

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	2

MR. SPEAKER:

*Your Committee on Roads and Transportation, to which was referred Senate Bill 382, 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 Replace the effective dates in SECTIONS 1 through 6 with
- 2 "[EFFECTIVE UPON PASSAGE]".
- 3 Page 3, between lines 19 and 20, begin a new paragraph and insert:
- 4 "SECTION 3. IC 8-15.5-1-3, AS ADDED BY P.L.47-2006,
- 5 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 UPON PASSAGE]: Sec. 3. The general assembly finds and determines
- 7 that:
- 8 (1) the state has limited resources to fund the maintenance and
- 9 expansion of the state transportation system, including toll roads,
- 10 and therefore alternative funding sources should be developed to
- 11 supplement public revenue sources;
- 12 (2) the Indiana finance authority should be authorized to solicit,
- 13 evaluate, negotiate, and administer agreements with the private

1 sector for the purposes described in subdivision (1); ~~and~~
 2 (3) it is necessary to serve the public interest and to provide for
 3 the public welfare by adopting this article for the purposes
 4 described in this article;

5 **(4) public-private agreements entered into by private entities**
 6 **and the Indiana finance authority under this article should**
 7 **allow for:**

8 **(A) transparency, oversight, and public information**
 9 **sharing;**

10 **(B) compliance with all state and federal environmental**
 11 **laws; and**

12 **(C) fairness for local jurisdictions when negotiating the**
 13 **public-private agreements.**

14 SECTION 4. IC 8-15.5-4-1.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) The authority may not**
 17 **issue a request for proposals for a toll road project under this**
 18 **article unless the authority has received a preliminary feasibility**
 19 **study and an economic impact study for the project from the**
 20 **department, prepared in the same manner as required by**
 21 **IC 8-15.7-4-1.**

22 **(b) The economic impact study must, at a minimum, include an**
 23 **analysis of the following matters with respect to the proposed**
 24 **project:**

25 **(1) Economic impacts on existing commercial and industrial**
 26 **development.**

27 **(2) Potential impacts on employment.**

28 **(3) Potential for future development near the project area,**
 29 **including consideration of locations for interchanges that will**
 30 **maximize opportunities for development.**

31 **(4) Fiscal impacts on revenues to local units of government.**

32 **(6) Demands on government services, such as public safety,**
 33 **public works, education, zoning and building, and local**
 34 **airports.**

35 **The authority shall post a copy of the economic impact study on the**
 36 **authority's Internet web site and shall also provide copies of the**
 37 **study to the governor and the legislative council (in an electronic**
 38 **format under IC 5-14-6).**

1 **(c) After completion of the economic impact study, the authority**
 2 **must conduct a public hearing on the results of the study in the**
 3 **county in which the proposed project would be located. At least ten**
 4 **(10) days before each public hearing, the authority shall:**

5 **(1) post notice of the public hearing on the authority's**
 6 **Internet web site;**

7 **(2) publish notice of the public hearing one (1) time in**
 8 **accordance with IC 5-3-1 in a newspaper of general**
 9 **circulation in the county; and**

10 **(3) include in the notices under subdivisions (1) and (2):**

11 **(A) the date, time, and place of the hearing;**

12 **(B) the subject matter of the hearing;**

13 **(C) a description of the purpose of the economic impact**
 14 **study;**

15 **(D) a description of the proposed project and its location;**
 16 **and**

17 **(E) a statement concerning the availability of the study on**
 18 **the authority's Internet web site.**

19 **At the hearing, the authority shall allow the public to be heard on**
 20 **the economic impact study and the proposed project.**

21 SECTION 5. IC 8-15.5-4-9, AS ADDED BY P.L.47-2006,
 22 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 9. **(a) If the authority makes a preliminary**
 24 **selection of an operator under section 8 of this chapter, the authority**
 25 **shall schedule a public hearing on the preliminary selection and the**
 26 **terms of the public-private agreement for the project. The hearing**
 27 **shall be conducted in the single largest city or town located in the**
 28 **county in which the proposed project is to be located.**

29 **(b) At least ten (10) days before the public hearing, the authority**
 30 **shall post on its Internet web site:**

31 **(1) the proposal submitted by the offeror that has been**
 32 **preliminarily selected as the operator for the project, except**
 33 **for those parts of the proposal that are confidential under this**
 34 **article; and**

