



February 18, 2003

# HOUSE BILL No. 1002

DIGEST OF HB 1002 (Updated February 12, 2003 8:25 PM - DI 44)

**Citations Affected:** IC 4-4; IC 4-12; IC 8-9.5; IC 12-10; IC 20-12; IC 25-22.5; noncode.

**Synopsis:** Securitization of tobacco settlement funds. Establishes the tobacco settlement authority and provides for the sale of bonds payable from future tobacco settlement payments to the state. Establishes procedures to be followed by the authority when entering into contracts for certain services related to the issuance and sale of bonds. Makes related changes in the statute governing distributions from the tobacco master settlement agreement fund. Makes certain continuing and temporary appropriations from the tobacco master settlement agreement fund and authorizes the expenditure of money from the fund in excess of the statutory spending limit if the total of those appropriations exceeds that limit. Increases the income ceiling for eligibility for the Hoosier Rx program from 135% to 185% of the federal poverty guideline. Establishes a health professions scholarship program. Appropriates money from the tobacco master settlement agreement fund to the tobacco settlement authority.

**Effective:** July 1, 2003.

**Brown C, Murphy, Becker**

January 15, 2003, read first time and referred to Committee on Public Health.  
February 17, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

HB 1002—LS 7850/DI 44+



C  
O  
P  
Y

February 18, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1002

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

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

1 SECTION 1. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2003]:

4 **Chapter 31. Tobacco Settlement Authority**

5 **Sec. 1. As used in this chapter, "authority" refers to the tobacco**  
6 **settlement authority created in this chapter.**

7 **Sec. 2. As used in this chapter, "board" refers to the governing**  
8 **board of the authority.**

9 **Sec. 3. As used in this chapter, "bonds" means bonds, notes, and**  
10 **any other obligations and financing arrangements issued or**  
11 **entered into by the authority under this chapter, and any such**  
12 **bonds, notes, obligations, or other financing arrangements entered**  
13 **into to refund the foregoing, whether on a current or an advance**  
14 **basis.**

15 **Sec. 4. As used in this chapter, "financing costs" means**  
16 **capitalized interest, capitalized operating expenses, debt service**  
17 **reserves, operating reserves, and any cost of issuance, credit**

HB 1002—LS 7850/DI 44+



C  
O  
P  
Y

1 enhancement, swap agreement under IC 8-9.5-9, or item of expense  
2 directly or indirectly payable or reimbursable by the authority and  
3 related to the authorization, sale, or issuance of the bonds,  
4 including, but not limited to, underwriting fees and fees and  
5 expenses for professional consultants and fiduciaries.

6 Sec. 5. As used in this chapter, "master settlement agreement"  
7 has the meaning set forth in IC 24-3-3-6.

8 Sec. 6. As used in this chapter, "net proceeds" means the  
9 amount of proceeds remaining following each sale of bonds that is  
10 not required by the authority to pay the financing costs.

11 Sec. 7. As used in this chapter, "qualifying statute" has the  
12 meaning set forth in the master settlement agreement. For  
13 purposes of this chapter, IC 24-3-3 is the qualifying statute.

14 Sec. 8. As used in this chapter, "residual interests" means the  
15 income of the authority that is in excess of the authority's  
16 requirements for its reserve fund or to pay its operating expenses,  
17 debt service, whether at maturity or upon redemption, or any  
18 other contractual obligations under any resolution or that may be  
19 incurred in connection with the issuance of the bonds.

20 Sec. 9. As used in this chapter, "sales agreement" means any  
21 agreement authorized under this chapter in which the state sells to  
22 the authority a portion of the amounts and revenues required to be  
23 paid by tobacco product manufacturers to the state and the state's  
24 rights to receive the amounts and revenues under the master  
25 settlement agreement.

26 Sec. 10. As used in this chapter, "state" means the state of  
27 Indiana, acting by and through its budget agency, or any other  
28 state agency, state office, or state officer required by law or  
29 contract to act on behalf of the state of Indiana for a particular  
30 purpose.

31 Sec. 11. (a) The general assembly declares it to be the public  
32 policy of the state and a recognized governmental function to assist  
33 in securitizing the revenue stream from the master settlement  
34 agreement between the state and tobacco product manufacturers  
35 in order to provide a current and reliable source of revenue for the  
36 state. The purpose of this chapter is to establish a tobacco  
37 settlement authority having the power to purchase certain rights  
38 of the state under the master settlement agreement and to issue  
39 nonrecourse revenue bonds.

40 (b) This chapter, being necessary for the welfare of the state and  
41 its inhabitants, shall be liberally construed to effect the purposes  
42 thereof.

C  
O  
P  
Y

1           (c) The general assembly hereby finds that the following  
2 activities are necessary and proper and serve a public purpose or  
3 purposes through the promotion of economic development,  
4 education, health and general welfare, and will be of benefit to the  
5 health and general welfare of the state and its citizens:

6           (1) The creation of the authority.

7           (2) Entering into one (1) or more sales agreements.

