February 19, 2010

ENGROSSED
HOUSE BILL No. 1336

DIGEST OF HB 1336 (Updated February 16, 2010 12:59 pm - DI 58)

Citations Affected: IC 5-13.

Synopsis: Public depositories. Removes the discretion of a school corporation to determine if a local board of finance meeting is needed on an annual basis. Permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana so long as the issuer has not defaulted on an obligation within the 20 years preceding the date of the purchase. Permits counties and political subdivisions to invest public funds in certificates of deposit under certain conditions. Removes the restriction of investing not more than 50% of a unit's depository funds in money market mutual funds. Provides that a unit may not invest more than 50% of the unit's total public funds that are invested at any point in time in nonfederally insured deposit accounts. Eliminates the power of the conservancy district in Lawrenceburg and Danville (Hendricks County) to invest in equity securities. Provides that in the case of the host community agreement future fund in Danville, the municipal securities in which

(Continued next page)

Effective: Upon passage; July 1, 2010.

Bardon, Grubb

(SENATE SPONSORS — HERSHMAN, SKINNER, HOLDMAN, RANDOLPH)

January 13, 2010, read first time and referred to Committee on Financial Institutions.
January 28, 2010, amended, reported — Do Pass.
February 1, 2010, read second time, ordered engrossed.
February 2, 2010, engrossed. Read third time, passed. Yeas 58, nays 39.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Tax and Fiscal Policy.
February 18, 2010, amended, reported favorably — Do Pass.

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the fund may invest may not have a maturity of more than five years. (Current law specifies that there is no maximum maturity for these investments.) Replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes. Provides for geographical representation on the board for public depositories. Requires the four governor appointments to be a chief executive office or a chief financial officer of a depository and that each appointment represent a different segment of the financial institutions industry based on total deposits. Provides that if the depository is not an Indiana bank, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the bank's depository that is located in Indiana. Specifies that the terms of the appointed member is four years. Permits the governor to reappoint a member if the individual meets the requirements at the time of reappointment. Provides that a simple majority of the board members voting is required to approve an action by the board instead of a unanimous vote. Requires the board for public depositories to meet at least once each calendar quarter. Changes the notice requirement for meeting notices from ten days to two days. Allows the board to fix the assessment rate at the times the board determines are necessary instead of twice each year. Exempts certain certificates of deposit issued by a federally insured bank or savings and loan association from the assessment calculation. Provides that the board for depositories may consider capital adequacy, liquidity, and asset quality in addition to any study by actuaries in establishing any change in the reserve for losses. Increases the amount of anticipatory warrants the board may issue to pay immediate claims when the assets in the public deposit insurance fund (PDIF) are not sufficient to pay claims from $1,500,000 to $300,000,000. Permits the board to accept as collateral bonds or other obligations that the board could not invest in if the board determines the obligations are acceptable collateral. Specifies United States treasury securities, Federal agency securities, and irrevocable letters of credit issued by a Federal Home Loan Bank are acceptable collateral. Permits the board to determine whether a depository may withdraw collateral when the amount of public funds on deposit is at least 10% less than the market value of securities pledged as collateral. Allows the board to determine the amount and type of substituted securities a depository may provide to insure the insurance funds solvency consistent with the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total public deposits. Exempts federally insured deposits from the assessment calculation. Provides an exemption from assessment for a public depository that pledges acceptable collateral equal to the public deposits it holds. Provides that if the PDIF balance reaches zero, all depositories must pledge collateral equal to 100% of the depository's public fund holdings. Provides that the market value of the substituted securities as of the date of delivery may be less than, but not exceed, the amount determined by the board. Provides that a joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions. Provides that a financial institution may not have public funds on deposit if it issues a credit card as a card issuer and the institution is not in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009. Eliminates a report by the public employees' retirement fund to the board for depositories' secretary-investment manager and an interest calculation concerning the coverage of local police and firefighter pension funds.

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February 19, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1336

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

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

SECTION 1. IC 5-13-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The fiscal body of each political subdivision not governed by sections 1 through 3 of this chapter constitutes a board of finance for that political subdivision. ~~A school corporation (as defined in IC 36-1-2-17) may determine if a board of finance meeting is needed on an annual basis.~~

(b) Each board of finance has supervision of the revocation of public depositories for the respective political subdivisions for which they act.

(c) The members of the boards serve without compensation other than the members' salaries allowed by law for the members' services as officers of the members' respective political subdivisions.

SECTION 2. IC 5-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United

States Treasury or fully guaranteed by the United States and issued by any of the following:

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(2) Securities fully guaranteed and issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the twenty (20) years preceding the date of the purchase.

(b) If an investment under subsection (a)(1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

(1) a duly designated depository as prescribed in this article; or

(2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in

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~~(1)~~ municipal securities ~~and~~

~~(2) equity securities;~~

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established by ordinance of the town in

~~(1)~~ municipal securities ~~and~~

~~(2) equity securities;~~

having a stated final maturity of ~~any number of years or having no stated final maturity.~~ **not more than five (5) years.** The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 3. IC 5-13-9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

~~(b) The investments described in subsection (a) may not exceed fifty percent (50%) of the funds held by the officer and available for investment. This limitation does not apply to investments made by a county treasurer between:~~

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~~(1) the date that is ten (10) days before each property tax installment due date described in IC 6-1.1-22-9; and~~

~~(2) the property tax settlement distribution date described in IC 6-1.1-27-1(b).~~

~~(c)~~ **(b)** The investments described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5.

~~(d)~~ **(c)** The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

(1) Direct obligations of the United States.

(2) Obligations issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

~~(e)~~ **(d)** The form of securities of or interests in an investment company or investment trust described in subsection (a) must be rated as one (1) of the following:

(1) AAAm, or its equivalent, by Standard and Poor's Corporation or its successor.

(2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

~~(f)~~ **(e)** The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

~~(g)~~ **(f)** The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).

SECTION 4. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by

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the investing officer as a public record of the political subdivision under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the deposit is not** placed in the designated depository quoting the highest rate of interest, ~~If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~ **the investing officer shall:**

(1) place the deposit in the depository quoting the second or third highest rate of interest; and

(2) note the reason for placing the deposit on the memorandum of quotes.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 5. IC 5-13-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

~~(c) Investments in any certificates of deposit to which this section~~

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~~applies shall be placed in the depository quoting the highest rate of interest under subsection (b), as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:~~

~~(1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed in that depository.~~

~~(2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in any or all of these depositories in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~

~~(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.~~

(c) If a deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall follow the procedures and priority for placing deposits that are set forth in section 4 of this chapter and note the reason for placing the deposit on the memorandum of quotes.

SECTION 6. IC 5-13-9-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.3. (a) In addition to the authority to invest in certificates of deposit under section 5 of this chapter, and notwithstanding any other law, the board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest public funds in certificates of deposit in accordance with the following conditions:**

(1) The funds are initially invested through a depository that is selected by the investing officer.

(2) The selected depository arranges for the deposit of the funds in certificates of deposit in one (1) or more federally insured banks or savings and loan associations, wherever located, for the account of the county or political subdivision.

