

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

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

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert: SECTION 1. IC 13-11-2-40 IS AMENDED TO
- 3 READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 40.
- 4 "Confined feeding operation", for purposes of IC 13-18-10,
- 5 **IC 13-18-13, and IC 13-18-21** means:
- 6 (1) any confined feeding of:
- 7 (A) at least three hundred (300) cattle;
- 8 (B) at least six hundred (600) swine or sheep; and
- 9 (C) at least thirty thousand (30,000) fowl;
- 10 (2) any animal feeding operation electing to be subject to
- 11 IC 13-18-10; or
- 12 (3) any animal feeding operation that is causing a violation of:
- 13 (A) water pollution control laws;
- 14 (B) any rules of the water pollution control board; or
- 15 (C) IC 13-18-10.
- 16 A determination by the department under this subdivision is appealable
- 17 under IC 4-21.5.
- 18 SECTION 2. IC 13-11-2-83, AS AMENDED BY P.L.132-1999,
- 19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2001]: Sec. 83. (a) "Financial assistance agreement", for
- 21 purposes of IC 13-18-13, refers to an agreement between:
- 22 (1) the budget agency; and
- 23 (2) a ~~political subdivision~~; **participant**;
- 24 establishing the terms and conditions of a loan or other financial
- 25 assistance, including forgiveness of principal if allowed under federal
- 26 law, by the state to the ~~political subdivision~~; **participant**.
- 27 (b) "Financial assistance agreement", for purposes of IC 13-19-5,

1 means an agreement between the authority and a political subdivision
2 that:

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

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

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

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

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

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

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

24 SECTION 4. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999,
25 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2001]: **Sec. 151.1. (a) "Participant", for purposes of section
27 83(a) of this chapter and IC 13-18-13, means:**

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

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

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

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

- 49 (1) store;
- 50 (2) treat;
- 51 (3) make inoffensive; or
- 52 (4) dispose of;

1 human excrement or liquid carrying wastes of a domestic nature.

2 Page 2, after line 12, begin a new paragraph and insert: SECTION
3 8. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The wastewater revolving
5 loan fund is established to provide money for loans and other financial
6 assistance to or for the benefit of ~~political subdivisions~~ **participants**
7 under this chapter.

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

11 (1) gifts to the fund; and

12 (2) loans and other financial assistance, as provided in sections
13 10 through 14 of this chapter;

14 shall be deposited in the fund.

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

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

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

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

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

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

29 (1) the department;

30 (2) the budget agency;

31 (3) a ~~political subdivision~~; **participant**;

32 (4) the Indiana bond bank; or

33 (5) any person to which the department, the budget agency, or a
34 ~~political subdivision~~ **participant** is obligated, as provided in the
35 trust agreement or indenture.

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

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

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

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

44 SECTION 9. IC 13-18-13-3 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Money in the
46 fund may be used to do the following:

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

49 (A) the planning, designing, construction, renovation,
50 improvement, or expansion of wastewater collection and

1 treatment systems and other activities necessary or
 2 convenient to complete these tasks; or

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

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

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

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

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

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

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

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

32 **(2) funded from:**

33 **(A) the fund; or**

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

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

40 **(1) provide services to a ~~political subdivision~~ participant in**
 41 **connection with a loan or other financial assistance, including**
 42 **advisory and other services; and**

43 **(2) charge a fee for services provided.**

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

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

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

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

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

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

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

23 (B) to:

24 (i) establish reserves or sinking funds; or

25 (ii) provide interest subsidies;

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

29 (D) to pay the following:

30 (i) Consultant, advisory, and legal fees.

31 (ii) Any other costs or expenses necessary or incident
 32 to the loan, other financial assistance, or the
 33 administration of the fund and the program; **or**

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

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

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

44 (A) make loans; or

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

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

50 **(1) credit;**

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

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

- 10 (1) All papers and opinions required by the budget agency.
 11 (2) Unless otherwise provided by rule, the following:
 12 (A) An approving opinion of nationally recognized bond
 13 counsel **if required by the budget agency.**
 14 (B) A certification and guarantee of signatures.
 15 (C) A certification that, as of the date of the loan or other
 16 financial assistance:
 17 (i) no litigation is pending challenging the validity of
 18 or entry into the loan or other financial assistance or
 19 any security for the loan or other financial assistance;
 20 or
 21 (ii) if litigation is pending, the litigation will not have
 22 a material adverse effect on the validity of the loan or
 23 other financial assistance or any security for the loan or
 24 other financial assistance.
 25 (D) If litigation is pending, as an alternative to the
 26 certification described in clause (C), an opinion of legal
 27 counsel that the litigation will not have a material adverse
 28 effect on the validity of the loan or other financial
 29 assistance.

