

Adopted Rejected

COMMITTEE REPORT

YES: 7
NO: 4

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:

- 1 Page 2, line 4, after "4." and insert "(a)".
- 2 Page 2, between lines 6 and 7, begin a new paragraph and insert:
- 3 **"(b) The term does not include securities of a company that are:**
- 4 **(1) held in an account or a fund; and**
- 5 **(2) managed by one (1) or more persons:**
- 6 **(A) who are not employed by the fund; and**
- 7 **(B) in which the fund owns shares or interests together**
- 8 **with other investors not subject to this chapter."**
- 9 Page 2, delete lines 10 through 26.
- 10 Page 2, line 27, delete "8." and insert "6."
- 11 Page 2, line 29, after "Register" insert "**under IC 28-1-2-40(f)**".
- 12 Page 2, line 31, delete "or indirect".
- 13 Page 2, line 32, delete "9. (a) Except as provided in section 11 of
- 14 this chapter, if" and insert "**7. (a) If**".
- 15 Page 2, line 38, after "held" insert "**as direct holdings**".

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

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

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

12 Page 3, delete lines 20 through 23.

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

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

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

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

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

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

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

21 "SECTION 2. IC 5-13-4-10 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. "Financial
 23 institution" means any of the following:

- 24 (1) A bank, trust company, or mutual savings bank that:
 25 (A) was incorporated under the law of Indiana or any other
 26 state; and
 27 (B) has its principal office or a branch in Indiana.
 28 (2) A national banking association with its principal office or a
 29 branch in Indiana.
 30 (3) A savings association operating as a deposit association
 31 incorporated under Indiana law.
 32 (4) A federally chartered savings association with its principal
 33 office or a branch in Indiana.
 34 (5) A federally chartered savings bank with its principal office or
 35 a branch in Indiana.
 36 (6) A state chartered credit union in Indiana that is federally
 37 insured or privately insured and that has assets of three million
 38 dollars (\$3,000,000) or more.

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) In one (1) or more depositories designated for the political
 38 subdivision, if the sum of the monthly average balances of all the

1 transaction accounts for the political subdivision does not exceed
2 one hundred thousand dollars (\$100,000).

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

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

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

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

32 (b) The investing officer making a deposit in a certificate of deposit
33 shall obtain quotes of the specific rates of interest for the term of that
34 certificate of deposit that each designated depository will pay on the
35 certificate of deposit. Quotes may be solicited and taken by telephone.
36 A memorandum of all quotes solicited and taken shall be retained by
37 the investing officer as a public record of the political subdivision
38 under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the**

1 **deposit is not** placed in the designated depository quoting the highest
 2 rate of interest, ~~if more than one (1) depository submits a quote of the~~
 3 ~~highest interest rate quoted for the investment, the deposit may be~~
 4 ~~placed in any or all of the designated depositories quoting the highest~~
 5 ~~rate in the amount or amounts determined by the investing officer, in~~
 6 ~~the investing officer's discretion:~~ **the investing officer shall:**

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

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

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

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

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

1 of the political subdivision under IC 5-14-3.

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

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

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

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

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

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

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

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

- 6 (1) Purchase securities on margin.
 7 (2) Open a securities margin account for the investment of public
 8 funds.
 9 **(3) Invest more than fifty percent (50%) of the unit of**
 10 **government's total public funds that are invested at any point**
 11 **in time in nonfederally insured deposit accounts under this**
 12 **chapter.**

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

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

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

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

38 (e) A written master agreement under subsection (a) must provide

1 the following:

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

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

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

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

13 (5) A custodian bank or trust company located in Indiana must:
14 (A) be selected and contracted by the board of a joint
15 investment fund to hold the securities and other investments
16 of the joint investment fund;
17 (B) collect the income and other receipts from the securities
18 and other investments; and
19 (C) provide any other services appropriate and customary for
20 a custodian;

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

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

34 (A) A financial institution located in Indiana.

35 (B) Registered as an investment adviser with the United States
36 Securities and Exchange Commission under the Investment
37 Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.),
38 with public funds under management in the amount of at least

