



Reprinted
April 13, 2001

ENGROSSED SENATE BILL No. 243

DIGEST OF SB 243 (Updated April 12, 2001 11:17 AM - DI 52)

Citations Affected: IC 13-11; IC 13-12; IC 13-18.

Synopsis: Wastewater revolving loan fund and groundwater quality. Redefines "participant" for purposes of financial assistance available from the wastewater revolving loan fund. Enables a private entity to participate in the wastewater revolving loan program in connection with a nonpoint source pollution reduction project. Requires the following to be consistent with the remediation objectives set forth in IC 13-25-5-8.5: (1) remediation and closure goals, objectives, and standards for activities conducted under the environmental statutes on hazardous waste management, underground storage tanks, and voluntary remediation of hazardous substances and petroleum; and (2) removal and remediation activities that are not emergency or time critical activities and that are conducted under the environmental statutes on petroleum and the hazardous substances response trust fund.
(Continued next page)

Effective: Upon passage; July 1, 2001.

Gard, Howard

(HOUSE SPONSORS — WEINZAPFEL, ATTERHOLT)

January 9, 2001, read first time and referred to Committee on Environmental Affairs.
February 27, 2001, amended, reported favorably — Do Pass.
March 5, 2001, read second time, ordered engrossed. Engrossed.
March 6, 2001, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Environmental Affairs.
April 2, 2001, amended, reported — Do Pass.
April 11, 2001, read second time, amended, ordered engrossed.
April 12, 2001, engrossed. Read third time, recommitted to Committee of One, amended; passed. Yeas 73, nays 18.

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Digest Continued

Requires that the groundwater quality standards established by rule by the water pollution control board must allow the following to be consistent with the remediation objectives set forth in IC 13-25-5-8.5: (1) groundwater remediations conducted under the environmental statutes on hazardous waste management, underground storage tanks, and voluntary remediation of hazardous substances and petroleum; (2) groundwater remediations that are not emergency or time critical activities and that are conducted under the environmental statutes on petroleum and the hazardous substances response trust fund; and (3) groundwater remediations conducted under other environmental statutes, as appropriate. Specifies that responses to spills of hazardous substances, extremely hazardous substances, petroleum, and other objectionable substances that are regulated under water pollution control board rules must be conducted in a manner that is consistent with the requirements of those rules.

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April 13, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

ENGROSSED SENATE BILL No. 243

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

- 1 SECTION 1. IC 13-11-2-83, AS AMENDED BY P.L.132-1999,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 83. (a) "Financial assistance agreement", for
4 purposes of IC 13-18-13, refers to an agreement between:
5 (1) the budget agency; and
6 (2) a ~~political subdivision~~; **participant**;
7 establishing the terms and conditions of a loan or other financial
8 assistance, including forgiveness of principal if allowed under federal
9 law, by the state to the ~~political subdivision~~; **participant**.
10 (b) "Financial assistance agreement", for purposes of IC 13-19-5,
11 means an agreement between the authority and a political subdivision
12 that:
13 (1) is approved by the budget agency; and
14 (2) establishes the terms and conditions of a loan or other
15 financial assistance by the state to the political subdivision.
16 (c) "Financial assistance agreement", for purposes of IC 13-18-21,
17 refers to an agreement between:

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- 1 (1) the budget agency; and
 2 (2) a participant;
 3 establishing the terms and conditions of a loan or other financial
 4 assistance, including forgiveness of principal if allowed under federal
 5 law, by the state to the participant.

6 SECTION 2. IC 13-11-2-142.5 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2001]: **Sec. 142.5. "Nonpoint source", for**
 9 **purposes of section 151.1 of this chapter and IC 13-18-13, means:**

10 (1) a pollution source that is not controlled by effluent
 11 limitations established under Sections 301, 302, or 402 of the
 12 federal Water Pollution Control Act; or

13 (2) a pollution source identified in a state management plan
 14 produced according to Section 319 of the federal Water
 15 Pollution Control Act;

16 **that is not traceable to a discrete identifiable origin.**

17 SECTION 3. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999,
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2001]: **Sec. 151.1. (a) "Participant", for purposes of section**
 20 **83(a) of this chapter and IC 13-18-13, means:**

21 (1) a political subdivision; or

22 (2) for a nonpoint source pollution reduction project, a
 23 private entity.

24 (b) "Participant", for purposes of **section 83(c) of this chapter and**
 25 **IC 13-18-21, means:**

26 (1) a political subdivision; or

27 (2) any other owner or operator of a public water system.

28 SECTION 4. IC 13-12-3-2, AS ADDED BY P.L.224-1999,
 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: **Sec. 2. (a) The remediation and closure goals,**
 31 **objectives, and standards for activities conducted under IC 13-22 and**
 32 **IC 13-23 following** shall be consistent with the remediation objectives
 33 set forth in IC 13-25-5-8.5:

34 (1) **Remediation and closure goals, objectives, and standards**
 35 **for activities conducted under:**

36 (A) IC 13-22;

37 (B) IC 13-23; and

38 (C) IC 13-25-5.

39 (2) **Removal and remediation activities that:**

40 (A) are not emergency or time critical activities; and

41 (B) are conducted under:

42 (i) IC 13-24; or

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1 **(ii) IC 13-25-4.**

2 (b) The groundwater quality standards adopted under IC 13-18-17-5
3 shall allow ~~as appropriate, groundwater remediations~~ **the following** to
4 be consistent with the remediation objectives set forth in
5 IC 13-25-5-8.5:

6 **(1) Groundwater remediations conducted under:**

7 **(A) IC 13-22;**

8 **(B) IC 13-23; and**

9 **(C) IC 13-25-5.**

10 **(2) Groundwater remediations that:**

11 **(A) are not emergency or time critical activities; and**

12 **(B) are conducted under:**

13 **(i) IC 13-24; or**

14 **(ii) IC 13-25-4.**

15 **(3) Groundwater remediations conducted under any other**
16 **provision of IC 13, as appropriate.**

17 **(c) Responses to spills of hazardous substances, extremely**
18 **hazardous substances, petroleum, and other objectionable**
19 **substances that are regulated under 327 IAC 2-6.1 shall be**
20 **conducted in a manner that is consistent with the requirements of**
21 **327 IAC 2-6.1.**

22 SECTION 5. IC 13-18-13-2 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The wastewater
24 revolving loan fund is established to provide money for loans and other
25 financial assistance to or for the benefit of ~~political subdivisions~~
26 **participants** under this chapter.