(3) The full amount of the principal and any accrued interest of each certificate of deposit are covered by insurance of any federal deposit insurance agency.

(4) The selected depository acts as a custodian for the county or political subdivision with respect to the certificates of

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deposit issued for its account.

(5) At the same time that the county's or political subdivision's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the county or political subdivision through the selected depository.

(b) Public funds invested in accordance with subsection (a) are not subject to any security or pledging requirements that may otherwise be applicable to the deposit or investment of public funds.

SECTION 7. IC 5-13-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. Any investing officer of a political subdivision that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by sections 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository. **A service charge may not be imposed on a political subdivision for the purchase of a United States Treasury Note.**

SECTION 8. IC 5-13-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An officer designated in section 1 of this chapter may not do the following:

(1) Purchase securities on margin.

(2) Open a securities margin account for the investment of public funds.

(3) Invest more than fifty percent (50%) of the unit of government's total public funds that are invested at any point in time in nonfederally insured deposit accounts under this chapter.

SECTION 9. IC 5-13-9-10, AS AMENDED BY P.L.3-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The investing officers of two (2) or more

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political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund. **A joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions by this chapter.**

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of finance.

(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) **Subject to subsection (d),** the board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

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(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars ($100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the

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auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

SECTION 10. IC 5-13-9.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

(c) A financial institution is ineligible to become a depository and receive public funds of the state if the institution:

(1) fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution; **or**

(2) issues an unsecured credit card that is not a debit card, as a card issuer (as defined in 15 U.S.C. 1602(n)), and the financial institution is not in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009.

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. A determination of the ratio described in this subsection must be based on the institution's most recent periodic statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as

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prescribed by the supervisory body.

(d) A financial institution shall furnish to the board a certificate executed by an officer of the institution signifying that the institution satisfies:

(1) the requirements of subsection (c); and

(2) the requirement in section 6(b) of this chapter that the sum of:

(A) the total principal amount of the depository's outstanding loans to Indiana residents; plus

(B) the total value of the depository's investments in Indiana residents;

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

The board may rely on a certificate furnished under this subsection in determining whether to deposit public funds or reinvest public funds in the institution.

SECTION 11. IC 5-13-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board for depositories consists of the governor, the treasurer of state, the auditor of state, the chairman of the commission for financial institutions, the chief examiner of the state board of accounts, and four (4) members appointed by the governor all of whom must be residents of Indiana and have had substantial expertise in commercial **bank management and** lending with depositories. No more than two (2) of the four (4) appointees may identify with the same political party. **For appointments after June 30, 2010, all four (4) appointees must be a chief executive officer or a chief financial officer of a depository at the time of the appointment if the depository is an Indiana bank (as defined in IC 28-2-13-17). If the depository is not an Indiana bank, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the bank's depository that is located in Indiana. In making these appointments, the governor shall provide for geographic representation of all regions of Indiana, including both urban and rural communities. In addition, the appointees must, at the time of the appointment, be employed by the following depositories:**

(1) One (1) must be employed by a depository that has total deposits of less than one hundred million dollars ($100,000,000).

(2) One (1) must be employed by a depository that has total deposits of less than two hundred fifty million dollars

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($250,000,000).

(3) One (1) must be employed by a depository that has total deposits of at least two hundred fifty million dollars ($250,000,000) but less than one billion dollars ($1,000,000,000).

(4) One (1) must be employed by a depository that has total deposits of at least one billion dollars ($1,000,000,000).

Total deposits shall be determined using the depository's reported deposits based on the information contained in the most recent June 30th FDIC Summary of Deposits, Market Share Selection for Indiana. The ~~terms~~ **term** of ~~the~~ **an** appointed ~~members extend for~~ **member is** four (4) ~~year periods.~~ **years from the effective date of the member's appointment.** Each appointed member holds office for the term of this appointment and serves after the expiration of that appointment until the member's successor is appointed and qualified. **An appointed member may be reappointed if the individual satisfies the requirements of this subsection at the time of the reappointment.** Any appointed member may be removed from office by, and at the pleasure of, the governor.

(b) The officers of the board consist of a chairman, a secretary-investment manager, a vice chairman, and other officers the board determines to be necessary. The governor shall name a member of the board to serve as its chairman. The treasurer of state shall serve as the secretary-investment manager of the board. The board, by majority vote, shall elect the other officers. Officers, except the secretary-investment manager, shall be named or elected for one (1) year terms in January of each year. The members and officers of the board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

(c) Five (5) members of the board constitute a quorum for the transaction of business, and all actions of the board must be approved by at least ~~five (5)~~ **a simple majority of those** members **voting on each individual business issue.** The board may adopt, amend, or repeal bylaws and rules for the conduct of its meetings and the number and times of its meetings, and shall **hold a regular meeting at least once each calendar quarter, and may** hold **other** regular and special meetings as prescribed in its rules. All meetings of the board are open to the public under IC 5-14-1.5. All records of the board are subject to public inspection under IC 5-14-3.

(d) ~~Ten (10)~~ **Two (2)** days notice of the time and place of all meetings to determine and fix the assessment rate to be paid by

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depositories on account of insurance on public funds or the establishment or redetermination of the reserve for losses of the insurance fund shall be given by one (1) publication in a newspaper of general circulation printed and published in the city of Indianapolis. The time, place, notice, and waiver requirements for the members of the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter its proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

SECTION 12. IC 5-13-12-4, AS AMENDED BY P.L.146-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under clause (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Each year, beginning in 2001 and ending in 2021, after the treasurer of state prepares the annual report required by IC 4-8.1-2-14,

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the secretary-investment manager shall determine:

(1) the amount of interest earned by the public deposit insurance fund during the state fiscal year ending on the preceding June 30, after deducting:

(A) all expenses and other costs of the board for depositories that were not paid from other sources during that state fiscal year; and

(B) all expenses and other costs associated with the Indiana education savings authority that were not paid from other sources during that state fiscal year; and

(2) the amount of interest earned during the state fiscal year ending on the preceding June 30 by the pension distribution fund established by subsection ~~(g).~~ **(e).**

~~(d) On or before November 1 of each year, beginning in 2001 and ending in 2021, the public employees' retirement fund shall provide a report to the secretary-investment manager concerning the individual and aggregate payments made by all units of local government (as defined in IC 5-10.3-11-3) during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.~~

~~(e) On or before the last business day of November of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall compute the amount of earned interest to be distributed under this section to each unit of local government (as defined in IC 5-10.3-11-3) in accordance with subsection (h) according to the following formula:~~

~~STEP ONE: Add the amount determined under subsection (c)(1) to the amount determined under subsection (c)(2).~~

~~STEP TWO: Divide the STEP ONE sum by the aggregate amount of payments made by all units of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).~~

~~STEP THREE: Multiply the STEP TWO quotient by the amount of payments made by each unit of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).~~

~~(f)~~ **(d)** Subject to subsection ~~(j),~~ **(g),** on or before the last business day of December of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall provide to the auditor of state

~~(1) a report setting forth the amounts to be distributed to units of~~

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~~local government, as determined under subsection (c); and~~

~~(2)~~ a check payable from the public deposit insurance fund to the pension distribution fund established by subsection ~~(g)~~ **(e)** in an amount equal to the amount determined under subsection (c)(1).