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

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

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

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

1 fund to or for the benefit of ~~political subdivisions~~; **participants**;
2 to the extent permitted by the federal Clean Water Act.

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

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

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

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

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

19 (e) Action taken to:

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

23 is limited to the property pledged.

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

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

32 (1) A base or subsidized interest rate that:

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

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

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

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

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

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

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

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

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

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

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

12 (1) Credit risk.

13 (2) Environmental enforcement and protection.

14 (3) Affordability.

15 (4) Other fiscal factors the budget agency considers relevant,
 16 **including:**

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

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

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

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

28 (1) revenue bonds payable from and secured by ~~political~~
 29 ~~subdivisions;~~ **participants;** and

30 (2) loan payments made by and loan payments made to ~~political~~
 31 ~~subdivisions;~~ **participants.**

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

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

45 (1) operate and maintain the wastewater collection and treatment
 46 system; and

47 (2) pay the obligations of the system.

48 SECTION 20. IC 13-18-13-17 IS AMENDED TO READ AS
 49 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) Notwithstanding
 50 any other law and if provided in a financial assistance agreement, any

1 state department or state agency, including the treasurer of state:

2 (1) that is the custodian of money payable to a ~~political~~
3 ~~subdivision; participant~~, other than money in payment for goods
4 or services provided by the ~~political subdivision; participant~~;
5 and

6 (2) after written notice from the budget director that the ~~political~~
7 ~~subdivision participant~~ is in default on the payment of principal
8 or interest on a loan or evidence of other financial assistance;
9 may withhold payment of money from that ~~political subdivision~~
10 ~~participant~~ and pay over the money to the budget agency or the
11 Indiana bond bank, as directed by the budget director, for the purpose
12 of curing the default.

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

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

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

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

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

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

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

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

47 (c) A ~~political subdivision participant that is a political~~
48 ~~subdivision~~ that issues notes under subsection (b) or IC 4-23-21-13
49 (before its repeal) may renew or extend the notes periodically on terms
50 agreed to with the budget agency, and the budget agency may purchase

1 and sell the renewed or extended notes. Accrued interest on the date of
 2 renewal or extension may be paid or added to the principal amount of
 3 the note being renewed or extended.

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

7 (1) in the amounts; and

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

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

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

19 (1) valid and binding obligations of the ~~political subdivision;~~
 20 **participant;**

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

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

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

27 (1) the provisions of this section; nor

28 (2) the actual issuance by a ~~political subdivision participant of~~
 29 notes under subsection (b);

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

32 SECTION 23. IC 13-18-13-20 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) As an
 34 alternative to making loans or providing other financial assistance to
 35 ~~political subdivisions; participants,~~ the budget agency may use the
 36 money in the fund or the supplemental fund to provide a leveraged loan
 37 program and other financial assistance programs permitted by the
 38 federal Clean Water Act to or for the benefit of ~~political subdivisions;~~
 39 **participants,** including using money in the fund or the supplemental
 40 fund to enhance the obligations of ~~political subdivisions participants~~
 41 issued for the purposes of this chapter by:

42 (1) granting money to:

43 (A) be deposited in:

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

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

48 (B) provide interest subsidies;

49 (2) paying bond insurance premiums, reserve insurance
 50 premiums, or credit enhancement, liquidity support, remarketing,

1 or conversion fees, or other similar fees or costs for obligations
 2 of a ~~political subdivision~~ **participant** or for bonds issued by the
 3 Indiana bond bank if credit market access is improved or interest
 4 rates are reduced; or

5 (3) guaranteeing all or a part of obligations issued by ~~political~~
 6 ~~subdivisions~~ **participants** or of bonds issued by the Indiana
 7 bond bank.

