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 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 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 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 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 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).

(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.

(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.

1 Delete pages 24 through 25.
2 Page 26, delete lines 1 through 7.
3 Renumber all SECTIONS consecutively.
(Reference is to HB 1336 as reprinted February 2, 2010.)

and when so amended that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

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Hershman **Chairperson**