~~(g)~~ **(e)** The pension distribution fund is established. The pension distribution fund shall be administered by the treasurer of state. The treasurer of state shall invest money in the pension distribution fund not currently needed to meet the obligations of the pension distribution fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the pension distribution fund. Money in the pension distribution fund at the end of a state fiscal year does not revert to the state general fund.

~~(h)~~ **(f)** Subject to subsection ~~(j),~~ **(g),** on June 30 and October 1 of each year, beginning in 2002 and ending in 2022, the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the ~~fiscal officer of each unit of local government identified under subsection (d) the amount computed for that unit under subsection (c) in November of the preceding year.~~

~~(i) Each unit of local government shall deposit distributions received under subsection (h) in the pension fund or funds identified by the secretary-investment manager and shall use those distributions to pay a portion of the obligations with respect to the pension fund or funds.~~ **public employees' retirement fund for the benefit of the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5 the amount deposited in the pension relief fund in December of the preceding year under subsection (d).**

~~(j)~~ **(g)** Before providing a check to the auditor of state under subsection ~~(f)(2)~~ **(d)** in December of any year, the secretary-investment manager shall determine:

(1) the total amount of payments made from the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001;

(2) the total amount of payments received by the board for depositories and deposited in the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001; and

(3) the total amount of interest earned by the public deposit insurance fund after the first of the payments described in subdivision (1).

If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2) (referred to in this subsection as the "net draw on the fund") exceeds ten million dollars ($10,000,000) and also exceeds the total amount of interest determined under subdivision (3), the secretary-investment

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manager may not provide a check to the auditor of state under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made from the pension distribution fund under subsection ~~(h)~~ **(f)** in the following calendar year until the total amount of interest earned by the public deposit insurance fund equals the net draw on the fund. A check may not be provided under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made under subsection ~~(f)~~ **(d)** in any subsequent calendar year if a study conducted by the board under section 7(b) of this chapter demonstrates that payment of the distribution would reduce the balance of the public deposit insurance fund to a level insufficient 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.

SECTION 13. IC 5-13-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to the limitations prescribed in this chapter, the board for depositories may fix the assessment rate to provide assets in the fund sufficient to equal the reserve for losses of the fund for the insurance of public funds on deposit in depositories. Effective on July 1, and January 1, of each year, **and from time to time as the board determines necessary,** the board shall determine and fix the fair and reasonable assessment rate for each classification of deposit, if any, to be used by depositories in determining the assessments. ~~payable during the succeeding six (6) month period.~~ This determination shall be made by the board before or as soon as practicable after the applicable July 1, ~~or~~ January 1, **or other date established by the board.** In fixing the rate, if any, the board shall consider the amount of public funds currently on deposit, the liabilities of the insurance fund, contingent and accrued, and the determination of the board on the amount of the reserve for losses of the insurance fund as set out in section 7(b) of this chapter. For any ~~six (6) month~~ period the maximum assessment rate that may be fixed by the board is two percent (2%). The board may lower or waive the assessment on any or all classifications of deposit if in its discretion it determines that a lower rate or waiver will not prevent the fund from attaining sufficient assets to equal the reserve for losses. **Subject to the board's power to implement an assessment at any time by action by the board,** if ~~at the beginning of any six (6) month period,~~ no action has been taken by the board for depositories fixing the assessment rate, if any, on public funds, ~~for the succeeding six (6) month period,~~ the assessment rate is the same rate, if any. ~~in effect during the preceding six (6) month period.~~ Whenever as of July 1, or January 1, **or other date established by the board,** the value of the assets in the fund equals or exceeds the reserve for losses, the board shall eliminate the

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assessment requirement ~~for the succeeding six (6) month period~~ for each classification of deposit.

(b) During any period when an assessment rate is in effect, the assessment base for each depository of public funds shall be determined monthly. The assessment base must be equal to the sum total of all the minimum balances of each classification of public funds on deposit in each and all accounts during the month, the minimum balance of each account being taken respectively as of the date on which it occurs. **For purposes of this section, deposits that are federally insured are not considered public funds deposits in a depository.** On or before the second day of each month in which an assessment rate is in effect, each depository shall compute the amount of the assessment due from it to the insurance fund on account of public funds on deposit with it during the preceding month. The amount of the monthly assessment, if any, is the product obtained by multiplying one-twelfth (1/12) times the assessment base for the month for which the assessment is being computed.

(c) During the time the assessment rate on public funds has been waived or eliminated by the board for depositories, the respective depositories are not obligated to pay any assessment but shall continue to prepare and file the reports that would otherwise be required to be prepared and filed under this chapter.

SECTION 14. IC 5-13-12-7, AS AMENDED BY P.L.1-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **information the board considers, including but not limited to capital adequacy, liquidity, and asset quality, and** 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.

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(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 Indiana finance authority issued under IC 4-13.5.

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

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(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 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 and community development 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

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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 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 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 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).

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(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 15. IC 5-13-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Whenever the assets in the insurance fund are not sufficient to pay the claims of any kind that have been finally determined and have become payable, the board for depositories shall issue anticipatory warrants for the purpose of raising money for the immediate payment of the claims. The warrants outstanding and unpaid must not at any time exceed the sum of ~~one million five hundred thousand dollars ($1,500,000).~~ **three hundred million dollars ($300,000,000).** Interest may be paid upon the warrants from the date the rate was established by the board for depositories. Interest is payable at the end of each year or for a shorter period as the warrants remain unpaid.

(b) The warrants are the obligation of the board for depositories payable out of the public deposit insurance fund only and do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. Each warrant must have printed on its face the words, "This warrant is an obligation of the board for depositories payable solely out of the public deposits insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal, the interest, or any other amount owed on the warrants.".

(c) Subject to the limitations in subsections (a) through (b), the warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the board for depositories.

SECTION 16. IC 5-13-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) At any time when the board for depositories determines that the assets of the insurance fund are insufficient to pay its liabilities, accrued or contingent, or determines that the assessments due or to become due will not be sufficient to maintain the insurance fund in a solvent condition and insure the safekeeping and prompt payment of public funds, the board may enter an order requiring **any or** all then

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constituted depositories to substitute other security **in the amount and type, as determined by the board from time to time,** to secure the safekeeping and prompt payment of public funds. **The collateral to be accepted by the board for depositories under this chapter may include, but is not limited to, the following:**

(1) United States Treasury securities.

(2) Federal agency securities.

(3) An irrevocable letter of credit issued by a Federal Home Loan Bank if:

(A) the federal home loan bank issuing the irrevocable letter of credit maintains a rating of at least the third highest level from at least one (1) of the nationally recognized rating agencies; and

(B) the irrevocable letter of credit provides that the board for depositories may draw on the letter when necessary to satisfy losses to the public deposit insurance fund under state law.