27 (b) The general assembly may appropriate money to the fund.
28 Grants or gifts of money to the fund from the federal government or
29 other sources and the proceeds of the sale of:

30 (1) gifts to the fund; and

31 (2) loans and other financial assistance, as provided in sections 10
32 through 14 of this chapter;

33 shall be deposited in the fund.

34 (c) Repayments of loans and other financial assistance, including
35 interest, premiums, and penalties, shall be deposited in the fund.

36 (d) The treasurer of state shall invest the money in the fund that is:

37 (1) not currently needed to meet the obligations of the fund; and

38 (2) not invested under subsection (e);

39 in the same manner as other public money may be invested. Earnings
40 that accrue from these investments shall be deposited in the fund.

41 (e) As an alternative to subsection (d), the budget agency may invest
42 or cause to be invested all or a part of the fund in a fiduciary account

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1 or accounts with a trustee that is a financial institution.
 2 Notwithstanding any other law, any investment may be made by the
 3 trustee in accordance with at least one (1) trust agreement or indenture.
 4 A trust agreement or indenture may permit disbursements by the trustee
 5 to:

- 6 (1) the department;
- 7 (2) the budget agency;
- 8 (3) a ~~political subdivision~~; **participant**;
- 9 (4) the Indiana bond bank; or
- 10 (5) any person to which the department, the budget agency, or a
 11 ~~political subdivision~~ **participant** is obligated, as provided in the
 12 trust agreement or indenture.

13 The state board of finance must approve any trust agreement or
 14 indenture before execution.

15 (f) Except as provided in the federal Clean Water Act, the cost of
 16 administering the fund may be paid from the fund.

17 (g) All money accruing to the fund is appropriated continuously for
 18 the purposes specified in this chapter.

19 (h) Money in the fund does not revert to the state general fund at the
 20 end of a state fiscal year.

21 SECTION 6. IC 13-18-13-3 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Money in the fund
 23 may be used to do the following:

- 24 (1) Provide loans or other financial assistance to ~~political~~
 25 ~~subdivisions~~ **participants** for:

- 26 (A) the planning, designing, construction, renovation,
 27 improvement, or expansion of wastewater collection and
 28 treatment systems and other activities necessary or convenient
 29 to complete these tasks; **or**

- 30 (B) **a nonpoint source pollution reduction project.**

- 31 (2) Pay the cost of administering the fund and the program.
- 32 (3) Conduct all other activities that are permitted by the federal
 33 Clean Water Act.

34 SECTION 7. IC 13-18-13-6 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The budget agency
 36 shall do the following:

- 37 (1) Manage and implement the financial aspects of the program
 38 and supplemental program.
- 39 (2) Cooperate with the department in the administration and
 40 management of the program and supplemental program.
- 41 (3) If not accepted and held by the department, accept and hold
 42 any letter of credit from the federal government through which the



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- 1 state receives grant payments for the program and disbursements
2 to the fund.
- 3 (4) Be the point of contact with ~~political subdivisions~~
4 **participants** and other interested persons in preparing and
5 providing program information.
- 6 (5) Negotiate, jointly with the department, the negotiable aspects
7 of each financial assistance agreement.
- 8 (6) Prepare or cause to be prepared each financial assistance
9 agreement.
- 10 (7) Sign each financial assistance agreement.
- 11 (8) Conduct or cause to be conducted an evaluation as to the
12 financial ability of each ~~political subdivision~~ **participant** to pay
13 the loan or other financial assistance and other obligations
14 evidencing the loans or other financial assistance, if required to
15 be paid, and comply with the financial assistance agreement in
16 accordance with the terms of the agreement.
- 17 (9) Prepare, jointly with the department, annual reports
18 concerning the following:
- 19 (A) The fund.
- 20 (B) The program.
- 21 (C) The supplemental fund.
- 22 (D) The supplemental program.
- 23 (10) Submit the reports prepared under subdivision (9) to the
24 governor and the general assembly.
- 25 (11) Enter into memoranda of understanding with the department
26 concerning the administration and management of the following:
- 27 (A) The fund.
- 28 (B) The program.
- 29 (C) The supplemental fund.
- 30 (D) The supplemental program.
- 31 SECTION 8. IC 13-18-13-8 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The department
33 and the budget agency may:
- 34 (1) provide services to a ~~political subdivision~~ **participant** in
35 connection with a loan or other financial assistance, including
36 advisory and other services; and
- 37 (2) charge a fee for services provided.
- 38 (b) The department and the budget agency may charge a fee for
39 costs and services incurred in the review or consideration of an
40 application for a proposed loan or other financial assistance to or for
41 the benefit of a ~~political subdivision~~ **participant** under this chapter,
42 regardless of whether the application is approved or rejected.

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1 (c) A ~~political subdivision~~ **participant** may pay fees charged under
2 this section.

3 SECTION 9. IC 13-18-13-9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The department
5 shall use a priority ranking system to recommend loans or other
6 financial assistance from the fund. The department shall develop the
7 priority ranking system to achieve optimum water quality consistent
8 with the water quality goals of the state and the federal Clean Water
9 Act.

10 (b) Based on the recommendations made under subsection (a), the
11 budget agency may make loans and provide other financial assistance
12 from the fund to or for the benefit of ~~political subdivisions~~
13 **participants**.

