

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 91, 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:

- 1 Delete the title and insert the following:  
2 A BILL FOR AN ACT to amend the Indiana Code concerning  
3 economic development.  
4 Delete everything after the enacting clause and insert the  
5 following:  
6 SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.1-2010,  
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that  
9 grant a power to or impose a duty on the authority, including but not  
10 limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-11.6, IC 4-4-21, IC 4-13.5,  
11 IC 5-1-16, IC 5-1-16.5, **IC 5-1-17.5**, IC 8-9.5, IC 8-14.5, IC 8-15,  
12 IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, and  
13 IC 14-14.  
14 SECTION 2. IC 4-4-11-2, AS AMENDED BY P.L.235-2005,  
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 UPON PASSAGE]: Sec. 2. (a) The legislature makes the following  
17 findings of fact:  
18 (1) That there currently exists in certain areas of the state critical  
19 conditions of unemployment, inadequate drinking water,  
20 inadequate wastewater and storm water management, or  
21 environmental pollution, including water pollution, air pollution,  
22 sewage and solid waste, radioactive waste, thermal pollution,  
23 radiation contamination, and noise pollution, and that these  
24 conditions may well exist, from time to time, in other areas of the  
25 state.  
26 (2) That in some areas of the state such conditions are chronic

- 1 and of long standing and that without remedial measures they  
2 may become so in other areas of the state.
- 3 (3) That economic insecurity due to unemployment, inadequate  
4 drinking water, inadequate wastewater and storm water  
5 management, or environmental pollution is a menace to the  
6 health, safety, morals, and general welfare of not only the people  
7 of the affected areas but of the people of the entire state.
- 8 (4) That involuntary unemployment and its resulting burden of  
9 indigency falls with crushing force upon the unemployed worker  
10 and ultimately upon the state in the form of public assistance and  
11 unemployment compensation.
- 12 (5) That security against unemployment and the resulting spread  
13 of indigency and economic stagnation in the areas affected can  
14 best be provided by:
- 15 (A) the promotion, attraction, stimulation, rehabilitation,  
16 and revitalization of industrial development projects, rural  
17 development projects, mining operations, and agricultural  
18 operations that involve the processing of agricultural  
19 products;
- 20 (B) the promotion and stimulation of international exports;  
21 and
- 22 (C) the education, both formal and informal, of people of all  
23 ages throughout the state by the promotion, attraction,  
24 construction, renovation, rehabilitation, and revitalization  
25 of and assistance to educational facility projects.
- 26 (6) That the present and prospective health, safety, morals, right  
27 to gainful employment, and general welfare of the people of the  
28 state require as a public purpose the provision of safe drinking  
29 water, the provision of wastewater and storm water management,  
30 the abatement or control of pollution, the promotion of increased  
31 educational enrichment (including cultural, intellectual,  
32 scientific, or artistic opportunities) for people of all ages through  
33 new, expanded, or revitalized educational facility projects or  
34 through assisting educational facility projects, and the promotion  
35 of employment creation or retention through development of  
36 new and expanded industrial development projects, rural  
37 development projects, mining operations, and agricultural  
38 operations that involve the processing of agricultural products.
- 39 (7) That there is a need to stimulate a larger flow of private  
40 investment funds from commercial banks, investment bankers,  
41 insurance companies, other financial institutions, and individuals  
42 into such industrial development projects, rural development  
43 projects, mining operations, international exports, and  
44 agricultural operations that involve the processing of agricultural  
45 products in the state.
- 46 (8) That the authority can encourage the making of loans or  
47 leases for creation or expansion of industrial development  
48 projects, rural development projects, mining operations,  
49 international exports, and agricultural operations that involve the  
50 processing of agricultural products, thus putting a larger portion

1 of the private capital available in Indiana for investment to use  
 2 in the general economic development of the state.

3 (9) That the issuance of bonds of the authority to create a  
 4 financing pool for industrial development projects and carrying  
 5 out the purposes of IC 13-18-13 and IC 13-18-21 promoting a  
 6 substantial likelihood of opportunities for:

7 (A) gainful employment;

8 (B) business opportunities;

9 (C) educational enrichment (including cultural, intellectual,  
 10 scientific, or artistic opportunities);

11 (D) the abatement, reduction, or prevention of pollution;

12 (E) the provision of safe drinking water;

13 (F) the provision of wastewater and storm water  
 14 management;

15 (G) the removal or treatment of any substances in materials  
 16 being processed that otherwise would cause pollution when  
 17 used; or

18 (H) increased options for and availability of child care;

19 will improve the health, safety, morals, and general welfare of  
 20 the people of the state and constitutes a public purpose for which  
 21 the authority shall exist and operate.