(b) The board may require **any or** all then constituted depositories to deliver and pledge to the proper local board of finance or to the state board of finance, under the conditions for joint control of the collateral by the depositories as may be approved by the board for depositories, bonds or other obligations ~~of like character as those in which~~ **that** the board ~~is authorized to invest the excess funds of the insurance fund under IC 5-13-12-7(d).~~ **determines are acceptable collateral.** The market value of these securities, at the time of delivery, must ~~equal~~ **be an amount determined by the board, which may not exceed** the amount of public funds then on deposit with the respective depositories. The board may require depositories to pledge acceptable securities to such an extent that the market value of the pledge will at all times be substantially equal to the amount of public funds on deposit in the respective depositories.

(c) Whenever an order is in force and the amount of public funds on deposit is at least ten percent (10%) less than the market value of securities pledged to secure the payment, **as required by the board,** the depository may withdraw the excess amount of pledged collateral.

(d) Any order of the board for depositories ~~applies equally to all depositories and~~ becomes effective within the time fixed by the board. However, the time of effectiveness must not be earlier than thirty (30) days from the date of entry of the order by the board. The order continues in force until rescinded by the board. Upon the entry of any order by the board for depositories, all then constituted depositories **affected by the order** shall comply with the order. Upon compliance,

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and full payment of all its liabilities by the insurance fund, depositories are not required to pay any further assessments for insurance under this chapter until the order requiring collateral has been revoked or rescinded and the collateral returned to the respective depositories.

(e) A depository may elect at any time to pledge and deliver collateral to the board equal to one hundred percent (100%) of the public funds the depository has on deposit. A depository that elects this option and has pledged and delivered the collateral to the board is exempt from paying any assessment authorized by this chapter while the collateral is maintained with the board.

(f) If the fund balance is zero (0), all depositories shall pledge and deliver collateral to the board equal to each depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total deposit accounts of public funds for the previous four (4) quarters, as reported under this article, as determined by the board from time to time, with at least fifteen (15) days notice to the depository, to secure the safekeeping and prompt payment of public funds.

SECTION 17. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1336, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 4, after "4." and insert "**(a)**".

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"**(b) The term does not include securities of a company that are:**

(1) held in an account or a fund; and

(2) managed by one (1) or more persons:

(A) who are not employed by the fund; and

(B) in which the fund owns shares or interests together with other investors not subject to this chapter.".

Page 2, delete lines 10 through 26.

Page 2, line 27, delete "8." and insert "**6.**".

Page 2, line 29, after "Register" insert "**under IC 28-1-2-40(f)**".

Page 2, line 31, delete "or indirect".

Page 2, line 32, delete "9. (a) Except as provided in section 11 of this chapter, if" and insert "**7. (a) If**".

Page 2, line 38, after "held" insert "**as direct holdings**".

Page 3, delete lines 9 through 17, begin a new paragraph and insert:

"**(b) A board is not required to divest the board's direct holdings in an aggressive lender under subsection (a) if the estimated cost of divestment is greater than ten percent (10%) of the total value of the board's direct holdings in the aggressive lender. The board shall include any direct holdings in an aggressive lender that are exempted from divestment under this subsection in the board's report submitted to the legislative council under section 9 of this chapter.**".

Page 3, line 18, delete "10. Except as provided in section 11 of this chapter, a" and insert "**8. A**".

Page 3, delete lines 20 through 23.

Page 3, line 24, delete "12." and insert "**9.**".

Page 3, line 37, delete "9" and insert "**7(a)**".

Page 3, line 38, delete "commingled funds" and insert "**direct holdings in an aggressive lender**".

Page 3, line 39, delete "9" and insert "**7(b)**".

Page 3, line 42, delete "13." and insert "**10.**".

Page 4, line 5, delete "14." and insert "**11.**".

Page 4, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 2. IC 5-13-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. "Financial

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institution" means any of the following:

(1) A bank, trust company, or mutual savings bank that:

(A) was incorporated under the law of Indiana or any other state; and

(B) has its principal office or a branch in Indiana.

(2) A national banking association with its principal office or a branch in Indiana.

(3) A savings association operating as a deposit association incorporated under Indiana law.

(4) A federally chartered savings association with its principal office or a branch in Indiana.

(5) A federally chartered savings bank with its principal office or a branch in Indiana.

(6) A state chartered credit union in Indiana that is federally insured or privately insured and that has assets of three million dollars ($3,000,000) or more.

(7) A federally chartered credit union that has assets of three million dollars ($3,000,000) or more and with its principal office or a branch in Indiana.

SECTION 3. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) All public funds of all political subdivisions shall be deposited in the designated depositories located in the respective territorial limits of the political subdivisions, except as provided in this section.

(b) Each board of finance of a political subdivision:

(1) that is not a city, town, or school corporation; and

(2) whose jurisdiction crosses one (1) or more county lines;

may limit its boundaries for the purpose of this section to that portion of the political subdivision within the county where its principal office is located.

(c) If there is no principal office or branch of a financial institution located in the county or political subdivision, or if no financial institution with a principal office or branch in the county or political subdivision will accept public funds under this chapter, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one (1) or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state

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deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars ($100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

(g) This subsection applies to a depository that is a federally chartered credit union. An investing officer may not make a deposit and the federally chartered credit union may not accept a deposit of public funds if the deposit would cause the federally chartered credit union to have total deposit accounts and investments of public funds that exceed twenty percent (20%) of the total shares of the federally chartered credit union as of the end of the preceding calendar quarter. However, a deposit that complies with this subsection when the deposit is made remains legal even if a subsequent decrease in the value of the total shares of the federally chartered credit union causes the percentage of investments and deposit accounts of public funds to exceed twenty percent (20%) of the total shares of the federally chartered credit union.

SECTION 4. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the

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officer making the investment and the designated depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the deposit is not** placed in the designated depository quoting the highest rate of interest, ~~If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~ **the investing officer shall:**

(1) place the deposit in the depository quoting the second or third highest rate of interest; and

(2) note the reason for placing the deposit on the memorandum of quotes.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 5. IC 5-13-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political

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subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

~~(c) Investments in any certificates of deposit to which this section applies shall be placed in the depository quoting the highest rate of interest under subsection (b), as determined after deducting any fee charged by the depository. If two (2) or more depositories submit the same highest quote, the investment shall be placed as follows:~~

~~(1) If only one (1) of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed in that depository.~~

~~(2) If more than one (1) of the highest quoters are depositories designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in any or all of these depositories in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~

~~(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.~~

(c) If a deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall follow the procedures and priority for placing deposits that are set forth in section 4 of this chapter and note the reason for placing the deposit on the memorandum of quotes.

SECTION 6. IC 5-13-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. Any investing officer of a political subdivision that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by sections 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository. **A service charge may not**

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be imposed on a political subdivision for the purchase of a United States Treasury Note.

SECTION 7. IC 5-13-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An officer designated in section 1 of this chapter may not do the following:

(1) Purchase securities on margin.

(2) Open a securities margin account for the investment of public funds.

(3) Invest more than fifty percent (50%) of the unit of government's total public funds that are invested at any point in time in nonfederally insured deposit accounts under this chapter.

SECTION 8. IC 5-13-9-10, AS AMENDED BY P.L.3-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund. **A joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions by this chapter.**

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of finance.

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(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) The board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars ($100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

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(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.".