14 SECTION 10. IC 13-18-13-10 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. The budget agency
16 may make loans or provide other financial assistance from the fund to
17 or for the benefit of a ~~political subdivision~~ **participant** under the
18 following conditions:

19 (1) The loan or other financial assistance must be used:

20 (A) for planning, designing, constructing, renovating,
21 improving, or expanding wastewater collection and treatment
22 systems and other activities necessary or convenient to
23 complete these tasks;

24 (B) to:

- 25 (i) establish reserves or sinking funds; or
26 (ii) provide interest subsidies;

27 (C) to pay financing charges, including interest on the loan or
28 other financial assistance during construction and for a
29 reasonable period after the completion of construction; ~~or~~

30 (D) to pay the following:

- 31 (i) Consultant, advisory, and legal fees.
32 (ii) Any other costs or expenses necessary or incident to the
33 loan, other financial assistance, or the administration of the
34 fund and the program; **or**

35 **(E) for nonpoint source pollution reduction projects.**

36 (2) Subject to section 15 of this chapter, upon recommendation of
37 the budget agency the state board of finance shall establish the
38 interest rate or parameters for establishing the interest rate on
39 each loan, including parameters for establishing the amount of
40 interest subsidies.

41 (3) The budget agency shall establish the terms and conditions
42 that the budget agency considers necessary or convenient to:

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1 (A) make loans; or

2 (B) provide other financial assistance under this chapter.

3 SECTION 11. IC 13-18-13-11 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. A loan or other
5 financial assistance from the fund must be accompanied by the
6 following:

7 (1) All papers and opinions required by the budget agency.

8 (2) Unless otherwise provided by rule, the following:

9 (A) An approving opinion of nationally recognized bond
10 counsel **if required by the budget agency.**

11 (B) A certification and guarantee of signatures.

12 (C) A certification that, as of the date of the loan or other
13 financial assistance:

14 (i) no litigation is pending challenging the validity of or
15 entry into the loan or other financial assistance or any
16 security for the loan or other financial assistance; or

17 (ii) if litigation is pending, the litigation will not have a
18 material adverse effect on the validity of the loan or other
19 financial assistance or any security for the loan or other
20 financial assistance.

21 (D) If litigation is pending, as an alternative to the certification
22 described in clause (C), an opinion of legal counsel that the
23 litigation will not have a material adverse effect on the validity
24 of the loan or other financial assistance.

25 SECTION 12. IC 13-18-13-12 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. A ~~political~~
27 ~~subdivision~~ **participant** receiving a loan or other financial assistance
28 from the fund shall enter into a financial assistance agreement. A
29 financial assistance agreement is a valid, binding, and enforceable
30 agreement of the ~~political subdivision~~ **participant**.

31 SECTION 13. IC 13-18-13-13 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. The budget agency
33 may sell loans or evidences of other financial assistance and other
34 obligations of ~~political subdivisions~~ **participants** evidencing the loans
35 or other financial assistance from the fund periodically at any price and
36 on terms acceptable to the budget agency. Proceeds of sales under this
37 section shall be deposited in the fund.

38 SECTION 14. IC 13-18-13-14 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) The budget
40 agency may pledge loans or evidences of other financial assistance and
41 other obligations of ~~political subdivisions~~ **participants** evidencing the
42 loans or other financial assistance from the fund to secure:

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1 (1) other loans or financial assistance from the fund to or for the
2 benefit of ~~political subdivisions~~; **participants**; or

3 (2) other loans or financial assistance from the supplemental fund
4 to or for the benefit of ~~political subdivisions~~; **participants**;
5 to the extent permitted by the federal Clean Water Act.

6 (b) The budget agency must approve the terms of a pledge under
7 this section.

8 (c) Notwithstanding any other law, a pledge of property made by the
9 department and the budget agency under this section or IC 4-23-21-8(e)
10 (before its repeal) is binding from the time the pledge is made.
11 Revenues, other money, or other property pledged and thereafter
12 received are immediately subject to the lien of the pledge without any
13 further act. The lien of a pledge is binding against all parties having
14 claims of any kind in tort, contract, or otherwise against:

- 15 (1) the department;
16 (2) the budget agency; or
17 (3) the fund;

18 regardless of whether the parties have notice of any lien.

19 (d) A resolution, an indenture, or other instrument by which a
20 pledge is created does not have to be filed or recorded, except in the
21 records of the budget agency.

22 (e) Action taken to:

- 23 (1) enforce a pledge under this section or IC 4-23-21-8(e) (before
24 its repeal); and
25 (2) realize the benefits of the pledge;

26 is limited to the property pledged.

27 (f) A pledge under this section or IC 4-23-21-8(e) (before its repeal)
28 does not create a liability or indebtedness of the state.

29 SECTION 15. IC 13-18-13-15 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) In
31 recommending to the state board of finance the interest rate or
32 parameters for establishing the interest rate on each loan, as provided
33 in section 10 of this chapter, the budget agency shall recommend and
34 the state board of finance shall establish the following:

- 35 (1) A base or subsidized interest rate that:
36 (A) would be payable by ~~political subdivisions~~ **participants**
37 other than ~~political subdivisions~~ **participants** described in
38 subdivision (2) or (3); and
39 (B) may provide for the payment of no interest during all or a
40 part of the estimated construction period for the wastewater
41 treatment system.
42 (2) A base reduced or more heavily subsidized interest rate, that:

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- 1 (A) would be payable by ~~political subdivisions~~ **participants**
 2 whose median household incomes are:
- 3 (i) not more than the state nonmetropolitan median
 4 household income, as determined and reported by the
 5 federal government periodically; and
 6 (ii) not less than eighty-one percent (81%) of the state
 7 nonmetropolitan median household income; and
- 8 (B) may provide for the payment of no interest during all or a
 9 part of the estimated construction period for the wastewater
 10 collection and treatment system.
- 11 (3) A base zero (0) or most heavily subsidized interest rate that:
- 12 (A) would be payable on loans made to ~~political subdivisions~~
 13 **participants** whose median household incomes are not more
 14 than eighty percent (80%) of the state nonmetropolitan
 15 household income; and
 16 (B) may provide for the payment of no interest during all or a
 17 part of the estimated construction period of the wastewater
 18 collection and treatment system.
- 19 (b) The budget agency, in recommending to the state board of
 20 finance the interest rate or parameters for establishing the interest rate
 21 on each loan under section 10 of this chapter, shall take into account
 22 the following:
- 23 (1) Credit risk.
 24 (2) Environmental enforcement and protection.
 25 (3) Affordability.
 26 (4) Other fiscal factors the budget agency considers relevant.
- 27 (c) In enacting this section, the general assembly understands that,
 28 in financing the program, the Indiana bond bank issued at the budget
 29 agency's request, and will continue to issue at the budget agency's
 30 request:
- 31 (1) revenue bonds payable from and secured by ~~political~~
 32 ~~subdivisions;~~ **participants;** and
 33 (2) loan payments made by and loan payments made to ~~political~~
 34 ~~subdivisions;~~ **participants.**
- 35 It is not the intent of the general assembly to cause the budget agency
 36 or the state board of finance to establish interest rates on loans or
 37 parameters for establishing interest rates that would cause the bond
 38 bank's revenue bonds to be insecure or otherwise negatively affect the
 39 ability of the state to continue to finance the program.
- 40 SECTION 16. IC 13-18-13-16 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. The budget agency
 42 shall require that a ~~political subdivision~~ **receiving participant that**

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1 **owns or operates a wastewater collection and treatment system and**
2 **that receives** a loan or other financial assistance under this chapter **to**
3 establish under applicable statute and maintain sufficient user charges
4 or other charges, fees, taxes, special assessments, or revenues available
5 to the ~~political subdivision~~ **participant** to:

- 6 (1) operate and maintain the wastewater collection and treatment
7 system; and
- 8 (2) pay the obligations of the system.

9 SECTION 17. IC 13-18-13-17 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) Notwithstanding
11 any other law and if provided in a financial assistance agreement, any
12 state department or state agency, including the treasurer of state:

- 13 (1) that is the custodian of money payable to a ~~political~~
14 ~~subdivision~~, **participant**, other than money in payment for goods
15 or services provided by the ~~political subdivision~~; **participant**; and
- 16 (2) after written notice from the budget director that the ~~political~~
17 ~~subdivision~~ **participant** is in default on the payment of principal
18 or interest on a loan or evidence of other financial assistance;
19 may withhold payment of money from that ~~political subdivision~~
20 **participant** and pay over the money to the budget agency or the
21 Indiana bond bank, as directed by the budget director, for the purpose
22 of curing the default.

23 (b) The withholding of payment from the ~~political subdivision~~
24 **participant** and payment to:

- 25 (1) the budget agency; or
- 26 (2) the Indiana bond bank;

27 as applicable, may not adversely affect the validity of the defaulted
28 loan or other financial assistance.

29 SECTION 18. IC 13-18-13-19 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) Notwithstanding
31 any other law, a ~~political subdivision~~ **participant** may borrow money
32 from the budget agency by negotiating a loan or other financial
33 assistance directly and without complying with requirements for the
34 competitive sale of bonds, notes, or other obligations or evidences of
35 indebtedness. A ~~political subdivision~~ **participant** shall observe any
36 existing contractual commitments to bondholders or other persons
37 when entering into a financial assistance agreement.

38 (b) Notwithstanding any other law, a ~~political subdivision~~
39 **participant** may issue and sell its notes, the principal and accrued
40 interest on which shall be paid with proceeds from the issuance of its
41 bonds or other available money at the time the notes are due. The notes
42 must be issued pursuant to a resolution or ordinance and the proceeds

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1 must be used to carry out the purposes specified in this chapter.

2 (c) A ~~political subdivision~~ **participant** that issues notes under
3 subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend
4 the notes periodically on terms agreed to with the budget agency, and
5 the budget agency may purchase and sell the renewed or extended
6 notes. Accrued interest on the date of renewal or extension may be paid
7 or added to the principal amount of the note being renewed or
8 extended.

9 (d) The notes issued by a ~~political subdivision~~ **participant** under
10 subsection (b), including any renewals or extensions, must mature:

11 (1) in the amounts; and

12 (2) at the times not exceeding four (4) years from the date of
13 original issuance;

14 that are agreed to by the ~~political subdivision~~ **participant** and the
15 budget agency.

16 (e) Compliance with subsection (b) constitutes full authority for a
17 ~~political subdivision~~ **participant** to issue its notes and sell the notes to
18 the department and the budget agency, and the ~~political subdivision~~
19 **participant** is not required to comply with any other law applicable to
20 the authorization, approval, issuance, and sale of its notes. These notes
21 are:

22 (1) valid and binding obligations of the ~~political subdivision;~~
23 **participant;**

24 (2) enforceable in accordance with the terms of the notes; and

25 (3) payable solely from the sources specified in the resolution or
26 ordinance authorizing the issuance of the notes.

27 (f) If the ~~political subdivision~~ **participant** issues bonds, all or part
28 of the proceeds of which will be used to pay the notes issued under
29 subsection (b), neither:

30 (1) the provisions of this section; nor

31 (2) the actual issuance by a ~~political subdivision~~ **participant** of
32 notes under subsection (b);

33 relieves the ~~political subdivision~~ **participant** of the obligation to
34 comply with the statutory requirements for the issuance of bonds.

