March 29, 2013

ENGROSSED
HOUSE BILL No. 1018

DIGEST OF HB 1018 (Updated March 26, 2013 2:12 pm - DI 58)

Citations Affected: IC 4-10; IC 5-13; IC 6-5.5.

Synopsis: Financial institutions matters. Reduces the financial institutions franchise tax rate over four years, from 8.5% for taxable years beginning before January 1, 2014, to 6.5% for taxable years beginning on or after January 1, 2017. Requires budget committee review for an expenditure from the public deposits insurance fund (PDIF) for a purpose other than paying expenses for the administration of the fund, investing, reinvesting, and exchanging specified investments, paying allowable operational expenses, paying claims on insured public deposits, and making deposits of uninvested funds. Terminates the use of interest on the PDIF for local pension relief. Provides for a 10 year payback of the $50,000,000 loan made to the state general fund from the PDIF. Annually appropriates $5,000,000 from the state general fund to the budget agency to make the annual loan payments for 2013 through 2022. Repeals and removes provisions that were not used concerning a loan made by the state board of finance and purchased by the board for depositories for economic development projects.

Effective: July 1, 2013.

Messmer, Leonard, Dermody, Niezgodski

(SENATE SPONSORS — HOLDMAN, HEAD, ARNOLD J)

January 7, 2013, read first time and referred to Committee on Ways and Means.
February 18, 2013, amended, reported — Do Pass.
February 20, 2013, read second time, ordered engrossed. Engrossed.
February 21, 2013, read third time, passed. Yeas 92, nays 3.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Tax and Fiscal Policy.
March 28, 2013, amended, reported favorably — Do Pass.

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March 29, 2013

First Regular Session 118th General Assembly (2013)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

ENGROSSED
HOUSE BILL No. 1018

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

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

SECTION 1. IC 4-10-18-13 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 13. (a) The state board of finance constituted by IC 4-9.1-1-1 shall promptly sell from the fund, and the board for depositories created by IC 5-13-12-1 shall promptly purchase from the fund, the loan made by the board of finance under section 10(i) of this chapter.~~

~~(b) The loan shall be sold by the board of finance and purchased by the board for depositories at a purchase price equal to the total of:~~

~~(1) the principal amount of the loan;~~

~~(2) the deferred interest payable thereon; and~~

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

~~(c) Proceeds of the sale of the loan, less the reasonable expenses incurred by the board of finance and the board for depositories in connection with the sale, shall be deposited by the board of finance in a segregated account in the fund (to be known as the economic growth initiatives account) for the purpose of providing grants for the purposes~~

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~~described in section 15 of this chapter.~~

SECTION 2. IC 5-13-12-4, AS AMENDED BY P.L.35-2012, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

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

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

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

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

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

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

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

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

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

~~(B) all expenses and other costs associated with the Indiana education savings authority that were not paid from other~~

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~~sources during that state fiscal year; and~~

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

~~(d) Subject to subsection (g), on or before the last business day of December of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall provide to the auditor of state a check payable from the public deposit insurance fund to the pension distribution fund established by subsection (e) in an amount equal to the amount determined under subsection (c)(1).~~

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

~~(f) Subject to subsection (g), before June 30 and after June 30 and before October 1 of each year, beginning in 2002 and ending in 2022, the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund, established by IC 5-10.3-11-1, the following:~~

~~(1) The amount determined under subsection (c)(2).~~

~~(2) The amount deposited in the pension distribution fund in December of the preceding year under subsection (d).~~

~~The installments shall be used for distributions to units of local government under IC 5-10.3-11-4.7.~~

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

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

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

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

~~If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2)~~

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

(c) Before July 30, 2013, the auditor of state shall:

(1) make the second 2013 distribution from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund as required by this section as it existed on June 30, 2013; and

(2) transfer all of the balance in the pension distribution fund remaining after the distribution under subdivision (1) to the public deposit insurance fund.

SECTION 3. IC 5-13-12-7, AS AMENDED BY P.L.115-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories. **Money in the fund may not be expended, removed, or transferred from the fund for any purpose other than the following unless the expenditure, the removal, or transfer is first reviewed by the budget committee:**

(1) Paying expenses of administering the fund.

(2) Investing, reinvesting, and exchanging investments as described in subsection (d).