Page 6, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 11. IC 5-13-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** The treasurer of state may not deposit aggregate funds in deposit accounts in any one (1) designated depository in an amount aggregating at any one (1) time more than:

(1) the lesser of the following:

(A) fifty percent (50%) of the combined capital, surplus, and undivided profits of that depository, as determined by its last published statement of condition filed with the treasurer of state; **or**

(B) the amount that would cause the total investments and deposit accounts of public funds in the designated depository to exceed one hundred percent (100%) of the balance in the public deposit insurance fund as of the end of the preceding calendar quarter, unless the depository securitizes the excess amount of the deposit with assets of the depository; or

(2) in the case of a federally chartered credit union, twenty percent (20%) of the total shares of the federally chartered credit union.

(b) A deposit that is not prohibited by subsection (a)(1)(B) when

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the deposit is made in a depository remains legal even if a subsequent decrease in the balance in the public deposit insurance fund causes the investments and deposit accounts of public funds in the depository to exceed one hundred percent (100%) of the balance in the public deposit insurance fund.

(c) Each depository shall file with the treasurer of state each periodic statement of condition required to be filed by it with its governmental supervisory body. If the state board for depositories finds that excess cash of the state is substantially more than that which had been anticipated, it may increase that maximum percentage in any depository, and the treasurer of the state may invest the additional funds in deposit accounts distributed among the depositories substantially in proportion to their respective capital, surplus, and undivided profits.

SECTION 12. IC 5-13-10.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. Any public officer of the state that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. If the total service charge cannot be computed before the investment, the investing officer of the state shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository. **A service charge may not be imposed on the state for the purchase of a United States Treasury Note.**

SECTION 13. IC 5-13-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board for depositories consists of the governor, the treasurer of state, the auditor of state, the chairman of the commission for financial institutions, the chief examiner of the state board of accounts, and four (4) members appointed by the governor all of whom must be residents of Indiana and have had substantial expertise in commercial **bank management and** lending with depositories. No more than two (2) of the four (4) appointees may identify with the same political party. **For appointments after June 30, 2010, all four (4) appointees must be a chief executive officer or a chief financial officer of a depository at the time of the appointment. In making these appointments, the governor shall provide for geographic representation of all regions of Indiana, including both urban and rural communities. In addition, the appointees must, at the time of the appointment, be**

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employed by the following depositories:

(1) One (1) must be employed by a depository that has total assets of less than five hundred million dollars ($500,000,000).

(2) One (1) must be employed by a depository that has total assets of less than one billion dollars ($1,000,000,000).

(3) One (1) must be employed by a depository that has total assets of at least one billion dollars ($1,000,000,000) but less than five billion dollars ($5,000,000,000).

(4) One (1) must be employed by a depository that has total assets of at least five billion dollars ($5,000,000,000).

Total assets shall be determined using the depository's most recent statement of condition. The terms of the appointed members ~~extend for~~ **are** four (4) ~~year periods.~~ **years from the effective date of the member's appointment.** Each appointed member holds office for the term of this appointment. ~~and serves after the expiration of that appointment until the member's successor is appointed and qualified.~~ **An appointed member may be reappointed if the individual satisfies the requirements of this subsection at the time of the reappointment.** Any appointed member may be removed from office by, and at the pleasure of, the governor.

(b) The officers of the board consist of a chairman, a secretary-investment manager, a vice chairman, and other officers the board determines to be necessary. The governor shall name a member of the board to serve as its chairman. The treasurer of state shall serve as the secretary-investment manager of the board. The board, by majority vote, shall elect the other officers. Officers, except the secretary-investment manager, shall be named or elected for one (1) year terms in January of each year. The members and officers of the board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

(c) Five (5) members of the board constitute a quorum for the transaction of business, and all actions of the board must be approved by at least ~~five (5)~~ **a simple majority of those** members **voting on each individual business issue.** The board may adopt, amend, or repeal bylaws and rules for the conduct of its meetings and the number and times of its meetings, and shall **hold a regular meeting at least once each calendar quarter, and may** hold **other** regular and special meetings as prescribed in its rules. All meetings of the board are open to the public under IC 5-14-1.5. All records of the board are subject to public inspection under IC 5-14-3.

(d) ~~Ten (10)~~ **Two (2)** days notice of the time and place of all

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meetings to determine and fix the assessment rate to be paid by depositories on account of insurance on public funds or the establishment or redetermination of the reserve for losses of the insurance fund shall be given by one (1) publication in a newspaper of general circulation printed and published in the city of Indianapolis. The time, place, notice, and waiver requirements for the members of the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter its proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

SECTION 14. IC 5-13-12-4, AS AMENDED BY P.L.146-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under clause (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Each year, beginning in 2001 and ending in 2021, after the

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treasurer of state prepares the annual report required by IC 4-8.1-2-14, the secretary-investment manager shall determine:

(1) the amount of interest earned by the public deposit insurance fund during the state fiscal year ending on the preceding June 30, after deducting:

(A) all expenses and other costs of the board for depositories that were not paid from other sources during that state fiscal year; and

(B) all expenses and other costs associated with the Indiana education savings authority that were not paid from other sources during that state fiscal year; and

(2) the amount of interest earned during the state fiscal year ending on the preceding June 30 by the pension distribution fund established by subsection ~~(g).~~ **(e).**

~~(d) On or before November 1 of each year, beginning in 2001 and ending in 2021, the public employees' retirement fund shall provide a report to the secretary-investment manager concerning the individual and aggregate payments made by all units of local government (as defined in IC 5-10.3-11-3) during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.~~

~~(e) On or before the last business day of November of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall compute the amount of earned interest to be distributed under this section to each unit of local government (as defined in IC 5-10.3-11-3) in accordance with subsection (h) according to the following formula:~~

~~STEP ONE: Add the amount determined under subsection (c)(1) to the amount determined under subsection (c)(2).~~

~~STEP TWO: Divide the STEP ONE sum by the aggregate amount of payments made by all units of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).~~

~~STEP THREE: Multiply the STEP TWO quotient by the amount of payments made by each unit of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).~~

~~(f)~~ **(d)** Subject to subsection ~~(j),~~ **(g),** on or before the last business day of December of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall provide to the auditor of state

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~~(1) a report setting forth the amounts to be distributed to units of local government, as determined under subsection (c); and~~

~~(2)~~ a check payable from the public deposit insurance fund to the pension distribution fund established by subsection ~~(g)~~ **(e)** in an amount equal to the amount determined under subsection ~~(c)(1).~~ **(c).**

~~(g)~~ **(e)** The pension distribution fund is established. The pension distribution fund shall be administered by the treasurer of state. The treasurer of state shall invest money in the pension distribution fund not currently needed to meet the obligations of the pension distribution fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the pension distribution fund. Money in the pension distribution fund at the end of a state fiscal year does not revert to the state general fund.