8           (3) The sale to the authority of a portion of the amounts and  
9 revenues required to be paid by tobacco product  
10 manufacturers to the state and the state's right to receive the  
11 amounts and revenues under the master settlement  
12 agreement.

13           (4) The issuance of bonds.

14           Sec. 12. The tobacco settlement authority is established, and is  
15 a public body corporate and politic, separate from the state, and  
16 not a state agency. The exercise by the authority of its powers  
17 constitutes an essential public and governmental function.

18           Sec. 13. (a) The powers of the authority are vested in and shall  
19 be exercised by a board consisting of the following nine (9)  
20 members:

21           (1) The governor, or the governor's designee, who serves as  
22 chairperson.

23           (2) The lieutenant governor, or the lieutenant governor's  
24 designee, who serves as vice chairperson.

25           (3) The treasurer of state, or the treasurer of state's designee.

26           (4) Four (4) members appointed by the governor who are  
27 persons of known probity and who possess adequate capacity  
28 for the performance of the duties of members of the authority.  
29 Not more than two (2) of the members appointed under this  
30 subdivision may be members of the same political party.

31           (5) Two (2) members appointed by the governor, from  
32 recommendations made by the speaker of the house of  
33 representatives and the president pro tempore of the senate,  
34 who are persons of known probity and who possess adequate  
35 capacity for the performance of the duties of members of the  
36 authority. The speaker of the house of representatives and the  
37 president pro tempore of the senate shall each make at least  
38 two (2) recommendations to the governor. The members  
39 appointed under this subdivision may not be from the same  
40 political party.

41           (b) The board shall elect from among the board's members the  
42 other officers the board considers necessary or convenient.



C  
O  
P  
Y

1 (c) The term of the members of the board appointed by the  
 2 governor shall be four (4) years from the date of their  
 3 appointment, except that the terms of two (2) of the initial  
 4 appointees, as determined by the governor, shall be for two (2)  
 5 years from the date of their appointment.

6 (d) Each member of the board appointed by the governor:

7 (1) shall hold office for the term of the member's respective  
 8 appointment;

9 (2) shall continue to serve after the expiration of the  
 10 appointment until a successor is appointed and qualified;

11 (3) is eligible for reappointment; and

12 (4) serves at the pleasure of the governor and may be removed  
 13 from office by the governor at any time.

14 (e) The members of the board are not entitled to any  
 15 compensation for their services but are entitled to reimbursement  
 16 for actual and necessary expenses on the same basis as state  
 17 employees.

18 Sec. 14. Five (5) members of the board constitute a quorum.  
 19 Five (5) affirmative votes are required for the board to take action.

20 Sec. 15. Meetings of the board shall be held in accordance with  
 21 IC 5-14-1.5 and at the call of the chair or when a majority of the  
 22 members of the board so requests.

23 Sec. 16. (a) This section applies to a meeting of the board at  
 24 which at least four (4) members of the board are physically present  
 25 at the place where the meeting is conducted.

26 (b) A member of the board may participate in a meeting of the  
 27 board by using a means of communication that permits:

28 (1) all other members of the board participating in the  
 29 meeting; and

30 (2) all members of the public physically present at the place  
 31 where the meeting is conducted;

32 to simultaneously communicate with each other during the  
 33 meeting.

34 (c) A member of the board who participates in a meeting under  
 35 subsection (b) is considered to be present at the meeting.

36 (d) The memoranda of the meeting prepared under  
 37 IC 5-14-1.5-4 must also state the name of each member of the  
 38 board who:

39 (1) was physically present at the place where the meeting was  
 40 conducted;

41 (2) participated in the meeting by using a means of  
 42 communication described in subsection (b); and

C  
O  
P  
Y



1           **(3) was absent.**

2           **Sec. 17. Any member or employee of the authority who has, will**  
 3 **have, or later acquires an interest, direct or indirect, in any**  
 4 **transaction with the authority shall immediately disclose the**  
 5 **nature and extent of the interest in writing to the authority as soon**  
 6 **as the member or employee has knowledge of the actual or**  
 7 **prospective interest. The disclosure shall be announced in open**  
 8 **meeting and entered upon the minutes of the authority. Upon**  
 9 **disclosure, the member or employee shall not participate in any**  
 10 **action by the authority authorizing the transaction. However, such**  
 11 **an interest shall not invalidate actions by the authority with the**  
 12 **participation of the disclosing member prior to the time when the**  
 13 **member became aware of the interest.**

14           **Sec. 18. Subject to section 36 of this chapter, the authority may,**  
 15 **without the approval of the attorney general or any other state**  
 16 **officer, employ independent counsel, bond counsel, other attorneys,**  
 17 **financial advisers, investment bankers, auditors, other technical or**  
 18 **professional assistants, and such other officers, agents and**  
 19 **employees (including an executive director), permanent or**  
 20 **temporary, as the authority considers necessary or convenient to**  
 21 **carry out the efficient operation of the authority, and shall**  
 22 **determine the qualifications, duties, compensation, and terms of**  
 23 **service of all such persons. The chairperson may appoint the initial**  
 24 **executive director. The executive director is the chief operating**  
 25 **officer of the authority, and the board shall establish the executive**  
 26 **director's duties and responsibilities, including the powers that the**  
 27 **authority has under this section. The board may delegate to an**  
 28 **officer of the authority, the executive director, or one (1) or more**  
 29 **other employees or agents of the authority such duties and**  
 30 **responsibilities as the board considers necessary or convenient,**  
 31 **including the powers that the authority has set forth in this section.**  
 32 **Employees of the authority shall not be considered employees of**  
 33 **the state.**