- 1 one hundred million dollars (\$100,000,000).
- 2 (7) A joint investment fund must be audited at least annually by
- 3 an independent auditing firm, with a copy of the audit provided to
- 4 each participating political subdivision.
- 5 (8) The administrative expenses of a joint investment fund,
- 6 including fees for the fund administrator, custodian, auditor, and
- 7 other professional services, must be paid from the fund's interest
- 8 earnings.
- 9 (9) The interest earnings that exceed the administrative expenses
- 10 of a joint investment fund must be credited to each political
- 11 subdivision participating in the joint investment fund in a manner
- 12 that equitably reflects the differing amounts and terms of the
- 13 political subdivision's investment in the joint investment fund.
- 14 (10) Each participating political subdivision shall receive reports,
- 15 including a daily transaction confirmation reflecting any activity
- 16 in the political subdivision's account and monthly reports
- 17 reflecting its investment activity in the joint investment fund and
- 18 the performance and composition of the joint investment fund
- 19 itself.
- 20 (11) The board of a joint investment fund shall meet at least
- 21 annually to review the operation and performance of the joint
- 22 investment fund, the custodian, the fund administrator, the
- 23 auditor, and any other professional retained by the board.
- 24 (12) The board of a joint investment fund shall provide for any
- 25 other policies that are necessary for the efficient administration
- 26 and accounting of the joint investment fund and are consistent
- 27 with the law governing the investment, management, deposit, and
- 28 safekeeping of public funds of political subdivisions."
- 29 Page 6, between lines 16 and 17, begin a new paragraph and insert:
- 30 "SECTION 11. IC 5-13-10-3 IS AMENDED TO READ AS
- 31 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** The treasurer of
- 32 state may not deposit aggregate funds in deposit accounts in any one
- 33 (1) designated depository in an amount aggregating at any one (1) time
- 34 more than:
- 35 **(1) the lesser of the following:**
- 36 **(A)** fifty percent (50%) of the combined capital, surplus, and
- 37 undivided profits of that depository, as determined by its last
- 38 published statement of condition filed with the treasurer of

1 state; or
 2 **(B) the amount that would cause the total investments and**
 3 **deposit accounts of public funds in the designated**
 4 **depository to exceed one hundred percent (100%) of the**
 5 **balance in the public deposit insurance fund as of the end**
 6 **of the preceding calendar quarter, unless the depository**
 7 **securitizes the excess amount of the deposit with assets of**
 8 **the depository; or**
 9 **(2) in the case of a federally chartered credit union, twenty**
 10 **percent (20%) of the total shares of the federally chartered**
 11 **credit union.**

12 **(b) A deposit that is not prohibited by subsection (a)(1)(B) when**
 13 **the deposit is made in a depository remains legal even if a**
 14 **subsequent decrease in the balance in the public deposit insurance**
 15 **fund causes the investments and deposit accounts of public funds**
 16 **in the depository to exceed one hundred percent (100%) of the**
 17 **balance in the public deposit insurance fund.**

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

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

1 **Treasury Note.**

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

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

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

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

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

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

37 (b) The officers of the board consist of a chairman, a
 38 secretary-investment manager, a vice chairman, and other officers the

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

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

20 (d) ~~For (10)~~ **Two (2)** days notice of the time and place of all
 21 meetings to determine and fix the assessment rate to be paid by
 22 depositories on account of insurance on public funds or the
 23 establishment or redetermination of the reserve for losses of the
 24 insurance fund shall be given by one (1) publication in a newspaper of
 25 general circulation printed and published in the city of Indianapolis.
 26 The time, place, notice, and waiver requirements for the members of
 27 the board for all meetings shall be determined by its rules. The
 28 secretary-investment manager of the board shall enter its proceedings
 29 at length in a record provided for that purpose, and the records of the
 30 proceedings shall be approved and signed respectively by the chairman
 31 or vice chairman and attested by the secretary-investment manager.

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

- 1 (1) Approve all accounts for salaries and allowable expenses of
 2 the board, including, but not limited to:
- 3 (A) the employment of general or special attorneys,
 4 consultants, and employees and agents as may be necessary to
 5 assist the secretary-investment manager in carrying out the
 6 duties of that office and to assist the board in its consideration
 7 of applications for a guarantee of an industrial development
 8 obligation or credit enhancement obligation guarantee; and
 9 (B) the setting of compensation of persons employed under
 10 clause (A).
- 11 (2) Approve all expenses incidental to the operation of the public
 12 deposit insurance fund.
- 13 (3) Perform other duties and functions that may be delegated to
 14 the secretary-investment manager by the board or that are
 15 necessary to carry out the duties of the secretary-investment
 16 manager under this chapter.
- 17 (b) The secretary-investment manager shall keep a record of the
 18 proceedings of the board, and shall maintain and be custodian of all
 19 books, documents, and papers filed with the board, and its official seal.
 20 The secretary-investment manager may make copies of all minutes and
 21 other records and documents of the board, and may give certificates
 22 under seal of the board to the effect that the copies are true copies. All
 23 persons dealing with the board may rely upon the certificates.
- 24 (c) Each year, beginning in 2001 and ending in 2021, after the
 25 treasurer of state prepares the annual report required by IC 4-8.1-2-14,
 26 the secretary-investment manager shall determine:
- 27 (1) the amount of interest earned by the public deposit insurance
 28 fund during the state fiscal year ending on the preceding June 30,
 29 after deducting:
- 30 (A) all expenses and other costs of the board for depositories
 31 that were not paid from other sources during that state fiscal
 32 year; and
 33 (B) all expenses and other costs associated with the Indiana
 34 education savings authority that were not paid from other
 35 sources during that state fiscal year; and
 36 (2) the amount of interest earned during the state fiscal year
 37 ending on the preceding June 30 by the pension distribution fund
 38 established by subsection ~~(g)~~ (e).