~~(h)~~ **(f)** Subject to subsection ~~(j),~~ **(g),** on June 30 and October 1 of each year, beginning in 2002 and ending in 2022, the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the ~~fiscal officer of each unit of local government identified under subsection (d) the amount computed for that unit under subsection (c) in November of the preceding year.~~

~~(i) Each unit of local government shall deposit distributions received under subsection (h) in the pension fund or funds identified by the secretary-investment manager and shall use those distributions to pay a portion of the obligations with respect to the pension fund or funds.~~ **public employees' retirement fund for the benefit of the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5 the amount deposited in the pension relief fund in December of the preceding year under subsection (d).**

~~(j)~~ **(g)** Before providing a check to the auditor of state under subsection ~~(f)(2)~~ **(d)** in December of any year, the secretary-investment manager shall determine:

(1) the total amount of payments made from the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001;

(2) the total amount of payments received by the board for depositories and deposited in the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001; and

(3) the total amount of interest earned by the public deposit insurance fund after the first of the payments described in subdivision (1).

If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2) (referred to in this subsection as the "net draw on the fund") exceeds

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ten million dollars ($10,000,000) and also exceeds the total amount of interest determined under subdivision (3), the secretary-investment manager may not provide a check to the auditor of state under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made from the pension distribution fund under subsection ~~(h)~~ **(f)** in the following calendar year until the total amount of interest earned by the public deposit insurance fund equals the net draw on the fund. A check may not be provided under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made under subsection ~~(f)~~ **(d)** in any subsequent calendar year if a study conducted by the board under section 7(b) of this chapter demonstrates that payment of the distribution would reduce the balance of the public deposit insurance fund to a level insufficient 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.

SECTION 15. IC 5-13-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to the limitations prescribed in this chapter, the board for depositories may fix the assessment rate to provide assets in the fund sufficient to equal the reserve for losses of the fund for the insurance of public funds on deposit in depositories. Effective on July 1, and January 1, of each year, **and from time to time as the board determines necessary,** the board shall determine and fix the fair and reasonable assessment rate for each classification of deposit, if any, to be used by depositories in determining the assessments payable during the succeeding six (6) month period. This determination shall be made by the board before or as soon as practicable after the applicable July 1, ~~or~~ January 1, **or other date established by the board.** In fixing the rate, if any, the board shall consider the amount of public funds currently on deposit, the liabilities of the insurance fund, contingent and accrued, and the determination of the board on the amount of the reserve for losses of the insurance fund as set out in section 7(b) of this chapter. For any six (6) month period the maximum assessment rate that may be fixed by the board is two percent (2%). The board may lower or waive the assessment on any or all classifications of deposit if in its discretion it determines that a lower rate or waiver will not prevent the fund from attaining sufficient assets to equal the reserve for losses. **Subject to the board's power to implement an assessment at any time by action by the board,** if, at the beginning of any six (6) month period, no action has been taken by the board for depositories fixing the assessment rate, if any, on public funds for the succeeding six (6) month period, the assessment rate is the same rate, if any, in effect during the preceding six (6) month period. Whenever as of July 1, or

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January 1, the value of the assets in the fund equals or exceeds the reserve for losses, the board shall eliminate the assessment requirement for the succeeding six (6) month period for each classification of deposit.

(b) During any period when an assessment rate is in effect, the assessment base for each depository of public funds shall be determined monthly. The assessment base must be equal to the sum total of all the minimum balances of each classification of public funds on deposit in each and all accounts during the month, the minimum balance of each account being taken respectively as of the date on which it occurs. On or before the second day of each month in which an assessment rate is in effect, each depository shall compute the amount of the assessment due from it to the insurance fund on account of public funds on deposit with it during the preceding month. The amount of the monthly assessment, if any, is the product obtained by multiplying one-twelfth (1/12) times the assessment base for the month for which the assessment is being computed.

(c) During the time the assessment rate on public funds has been waived or eliminated by the board for depositories, the respective depositories are not obligated to pay any assessment but shall continue to prepare and file the reports that would otherwise be required to be prepared and filed under this chapter.

SECTION 16. IC 5-13-12-7, AS AMENDED BY P.L.1-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **information the board considers, including but not limited to capital adequacy, liquidity, and asset quality, and** 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.

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(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 Indiana finance authority issued under IC 4-13.5.

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

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(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 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 and community development 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

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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 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 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 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).

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(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 17. IC 5-13-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Whenever the assets in the insurance fund are not sufficient to pay the claims of any kind that have been finally determined and have become payable, the board for depositories shall issue anticipatory warrants for the purpose of raising money for the immediate payment of the claims. The warrants outstanding and unpaid must not at any time exceed the sum of ~~one million five hundred thousand dollars ($1,500,000).~~ **three hundred million dollars ($300,000,000).** Interest may be paid upon the warrants from the date the rate was established by the board for depositories. Interest is payable at the end of each year or for a shorter period as the warrants remain unpaid.

(b) The warrants are the obligation of the board for depositories payable out of the public deposit insurance fund only and do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. Each warrant must have printed on its face the words, "This warrant is an obligation of the board for depositories payable solely out of the public deposits insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal, the interest, or any other amount owed on the warrants.".

(c) Subject to the limitations in subsections (a) through (b), the warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the board for depositories.

SECTION 18. IC 5-13-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) At any time when the board for depositories determines that the assets of the insurance fund are insufficient to pay its liabilities, accrued or contingent, or determines that the assessments due or to become due will not be sufficient to maintain the insurance fund in a solvent condition and insure the safekeeping and prompt payment of public funds, the board may enter an order requiring **any or** all then

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constituted depositories to substitute other security **in the amount and type, as determined by the board from time to time,** to secure the safekeeping and prompt payment of public funds.

(b) The board may require **any or** all then constituted depositories to deliver and pledge to the proper local board of finance or to the state board of finance, under the conditions for joint control of the collateral by the depositories as may be approved by the board for depositories, bonds or other obligations ~~of like character as those in which~~ **that** the board ~~is authorized to invest the excess funds of the insurance fund under IC 5-13-12-7(d).~~ **determines are acceptable collateral.** The market value of these securities, at the time of delivery, must ~~equal~~ **be an amount determined by the board, which may not exceed** the amount of public funds then on deposit with the respective depositories. The board may require depositories to pledge acceptable securities to such an extent that the market value of the pledge will at all times be substantially equal to the amount of public funds on deposit in the respective depositories.

(c) Whenever an order is in force and the amount of public funds on deposit is at least ten percent (10%) less than the market value of securities pledged to secure the payment, **as required by the board,** the depository may withdraw the excess amount of pledged collateral.

(d) Any order of the board for depositories ~~applies equally to all depositories and~~ becomes effective within the time fixed by the board. However, the time of effectiveness must not be earlier than thirty (30) days from the date of entry of the order by the board. The order continues in force until rescinded by the board. Upon the entry of any order by the board for depositories, all then constituted depositories **affected by the order** shall comply with the order. Upon compliance, and full payment of all its liabilities by the insurance fund, depositories are not required to pay any further assessments for insurance under this chapter until the order requiring collateral has been revoked or rescinded and the collateral returned to the respective depositories.".