(3) Paying claims on insured public deposits under IC 5-13-13.

(4) Making payments required by contracts executed under section 3(a)(6) of this chapter.

(5) Making deposits of uninvested funds under section 3(a)(8) of this chapter.

(6) Paying allowable expenses as provided in section 4 of this chapter.

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

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

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

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

(2) In bonds, notes, debentures, and other securities issued by a

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

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

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

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

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

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

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

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

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

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

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment

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company or investment trust must be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9)

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may not exceed the greater of:

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

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

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

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

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

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

~~(1) the principal amount of the loan;~~

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

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

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

SECTION 4. IC 5-13-12-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 13. (a) The board for depositories shall hold until paid in accordance with its terms the instrument of indebtedness evidencing the obligation of the budget agency to repay the loan made from the public deposit insurance fund to the state general fund under P.L.224-2003, SECTION 116, as amended by P.L.229-2011, SECTION 277. The budget agency shall pay the loan in ten (10) equal annual installment payments made each July, beginning July 2013 and ending July 2022.**

(b) There is annually appropriated to the budget agency from the state general fund five million dollars ($5,000,000) each July, beginning July 2013, and ending July 2022, to make the payments required by subsection (a).

(c) This section expires July 1, 2023.

SECTION 5. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's

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apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying ~~eight and one-half percent (8.5%)~~ **the applicable rate under subsection (b)** times the remainder of:

(1) the taxpayer's apportioned income; minus

(2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under ~~IC 6-5.5-2~~ **this chapter** for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The following are the applicable tax rates to be used under subsection (a):

(1) For taxable years beginning before January 1, 2014, eight and five-tenths percent (8.5%).

(2) For taxable years beginning after December 31, 2013, and before January 1, 2015, eight percent (8.0%).

(3) For taxable years beginning after December 31, 2014, and before January 1, 2016, seven and five-tenths percent (7.5%).

(4) For taxable years beginning after December 31, 2015, and before January 1, 2017, seven percent (7.0%).

(5) For taxable years beginning after December 31, 2016, six and five-tenths percent (6.5%).

~~(b)~~ **(c)** The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

~~(c)~~ **(d)** The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the

apportionment percentage applicable to the taxpayer under ~~IC 6-5.5-2~~ **this chapter** for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

~~(d)~~ **(e)** The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1018, 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:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-13-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. "Insurance fund" refers to the public deposits insurance **trust** fund created by IC 5-13-12.

SECTION 2. IC 5-13-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) There is created an independent body politic and corporate, constituting an instrumentality of the state for the public purposes set out in this chapter, to be known as the board for depositories. The board is separate from the state in its corporate and sovereign capacity. The purpose of the board is to insure the safekeeping and prompt payment of all public funds deposited in any depository, to the extent they are not covered by insurance of any federal deposit insurance agency, by maintaining and operating in its own name the public deposit insurance **trust** fund under this chapter. **The public deposit insurance trust fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the trust fund established under this section by the state board of finance, the budget agency, or any other state agency. The treasurer of state shall act as the trustee of the trust fund.**

(b) Every depository that has public funds shall pay into the public deposit insurance fund the assessments provided in this chapter and comply with all lawful requirements of the board for depositories. The public deposit insurance fund shall be maintained by the assessments payable by the depositories and by the collection of all claims created under IC 5-13-13 and by the receipt of all interest and other earnings of the insurance fund from any source.

(c) All property in the public deposit insurance fund, the interest or income derived from it or through its use, and all property otherwise held by the board for depositories under this chapter is exempt from all

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taxes imposed by the state or any political subdivision.

SECTION 3. IC 5-13-12-7, AS AMENDED BY P.L.115-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The ~~board for depositories~~ **trustee** shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the ~~board for depositories.~~ **trustee. Money in the fund may not be expended, removed, or transferred from the fund for any purpose other than the following unless expenditure, removal, or transfer is approved by a vote of two-thirds (2/3) of the members elected to each house of the general assembly:**

(1) Paying expenses of administering the fund.

(2) Investing, reinvesting, and exchanging investments as described in subsection (d).

(3) Paying claims on insured public deposits under IC 5-13-13.

(4) Making payments required by contracts executed under section 3(a)(6) of this chapter.