22 (10) That the issuance of bonds of the authority to create a  
 23 funding source for the making of guaranteed participating loans  
 24 will promote and encourage an expanding international exports  
 25 market and international exports sales and will promote the  
 26 general welfare of all of the people of Indiana by assisting  
 27 Indiana businesses through stimulation of the expansion of  
 28 international exports sales for Indiana products and services,  
 29 especially those of small and medium-sized businesses, by  
 30 providing financial assistance through the authority.

31 (b) The Indiana finance authority shall exist and operate for the  
 32 public purposes of:

33 (1) promoting opportunities for gainful employment and  
 34 business opportunities by the promotion and development of  
 35 industrial development projects, rural development projects,  
 36 mining operations, international exports, and agricultural  
 37 operations that involve the processing of agricultural products,  
 38 in any areas of the state;

39 (2) promoting the educational enrichment (including cultural,  
 40 intellectual, scientific, or artistic opportunities) of all the people  
 41 of the state by the promotion, development, and assistance of  
 42 educational facility projects;

43 (3) promoting affordable farm credit and agricultural loan  
 44 financing at interest rates that are consistent with the needs of  
 45 borrowers for farming and agricultural enterprises;

46 (4) preventing and remediating environmental pollution,  
 47 including water pollution, air pollution, sewage and solid waste  
 48 disposal, radioactive waste, thermal pollution, radiation  
 49 contamination, and noise pollution affecting the health and  
 50 well-being of the people of the state by:

- 1 (A) the promotion and development of industrial  
 2 development projects; and  
 3 (B) carrying out the purposes of IC 13-18-13 and  
 4 IC 13-18-21;  
 5 (5) promoting the provision of safe and adequate drinking water  
 6 and wastewater and storm water management to positively affect  
 7 the public health and well-being by carrying out the purposes of  
 8 IC 13-18-13 and IC 13-18-21;  
 9 (6) otherwise positively affecting the public health and  
 10 well-being by carrying out the purposes of IC 13-18-13 and  
 11 IC 13-18-21; ~~and~~  
 12 (7) promoting affordable and accessible child care for the people  
 13 of the state by the promotion and development of child care  
 14 facilities; **and**  
 15 **(8) carrying out the purposes of IC 5-1-17.5 concerning a**  
 16 **motorsports investment district.**

17 SECTION 3. IC 4-4-11-15.6, AS AMENDED BY  
 18 P.L.182-2009(ss), SECTION 50, IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.6. In addition to  
 20 the powers listed in section 15 of this chapter, the authority may:

- 21 (1) issue bonds under terms and conditions determined by the  
 22 authority and use the proceeds of the bonds to acquire  
 23 obligations issued by any entity authorized to acquire, finance,  
 24 construct, or lease capital improvements under IC 5-1-17;  
 25 (2) issue bonds under terms and conditions determined by the  
 26 authority and use the proceeds of the bonds to acquire any  
 27 obligations issued by the northwest Indiana regional  
 28 development authority established by IC 36-7.5-2-1; ~~and~~  
 29 (3) after December 31, 2009, issue bonds under terms and  
 30 conditions determined by the authority and use the proceeds of  
 31 the bonds to acquire any obligations issued by either the  
 32 commuter rail service board established under IC 8-24-5 or the  
 33 regional demand and scheduled bus service board established  
 34 under IC 8-24-6; **and**  
 35 **(4) issue bonds under terms and conditions determined by**  
 36 **the authority and use the proceeds of the bonds to carry out**  
 37 **the purposes of IC 5-1-17.5 within a motorsports investment**  
 38 **district.**

39 SECTION 4. IC 5-1-17.5 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 41 UPON PASSAGE]:

42 **Chapter 17.5. Motorsports Investment District**

43 **Sec. 1. As used in this chapter, "authority" refers to the**  
 44 **Indiana finance authority.**

45 **Sec. 2. As used in this chapter, "bonds" has the meaning set**  
 46 **forth in IC 4-4-10.9-2.**

47 **Sec. 3. As used in this chapter, "budget agency" means the**  
 48 **budget agency established by IC 4-12-1-3.**

49 **Sec. 4. As used in this chapter, "budget committee" means the**  
 50 **budget committee established by IC 4-12-1-3.**

1           **Sec. 5.** As used in this chapter, "covered taxes" means the part  
 2 of the following taxes attributable to the operation of facilities  
 3 located in a motorsports investment district designated under this  
 4 chapter:

5           (1) The state gross retail tax imposed under IC 6-2.5-2-1 or  
 6 use tax imposed under IC 6-2.5-3-2.