35 SECTION 19. IC 13-18-13-20 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) As an
37 alternative to making loans or providing other financial assistance to
38 ~~political subdivisions;~~ **participants**, the budget agency may use the
39 money in the fund or the supplemental fund to provide a leveraged loan
40 program and other financial assistance programs permitted by the
41 federal Clean Water Act to or for the benefit of ~~political subdivisions;~~
42 **participants**, including using money in the fund or the supplemental

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1 fund to enhance the obligations of ~~political subdivisions~~ **participants**
 2 issued for the purposes of this chapter by:

3 (1) granting money to:

4 (A) be deposited in:

5 (i) a capital or reserve fund established under IC 5-1.5 or
 6 another statute or a trust agreement or indenture as
 7 contemplated by IC 13-18-13-2(e); or

8 (ii) an account established within such a fund; or

9 (B) provide interest subsidies;

10 (2) paying bond insurance premiums, reserve insurance
 11 premiums, or credit enhancement, liquidity support, remarketing,
 12 or conversion fees, or other similar fees or costs for obligations of
 13 a ~~political subdivision~~ **participant** or for bonds issued by the
 14 Indiana bond bank if credit market access is improved or interest
 15 rates are reduced; or

16 (3) guaranteeing all or a part of obligations issued by ~~political~~
 17 ~~subdivisions~~ **participants** or of bonds issued by the Indiana bond
 18 bank.

19 (b) The budget agency may enter into any agreements with the
 20 Indiana bond bank or ~~political subdivisions~~ **participants** to carry out
 21 the purposes specified in this chapter.

22 (c) A guarantee of obligations or bonds under subsection (a)(3) must
 23 be limited to money in the fund and the supplemental fund. A
 24 guarantee under subsection (a)(3) does not create a liability or
 25 indebtedness of the state.

26 SECTION 20. [EFFECTIVE JULY 1, 2001] **(a) On or before**
 27 **December 31, 2002, the water pollution control board and the**
 28 **budget agency shall jointly amend:**

29 **(1) 85 IAC 1-1-1 through 85 IAC 2-14-1; and**

30 **(2) 327 IAC 13;**

31 **to reflect the amendments to IC 13-11 and IC 13-18 by this act.**

32 **(b) This SECTION expires January 1, 2003.**

33 SECTION 21. **An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Howard be added as coauthor of Senate Bill 243.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 243, 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, line 3, strike "remediation and closure goals,".

Page 1, strike line 4.

Page 1, line 5, strike "IC 13-23" and insert "**following**".

Page 1, line 6, after "IC 13-25-5-8.5" delete "." and insert ":

(1) Remediation and closure goals, objectives, and standards for activities conducted under:

(A) IC 13-22;

(B) IC 13-23; and

(C) IC 13-25-5.

(2) Removal and remediation activities that:

(A) are not emergency or time critical activities; and

(B) are conducted under:

(i) IC 13-24; and

(ii) IC 13-25-4."

Page 1, line 8, delete "appropriate," and insert "**appropriate**,".

Page 1, line 8, strike "groundwater remediations" and insert "**the following**".

Page 1, line 9, after "IC 13-25-5-8.5" delete "." and insert ":

(1) Groundwater remediations conducted under:

(A) IC 13-22;

(B) IC 13-23; and

(C) IC 13-25-5.

(2) Groundwater remediations that:

(A) are not emergency or time critical activities; and

(B) are conducted under:

(i) IC 13-24; and

(ii) IC 13-25-4.

(3) Groundwater remediations conducted under any other provision of IC 13, as appropriate."

and when so amended that said bill do pass.

(Reference is to SB 243 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 243, 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:

Page 1, line 15, delete "and" and insert "**or**".

Page 2, line 11, delete "and" and insert "**or**".

Page 2, between lines 14 and 15, begin a new paragraph and insert:

"(c) Responses to spills of hazardous substances, extremely hazardous substances, petroleum, and other objectionable substances that are regulated under 327 IAC 2-6.1 shall be conducted in a manner that is consistent with the requirements of 327 IAC 2-6.1."

and when so amended that said bill do pass.

(Reference is to SB 243 as printed February 28, 2001.)

WEINZAPFEL, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 243 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert: SECTION 1. IC 13-11-2-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 40. "Confined feeding operation", for purposes of IC 13-18-10, **IC 13-18-13, and IC 13-18-21** means:

- (1) any confined feeding of:
 - (A) at least three hundred (300) cattle;
 - (B) at least six hundred (600) swine or sheep; and
 - (C) at least thirty thousand (30,000) fowl;
- (2) any animal feeding operation electing to be subject to IC 13-18-10; or
- (3) any animal feeding operation that is causing a violation of:
 - (A) water pollution control laws;
 - (B) any rules of the water pollution control board; or
 - (C) IC 13-18-10.

A determination by the department under this subdivision is appealable under IC 4-21.5.

SECTION 2. IC 13-11-2-83, AS AMENDED BY P.L.132-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, refers to an agreement between:

- (1) the budget agency; and
- (2) a ~~political subdivision;~~ **participant;**

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision;~~ **participant.**

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

- (1) is approved by the budget agency; and
- (2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:

- (1) the budget agency; and
- (2) a participant;

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant.

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SECTION 3. IC 13-11-2-142.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 142.5. "Nonpoint source", for purposes of section 151.1 of this chapter and IC 13-18-13, means:**

- (1) a pollution source that is not controlled by effluent limitations established under Sections 301, 302, or 402 of the federal Water Pollution Control Act; or**
- (2) a pollution source identified in a state management plan produced according to Section 319 of the federal Water Pollution Control Act;**

that is not traceable to a discrete identifiable origin.

SECTION 4. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 151.1. (a) "Participant", for purposes of section 83(a) of this chapter and IC 13-18-13, means:**

- (1) a political subdivision; or**
- (2) a private entity, for a nonpoint source pollution reduction project related to:**
 - (A) a confined feeding operation;**
 - (B) farm field runoff; or**
 - (C) a failing sewage disposal system.**

(b) "Participant", for purposes of section 83(c) of this chapter and IC 13-18-21, means:

- (1) a political subdivision; or**
- (2) any other owner or operator of a public water system; or**
- (3) a private entity, for a nonpoint source pollution reduction project related to:**
 - (A) a confined feeding operation;**
 - (B) farm field runoff; or**
 - (C) a failing sewage disposal system.**

SECTION 5. IC 13-11-2-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 201. "Sewage disposal system", for purposes of IC 13-18-12, IC 13-18-13, and IC 13-18-21, means septic tanks, wastewater holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:**

- (1) store;**
- (2) treat;**
- (3) make inoffensive; or**
- (4) dispose of;**

human excrement or liquid carrying wastes of a domestic nature.