Page 6, line 28, after "IC 24-4.5-1-106." insert "**The term does not include:**

(1) small loans as defined in IC 24-4.5-7-104; or

(2) the:

(A) offering of a credit card by a financial institution to the financial institution's customers if the financial institution is not the card issuer (as defined in 15 U.S.C. 1602(n)), other than as an agent of the card issuer; or

(B) issuing of a credit card to a person that is not a resident of Indiana;

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regardless of whether the finance charge that applies to the credit card offered or issued exceeds the limits on loan finance charges for supervised loans specified in IC 24-4.5-3-508, as adjusted in accordance with IC 24-4.5-1-106.".

Page 6, line 31, delete "hearing" and insert "**the evidence**".

Page 6, line 32, delete "for a hearing scheduled not" and insert "**.**".

Page 6, delete line 33.

Page 6, line 34, delete "mailed.".

Page 6, line 34, delete "of hearing".

Page 6, delete line 35.

Page 6, line 36, delete "(2)" and insert "**(1)**".

Page 6, between lines 36 and 37, begin a new line block indented and insert:

"**(2) describe the department's evidence that the lender meets the definition of an aggressive lender;**".

Page 6, between lines 41 and 42, begin a new line blocked left and insert:

"**If a lender disputes its designation as an aggressive lender under this section, the lender may, within twenty (20) days of the date of the notice, request a hearing on the determination. If a hearing is requested, the department shall schedule the hearing not earlier than twenty (20) days after the date of the request. If no hearing is requested, the department's determination that the lender is an aggressive lender is final.**".

Page 6, line 42, delete "the hearing" and insert "**any hearing requested by a lender under subsection (d)**".

Page 7, line 30, delete "IC 5-10.2-11-14" and insert "**IC 5-10.2-11-11**".

Page 7, after line 32, begin a new paragraph and insert:

"SECTION 19. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1336 as introduced.)

RIECKEN, Acting Chairperson

Committee Vote: yeas 7, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1336 be amended to read as follows:

Page 2, line 4, delete "(a)".

Page 2, delete lines 7 through 12.

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"**Sec. 6. As used in this chapter, "indirect holdings" means all securities of a company that are:**

(1) held in an account or a fund in which the fund owns shares or interests together with other investors not subject to this chapter; and

(2) managed by one (1) or more persons who are not employed by the fund.

Sec. 7. As used in this chapter, "private market fund" means any:

(1) private equity fund;

(2) private equity fund of funds;

(3) venture capital fund;

(4) hedge fund;

(5) hedge fund of funds;

(6) real estate fund; or

(7) investment vehicle;

that is not publicly traded.".

Page 2, line 16, delete "6." and insert "**8.**".

Page 2, line 21, delete "7. (a) If" and insert "**9. (a) Except as provided in section 11 of this chapter, if**".

Page 2, line 41, delete "ten percent (10%)" and insert "**five percent (5%)**".

Page 2, line 42, after "lender." insert "**A board is not required to divest the board's direct holdings in an aggressive lender according to the schedule set forth in subsection (a) if the divestment would cause brokerage liquidation costs to exceed five-tenths percent (0.5%) of the value of the direct holding. This determination shall be made by an advisory board comprised of the treasurer of state, the director of the department of financial institutions, the director of the public employees' retirement fund, and the director of the teachers' retirement fund. The treasurer of state shall serve as chairperson of this advisory board. The chairperson shall hold a public meeting at which the members of the advisory board shall vote on whether the divestment would cause brokerage liquidation costs to exceed five-tenths percent (0.5%) of the value of the direct holding if the divestment were to occur according to the schedule**

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set forth in subsection (a). If the advisory board determines that it will create such a negative financial impact, the board shall establish an alternate divestment schedule that permits an orderly divestment of the board's direct holdings in an aggressive lender. The alternative schedule may not exceed ten (10) years.".

Page 3, line 3, delete "9" and insert "**12**".

Page 3, line 5, delete "8. A" and insert "**10. Except as provided in section 11, a**".

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"**Sec. 11. Notwithstanding any provision to the contrary, sections 9 and 10 of this chapter do not apply to indirect holdings in:**

(1) a private market fund; or

(2) an actively managed investment fund;

that includes a lender on the aggressive lender list.".

Page 3, line 7, delete "9." and insert "**12.**".

Page 3, line 20, delete "7(a)" and insert "**9(a)**".

Page 3, line 22, delete "7(b)" and insert "**9(b)**".

Page 3, line 25, delete "10." and insert "**13.**".

Page 3, line 30, delete "11." and insert "**14.**".

Page 11, line 21, after "funds." insert "**In addition, any reallocation of public funds due to a withdrawal from an aggressive lender is to be done in a secure and prudent manner, as directed by the treasurer of state, in consultation with the director of the department of financial institutions.**".

Page 25, line 2, after "IC 24-4.5-1-106." insert "**For purposes of this subsection, permissible additional charges in the amounts set forth in IC 24-4.5-3-202, plus a transaction fee on a cash advance that may not exceed a total of four (4%), and any portion of a penalty interest rate that pertains to balances on accounts that are more than sixty-five (65) days delinquent may not be considered in calculating whether a lender is exceeding the limits on loan finance charges for supervised loans. However, any interest rate or fee attributable to a universal default provision must be considered in calculating whether a lender is exceeding the limits on loan finance charges for supervised loans.**".

Page 26, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 20. IC 28-1-15-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. (a) Before the last day in January and before the last day in July, every financial institution that had public funds on deposit under IC 5-13 during the preceding six (6) months shall file with the department a certified report under oath showing for each**

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of the preceding six (6) months the amount of public funds on deposit on the last day of each month. The state board of accounts, with the approval of the attorney general, shall prepare and prescribe the forms of the report required by this section.

(b) The department shall review the report of each financial institution that is submitted under this section and the statement of condition of the financial institution and compare public deposits and risks in relation to the financial institution's statement of condition. If the department determines that there is a concern regarding the safety of public deposits and the financial institution's soundness, the concern shall be communicated to the treasurer of state.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1336 as printed January 29, 2010.)

GRUBB

HOUSE MOTION

Mr. Speaker: I move that House Bill 1336 be amended to read as follows:

Page 4, delete lines 3 through 42.

Page 5, delete lines 1 through 40.

Page 12, line 26, after "than" delete ":" and insert "**the lesser of:**".

Page 12, delete line 27.

Page 12, line 28, delete "(A)", begin a new line block indented and insert:

"**(1)**".

Page 12, line 32, delete "(B)", begin a new line block indented and insert:

"**(2)**".

Page 12, line 38, delete "; or" and insert "**.**".

Page 12, delete line 39 through 41.

Page 12, line 42, delete "(a)(1)(B)" and insert "(a)(2)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1336 as printed January 29, 2010.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1336, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 37, begin a new paragraph and insert:

"SECTION 1. IC 5-13-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The fiscal body of each political subdivision not governed by sections 1 through 3 of this chapter constitutes a board of finance for that political subdivision. ~~A school corporation (as defined in IC 36-1-2-17) may determine if a board of finance meeting is needed on an annual basis.~~

(b) Each board of finance has supervision of the revocation of public depositories for the respective political subdivisions for which they act.

(c) The members of the boards serve without compensation other than the members' salaries allowed by law for the members' services as officers of the members' respective political subdivisions.

SECTION 2. IC 5-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(2) Securities fully guaranteed and issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the twenty (20) years preceding the date of the purchase.