34           **Sec. 19. (a) The authority shall:**

- 35           **(1) adopt:**  
 36           **(A) rules under IC 4-22-2; or**  
 37           **(B) a policy;**  
 38           **establishing a code of ethics for its employees; or**  
 39           **(2) decide it wishes to be under the jurisdiction and rules**  
 40           **adopted by the state ethics commission.**

41           **(b) A code of ethics adopted by rule or policy under this section**  
 42 **must be consistent with state law and approved by the governor.**



C  
O  
P  
Y

1           **Sec. 20.** The authority has all the general powers necessary to  
2 carry out its purposes and duties and to exercise its specific  
3 powers. In addition to other powers specified in this chapter, the  
4 authority may:

- 5           (1) sue and be sued in the name of the authority;  
6           (2) make and execute agreements, contracts, and other  
7 instruments, with any public or private person, in accordance  
8 with this chapter;  
9           (3) invest monies held by the authority or on its behalf under  
10 any trust agreement of the authority or otherwise in the  
11 manner determined by resolution of the authority or under  
12 the trust agreement (an investment under this subdivision is  
13 not restricted by or subject to any other law);  
14           (4) establish any general or special funds, accounts, or  
15 subaccounts, and controls on deposits to and disbursements  
16 from them, as it finds necessary, desirable, or convenient for  
17 the implementation of this chapter;  
18           (5) procure insurance, other credit enhancements, and other  
19 financing arrangements for its bonds to fulfill its purposes  
20 under this chapter, including but not limited to municipal  
21 bond insurance and letters of credit;  
22           (6) accept appropriations, gifts, grants, loans, or other aid  
23 from public or private entities;  
24           (7) establish a stable source of revenue to be used for the  
25 purposes designated in this chapter;  
26           (8) enter into one (1) or more sales agreements with the state  
27 for purchase of a portion of the amounts and revenues due to  
28 the state under the master settlement agreement, and of the  
29 state's rights to receive those amounts and revenues;  
30           (9) issue bonds in one (1) or more series;  
31           (10) sell, pledge, or assign, as security, all or a portion of the  
32 revenues derived by the authority under any sales agreement,  
33 to provide for and secure the issuance of its bonds;  
34           (11) manage its funds, obligations, and investments as  
35 necessary and as consistent with its purpose;  
36           (12) without complying with IC 4-22-2, adopt, amend, and  
37 repeal bylaws, rules, and regulations not inconsistent with this  
38 chapter and necessary or convenient to regulate its affairs and  
39 to carry into effect the powers, duties, and purposes of the  
40 authority and conduct its business; and  
41           (13) exercise any other power reasonably required,  
42 convenient, or desirable to implement the purposes of this

C  
O  
P  
Y



1 chapter.  
 2 The rule of law that any doubt as to the existence of a power of the  
 3 authority shall be resolved against the existence of that power is  
 4 abrogated. Any doubt as to the existence of a power of the  
 5 authority shall be resolved in favor of its existence.

6 Sec. 21. The authority may not:  
 7 (1) exercise the power of eminent domain; or  
 8 (2) levy taxes of any kind.

9 Sec. 22. (a) The authority may issue its bonds in principal  
 10 amounts as may be necessary or appropriate to provide sufficient  
 11 funds for:

- 12 (1) the exercise of any of its powers or achievement of its  
 13 purposes;  
 14 (2) the payment of debt service on its bonds;  
 15 (3) the establishment of debt service or operating reserves to  
 16 secure the bonds;  
 17 (4) the costs of issuance of its bonds and credit enhancements,  
 18 if any; and  
 19 (5) all other financing costs or other expenditures of the  
 20 authority incident to and necessary to carry out its purposes  
 21 or powers.

22 The net proceeds of the bonds shall be deposited in the fund  
 23 specified by law, except that the net proceeds of refunding bonds  
 24 shall be deposited in accordance with a trust agreement of the  
 25 authority.

26 (b) Before issuing bonds under this chapter, the authority shall  
 27 publish a notice of its determination to issue the bonds. The notice  
 28 shall be published one (1) time in a newspaper published and of  
 29 general circulation in each of the four (4) counties having the  
 30 greatest population in Indiana. No action to contest the validity of:

- 31 (1) a series of bonds issued by the authority; or  
 32 (2) any sales agreement entered into by the authority and the  
 33 state related to the bonds;

34 may be brought after the fifteenth day following the publication of  
 35 the notice. If an action challenging the bonds or sales agreement is  
 36 not brought within the time prescribed by this subsection, the  
 37 bonds or sales agreement shall be conclusively presumed to be fully  
 38 authorized and valid under the laws of the state and any person or  
 39 entity is estopped from further questioning the authorization,  
 40 validity, execution, delivery, or issuance of the bonds or the sales  
 41 agreement.