Page 2, after line 12 , begin a new paragraph and insert: SECTION

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8. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

- (1) gifts to the fund; and
- (2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a ~~political subdivision~~; **participant**;
- (4) the Indiana bond bank; or
- (5) any person to which the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 9. IC 13-18-13-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for:

(A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; or

(B) a nonpoint source pollution reduction project related to confined feeding operations, farm field runoff, or failing sewage disposal systems.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) For each state fiscal year, the budget agency may use not more than three percent (3%) of the total amount estimated by the budget agency to be available for financial assistance from the fund for the year for providing loan assistance to participants for nonpoint source pollution reduction projects related to confined feeding operations, farm field runoff, or failing sewage disposal systems. Amounts estimated to be available for nonpoint source projects for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

SECTION 10. IC 13-18-13-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) Except as provided in subsection (b), the budget agency shall manage and administer all aspects of the program.

(b) The budget agency shall designate aspects of the program to be managed and administered by the department. When the budget agency makes a designation under this subsection, the budget agency shall direct the department in writing to manage and administer the designated aspects of the program.

(c) The budget agency shall fix a budget for the aspects of the program to be:

(1) managed and administered by the department under subsection (b); and

(2) funded from:

(A) the fund; or

(B) a capitalization grant made by the United States Environmental Protection Agency for the benefit of the program.

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SECTION 11. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The ~~department and the~~ budget agency may:

- (1) provide services to a ~~political subdivision~~ **participant** in connection with a loan or other financial assistance, including advisory and other services; and
- (2) charge a fee for services provided.

(b) The ~~department and the~~ budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ **participant** under this chapter, regardless of whether the application is approved or rejected.

(c) A ~~political subdivision~~ **participant** may pay fees charged under this section.

SECTION 12. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The ~~department budget agency~~ shall use a priority ranking system to recommend loans or other financial assistance from the fund. The ~~department budget agency~~ shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

(b) Based on the recommendations made under subsection (a), **and subject to any bypass procedures implemented by the budget agency to efficiently render program assistance**, the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of ~~political subdivisions:~~ **participants**.

SECTION 13. IC 13-18-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

- (1) The loan or other financial assistance must be used:
 - (A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks;
 - (B) to:
 - (i) establish reserves or sinking funds; or
 - (ii) provide interest subsidies;
 - (C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; ~~or~~



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(D) to pay the following:

- (i) Consultant, advisory, and legal fees.
- (ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program; **or**

(E) for nonpoint source pollution reduction projects related to confined feeding operations, farm field runoff, or failing sewage disposal systems.

(2) Subject to section 15 of this chapter, upon recommendation of the budget agency the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:

- (A) make loans; or
- (B) provide other financial assistance under this chapter.

(b) The budget agency is not required to establish uniform terms and conditions applicable to all loans or other financial assistance under this chapter. Differences in the terms and conditions may be based on:

- (1) credit;**
- (2) loan structure;**
- (3) capital access;**
- (4) whether a participant is a political subdivision or a private entity; or**
- (5) other factors the budget agency considers relevant.**

SECTION 14. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

- (1) All papers and opinions required by the budget agency.
- (2) Unless otherwise provided by rule, the following:
 - (A) An approving opinion of nationally recognized bond counsel **if required by the budget agency.**
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a



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material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 15. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision~~ **participant**.

SECTION 16. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. The budget agency may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

SECTION 17. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) The budget agency may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions~~ **participants**; or
 (2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions~~ **participants**;
 to the extent permitted by the federal Clean Water Act.

(b) The budget agency must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the fund;

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regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

(1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 18. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

(1) A base or subsidized interest rate that:

(A) would be payable by ~~political subdivisions~~ **participants** other than ~~political subdivisions~~ **participants** described in subdivision (2) or (3); and

(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.

(2) A base reduced or more heavily subsidized interest rate, that:

(A) would be payable by ~~political subdivisions~~ **participants** whose median household incomes are:

(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and

(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and

(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.

(3) A base zero (0) or most heavily subsidized interest rate that:

(A) would be payable on loans made to ~~political subdivisions~~ **participants** whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and

(B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater

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collection and treatment system.

(b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan under section 10 of this chapter, shall take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency considers relevant, **including:**

(A) the program's cost of funds; and

(B) whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans made to different participants in the same interest rate category.

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:

- (1) revenue bonds payable from and secured by ~~political subdivisions;~~ **participants;** and
- (2) loan payments made by and loan payments made to ~~political subdivisions;~~ **participants.**

It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

SECTION 19. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. The budget agency shall require that a ~~political subdivision receiving~~ **participant that owns or operates a wastewater collection and treatment system and that receives** a loan or other financial assistance under this chapter to establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

SECTION 20. IC 13-18-13-17 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision; participant~~, other than money in payment for goods or services provided by the ~~political subdivision; participant~~; and
 (2) after written notice from the budget director that the ~~political subdivision participant~~ is in default on the payment of principal or interest on a loan or evidence of other financial assistance; may withhold payment of money from that ~~political subdivision participant~~ and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision participant~~ and payment to:

- (1) the budget agency; or
- (2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 21. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) The ~~water pollution control board and the~~ budget agency may jointly adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.

(b) All rules adopted by the board to implement this chapter are void. The publisher of the Indiana Administrative Code shall remove these rules from the Indiana Administrative Code.

(c) All rules adopted by the budget agency before July 1, 2001, are void to the extent that the rules designate the department to manage or administer any aspect of the program.