35 **(2) the proposed public-private agreement for the project.**

36 **(c) At least ten (10) days before the public hearing, the authority**
 37 **shall:**

38 **(1) post notice of the public hearing on the authority's**

1 **Internet web site; and**
 2 **(2) publish notice of the hearing one (1) time in accordance with**
 3 **IC 5-3-1 at least seven (7) days before the hearing; in a**
 4 **newspaper of general circulation in the county in which the**
 5 **proposed project is to be located.**

6 **(d) The notice notices required by subsection (c) must include the**
 7 **following:**

- 8 (1) The date, time, and place of the hearing.
- 9 (2) The subject matter of the hearing.
- 10 (3) A description of the related toll road project and of the
- 11 public-private agreement to be awarded.
- 12 (4) The identity of the offeror that has been preliminarily selected
- 13 as the operator for the project.
- 14 (5) The address and telephone number of the authority.
- 15 (6) A statement indicating that, subject to section 6 of this
- 16 chapter, and except for those portions that are confidential under
- 17 ~~IC 5-14-3~~, **this chapter, the following are available on the**
- 18 **authority's Internet web site and are also available** for public
- 19 inspection and copying at the principal office of the authority
- 20 during regular business hours:

- 21 **(A) The selected offer. and**
- 22 **(B) An explanation of the basis upon which the preliminary**
- 23 **selection was made.**
- 24 **(C) The proposed public-private agreement for the project.**

25 **(e) At the hearing, the authority shall allow the public to be**
 26 **heard on the preliminary selection of the operator for the proposed**
 27 **project and the terms of the public-private agreement for the**
 28 **proposed project.**

29 SECTION 6. IC 8-15.5-5-2, AS ADDED BY P.L.47-2006,
 30 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 2. A public-private agreement entered into
 32 under this article must provide for the following:

- 33 (1) The original term of the public-private agreement, which may
- 34 not exceed seventy-five (75) years.
- 35 (2) Provisions for a:
- 36 (A) lease, franchise, or license of the toll road project and the
- 37 real property owned by the authority upon which the toll road
- 38 project is located or is to be located; or

1 (B) management agreement or other contract to operate the toll
 2 road project and the real property owned by the authority upon
 3 which the toll road project is located or is to be located;
 4 for a predetermined period. The public-private agreement must
 5 provide for ownership of all improvements and real property by
 6 the authority in the name of the state.

7 (3) Monitoring of the operator's maintenance practices by the
 8 authority and the taking of actions by the authority that it
 9 considers appropriate to ensure that the toll road project is
 10 properly maintained.

11 (4) The basis upon which user fees that may be collected by the
 12 operator, as determined under this article, are established.

13 (5) Compliance with applicable state and federal laws and local
 14 ordinances.

15 (6) Grounds for termination of the public-private agreement by
 16 the authority or the operator.

17 (7) The date of termination of the operator's authority and duties
 18 under this article.

19 (8) Procedures for amendment of the agreement.

20 **(9) Provisions requiring the completion of all environmental**
 21 **analyses of the toll road project required by state and federal**
 22 **law in the manner and at the times required by the**
 23 **appropriate state and federal agencies.**

24 **(10) A provision, to be negotiated by the authority in good**
 25 **faith on behalf of the units of local government that will**
 26 **contain any part of the toll road project, that establishes:**

27 **(A) a procedure to determine the expenses and losses of**
 28 **revenue incurred by those units as a result of the**
 29 **construction of the project; and**

30 **(B) a procedure for resolving disputes concerning the**
 31 **payment of claims described in clause (A)."**

32 Page 3, between lines 34 and 35, begin a new paragraph and insert:

33 "SECTION 8. IC 8-15.5-10-5, AS ADDED BY P.L.47-2006,
 34 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 5. **(a) Subject to subsections (b) and (c)**, the
 36 authority may exercise any of its powers under IC 8-15-2 or any other
 37 provision of the Indiana Code as necessary or desirable for the
 38 performance of the authority's duties and the execution of the

1 authority's powers under this article.