42 (c) The bonds, when issued, shall have all the qualities of



C  
 O  
 P  
 Y



1 negotiable instruments, subject to provisions for registration,  
2 under IC 26-1 and are incontestable in the hands of a bona fide  
3 purchaser or owner of the bond for value. Bonds issued under this  
4 chapter are exempt from the registration requirements of  
5 IC 23-2-1 and any other state securities registration statutes.

6 (d) The authority's bonds shall:

7 (1) bear the date or dates;

8 (2) mature at the time or times;

9 (3) be in the denominations;

10 (4) be in the form;

11 (5) be registered or registrable in the manner;

12 (6) be made transferable, exchangeable, and interchangeable;

13 (7) be payable in the medium of payment and at the place or  
14 places;

15 (8) be subject to the terms of redemption;

16 (9) bear the fixed or variable rate or rates of interest;

17 (10) be payable at the time or times; and

18 (11) be sold at a public or negotiated sale in the manner and  
19 at the price or prices;

20 as the authority determines.

21 (e) The bonds shall be executed by one (1) or more officers of the  
22 authority and by the trustee or paying agent. Execution of the  
23 bonds may be by manual or facsimile signature.

24 (f) The bonds of the authority are subject to the terms,  
25 conditions, covenants, and protective provisions that are found  
26 necessary or desirable by the authority, including, but not limited  
27 to, pledges of the authority's assets, setting aside of reserves, and  
28 other provisions the authority finds are necessary or desirable for  
29 the security of bondholders.

30 (g) Any pledge of revenues to be derived by the authority under  
31 a sales agreement or from any other source, and the right to  
32 receive revenues under a sales agreement or from any other  
33 source, or any pledge of a special fund, account, or subaccount  
34 created by the authority, together with any investment earnings, is  
35 valid and binding at the time the pledge is made. Property so  
36 pledged is immediately subject to the lien of the pledge without any  
37 physical delivery thereof or further act. The lien of such a pledge  
38 is valid and binding as against all parties having claims of any kind  
39 in tort, contract, or otherwise against the authority, regardless of  
40 whether the parties have notice of the lien. Notwithstanding any  
41 other provision of law to the contrary, the resolution or trust  
42 agreement of the authority or any other instrument by which the



C  
O  
P  
Y

1       pledge is created need not be recorded or filed except in the  
2 records of the authority to perfect the pledge.

3       (h) Neither a member of the board nor a person executing bonds  
4 or notes issued under this article is liable personally on the bonds  
5 or notes.

6       (i) The authority may, out of any funds or revenues available  
7 therefor, purchase its bonds in the open market.

8       Sec. 23. (a) The bonds issued under this chapter by the authority  
9 constitute the special obligations only of the authority and are  
10 payable solely from and secured exclusively by the pledge by the  
11 authority of certain funds and revenues, and rights to receive funds  
12 or revenues in accordance with this chapter. Neither the faith and  
13 credit or taxing power of the state or any political subdivision of  
14 the state is pledged to the payment of principal or interest on the  
15 bonds. Each bond of the authority must plainly state on its face  
16 that the bond does not constitute an indebtedness or lending of the  
17 credit of the state within the meaning or application of any  
18 constitutional provision or limitation but that it is payable solely as  
19 to both principal and interest from the funds, revenues, and rights  
20 pledged under this chapter. The provisions of this chapter and the  
21 covenants and undertakings of the authority as expressed in any  
22 proceedings preliminary to or in connection with the issuance of  
23 the bonds may be enforced by a bondholder by action for  
24 injunction or mandamus against the authority or any officer,  
25 agent, or employee of the authority, but no action for monetary  
26 judgment may be brought against the state for any violations of  
27 this chapter.

28       (b) All property of the authority is public property devoted to  
29 an essential public and governmental function and purpose and is  
30 exempt from all taxes and special assessments, direct or indirect,  
31 of the state or a political subdivision of the state. All bonds issued  
32 under this chapter are issued by a body corporate and politic of  
33 this state, but not a state agency, and for an essential public and  
34 governmental purpose, and the bonds, the interest thereon, the  
35 proceeds received by the holder from the sale of the bonds to the  
36 extent of the holder's cost of acquisition proceeds received upon  
37 redemption prior to maturity, and proceeds received at maturity  
38 and the receipt of the interest and proceeds are exempt from  
39 taxation in the state for all purposes except the financial  
40 institutions tax imposed under IC 6-5.5 or a state inheritance tax  
41 imposed under IC 6-4.1.

42       Sec. 24. Contracts entered into by the authority shall be entered



C  
O  
P  
Y

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

into in the name of the authority and not in the name of the state of Indiana. The obligations of the authority under the contracts are obligations only of the authority and are not in any way obligations of the state of Indiana.