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

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

14 STEP ONE: Add the amount determined under subsection (c)(1)
 15 to the amount determined under subsection (c)(2):

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

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

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

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

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

34 (c).

35 (g) (e) The pension distribution fund is established. The pension
 36 distribution fund shall be administered by the treasurer of state. The
 37 treasurer of state shall invest money in the pension distribution fund
 38 not currently needed to meet the obligations of the pension distribution

1 fund in the same manner as other public money may be invested.
 2 Interest that accrues from these investments shall be deposited in the
 3 pension distribution fund. Money in the pension distribution fund at the
 4 end of a state fiscal year does not revert to the state general fund.

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

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

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

- 22 (1) the total amount of payments made from the public deposit
 23 insurance fund under IC 5-13-13-3 after June 30, 2001;
- 24 (2) the total amount of payments received by the board for
 25 depositories and deposited in the public deposit insurance fund
 26 under IC 5-13-13-3 after June 30, 2001; and
- 27 (3) the total amount of interest earned by the public deposit
 28 insurance fund after the first of the payments described in
 29 subdivision (1).

30 If the total amount of payments determined under subdivision (1) less
 31 the total amount of payments determined under subdivision (2)
 32 (referred to in this subsection as the "net draw on the fund") exceeds
 33 ten million dollars (\$10,000,000) and also exceeds the total amount of
 34 interest determined under subdivision (3), the secretary-investment
 35 manager may not provide a check to the auditor of state under
 36 subsection ~~(f)~~~~(2)~~ **(d)** and a distribution may not be made from the
 37 pension distribution fund under subsection ~~(h)~~ **(f)** in the following
 38 calendar year until the total amount of interest earned by the public

1 deposit insurance fund equals the net draw on the fund. A check may
 2 not be provided under subsection ~~(f)(2)~~ **(d)** and a distribution may not
 3 be made under subsection ~~(f)~~ **(d)** in any subsequent calendar year if a
 4 study conducted by the board under section 7(b) of this chapter
 5 demonstrates that payment of the distribution would reduce the balance
 6 of the public deposit insurance fund to a level insufficient to ensure the
 7 safekeeping and prompt payment of public funds to the extent they are
 8 not covered by insurance of any federal deposit insurance agency.

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

1 for the succeeding six (6) month period for each classification of
2 deposit.

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

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

21 SECTION 16. IC 5-13-12-7, AS AMENDED BY P.L.1-2006,
22 SECTION 100, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board for
24 depositories shall manage and operate the insurance fund. All expenses
25 incident to the administration of the fund shall be paid out of the money
26 accumulated in it subject to the direction of the board for depositories.

27 (b) Effective January 1 and July 1 in each year, the board shall
28 before those dates redetermine the amount of the reserve to be
29 maintained by the insurance fund. The establishment or any change in
30 the reserve for losses shall be determined by the board based on
31 **information the board considers, including but not limited to**
32 **capital adequacy, liquidity, and asset quality, and** a study to be
33 made or updated by actuaries, economists, or other consultants based
34 on the history of losses, earnings on the funds, conditions of the
35 depositories, economic conditions affecting particular depositories or
36 depositories in general, and any other factors that the board considers
37 relevant in making its determination. The reserve determined by the
38 board must be sufficient to ensure the safekeeping and prompt payment

1 of public funds to the extent they are not covered by insurance of any
2 federal deposit insurance agency.

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

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

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

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

37 (3) In bonds, notes, certificates, and other valid obligations of a
38 state or of an Indiana political subdivision that are issued under

1 law, the issuers of which, for five (5) years before the date of the
2 investment, have promptly paid the principal and interest on their
3 bonds and other legal obligations.

4 (4) In bonds or other obligations of the Indiana finance authority
5 issued under IC 4-13.5.

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

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

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

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

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

29 (10) In bonds or other obligations of the Indiana housing and
30 community development authority.