2 **(b) For purposes of subsection (a), and subject to subsection (c),**
 3 **the following are governed by IC 8-15-2, IC 32-24, and any other**
 4 **applicable provision of the Indiana Code as in effect on January 1,**
 5 **2010, and are not affected by amendments to those statutes enacted**
 6 **after December 31, 2009:**

7 **(1) The authority's use of the power of eminent domain to**
 8 **acquire property or interests in property for a project under**
 9 **this article.**

10 **(2) The rights of property owners who are affected by the**
 11 **authority's use of the power of eminent domain for a project**
 12 **under this article.**

13 **(c) The authority may not use the power of eminent domain to**
 14 **acquire land or other real property, or any interest in land or real**
 15 **property, that is:**

16 **(1) located in an area surrounding an interchange located on**
 17 **a project; and**

18 **(2) outside the right-of-way for the project.**

19 SECTION 9. IC 8-15.7-1-1, AS ADDED BY P.L.47-2006,
 20 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 1. The general assembly finds the following:

22 (1) There is a public need for timely development and operation
 23 of transportation facilities in Indiana that address the needs
 24 identified by the department, through the department's
 25 transportation plan and otherwise, by accelerating project
 26 delivery, improving safety, reducing congestion, increasing
 27 mobility, improving connectivity, increasing capacity, enhancing
 28 economic efficiency, promoting economic development, or any
 29 combination of those methods.

30 (2) This public need may not be wholly satisfied by existing
 31 methods of procurement and project delivery in which
 32 transportation facilities are developed, financed, or operated.

33 (3) Authorizing private entities to do all or part of the
 34 development, planning, design, construction, maintenance, repair,
 35 rehabilitation, expansion, financing, and operation of one (1) or
 36 more transportation facilities may result in the availability of the
 37 transportation facilities to the public in a more timely, more
 38 efficient, or less costly fashion, thereby serving the public safety

- 1 and welfare.
- 2 **(4) Public-private agreements entered into by private entities**
 3 **and the department under this article should allow for:**
- 4 **(A) transparency, oversight, and public information**
 5 **sharing;**
- 6 **(B) compliance with all state and federal environmental**
 7 **laws; and**
- 8 **(C) fairness for local jurisdictions when negotiating the**
 9 **public-private agreements."**

10 Page 4, between lines 32 and 33, begin a new paragraph and insert:
 11 "SECTION 11. IC 8-15.7-4-1, AS ADDED BY P.L.47-2006,
 12 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 1. (a) The department may request proposals
 14 from private entities for all or part of the development, financing, and
 15 operation of one (1) or more projects.

16 (b) If all or part of the project will consist of a tollway, the
 17 department shall take the following steps before the commencement of
 18 the procurement process under this chapter:

19 (1) **Except as provided by subsection (c),** the department shall
 20 cause to be prepared a preliminary feasibility study **and an**
 21 **economic impact study** on that part of the project consisting of
 22 a tollway by a firm or firms internationally recognized in the
 23 preparation of studies or reports on the financial feasibility **and**
 24 **economic impact** of proposed toll road projects. **Before the**
 25 **preparation of the preliminary feasibility study and the**
 26 **economic impact study, the department must conduct a public**
 27 **hearing on the proposed studies in the county in which the**
 28 **proposed project would be located. At least ten (10) days**
 29 **before each public hearing, the authority shall:**

30 **(A) post notice of the public hearing on the department's**
 31 **Internet web site;**

32 **(B) publish notice of the public hearing one (1) time in**
 33 **accordance with IC 5-3-1 in a newspaper of general**
 34 **circulation in the county in which the proposed project**
 35 **would be located; and**

36 **(C) include in the notices under clauses (A) and (B):**

37 **(i) the date, time, and place of the hearing;**

38 **(ii) the subject matter of the hearing;**

1 (iii) a description of the purpose of the proposed
2 preliminary feasibility study and economic impact study;
3 and

4 (iv) a description of the proposed project and its location.
5 **At the hearing, the department shall allow the public to be**
6 **heard on the proposed studies and the proposed project.**

7 (2) The preliminary feasibility study must be based upon a
8 public-private financial and project delivery structure. **The**
9 **economic impact study must, at a minimum, include an**
10 **analysis of the following matters with respect to the proposed**
11 **project:**

12 (A) **Economic impacts on existing commercial and**
13 **industrial development.**