**Sec. 25.** Bonds issued under the provisions of this chapter are hereby made securities in which all public officers and agencies of the state, all insurance companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds are hereby made securities that may properly and legally be deposited with and received by any officer or agency of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

**Sec. 26. (a)** Without complying with any other law governing the sale or disposition of property by the state, the state may sell and assign to the authority, and the authority may purchase, all of the state's right to receive a portion not to exceed twenty percent (20%) of the state's annual share of the amounts and revenues due to the state under the master settlement agreement, and of the state's rights to receive those amounts and revenues. The state, including the governor and the attorney general, may take any action necessary or convenient to facilitate and complete the sale. The authority may take any action necessary or convenient to facilitate and complete the purchase.

**(b)** A sale and assignment made under this section is irrevocable. All or a portion of the amounts and revenues, and the right to receive the amounts and revenues, sold to the authority shall be pledged to the bondholders. The sale and assignment shall constitute and be treated as a true sale and absolute transfer of the property so sold and assigned and not as a pledge or other security interest granted by the state for any borrowing. The characterization of a sale and assignment as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the amounts and revenues due to the state under the master settlement agreement is being sold and assigned, by the state's acquisition or retention of an ownership interest in the portion of the amounts and revenues due under the master settlement agreement not so sold and assigned, or for any other reason.

**(c)** The state hereby covenants and agrees with the holders of any bonds that so long as any bonds of the authority issued under

C  
o  
p  
y



1 this chapter are outstanding and unpaid, the state will not limit or  
 2 alter the rights vested in the authority to fulfill the terms of any  
 3 agreements made with, or make payments to, the holders of the  
 4 bonds or in any way impair the rights and remedies of the  
 5 bondholders, until the bonds, together with interest thereon, and  
 6 all costs and expenses in connection with any action or proceedings  
 7 by or on behalf of the bondholder are fully paid, satisfied, and  
 8 discharged.

9 (d) The terms of any sales agreement must provide that on and  
 10 after the effective date of the sale and assignment:

11 (1) the state shall have no right, title, or interest in the  
 12 property sold and assigned;

13 (2) the property sold and assigned is the property of the  
 14 authority and not the property of the state;

15 (3) the property sold and assigned shall be owned, received,  
 16 held, and disbursed by the authority or its trustee or assignee,  
 17 and not by the state;

18 (4) none of the property sold and assigned shall be subject to  
 19 garnishment, levy, execution, attachment, or other process,  
 20 writ, (including writ of mandate), or remedy in connection  
 21 with the assertion or enforcement of any debt, claim,  
 22 settlement, or judgment against the state; and

23 (5) the portion of the amounts and revenues due under the  
 24 master settlement agreement that are sold and assigned to the  
 25 authority must be paid directly to the authority or its trustee  
 26 or assignee and shall not be considered money drawn from the  
 27 state treasury.

28 (e) Any sales agreement may include such other agreements and  
 29 covenants of the state as may be permitted by the constitution of  
 30 the state and as may be necessary or convenient for the sale and  
 31 assignment of the portion of the amounts and revenues due under  
 32 the master settlement agreement and the issuance of bonds to  
 33 finance the purchase by the authority.

34 (f) The state shall:

35 (1) notify the independent auditor and the escrow agent under  
 36 the master settlement agreement that a portion of the  
 37 amounts and revenues due under the master settlement  
 38 agreement has been sold and assigned to the authority; and

39 (2) irrevocably instruct the independent auditor and the  
 40 escrow agent that, after the date of the notice under  
 41 subdivision (1), the portion of the amounts and revenues due  
 42 under the master settlement agreement sold and assigned to

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

the authority is to be paid directly to the trustee under the trust agreement of the authority for the benefit of the owners of the bonds secured by a pledge of those amounts and revenues, until the bonds are no longer outstanding under the resolution or trust agreement.

Sec. 27. Members of the board, the officers and employees of the authority, the agents of the authority, and any other persons executing bonds issued under this chapter are not subject to personal liability or accountability by reason of any act authorized by this chapter, including, without limitation, the issuance of bonds, the failure to issue bonds, the execution of bonds, and the exercise of any other powers contemplated by this chapter.

Sec. 28. (a) The authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or any corresponding chapter or section that may, from time to time, be in effect. A governmental officer, governmental organization, or other entity or person may not authorize the authority to be a debtor under chapter 9 of the federal bankruptcy code or any successor or corresponding chapter or sections.

(b) This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law before the date that is three hundred sixty-six (366) days after the date upon which the authority no longer has any bonds outstanding.

Sec. 29. The authority shall dissolve not later than two (2) years from the date of final payment of all of its outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all of the authority's property shall be transferred and assigned to the state and the authority shall execute all necessary assignments and other documents as may be necessary or convenient to transfer and assign its property to the state, including the authority's right, title, or ownership interest in amounts and revenues due under the master settlement agreement, which amounts shall be deposited in the state general fund.