SECTION 22. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) Notwithstanding any other law, a ~~political subdivision participant~~ **that is a political subdivision** may borrow money from the budget agency by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A ~~political subdivision participant~~ **that is a political subdivision** shall observe any **applicable** existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a ~~political subdivision participant~~ **that is a political subdivision** may issue and sell its notes,

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the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A ~~political subdivision participant that is a political subdivision~~ that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a ~~political subdivision participant that is a political subdivision~~ under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the ~~political subdivision participant~~ and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a ~~political subdivision participant that is a political subdivision~~ to issue its notes and sell the notes ~~to the department and the budget agency; for the benefit of the program,~~ and the ~~political subdivision participant~~ is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the ~~political subdivision; participant;~~
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the ~~political subdivision participant that is a political subdivision~~ issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a ~~political subdivision participant~~ of notes under subsection (b);

relieves the ~~political subdivision participant~~ of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 23. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) As an



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alternative to making loans or providing other financial assistance to ~~political subdivisions~~, **participants**, the budget agency may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the federal Clean Water Act to or for the benefit of ~~political subdivisions~~, **participants**, including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions~~ **participants** issued for the purposes of this chapter by:

- (1) granting money to:
 - (A) be deposited in:
 - (i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-13-2(e); or
 - (ii) an account established within such a fund; or
 - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision~~ **participant** or for bonds issued by the Indiana bond bank if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or a part of obligations issued by ~~political subdivisions~~ **participants** or of bonds issued by the Indiana bond bank.

(b) The budget agency may enter into any agreements with the Indiana bond bank or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 24. IC 13-18-21-3, AS AMENDED BY P.L.132-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Money in the fund may be used to do the following:

- (1) Provide loans or other financial assistance to participants for the:
 - (A) planning;
 - (B) designing;
 - (C) construction;
 - (D) renovation;
 - (E) improvement;

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(F) expansion; or

(G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the ~~department and the~~ budget agency ~~shall~~ **may** use **not more than** two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The ~~department and the~~ budget agency may ~~jointly~~ contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.

(c) To the extent ~~permitted by this chapter,~~ **required by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), and subject to any banking for technical assistance in prior state fiscal years permitted under that act,** fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana ~~to the extent that the money can be obligated~~ for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.). **program.**

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the ~~budget agency and the~~ **department state** shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the budget agency ~~and the~~ **department** to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations

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after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. ~~The department has primary responsibility to carry out this subsection.~~

(e) This chapter does not require the budget agency to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

SECTION 25. IC 13-18-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~The department and the budget agency shall administer and manage the fund and program in accordance with this chapter.~~

SECTION 26. IC 13-18-21-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. (a) Except as provided in subsection (b), the budget agency shall manage and administer all aspects of the program.**

(b) The budget agency shall designate aspects of the program to be managed and administered by the department. When the budget agency makes a designation under this subsection, the budget agency shall direct the department in writing to manage and administer the designated aspects of the program.

(c) The budget agency shall fix a budget for the aspects of the program to be:

(1) managed and administered by the department under subsection (b); and

(2) funded from:

(A) the fund; or

(B) a capitalization grant made by the United States Environmental Protection Agency for the benefit of the program.

SECTION 27. IC 13-18-21-8, AS AMENDED BY P.L.132-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) ~~The department and the budget agency may:~~

(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and

(2) charge a fee for services provided.

(b) ~~The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the~~

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application is approved or rejected.

(c) A political subdivision may pay fees charged under this section.

SECTION 28. IC 13-18-21-9, AS AMENDED BY P.L.132-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The ~~department budget agency~~ shall use a priority ranking system to recommend loans or other financial assistance from the fund. The ~~department budget agency~~ shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Based on the recommendations made under subsection (a), **and subject to any bypass procedures implemented by the budget agency to efficiently render program assistance**, the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.

SECTION 29. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) The ~~water pollution control board and the budget agency~~ may jointly adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.

(b) **All rules adopted by the board to implement this chapter are void. The publisher of the Indiana Administrative Code shall remove these rules from the Indiana Administrative Code.**

(c) **All rules adopted by the budget agency are void to the extent that the rules designate the department to manage or administer any aspect of the program.**

SECTION 30. IC 13-18-21-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b)

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may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes ~~to the department and the budget agency,~~ **for the benefit of the program,** and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

- (1) provisions of this section; or
- (2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 31. IC 13-18-21-22, AS AMENDED BY P.L.132-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of

- ~~(1) participants for the purposes described in section 23(1)~~ **section 23** of this chapter. ~~and~~
- ~~(2) political subdivisions for the purposes described in section 23(2) of this chapter.~~

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

- (1) gifts to the supplemental fund; and

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(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter; shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the department, the budget agency, a participant, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 32. IC 13-18-21-23, AS AMENDED BY P.L.132-1999, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. (a) Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems; and

~~other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the~~

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federal Clean Water Act or the federal Safe Drinking Water Act.

~~(2)~~ Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions for:

(B) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or stormwater collection and treatment systems;

(C) nonpoint source pollution reduction projects related to confined feeding operations, farm field runoff, or failing sewage disposal systems; and

(D) other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

~~(3)~~ **(2)** Pay the cost of administering the supplemental fund and the supplemental program.

~~(4)~~ **(3)** Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) For any state fiscal year, the budget agency may use not more than three percent (3%) of the amount estimated by the budget agency to be available for financial assistance from the supplemental fund for the year for providing loan assistance to participants for nonpoint source pollution reduction projects related to confined feeding operations, farm field runoff, or failing sewage disposal systems. Amounts estimated to be available for nonpoint source projects for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

SECTION 33. IC 13-18-21-25, AS AMENDED BY P.L.132-1999, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 25. (a) The budget agency may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish reserves or sinking funds; or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan

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during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

- (i) Consultant, advisory, and legal fees.
- (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the budget agency may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or stormwater collection and treatment systems **and nonpoint source pollution reduction projects related to confined feeding operations, farm field runoff, or failing sewage disposal systems**, and other activities necessary or convenient to complete these tasks;

(B) to:

- (i) establish reserves or sinking funds; or
- (ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

- (i) Consultant, advisory, and legal fees.
- (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(c) The budget agency is not required to establish uniform terms and conditions applicable to all loans or other financial assistance



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under this section. Differences in the terms and conditions may be based on:

- (1) credit;**
- (2) loan structure;**
- (3) capital access;**
- (4) whether a participant is a political subdivision or a private entity; or**
- (5) other factors the budget agency considers relevant.**

SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2001]: IC 13-18-13-4; IC 13-18-13-5; IC 13-18-13-6; IC 13-18-21-5; IC13-18-21-6.