14 (B) **Potential impacts on employment.**

15 (C) **Potential for future development near the project area,**
16 **including consideration of locations for interchanges that**
17 **will maximize opportunities for development.**

18 (D) **Fiscal impacts on revenues to local units of**
19 **government.**

20 (E) **Demands on government services, such as public**
21 **safety, public works, education, zoning and building, and**
22 **local airports.**

23 **The department shall post copies of the preliminary feasibility**
24 **study and the economic impact study on the department's**
25 **Internet web site and shall also provide copies of the studies**
26 **to the governor and to the legislative council (in an electronic**
27 **format under IC 5-14-6).**

28 ~~(2)~~ (3) **After the completion of the preliminary feasibility study**
29 **and the economic impact statement, the department shall**
30 **schedule a public hearing on the proposed project and the**
31 **preliminary feasibility study and studies in the county that**
32 **would be an affected jurisdiction for purposes of the proposed**
33 **project. At least ten (10) days before the public hearing, the**
34 **department shall:**

35 (A) **post notice of the public hearing on the department's**
36 **Internet web site;**

37 (B) **publish notice of the hearing one (1) time in accordance**
38 **with IC 5-3-1 at least seven (7) days before the hearing. in a**

- 1 **newspaper of general circulation in the county; and**
 2 **(C) the notice must include the following in the notices under**
 3 **clauses (A) and (B):**
- 4 ~~(A)~~ **(i)** The date, time, and place of the hearing.
 5 ~~(B)~~ **(ii)** The subject matter of the hearing.
 6 ~~(C)~~ **(iii)** A description of the proposed project, its location,
 7 the part of the project consisting of a tollway, and, consistent
 8 with the assessments reached in the preliminary feasibility
 9 study, the estimated total cost of the acquisition,
 10 construction, installation, equipping, and improving of the
 11 proposed project, as well as the part of the project consisting
 12 of a tollway.
 13 ~~(D)~~ **(iv)** The address and telephone number of the
 14 department.
 15 **(v) A statement concerning the availability of the**
 16 **preliminary feasibility study and the economic impact**
 17 **study on the department's Internet web site.**
- 18 ~~(3)~~ **(4)** At the hearing, the department shall allow the public to be
 19 heard on the proposed project, ~~and~~ the preliminary feasibility
 20 study, **and the economic impact study.**
- 21 ~~(4)~~ **(5)** After the **completion of the public hearing hearings**
 22 described in subdivision ~~(2)~~, **(3)**, the department shall submit the
 23 preliminary feasibility study **and the economic impact study** to
 24 the budget committee for its review before the commencement of
 25 the procurement process under this chapter.
- 26 **(c) The following provisions apply if the department determines**
 27 **that a feasibility study for the Illiana Expressway that was**
 28 **prepared before March 15, 2010, meets the requirements of**
 29 **subsection (b) concerning the preparation of a preliminary**
 30 **feasibility study:**
- 31 **(1) The department is not required to prepare an additional**
 32 **preliminary feasibility study.**
- 33 **(2) The requirement under subsection (b)(1) for a public**
 34 **hearing before preparation of a preliminary feasibility study**
 35 **does not apply. However, the requirement under subsection**
 36 **(b)(1) for a public hearing on the economic impact study does**
 37 **apply.**
- 38 **(3) The feasibility study prepared before March 15, 2010, is**

1 **considered to be the preliminary feasibility study for purposes**
2 **of subsection (b)(3) through (b)(5).**

3 SECTION 12. IC 8-15.7-4-2, AS ADDED BY P.L.47-2006,
4 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 2. (a) This section establishes the competitive
6 proposal procedure that the department shall use to enter into a
7 public-private agreement with an operator under this article.

8 (b) The department may pursue a competitive proposal procedure
9 using a request for qualifications and a request for proposals process or
10 proceed directly to a request for proposals.

11 (c) If the department elects to use a request for qualifications phase,
12 it must provide a public notice of the request for qualifications, for the
13 period considered appropriate by the department, before the date set for
14 receipt of submittals in response to the solicitation. The department
15 shall provide the notice by posting in a designated public area and
16 publication in a newspaper of general circulation, in the manner
17 provided by IC 5-3-1. In addition, submittals in response to the
18 solicitation may be solicited directly from potential offerors.