Sec. 30. Before issuing any bonds, the authority shall enter into a sales agreement that includes the agreement of the state to:

- (1) diligently enforce the authority's right to receive the portion of the amounts and revenues due under the master

C  
o  
p  
y



1 settlement agreement and sold under the sales agreement, to  
 2 the full extent permitted by the master settlement agreement;  
 3 (2) diligently enforce the qualifying statute as contemplated  
 4 by the master settlement agreement against all tobacco  
 5 product manufacturers that are selling tobacco products in  
 6 Indiana and are not signatories to the master settlement  
 7 agreement;  
 8 (3) neither amend the master settlement agreement nor take  
 9 any other action that would in any way:  
 10 (A) alter, limit, or impair the authority's right to receive  
 11 the portion of the amounts and revenues due under the  
 12 master settlement agreement and sold under the sales  
 13 agreement;  
 14 (B) limit or alter the rights vested in the authority by this  
 15 chapter or other law to fulfill its agreements with the bond  
 16 owners; or  
 17 (C) impair the rights and remedies of the bond owners or  
 18 the security for the bonds;  
 19 until the bonds, together with the interest on the bonds and all  
 20 costs and expenses in connection with any action or  
 21 proceedings by or on behalf of the bond owners, are fully paid  
 22 and discharged (however, nothing in this subdivision shall be  
 23 construed to preclude the state's regulation of smoking and  
 24 taxation and regulation of the sale of cigarettes or other  
 25 tobacco products);  
 26 (4) not amend, supersede, or repeal the qualifying statute in  
 27 any way that would violate section 26(c) of this chapter; or  
 28 (5) take no action that would adversely affect the tax exempt  
 29 status of any tax exempt bonds issued by the authority.  
 30 Sec. 31. The authority shall contract with an independent  
 31 certified public accountant for an annual financial audit of the  
 32 authority. The certified public accountant shall present an audit  
 33 report not later than seven (7) months after the end of each fiscal  
 34 year of the authority.  
 35 Sec. 32. The state board of accounts may at any time conduct an  
 36 audit of the authority.  
 37 Sec. 33. The authority shall submit copies of its annual budget  
 38 and the audit report referred to in section 31 of this chapter to the  
 39 budget director, the legislative council, and the state board of  
 40 accounts.  
 41 Sec. 34. Income or revenues of the authority not required to  
 42 meet its obligations (including redemption obligations on its bonds)

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

shall be paid over to the state general fund if directed by the governor.

Sec. 35. (a) As used in this section, "sale portion" means the portion of the punitive damage award payment that is equal to the percentage determined under section 26 of this chapter.

(b) This section applies upon the entry of a judgment that includes a punitive damage award in a civil action related to tobacco products in which:

(1) the state or an agency of the state is the party to the action receiving the award; and

(2) a tobacco manufacturer who participates in the master settlement agreement is the party against whom the judgment was entered.

IC 34-51-3-6 does not apply to such a punitive damage award.

(c) Upon entry of a judgment described in this section, the right of the state or an agency of the state to receive the sale portion of the punitive damage award payment described in this section is assigned to the authority. For as long as this assignment is in effect, any sale portion of a punitive damage award payment received by the state, or an agency of the state, in settlement of a judgment described in this section or as satisfaction or partial satisfaction of a judgment to which this section applies shall be considered to be held for the benefit of the authority and shall be remitted immediately after receipt of the payment to the authority subject to any pledge under this chapter.

(d) The authority may spend money received under this section in accordance with this chapter, subject to any pledge under this chapter.

(e) That portion of the punitive damages award in excess of the sale portion under this section shall be paid to the state or an agency of the state, as applicable, and used as otherwise provided by law.

(f) The assignment under this section terminates upon the earlier of the date on which:

(1) the authority is dissolved pursuant to section 29 of this chapter;

(2) all outstanding bonds and other agreements of the authority have been paid in full or otherwise discharged; or

(3) a state court has entered a final judgment from which no further appeal is allowed ordering the judgment debtor tobacco manufacturer to pay the state both its obligations under the master settlement agreement and any punitive

C  
O  
P  
Y



1 damages to be paid to the state without setoff, credit or  
2 reduction of one (1) obligation on account of the other.

3 **Sec. 36. (a) As used in this section, "bond service provider"**  
4 **means any bond counsel, other attorney, financial adviser, senior**  
5 **managing underwriter, or verification agent who provides bond**  
6 **services.**

7 **(b) As used in this section, "bond services" includes legal,**  
8 **financial, and other services by a bond service provider rendered**  
9 **in conjunction with the issuance and sale of bonds. The term does**  
10 **not include services provided by nationally recognized credit rating**  
11 **agencies, co-managing underwriters and selling group members,**  
12 **or forecasters of cigarette consumption and providers of similar**  
13 **reports for use in an official statement or other disclosure**  
14 **document in connection with the sale of bonds.**

15 **(c) If the authority determines that a bond service required by**  
16 **the authority cannot be performed by employees of the authority,**  
17 **the authority shall enter into a contract for the bond service with**  
18 **a bond service provider. The authority shall have wide discretion**  
19 **in establishing criteria for entering into contracts under this**  
20 **section and selecting the bond service providers the authority**  
21 **considers to be necessary or appropriate to provide bond services.**  
22 **In the exercise of this discretion, the authority shall consider all**  
23 **proposed fee schedules and the public interest in achieving issuance**  
24 **and sale of bonds on terms and conditions most favorable to the**  
25 **authority. Notwithstanding any other provision of this section to**  
26 **the contrary, the general assembly finds that it is in the public**  
27 **interest to enter into contracts for bond services with Indiana**  
28 **based and minority and women's business enterprises.**