(b) If an investment under subsection (a)(1) is made at a cost in

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excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

(1) a duly designated depository as prescribed in this article; or

(2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in

~~(1)~~ municipal securities ~~and~~

~~(2) equity securities;~~

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established

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by ordinance of the town in

~~(1)~~ municipal securities ~~and~~

~~(2) equity securities;~~

having a stated final maturity of ~~any number of years or having no stated final maturity.~~ **not more than five (5) years.** The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 3. IC 5-13-9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

~~(b) The investments described in subsection (a) may not exceed fifty percent (50%) of the funds held by the officer and available for investment. This limitation does not apply to investments made by a county treasurer between:~~

~~(1) the date that is ten (10) days before each property tax installment due date described in IC 6-1.1-22-9; and~~

~~(2) the property tax settlement distribution date described in IC 6-1.1-27-1(b).~~

~~(c)~~ **(b)** The investments described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5.

~~(d)~~ **(c)** The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

(1) Direct obligations of the United States.

(2) Obligations issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

~~(e)~~ **(d)** The form of securities of or interests in an investment

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company or investment trust described in subsection (a) must be rated as one (1) of the following:

(1) AAAm, or its equivalent, by Standard and Poor's Corporation or its successor.

(2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

~~(f)~~ **(e)** The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

~~(g)~~ **(f)** The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).".

Page 6, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 7. IC 5-13-9-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.3. (a) In addition to the authority to invest in certificates of deposit under section 5 of this chapter, and notwithstanding any other law, the board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest public funds in certificates of deposit in accordance with the following conditions:**

(1) The funds are initially invested through a depository that is selected by the investing officer.

(2) The selected depository arranges for the deposit of the funds in certificates of deposit in one (1) or more federally insured banks or savings and loan associations, wherever located, for the account of the county or political subdivision.

(3) The full amount of the principal and any accrued interest of each certificate of deposit are covered by insurance of any federal deposit insurance agency.

(4) The selected depository acts as a custodian for the county or political subdivision with respect to the certificates of deposit issued for its account.

(5) At the same time that the county's or political subdivision's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the county or political subdivision through the

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selected depository.

(b) Public funds invested in accordance with subsection (a) are not subject to any security or pledging requirements that may otherwise be applicable to the deposit or investment of public funds.".

Page 8, line 5, delete "The" and insert "**Subject to subsection (d),** the".

Page 9, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 11. IC 5-13-9.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

(c) A financial institution is ineligible to become a depository and receive public funds of the state if the institution:

(1) fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution; **or**

(2) issues an unsecured credit card that is not a debit card, as a card issuer (as defined in 15 U.S.C. 1602(n)), and the financial institution is not in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009.

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. A determination of the ratio described in this

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subsection must be based on the institution's most recent periodic statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

(d) A financial institution shall furnish to the board a certificate executed by an officer of the institution signifying that the institution satisfies:

(1) the requirements of subsection (c); and

(2) the requirement in section 6(b) of this chapter that the sum of:

(A) the total principal amount of the depository's outstanding loans to Indiana residents; plus

(B) the total value of the depository's investments in Indiana residents;

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

The board may rely on a certificate furnished under this subsection in determining whether to deposit public funds or reinvest public funds in the institution.".

Delete pages 10 through 11.

Page 12, delete lines 1 through 23.

Page 12, line 34, after "depository" insert "**at the time of the appointment if the depository is an Indiana bank (as defined in IC 28-2-13-17). If the depository is not an Indiana bank, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the bank's depository that is located in Indiana. In making these appointments, the**".

Page 12, delete line 35.

Page 12, delete lines 40 through 42, begin a new line block indented and insert:

"**(1) One (1) must be employed by a depository that has total deposits of less than one hundred million dollars ($100,000,000).**

(2) One (1) must be employed by a depository that has total deposits of less than two hundred fifty million dollars ($250,000,000).

(3) One (1) must be employed by a depository that has total deposits of at least two hundred fifty million dollars ($250,000,000) but less than one billion dollars ($1,000,000,000).

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(4) One (1) must be employed by a depository that has total deposits of at least one billion dollars ($1,000,000,000).

Total deposits shall be determined using the depository's reported deposits based on the information contained in the most recent June 30th FDIC Summary of Deposits, Market Share Selection for Indiana.".

Page 13, delete lines 1 through 7.

Page 13, line 8, delete "statement of condition.".

Page 13, line 8, strike "terms" and insert "**term**".

Page 13, line 8, strike "the" and insert "**an**".

Page 13, line 8, strike "members".

Page 13, line 9, delete "are" and insert "**member is**".

Page 13, line 11, after "appointment" delete ".".

Page 13, line 11, reset in roman "and serves afer the expiration of that".

Page 13, reset in roman line 12.

Page 16, line 1, reset in roman "(c)(1).".

Page 16, delete line 2.

Page 17, line 20, after "assessments" insert ".".

Page 17, line 20, strike "payable during the succeeding six (6)".

Page 17, line 21, strike "month period.".

Page 17, line 27, strike "six".

Page 17, line 28, strike "(6) month".

Page 17, line 34, after "if" delete ",".

Page 17, line 34, strike "at the beginning of any six (6) month period,".

Page 17, line 36, after "funds" insert ",".

Page 17, line 36, strike "for the succeeding six (6)".

Page 17, line 37, strike "month period,".

Page 17, line 37, after "any" delete "," and insert ".".

Page 17, line 37, strike "in effect".

Page 17, line 38, strike "during the preceding six (6) month period.".

Page 17, line 39, after "1," insert "**or other date established by the board,**".

Page 17, line 41, strike "for the succeeding six (6) month period".

Page 18, line 7, after "occurs." insert "**For purposes of this section, deposits that are federally insured are not considered public funds deposits in a depository.**".

Page 22, line 41, after "funds." insert "**The collateral to be accepted by the board for depositories under this chapter may include, but is not limited to, the following:**

(1) United States Treasury securities.

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(2) Federal agency securities.

(3) An irrevocable letter of credit issued by a Federal Home Loan Bank if:

(A) the federal home loan bank issuing the irrevocable letter of credit maintains a rating of at least the third highest level from at least one (1) of the nationally recognized rating agencies; and

(B) the irrevocable letter of credit provides that the board for depositories may draw on the letter when necessary to satisfy losses to the public deposit insurance fund under state law.".

Page 23, between lines 28 and 29, begin a new paragraph and insert:

"**(e) A depository may elect at any time to pledge and deliver collateral to the board equal to one hundred percent (100%) of the public funds the depository has on deposit. A depository that elects this option and has pledged and delivered the collateral to the board is exempt from paying any assessment authorized by this chapter while the collateral is maintained with the board.**

(f) If the fund balance is zero (0), all depositories shall pledge and deliver collateral to the board equal to each depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total deposit accounts of public funds for the previous four (4) quarters, as reported under this article, as determined by the board from time to time, with at least fifteen (15) days notice to the depository, to secure the safekeeping and prompt payment of public funds.".

Page 23, delete lines 29 through 42.

Delete pages 24 through 25.

Page 26, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1336 as reprinted February 2, 2010.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

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