19 (d) The department shall evaluate qualification submittals based on
20 the requirements and evaluation criteria set forth in the request for
21 qualifications.

22 (e) If the department has undertaken a request for qualifications
23 phase resulting in one (1) or more prequalified or shortlisted offerors,
24 the request for proposals shall be limited to those offerors that have
25 been prequalified or shortlisted.

26 (f) If the department has not issued a request for qualifications and
27 intends to use only a one (1) phase request for proposals procurement,
28 the department must provide a public notice of the request for
29 proposals for the period considered appropriate by the department,
30 before the date set for receipt of proposals. The department shall
31 provide the notice by posting in a designated public area and
32 publication in a newspaper of general circulation, in the manner
33 provided by IC 5-3-1. In addition, proposals may be solicited directly
34 from potential offerors.

35 (g) The department shall submit a draft of the request for proposals
36 to the budget committee for its review before the issuance by the
37 department of the request for proposals to potential offerors. The
38 request for proposals must:

- 1 (1) indicate in general terms the scope of work, goods, and
2 services sought to be procured;
- 3 (2) contain or incorporate by reference the specifications and
4 contractual terms and conditions applicable to the procurement
5 and the qualifying project;
- 6 (3) specify the factors, criteria, and other information that will be
7 used in evaluating the proposals;
- 8 (4) specify any requirements or goals for use of:
- 9 (A) minority business enterprises and women's business
10 enterprises certified under IC 4-13-16.5;
- 11 (B) disadvantaged business enterprises under federal or state
12 law;
- 13 (C) businesses defined under IC 5-22-15-20.5 as Indiana
14 businesses, to the extent permitted by applicable federal and
15 state law and regulations; and
- 16 (D) businesses that qualify for a small business set-aside under
17 IC 4-13.6-2-11;
- 18 (5) if all or part of the project will consist of a tollway, require any
19 offeror to submit a proposal based upon that part of the project
20 that will consist of a tollway, as set forth in the request for
21 proposals, and permit any offeror to submit one (1) or more
22 alternative proposals based upon the assumption that a different
23 part or none of the project will consist of a tollway;
- 24 (6) contain or incorporate by reference the other applicable
25 contractual terms and conditions; and
- 26 (7) contain or incorporate by reference any other provisions,
27 materials, or documents that the department considers
28 appropriate.
- 29 (h) The department shall determine the evaluation criteria that are
30 appropriate for each project and shall set those criteria forth in the
31 request for proposals. The department may use a selection process that
32 results in selection of the proposal offering the best value to the public,
33 a selection process that results in selection of the proposal offering the
34 lowest price or cost or the highest payment to, or revenue sharing with,
35 the department, or any other selection process that the department
36 determines is in the best interests of the state and the public.
- 37 (i) The department shall evaluate proposals based on the
38 requirements and evaluation criteria set forth in the request for

1 proposals.

2 (j) The department may select one (1) or more offerors for
 3 negotiations based on the evaluation criteria set forth in the request for
 4 proposals. If the department believes that negotiations with the selected
 5 offeror or offerors are not likely to result in a public-private agreement,
 6 or, in the case of a best value selection process, no longer reflect the
 7 best value to the state and the public, the department may commence
 8 negotiations with other responsive offerors, if any, and may suspend,
 9 terminate, or continue negotiations with the original offeror or offerors.
 10 If negotiations are unsuccessful, the department shall terminate the
 11 procurement, may not award the public-private agreement, and may
 12 commence a new procurement for a public-private agreement. If the
 13 department determines that negotiations with an offeror have been
 14 successfully completed, the department shall, subject to the other
 15 requirements of this article, award the public-private agreement to the
 16 offeror.