29 **(d) The authority shall seek responses to requests for**  
30 **qualifications for a contract for bond services under this section.**  
31 **Requests for qualifications for bond services must include the**  
32 **following:**

33 **(1) The factors or criteria that will be used in evaluating the**  
34 **responses.**

35 **(2) A statement concerning the relative importance of price**  
36 **and the other evaluation factors.**

37 **(3) A statement concerning whether the response must be**  
38 **accompanied by a certified check or other evidence of**  
39 **financial responsibility.**

40 **(4) A statement concerning whether discussions may be**  
41 **conducted with responsible respondents.**

C  
O  
P  
Y



- 1           (e) The authority shall give public notice of the request for
- 2           qualifications for bond services by publication in the manner
- 3           required by IC 4-4-31-22(b) and shall also provide electronic access
- 4           to the notice through the electronic gateway administered by the
- 5           intelenet commission.
- 6           (f) Responses must be opened so as to avoid disclosure of
- 7           contents to competing respondents during the process of
- 8           negotiation.
- 9           (g) As provided in the request for qualifications or under the
- 10          rules or policies of the authority, discussions may be conducted
- 11          with, and best and final responses obtained from, responsible
- 12          respondents.
- 13          (h) Respondents must be accorded fair and equal treatment with
- 14          respect to any opportunity for discussion and revisions of
- 15          responses. In conducting discussions with a respondent,
- 16          information derived from responses submitted by competing
- 17          respondents may not be disclosed.
- 18          (i) The only factors or criteria that may be used in the
- 19          evaluation of responses are those specified in the request for
- 20          qualifications.
- 21          (j) The authority shall enter into a contract with the responsible
- 22          respondent whose response is determined in writing to be the most
- 23          advantageous to the authority, taking into consideration price and
- 24          other evaluation factors set forth in the request for qualifications.
- 25          The following provisions apply to the authority's determination as
- 26          to whether a respondent is responsible:
- 27               (1) If a respondent fails to provide information required by
- 28               the authority concerning a determination of whether the
- 29               respondent is responsible, that respondent may not be
- 30               considered responsible under this article.
- 31               (2) In determining whether a respondent is responsible, the
- 32               authority may consider the following factors:
- 33                   (A) The ability and capacity of the respondent to provide
- 34                   the bond service.
- 35                   (B) The integrity, character, and reputation of the
- 36                   respondent.
- 37                   (C) The competency and experience of the respondent.
- 38          (k) A register of responses must be:
- 39               (1) prepared for each contract entered into under this section;
- 40               and
- 41               (2) open for public inspection after the execution of the
- 42               contract.

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

- (l) The register of responses must contain the following:**
  - (1) A copy of the request for qualifications.**
  - (2) A list of all persons to whom copies of the request for qualifications were given.**
  - (3) A list of all responses received, which must include all of the following:**
    - (A) The names and addresses of all respondents.**
    - (B) The manner in which the amount payable to the respondent would be determined.**
    - (C) The name of the successful respondent and the manner in which the amount payable to that respondent is to be determined.**
  - (4) The basis on which the contract was entered into.**
  - (5) The entire contents of the contract file except for proprietary information, such as trade secrets and financial information that was not required to be made available for public inspection by the terms of the request for qualifications.**

SECTION 2. IC 4-12-1-14.3, AS AMENDED BY P.L.291-2001, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.3. (a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(b) There is hereby created the Indiana tobacco master settlement agreement fund for the purpose of depositing and distributing money received under the master settlement agreement. The fund consists of:

- (1) all money received by the state under the master settlement agreement;
- (2) appropriations made to the fund by the general assembly; ~~and~~
- (3) grants, gifts, and donations intended for deposit in the fund; ~~and~~
- (4) interest accruing to the fund.**

**However, the fund does not include any amounts that are sold and assigned to the tobacco settlement authority under a sales agreement entered into under IC 4-4-31.**

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by ~~subsections~~ **subsection (d), through (e)**; and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