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

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

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

19 (1) Provide loans or other financial assistance to participants for
 20 the:

- 21 (A) planning;
- 22 (B) designing;
- 23 (C) construction;
- 24 (D) renovation;
- 25 (E) improvement;
- 26 (F) expansion; or

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

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

35 (2) Except as provided in the federal Safe Drinking Water Act
 36 (42 U.S.C. 300f et seq.), pay the cost of administering the fund
 37 and the program.

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

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

49 (c) To the extent ~~permitted by this chapter, required by the~~
 50 **federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), and**

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

9 (d) To avoid the loss of money allotted to the state under 42 U.S.C.
 10 300j-12 et seq., the ~~budget agency and the department~~ **state** shall
 11 develop and implement a strategy to assist participants in acquiring and
 12 maintaining technical, managerial, and financial capacity as
 13 contemplated by 42 U.S.C. 300g-9. This is all the legal authority
 14 required by the state for the budget agency ~~and the department~~ to
 15 ensure that all new community water systems and new nontransient,
 16 noncommunity water systems, as contemplated by the federal Safe
 17 Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations
 18 after October 1, 1999, demonstrate technical, managerial, and financial
 19 capacity with respect to each federal primary drinking water regulation
 20 in effect on the date operations commence. ~~The department has primary~~
 21 ~~responsibility to carry out this subsection.~~

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

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

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

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

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

- 42 **(1) managed and administered by the department under**
 43 **subsection (b); and**
 44 **(2) funded from:**
 45 **(A) the fund; or**
 46 **(B) a capitalization grant made by the United States**
 47 **Environmental Protection Agency for the benefit of the**
 48 **program.**

49 SECTION 27. IC 13-18-21-8, AS AMENDED BY P.L.132-1999,
 50 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2001]: Sec. 8. (a) The ~~department and the~~ budget agency may:
 2 (1) provide services to a participant in connection with a loan or
 3 other financial assistance, including advisory and other services;
 4 and
 5 (2) charge a fee for services provided.
 6 (b) The ~~department and the~~ budget agency may charge a fee for
 7 costs and services incurred in the review or consideration of an
 8 application for a proposed loan or other financial assistance under this
 9 chapter to or for the benefit of a participant, regardless of whether the
 10 application is approved or rejected.
 11 (c) A political subdivision may pay fees charged under this
 12 section.

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

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

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

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

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

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

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

- 1 purposes specified in this chapter.
- 2 (c) A political subdivision that issues notes under subsection (b)
- 3 may renew or extend the notes periodically on terms agreed to with the
- 4 budget agency, and the budget agency may purchase and sell the
- 5 renewed or extended notes. Accrued interest on the date of renewal or
- 6 extension may be paid or added to the principal amount of the note
- 7 being renewed or extended.
- 8 (d) The notes issued by a political subdivision under subsection
- 9 (b), including any renewals or extensions, must mature:
- 10 (1) in the amounts; and
- 11 (2) at the times not exceeding four (4) years from the date of
- 12 original issuance;
- 13 that are agreed to by the political subdivision and the budget agency.
- 14 (e) Compliance with subsection (b) constitutes full authority for a
- 15 political subdivision to issue notes and sell the notes ~~to the department~~
- 16 ~~and the budget agency;~~ **for the benefit of the program,** and the
- 17 political subdivision is not required to comply with any other law
- 18 applicable to the authorization, approval, issuance, and sale of the
- 19 notes. The notes are:
- 20 (1) valid and binding obligations of the political subdivision;
- 21 (2) enforceable in accordance with the terms of the notes; and
- 22 (3) payable solely from the sources specified in the resolution or
- 23 ordinance authorizing the issuance of the notes.
- 24 (f) If the political subdivision issues bonds, all or part of the
- 25 proceeds of which will be used to pay notes issued under subsection
- 26 (b), the:
- 27 (1) provisions of this section; or
- 28 (2) actual issuance by a political subdivision of notes under
- 29 subsection (b);
- 30 do not relieve the political subdivision of the obligation to comply with
- 31 the statutory requirements for the issuance of bonds.
- 32 SECTION 31. IC 13-18-21-22, AS AMENDED BY P.L.132-1999,
- 33 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2001]: Sec. 22. (a) The supplemental drinking water and
- 35 wastewater assistance fund is established to provide money for grants,
- 36 loans, and other financial assistance to or for the benefit of
- 37 ~~(1) participants for the purposes described in section 23(1)~~
- 38 **section 23** of this chapter. ~~and~~
- 39 ~~(2) political subdivisions for the purposes described in section~~
- 40 ~~23(2) of this chapter.~~
- 41 (b) The general assembly may appropriate money to the
- 42 supplemental fund. Grants or gifts of money to the supplemental fund
- 43 and proceeds of the sale of:
- 44 (1) gifts to the supplemental fund; and
- 45 (2) loans and other financial assistance, as provided in sections
- 46 25 through 29 of this chapter;
- 47 shall be deposited in the supplemental fund.
- 48 (c) Repayments of loans and other financial assistance from the
- 49 supplemental fund, including interest, premiums, and penalties, shall
- 50 be deposited in the supplemental fund.