7           (2) An adjusted gross income tax imposed under IC 6-3-2-1  
 8 on an individual.

9           (3) A county option income tax imposed under IC 6-3.5.

10          (4) An admissions tax (if any) imposed under IC 6-9.

11          **Sec. 6.** As used in this chapter, "department" refers to the  
 12 department of state revenue.

13          **Sec. 7.** As used in this chapter, "motorsports investment  
 14 district" means the special taxing district containing the  
 15 geographic area established as a motorsports investment district  
 16 under this chapter.

17          **Sec. 8. (a)** As used in this chapter, "qualified motorsports  
 18 facility" means a facility that:

19           (1) is located within the town of Speedway;

20           (2) is used for professional motorsports racing events;

21           (3) has a motorsports racetrack that is greater than two (2)  
 22 miles in length; and

23           (4) holds at least two (2) professional motorsports racing  
 24 events at which admissions total at least one hundred  
 25 thousand (100,000) for each racing event.

26          **(b)** For purposes of this section, a professional motorsports  
 27 racing event includes a professional motorsports racing practice  
 28 session that is open to the general public.

29          **Sec. 9. (a)** The authority may, after a public hearing, adopt a  
 30 resolution establishing a motorsports investment district. Notice of  
 31 the public hearing must be provided in accordance with IC 5-3-1.

32          **(b)** In establishing the motorsports investment district, the  
 33 authority must make the following findings:

34           (1) There are capital improvements that will be undertaken  
 35 in the motorsports investment district that will have a  
 36 positive effect on the activities of a qualified motorsports  
 37 facility.

38           (2) The capital improvements that will be undertaken in the  
 39 motorsports investment district will benefit the public health  
 40 and welfare and will be of public utility and benefit.

41           (3) The capital improvements that will be undertaken in the  
 42 motorsports investment district will protect or increase state  
 43 and local tax bases and tax revenues.

44          **(c)** A motorsports investment district consists only of the  
 45 geographic area that is included within the qualified motorsports  
 46 facility.

47          **Sec. 10. (a)** A resolution establishing a motorsports investment  
 48 district must provide for the allocation to the professional  
 49 motorsports development area fund (established under section 14  
 50 of this chapter) of covered taxes attributable to a taxable event or

1 covered taxes earned in the motorsports investment district. The  
 2 allocation provision must apply to the entire motorsports  
 3 investment district. The resolution must state an expiration date  
 4 for the motorsports investment district, which must be not later  
 5 than thirty (30) years after the date of the adoption of the  
 6 resolution.

7 (b) The department may adopt rules and guidelines to govern  
 8 the allocation of covered taxes to the motorsports investment  
 9 district.

10 Sec. 11. (a) Upon adoption by the authority of a resolution  
 11 establishing a motorsports investment district under this chapter,  
 12 the authority shall submit the resolution to the budget committee  
 13 for review and recommendation to the budget agency.

14 (b) The budget committee shall meet not later than sixty (60)  
 15 days after receipt of a resolution under subsection (a) and shall  
 16 make a recommendation on the resolution to the budget agency.

17 Sec. 12. (a) The budget agency must approve the resolution  
 18 establishing the motorsports investment district before covered  
 19 taxes may be allocated under this chapter.

20 (b) To approve a resolution to establish a motorsports  
 21 investment district, the budget committee and the budget agency  
 22 must make the following findings:

23 (1) The capital improvements to be made within the qualified  
 24 motorsports facility are economically sound and will benefit  
 25 the people of Indiana by protecting or increasing state and  
 26 local tax bases and tax revenues for at least the duration of  
 27 the motorsports investment district.

28 (2) The political subdivisions affected by the capital  
 29 improvements to be made within the qualified motorsports  
 30 facility have committed significant resources toward  
 31 completion of the improvement.