Renumber all SECTIONS consecutively.

(Reference is to ESB 243 as printed April 3, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 243 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 1, delete lines 1 through 16.

Page 2, delete lines 33 through 42.

Page 3, delete lines 1 through 20, begin a new paragraph and insert:

"SECTION 3. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 151.1. **(a) "Participant", for purposes of section 83(a) of this chapter and IC 13-18-13, means:**

(1) a political subdivision; or

(2) for a nonpoint source pollution reduction project, a private entity.

(b) "Participant", for purposes of section 83(c) of this chapter and IC 13-18-21, means:

(1) a political subdivision; or

(2) any other owner or operator of a public water system."

Page 4, between lines 7 and 8, begin a new line block indented and insert:

"(3) Groundwater remediations conducted under any other provision of IC 13, as appropriate.

(c) Responses to spills of hazardous substances, extremely hazardous substances, petroleum, and other objectionable substances that are regulated under 327 IAC 2-6.1 shall be conducted in a manner that is consistent with the requirements of 327 IAC 2-6.1."

Page 5, delete lines 7 through 42.

Page 6, delete lines 1 through 7, begin a new paragraph and insert:

"SECTION 6. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for:

(A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; **or**

(B) a nonpoint source pollution reduction project.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the federal Clean Water Act.

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SECTION 7. IC 13-18-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program and supplemental program.
- (2) Cooperate with the department in the administration and management of the program and supplemental program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with ~~political subdivisions~~ **participants** and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Sign each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each ~~political subdivision~~ **participant** to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.
- (9) Prepare, jointly with the department, annual reports concerning the following:
 - (A) The fund.
 - (B) The program.
 - (C) The supplemental fund.
 - (D) The supplemental program.
- (10) Submit the reports prepared under subdivision (9) to the governor and the general assembly.
- (11) Enter into memoranda of understanding with the department concerning the administration and management of the following:
 - (A) The fund.
 - (B) The program.
 - (C) The supplemental fund.
 - (D) The supplemental program."

Page 6, line 9, reset in roman "department".

Page 6, line 10, reset in roman "and the".

Page 6, line 15, reset in roman "department and the".

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Page 6, delete lines 22 through 42.

Page 7, delete lines 1 through 34, begin a new paragraph and insert:

"SECTION 9. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of ~~political subdivisions~~ **participants**.

SECTION 10. IC 13-18-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

- (1) The loan or other financial assistance must be used:
 - (A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks;
 - (B) to:
 - (i) establish reserves or sinking funds; or
 - (ii) provide interest subsidies;
 - (C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; ~~or~~
 - (D) to pay the following:
 - (i) Consultant, advisory, and legal fees.
 - (ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program; **or**
 - (E) for nonpoint source pollution reduction projects.**
- (2) Subject to section 15 of this chapter, upon recommendation of the budget agency the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.
- (3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:

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(A) make loans; or

(B) provide other financial assistance under this chapter."

Page 9, delete lines 19 through 42.

Page 10, delete lines 1 through 37, begin a new paragraph and insert:

"SECTION 15. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

(1) A base or subsidized interest rate that:

(A) would be payable by ~~political subdivisions~~ **participants** other than ~~political subdivisions~~ **participants** described in subdivision (2) or (3); and

(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.

(2) A base reduced or more heavily subsidized interest rate, that:

(A) would be payable by ~~political subdivisions~~ **participants** whose median household incomes are:

(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and

(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and

(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.

(3) A base zero (0) or most heavily subsidized interest rate that:

(A) would be payable on loans made to ~~political subdivisions~~ **participants** whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and

(B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.

(b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan under section 10 of this chapter, shall take into account the following:

(1) Credit risk.

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- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency considers relevant.

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:

- (1) revenue bonds payable from and secured by ~~political subdivisions;~~ **participants;** and
- (2) loan payments made by and loan payments made to ~~political subdivisions;~~ **participants.**

It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program."

Page 11, delete lines 27 through 42.

Delete page 12.

Page 13, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 18. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) Notwithstanding any other law, a ~~political subdivision~~ **participant** may borrow money from the budget agency by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A ~~political subdivision~~ **participant** shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a ~~political subdivision~~ **participant** may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A ~~political subdivision~~ **participant** that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a ~~political subdivision~~ **participant** under



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subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the ~~political subdivision~~ **participant** and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a ~~political subdivision~~ **participant** to issue its notes and sell the notes to the department and the budget agency, and the ~~political subdivision~~ **participant** is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the ~~political subdivision~~ **participant**;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the ~~political subdivision~~ **participant** issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a ~~political subdivision~~ **participant** of notes under subsection (b);

relieves the ~~political subdivision~~ **participant** of the obligation to comply with the statutory requirements for the issuance of bonds."

Page 13, delete lines 39 through 42.

Delete pages 14 through 20.

Page 21, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 20. [EFFECTIVE JULY 1, 2001] **(a) On or before December 31, 2002, the water pollution control board and the budget agency shall jointly amend:**

- (1) 85 IAC 1-1-1 through 85 IAC 2-14-1; and**
- (2) 327 IAC 13;**

to reflect the amendments to IC 13-11 and IC 13-18 by this act.

(b) This SECTION expires January 1, 2003."

Renumber all SECTIONS consecutively.

(Reference is to ESB 243 as reprinted April 12, 2001.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 243, begs leave to report that said bill has been amended as directed.

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