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

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

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

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

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

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

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

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

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

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

32 (A) the planning, designing, acquisition, construction,
33 renovation, improvement, or expansion of public water
34 systems; ~~and~~
35 ~~other activities necessary or convenient to complete these~~
36 ~~tasks, whether or not those other activities are permitted by~~
37 ~~the federal Clean Water Act or the federal Safe Drinking~~
38 ~~Water Act.~~

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

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

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

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

1 (3) (2) Pay the cost of administering the supplemental fund and
2 the supplemental program.

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

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

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

20 (1) A grant, loan, or other financial assistance may be used:
21 (A) for planning, designing, acquiring, constructing,
22 renovating, improving, or expanding public water systems,
23 and other activities necessary or convenient to complete
24 these tasks;
25 (B) to:
26 (i) establish reserves or sinking funds; or
27 (ii) provide interest subsidies;
28 (C) to pay financing charges, including interest on the loan
29 during construction and for a reasonable period after the
30 completion of construction; or
31 (D) to pay the following:
32 (i) Consultant, advisory, and legal fees.
33 (ii) Other costs or expenses necessary or incident to the
34 grant, loan, or other financial assistance or the
35 administration of the supplemental fund or the
36 supplemental program.

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

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

45 (1) A grant, loan, or other financial assistance may be used:
46 (A) for planning, designing, acquiring, constructing,
47 renovating, improving, or expanding wastewater or
48 stormwater collection and treatment systems **and nonpoint**
49 **source pollution reduction projects related to confined**
50 **feeding operations, farm field runoff, or failing sewage**

- 1 **disposal systems**, and other activities necessary or
- 2 convenient to complete these tasks;
- 3 (B) to:
- 4 (i) establish reserves or sinking funds; or
- 5 (ii) provide interest subsidies;
- 6 (C) to pay financing charges, including interest on the loan
- 7 during construction and for a reasonable period after the
- 8 completion of construction; or
- 9 (D) to pay the following:
- 10 (i) Consultant, advisory, and legal fees.
- 11 (ii) Other costs or expenses necessary or incident to the
- 12 grant, loan, or other financial assistance or the
- 13 administration of the supplemental fund or the
- 14 supplemental program.
- 15 (2) The budget agency must establish the terms and conditions
- 16 that the budget agency considers necessary or convenient to
- 17 make grants or loans or provide other financial assistance under
- 18 this chapter.
- 19 **(c) The budget agency is not required to establish uniform**
- 20 **terms and conditions applicable to all loans or other financial**
- 21 **assistance under this section. Differences in the terms and**
- 22 **conditions may be based on:**
- 23 **(1) credit;**
- 24 **(2) loan structure;**
- 25 **(3) capital access;**
- 26 **(4) whether a participant is a political subdivision or a**
- 27 **private entity; or**
- 28 **(5) other factors the budget agency considers relevant.**
- 29 SECTION 34. THE FOLLOWING ARE REPEALED
- 30 [EFFECTIVE JULY 1, 2001]: IC 13-18-13-4; IC 13-18-13-5;
- 31 IC 13-18-13-6; IC 13-18-21-5; IC13-18-21-6.
- 32 Renumber all SECTIONS consecutively.
- (Reference is to ESB 243 as printed April 3, 2001.)

Representative WEINZAPFEL