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

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

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

- 1 (B) repurchase agreements fully collateralized by obligations
 2 described in clause (A), of which the company or trust takes
 3 delivery either directly or through an authorized custodian.
- 4 (2) Total outstanding investments in guarantees of industrial
 5 development obligations and credit enhancement obligations
 6 under subsection (d)(6) must not exceed the greater of:
- 7 (A) ten percent (10%) of the available balance of the insurance
 8 fund; or
 9 (B) fourteen million dollars (\$14,000,000).
- 10 (3) Total outstanding investments in guarantees of bond bank
 11 obligations under subsection (d)(7) must not exceed the greater
 12 of:
- 13 (A) twenty percent (20%) of the available balance of the
 14 insurance fund; or
 15 (B) twenty-four million dollars (\$24,000,000).
- 16 (4) Total outstanding investments in bonds, notes, or other
 17 obligations of the Indiana finance authority under subsection
 18 (d)(8) may not exceed the greater of:
- 19 (A) fifteen percent (15%) of the available balance of the
 20 insurance fund; or
 21 (B) twenty million dollars (\$20,000,000).
- 22 However, after June 30, 1988, the board may not make any
 23 additional investment in bonds, notes, or other obligations of the
 24 Indiana finance authority issued under IC 4-4-11, and the board
 25 may invest an amount equal to the remainder, if any, of:
- 26 (i) fifteen percent (15%) of the available balance of the
 27 insurance fund; minus
 28 (ii) the board's total outstanding investments in bonds, notes,
 29 or other obligations of the Indiana finance authority issued
 30 under IC 4-4-11;
- 31 in guarantees of industrial development obligations or credit
 32 enhancement obligations, or both, as authorized by subsection
 33 (d)(6). In such a case, the outstanding investments, as authorized
 34 by subsection (d)(6) and (d)(8), may not exceed in total the
 35 greater of twenty-five percent (25%) of the available balance of
 36 the insurance fund or thirty-four million dollars (\$34,000,000).
- 37 (5) Total outstanding investments in notes or other debt
 38 obligations of counties, cities, and towns under subsection (d)(9)

1 may not exceed the greater of:

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

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

5 (f) For purposes of subsection (e), the available balance of the
6 insurance fund does not include the outstanding principal amount of
7 any fund investment in a corporate note or obligation or the part of the
8 fund that has been established as a reserve for losses.

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

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

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

19 (1) the principal amount of the loan;

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

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

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

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

37 (b) The warrants are the obligation of the board for depositories
38 payable out of the public deposit insurance fund only and do not

1 constitute a debt, liability, or obligation of the state or a pledge of the
 2 faith and credit of the state. Each warrant must have printed on its face
 3 the words, "This warrant is an obligation of the board for depositories
 4 payable solely out of the public deposits insurance fund, and neither the
 5 faith and credit nor the taxing power of the state is pledged to the
 6 payment of the principal, the interest, or any other amount owed on the
 7 warrants."

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

11 SECTION 18. IC 5-13-13-7 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) At any time
 13 when the board for depositories determines that the assets of the
 14 insurance fund are insufficient to pay its liabilities, accrued or
 15 contingent, or determines that the assessments due or to become due
 16 will not be sufficient to maintain the insurance fund in a solvent
 17 condition and insure the safekeeping and prompt payment of public
 18 funds, the board may enter an order requiring **any or** all then
 19 constituted depositories to substitute other security **in the amount and**
 20 **type, as determined by the board from time to time,** to secure the
 21 safekeeping and prompt payment of public funds.

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

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

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

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

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

16 (2) **the:**

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

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

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

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

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

29 Page 6, delete line 33.

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

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

32 Page 6, delete line 35.

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

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

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

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

- 1 insert:
- 2 **"If a lender disputes its designation as an aggressive lender under**
- 3 **this section, the lender may, within twenty (20) days of the date of**
- 4 **the notice, request a hearing on the determination. If a hearing is**
- 5 **requested, the department shall schedule the hearing not earlier**
- 6 **than twenty (20) days after the date of the request. If no hearing is**
- 7 **requested, the department's determination that the lender is an**
- 8 **aggressive lender is final."**
- 9 Page 6, line 42, delete "the hearing" and insert **"any hearing**
- 10 **requested by a lender under subsection (d)"**.
- 11 Page 7, line 30, delete "IC 5-10.2-11-14" and insert **"IC**
- 12 **5-10.2-11-11"**.
- 13 Page 7, after line 32, begin a new paragraph and insert:
- 14 **"SECTION 19. An emergency is declared for this act."**
- 15 Renumber all SECTIONS consecutively.
(Reference is to HB 1336 as introduced.)

and when so amended that said bill do pass.

Representative Riecken, Acting Chairperson