17 (k) Before awarding a public-private agreement to an operator, the
 18 department shall schedule a public hearing on the **preliminary**
 19 **selection of the operator and the terms of the** proposed
 20 public-private agreement. ~~and~~ **The hearing shall be conducted in the**
 21 **county that would be an affected jurisdiction for purposes of the**
 22 **proposed project. The department shall do the following:**

23 (1) **At least ten (10) days before the public hearing, post on the**
 24 **department's Internet web site:**

25 (A) **the proposal submitted by the offeror that has been**
 26 **preliminarily selected as the operator for the project,**
 27 **except for those parts of the proposal that are confidential**
 28 **under this article; and**

29 (B) **the proposed public-private agreement for the project.**

30 (2) **At least ten (10) days before the public hearing:**

31 (A) **post notice of the public hearing on the department's**
 32 **Internet web site; and**

33 (B) **publish notice of the hearing one (1) time in accordance**
 34 **with IC 5-3-1 at least seven (7) days before the hearing. The**
 35 **notice must in a newspaper of general circulation in the**
 36 **county that would be an affected jurisdiction for purposes**
 37 **of the proposed project.**

38 (3) **Include the following in the notices required by subdivision**

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- (2):**
 - ~~(1)~~ **(A)** The date, time, and place of the hearing.
 - ~~(2)~~ **(B)** The subject matter of the hearing.
 - ~~(3)~~ **(C)** A description of the agreement to be awarded.
 - ~~(4)~~ **(D)** The recommendation that has been made to award the agreement to an identified offeror or offerors.
 - ~~(5)~~ **(E)** The address and telephone number of the department.
 - (F)** **A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the following are available on the department's Internet web site and are also available for public inspection and copying at the principal office of the department during regular business hours:**
 - (i) The selected offer.**
 - (ii) An explanation of the basis upon which the preliminary selection was made.**
 - (iii) The proposed public-private agreement for the project.**
 - (l)** At the hearing, the department shall allow the public to be heard on the **preliminary selection of the operator and the terms of the proposed public-private agreement.**
 - (m)** When the terms and conditions of multiple awards are specified in the request for proposals, awards may be made to more than one (1) offeror.
- SECTION 13. IC 8-15.7-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. In addition to the other requirements of this article, a public-private agreement entered into under this article must include the following:**
- (1) A requirement for the completion of all environmental analyses of the project required by state and federal law in the manner and at the times required by the appropriate state and federal agencies.**
 - (2) A requirement for ownership by the department in the name of the state of Indiana of:**
 - (A) all the real property on which the project is located;**
 - and**
 - (B) all of the improvements on that real property.**

1 **(3) A provision, to be negotiated by the department in good**
2 **faith on behalf of the units of local government that will**
3 **contain any part of the project, that establishes:**

4 **(A) a procedure to determine the expenses and losses of**
5 **revenue incurred by those units as a result of the**
6 **construction of the project; and**

7 **(B) a procedure for resolving disputes concerning the**
8 **payment of claims described in clause (A)."**

9 Page 5, between lines 5 and 6, begin a new paragraph and insert:

10 "SECTION 15. IC 8-15.7-14-5, AS ADDED BY P.L.47-2006,
11 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 5. **(a) Subject to subsections (b) and (c),** the
13 department may exercise any of its powers under IC 8-15-3 as
14 necessary or desirable for the performance of its duties and the
15 execution of its powers under this article. In connection with or in
16 anticipation of the exercise by the authority of any powers granted to
17 the authority by this article, the department may authorize the authority
18 to exercise all or part of the powers of the department under this article
19 as necessary or desirable to accomplish the purposes of this article.

20 **(b) For purposes of subsection (a), and subject to subsection (c):**

21 **(1) the department's or the authority's use of the power of**
22 **eminent domain to acquire property or interests in property**
23 **for a project under this article; and**

24 **(2) the rights of property owners who are affected by the**
25 **authority's use of the power of eminent domain for a project**
26 **under this article;**

27 **are governed by IC 8-15-3, IC 8-23-7, IC 32-24, and any other**
28 **applicable provision of the Indiana Code as in effect on January 1,**
29 **2010, and are not affected by amendments to those statutes enacted**
30 **after December 31, 2009.**

31 **(c) Neither the department nor the authority may use the power**
32 **of eminent domain to acquire land or real property, or an interest**
33 **in land or real property, that is:**

34 **(1) located in an area surrounding an interchange located on**
35 **a project; and**

36 **(2) outside the right-of-way for the project."**

37 Page 5, after line 39, begin a new paragraph and insert:

38 "SECTION 16. **An emergency is declared for this act."**

- 1 Renumber all SECTIONS consecutively.
 (Reference is to SB 382 as printed January 22, 2010.)

and when so amended that said bill do pass.

Representative Austin