32 (c) The maximum amount of covered taxes that may be  
 33 captured from the motorsports investment district and allocated to  
 34 the professional motorsports development area fund (established  
 35 under section 14 of this chapter) in a state fiscal year may not  
 36 exceed five million dollars (\$5,000,000).

37 (d) Covered taxes may be captured from the motorsports  
 38 investment district and allocated to the professional motorsports  
 39 development area fund (established under section 14 of this  
 40 chapter) only for twenty (20) years from the date on which covered  
 41 taxes are first allocated to the professional motorsports  
 42 development area fund.

43 Sec. 13. (a) If the authority adopts a resolution establishing a  
 44 motorsports investment district, the authority shall notify the  
 45 department by certified mail of the adoption of the resolution and  
 46 shall include with the notification a complete list of the following:

47 (1) Employers in the motorsports investment district.

48 (2) Street names and the range of street numbers of each  
 49 street in the motorsports investment district.

50 (b) The authority shall update the list prepared under

1 subsection (a) before July 1 of each year.

2 **Sec. 14. (a)** If a motorsports investment district is established  
3 under this chapter, a state fund known as the professional  
4 motorsports development area fund is established for the  
5 motorsports investment district. The fund shall be administered by  
6 the department. Money in the fund does not revert to the state  
7 general fund at the end of a state fiscal year.

8 (b) Covered taxes attributable to a motorsports investment  
9 district shall be deposited in the professional motorsports  
10 development area fund as provided in this chapter.

11 (c) On or before the twentieth day of each month, all amounts  
12 held in the professional motorsports development area fund shall  
13 be distributed to the authority.

14 (d) The department shall notify the fiscal officer of the  
15 authority of the amount of covered taxes to be distributed to the  
16 authority under this section.

17 (e) All distributions from the professional motorsports  
18 development area fund to the authority shall be made by warrants  
19 issued by the auditor of state to the treasurer of state ordering  
20 those payments to the authority.

21 (f) Distributions from the professional motorsports  
22 development area fund to the authority may be used for the  
23 following:

24 (1) Structures or other capital improvements that are located  
25 in the motorsports investment district.

26 (2) Financing or refinancing structures or other capital  
27 improvements described in subdivision (1) or the payment of  
28 bonds or leases for structures or other capital improvements  
29 described in subdivision (1).

30 **Sec. 15. (a)** The authority may do any of the following:

31 (1) Finance, improve, construct, reconstruct, renovate,  
32 purchase, lease, acquire, and equip structures and capital  
33 improvements within a qualified motorsports facility.

34 (2) Lease or sell structures or capital improvements to a  
35 qualified motorsports facility.

36 (3) Exercise the authority's powers under IC 4-4-11 within a  
37 qualified motorsports facility.

38 (b) The authority is subject to the provisions of 25 IAC 5  
39 concerning equal opportunities for minority business enterprises  
40 and women's business enterprises to participate in procurement  
41 and contracting processes. In addition, the authority shall set a  
42 goal for participation by minority business enterprises of fifteen  
43 percent (15%) and women's business enterprises of five percent  
44 (5%), consistent with the goals of delivering the project on time  
45 and within the budgeted amount and, insofar as possible, using  
46 Indiana businesses for employees, goods, and services. In fulfilling  
47 the goal, the authority shall take into account historical precedents  
48 in the same market.

49 **Sec. 16. (a)** Subject to subsection (g), the authority may issue  
50 bonds for the purpose of obtaining money to pay the cost of

1 improving, constructing, reconstructing, renovating, acquiring, or  
2 equipping structures and capital improvements within a qualified  
3 motorsports facility.

4 (b) The bonds shall be authorized by a resolution of the  
5 authority.

6 (c) The terms and form of the bonds must be set out either in  
7 the resolution or in a form of trust indenture approved by the  
8 resolution.

9 (d) The bonds must mature within twenty (20) years.

10 (e) The authority shall sell the bonds at public or private sale  
11 upon the terms determined by the authority.

