a term of one (1) year.

(2) Two (2) members for a term of two (2) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 220. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of:**

(1) the Indiana health facility financing authority; and

(2) the Indiana educational facilities authority;

serving on May 14, 2005, terminate on May 15, 2005.

(b) Notwithstanding IC 5-1-16-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana health and educational facility financing authority under IC 5-1-16-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 221. [EFFECTIVE MAY 15, 2005] **(a) The terms of office of the members of the Indiana housing finance authority serving on May 14, 2005, terminate on May 15, 2005.**

(b) Notwithstanding IC 5-20-1-3, as amended by this act, the initial terms of office of the four (4) members appointed by the governor to the Indiana housing and community development authority established by IC 5-20-1-3, as amended by this act, are as follows:

(1) Two (2) members for a term of two (2) years.

(2) Two (2) members for a term of four (4) years.

(c) The initial terms begin May 15, 2005.

(d) This SECTION expires July 1, 2006.

SECTION 222. [EFFECTIVE MAY 15, 2005] **IC 6-3.1-9-1, IC 6-3.1-9-2, and IC 6-3.1-9-4, all as amended by this act, apply to applications for tax credits filed under IC 6-3.1-9 after May 14, 2005.**

SECTION 223. [EFFECTIVE MAY 15, 2005] **(a) Notwithstanding the transfer of responsibility for administration of the individual development accounts program to the lieutenant governor by P.L.4-2005, SECTION 151, beginning May 15, 2005:**

(1) the Indiana housing finance authority is responsible for the administration of the program;

(2) any rules, policies, or guidelines adopted by the department of commerce or the lieutenant governor concerning the program are considered rules, policies, and guidelines of the Indiana housing finance authority until the authority adopts replacement rules, policies, or guidelines;

(3) the Indiana housing finance authority becomes the owner of all property and obligations relating to the program; and

(4) any appropriations relating to the program are transferred to the Indiana housing finance authority.

(b) This SECTION expires July 1, 2007.

SECTION 224. **An emergency is declared for this act.**

(Reference is to ESB 578 as reprinted March 29, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 578

Signed by:

Senator Hershman Chairperson	Representative Buell
Senator Mrvan	Representative Harris E
Senate Conferees	**House Conferees**