(5) Making deposits of uninvested funds under section 3(a)(8) of this chapter.

(6) Paying allowable expenses as provided in section 4 of this chapter.

(7) Providing the auditor of state with a check for the pension distribution fund as required by section 4(d) of this chapter.

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

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and

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

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

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

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

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

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

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

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision,

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subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars ($8,000,000).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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board at a purchase price equal to the total of:

(1) the principal amount of the loan;

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

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

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1018 as introduced.)

BROWN T, Chair

Committee Vote: yeas 18, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1018, 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:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-10-18-13 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 13. (a) The state board of finance constituted by IC 4-9.1-1-1 shall promptly sell from the fund, and the board for depositories created by IC 5-13-12-1 shall promptly purchase from the fund, the loan made by the board of finance under section 10(i) of this chapter.~~

~~(b) The loan shall be sold by the board of finance and purchased by the board for depositories at a purchase price equal to the total of:~~

~~(1) the principal amount of the loan;~~

~~(2) the deferred interest payable thereon; and~~

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

~~(c) Proceeds of the sale of the loan, less the reasonable expenses incurred by the board of finance and the board for depositories in connection with the sale, shall be deposited by the board of finance in a segregated account in the fund (to be known as the economic growth~~

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~~initiatives account) for the purpose of providing grants for the purposes described in section 15 of this chapter.~~

SECTION 2. IC 5-13-12-4, AS AMENDED BY P.L.35-2012, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

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

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

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

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

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

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

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

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

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

~~(B) all expenses and other costs associated with the Indiana~~

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~~education savings authority that were not paid from other sources during that state fiscal year; and~~

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

~~(d) Subject to subsection (g), on or before the last business day of December of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall provide to the auditor of state a check payable from the public deposit insurance fund to the pension distribution fund established by subsection (e) in an amount equal to the amount determined under subsection (c)(1).~~

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

~~(f) Subject to subsection (g), before June 30 and after June 30 and before October 1 of each year, beginning in 2002 and ending in 2022, the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund, established by IC 5-10.3-11-1, the following:~~

~~(1) The amount determined under subsection (c)(2).~~

~~(2) The amount deposited in the pension distribution fund in December of the preceding year under subsection (d).~~

~~The installments shall be used for distributions to units of local government under IC 5-10.3-11-4.7.~~

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

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

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

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

~~If the total amount of payments determined under subdivision (1) less~~

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

(c) Before July 30, 2013, the auditor of state shall:

(1) make the second 2013 distribution from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund as required by this section as it existed on June 30, 2013; and

(2) transfer all of the balance in the pension distribution fund remaining after the distribution under subdivision (1) to the public deposit insurance fund.".

Page 2, delete lines 1 through 15.

Page 2, line 18, reset in roman "board for depositories".

Page 2, line 18, delete "trustee".

Page 2, line 21, reset in roman "board for depositories.".

Page 2, line 21, delete "trustee.".

Page 2, line 23, after "unless" insert "**the**".

Page 2, line 24, delete "approved by a vote of" and insert "**first reviewed by the budget committee:**".

Page 2, delete lines 25 through 26.

Page 2, delete lines 37 through 38.

Page 3, line 29, reset in roman "board".

Page 3, line 29, delete "trustee".

Page 4, line 35, reset in roman "board".

Page 4, line 35, delete "trustee".

Page 6, line 5, strike "Except as provided in section 4 of this chapter,".

Page 6, line 5, delete "all" and insert "All".

Page 6, line 8, delete "The trustee, members" and insert "Members".

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Page 6, strike lines 12 through 21.

Page 6, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 4. IC 5-13-12-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 13. (a) The board for depositories shall hold until paid in accordance with its terms the instrument of indebtedness evidencing the obligation of the budget agency to repay the loan made from the public deposit insurance fund to the state general fund under P.L.224-2003, SECTION 116, as amended by P.L.229-2011, SECTION 277. The budget agency shall pay the loan in ten (10) equal annual installment payments made each July, beginning July 2013 and ending July 2022.**

(b) There is annually appropriated to the budget agency from the state general fund five million dollars ($5,000,000) each July, beginning July 2013, and ending July 2022, to make the payments required by subsection (a).

(c) This section expires July 1, 2023.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1018 as printed February 18, 2013.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

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