12 (f) All money received from any bonds issued under this  
13 chapter shall be applied to the payment of the cost of improving,  
14 constructing, reconstructing, renovating, acquiring, or equipping  
15 structures and capital improvements within a qualified  
16 motorsports facility, or payment of the cost of refunding or  
17 refinancing outstanding bonds for which the bonds are issued. The  
18 cost may include:

19 (1) planning and development of the capital improvement  
20 and all buildings, facilities, structures, and improvements  
21 related to it;

22 (2) acquisition of a site and clearing and preparing the site  
23 for construction;

24 (3) equipment, facilities, structures, and improvements that  
25 are necessary or desirable to make the capital improvement  
26 suitable for use and operations;

27 (4) architectural, engineering, consultant, and attorney's  
28 fees;

29 (5) incidental expenses in connection with the issuance and  
30 sale of bonds;

31 (6) reserves for principal and interest;

32 (7) interest during construction;

33 (8) financial advisory fees;

34 (9) insurance during construction;

35 (10) bond insurance, debt service reserve insurance, letters  
36 of credit, or other credit enhancement; and

37 (11) in the case of refunding or refinancing, payment of the  
38 principal of, redemption premiums (if any) for, and interest  
39 on the bonds being refunded or refinanced.

40 (g) The authority may not issue bonds under this chapter  
41 unless the authority first finds that the following conditions are  
42 met:

43 (1) Each contract or subcontract for the construction of a  
44 capital improvement to be financed in whole or in part  
45 through the issuance of the bonds:

46 (A) requires payment of the common construction wage  
47 required by IC 5-16-7; and

48 (B) requires the contractor or subcontractor to enter  
49 into a project labor agreement as a condition of being  
50 awarded and performing work on the contract.

1           **(2) The qualified motorsports facility and the authority have**  
 2           **entered into a written agreement concerning the terms of the**  
 3           **financing of the capital improvement.**

4           **Sec. 17. (a) This chapter contains full and complete authority**  
 5           **for the issuance of bonds. No law, procedure, proceedings,**  
 6           **publications, notices, consents, approvals, orders, or acts by the**  
 7           **authority or any other officer, department, agency, or**  
 8           **instrumentality of the state or of any political subdivision is**  
 9           **required to issue any bonds, except as prescribed in this chapter.**

10           **(b) Bonds issued under this chapter are legal investments for**  
 11           **private trust funds and the funds of banks, trust companies,**  
 12           **insurance companies, building and loan associations, credit unions,**  
 13           **banks of discount and deposit, savings banks, loan and trust and**  
 14           **safe deposit companies, rural loan and savings associations,**  
 15           **guaranty loan and savings associations, mortgage guaranty**  
 16           **companies, small loan companies, industrial loan and investment**  
 17           **companies, and other financial institutions organized under**  
 18           **Indiana law.**

19           **Sec. 18. (a) The authority may secure bonds issued under this**  
 20           **chapter by a trust indenture between the authority and a corporate**  
 21           **trustee, which may be any trust company or national or state bank**  
 22           **within Indiana that has trust powers.**

23           **(b) The trust indenture may:**  
 24           **(1) pledge or assign:**  
 25           **(A) covered taxes; and**  
 26           **(B) lease rentals, receipts, and income from leased**  
 27           **capital improvements;**  
 28           **but may not mortgage land or capital improvements;**  
 29           **(2) contain reasonable and proper provisions for protecting**  
 30           **and enforcing the rights and remedies of the bondholders,**  
 31           **including covenants setting forth the duties of the authority;**  
 32           **(3) set forth the rights and remedies of bondholders and**  
 33           **trustee; and**  
 34           **(4) restrict the individual right of action of bondholders.**

35           **(c) Any pledge or assignment made by the authority under this**  
 36           **section is valid and binding from the time that the pledge or**  
 37           **assignment is made, against all persons whether or not they have**  
 38           **notice of the lien. Any trust indenture by which a pledge is created**  
 39           **or an assignment made need not be filed or recorded. The lien is**  
 40           **perfected against third parties by filing the trust indenture in the**  
 41           **records of the authority.**

42           **Sec. 19. Any action to contest the validity of bonds to be issued**  
 43           **under this chapter may not be brought after the fifteenth day**  
 44           **following:**

45           **(1) the receipt of bids for the bonds, if the bonds are sold at**  
 46           **public sale; or**  
 47           **(2) the publication one (1) time in a newspaper of general**  
 48           **circulation published in the county of notice of the execution**  
 49           **and delivery of the contract for the sale of bonds;**  
 50           **whichever occurs first.**

1           **SECTION 5. An emergency is declared for this act.**  
(Reference is to SB 91 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Appropriations.**

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LONG, Chairperson