~~(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:~~

C  
o  
p  
y



1 STEP ONE: Determine the sum of money received or to be  
 2 received by the state under the master settlement agreement  
 3 before July 1, 2001.  
 4 STEP TWO: Subtract from the STEP ONE sum the amount  
 5 appropriated by P.L.273-1999, SECTION 8; to the children's  
 6 health insurance program from funds accruing to the state from  
 7 the tobacco settlement for the state fiscal years beginning July 1,  
 8 1999; and July 1, 2000.  
 9 STEP THREE: Multiply the STEP TWO remainder by fifty  
 10 percent (50%).  
 11 ~~(e)~~ (d) The maximum amount of expenditures, transfers, or  
 12 distributions that may be made from the fund during the state fiscal  
 13 year beginning July 1, 2001, 2003, and each state fiscal year after that  
 14 is determined under STEP THREE of the following formula:  
 15 STEP ONE: Determine the amount of money ~~received or to be~~  
 16 ~~received by~~ **payable to** the state under the master settlement  
 17 agreement during that state fiscal year, **including any amounts**  
 18 **that are sold and assigned to the tobacco settlement authority**  
 19 **under a sales agreement entered into under IC 4-4-31.**  
 20 STEP TWO: Multiply the STEP ONE amount by sixty percent  
 21 (60%).  
 22 STEP THREE: Add to the STEP TWO product any amounts that  
 23 were available for expenditure, transfer, or distribution under this  
 24 ~~subsection or subsection (d)~~ **section** during preceding state fiscal  
 25 years but that were not expended, transferred, or distributed.  
 26 ~~(f)~~ (e) The following amounts shall be retained in the fund and may  
 27 not be expended, transferred, or otherwise distributed from the fund:  
 28 (1) All of the money that is received by the state under the master  
 29 settlement agreement and remains in the fund after the  
 30 expenditures, transfers, or distributions permitted under  
 31 subsections (c) through ~~(e)~~: **(d). This subdivision does not apply**  
 32 **to amounts payable under the master settlement agreement**  
 33 **that are sold and assigned to the tobacco settlement authority**  
 34 **under a sales agreement entered into under IC 4-4-31.**  
 35 (2) All interest that accrues from investment of money in the fund,  
 36 unless specifically appropriated by the general assembly. Interest  
 37 that is appropriated from the fund by the general assembly may  
 38 not be considered in determining the maximum amount of  
 39 expenditures, transfers, or distributions under subsection ~~(e)~~: **(d).**  
 40 ~~(g)~~ (f) The fund shall be administered by the budget agency.  
 41 Notwithstanding IC 5-13, the treasurer of state shall invest the money  
 42 in the fund not currently needed to meet the obligations of the fund in

C  
o  
p  
y



1 the same manner as money is invested by the public employees  
 2 retirement fund under IC 5-10.3-5. The treasurer of state may contract  
 3 with investment management professionals, investment advisors, and  
 4 legal counsel to assist in the investment of the fund and may pay the  
 5 state expenses incurred under those contracts from the fund. Interest  
 6 that accrues from these investments shall be deposited in the fund.  
 7 Money in the fund at the end of the state fiscal year does not revert to  
 8 the state general fund.

9 ~~(h)~~ **(g)** The state general fund is not liable for payment of a shortfall  
 10 in expenditures, transfers, or distributions from the Indiana tobacco  
 11 master settlement agreement fund or any other fund due to a delay,  
 12 reduction, or cancellation of payments scheduled to be received by the  
 13 state under the master settlement agreement. ~~If such a shortfall occurs~~  
 14 ~~in any state fiscal year, the budget agency shall make the full transfer~~  
 15 ~~to the regional health facilities construction account and then reduce all~~  
 16 ~~remaining expenditures, transfers, and distributions affected by the~~  
 17 ~~shortfall.~~

18 SECTION 3. IC 4-12-1-14.5 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2003]: **Sec. 14.5. (a) In addition to the appropriation of three**  
 21 **million dollars (\$3,000,000) made annually by IC 4-12-7-9 to**  
 22 **provide funding for local boards of health, the following**  
 23 **appropriations are made annually from the Indiana tobacco**  
 24 **master settlement agreement fund:**

25 **(1) For the tobacco use prevention and cessation trust fund,**  
 26 **thirty-five million dollars (\$35,000,000) to be used in**  
 27 **accordance with IC 4-12-4-10.**

28 **(2) For the office of Medicaid policy and planning within the**  
 29 **office of the secretary of family and social services,**  
 30 **thirty-three million six hundred thousand dollars**  
 31 **(\$33,600,000) to be used for the children's health insurance**  
 32 **program.**

33 **(3) For the state department of health, one million four**  
 34 **hundred thousand dollars (\$1,400,000) to be used for local**  
 35 **health maintenance fund programs.**

36 **(4) For the state department of health, fifteen million dollars**  
 37 **(\$15,000,000) to be used for community health centers.**

38 **(5) For the Indiana prescription drug account established by**  
 39 **IC 4-12-8-2, twenty million dollars (\$20,000,000) to be used in**  
 40 **accordance with IC 4-12-8-2.**



C  
o  
p  
y

1 (6) For the nursing scholarship fund established by  
 2 IC 20-12-21.9-4, the amount determined under  
 3 IC 20-12-21.9-11, to be used in accordance with IC 20-12-21.9.

4 (7) For the health professions scholarship fund established by  
 5 IC 20-12-22.2-4, the amount determined under  
 6 IC 20-12-22.2-11, to be used in accordance with IC 20-12-22.2.

7 (b) The following appropriations are made from the Indiana  
 8 tobacco master settlement agreement fund to the office of the  
 9 secretary of family and social services for the indicated state fiscal  
 10 years:

11 (1) For the state fiscal year beginning July 1, 2003:

12 (A) thirty million three hundred thousand dollars  
 13 (\$30,300,000) for developmentally disabled client services;  
 14 and

15 (B) three million dollars (\$3,000,000) for the division of  
 16 disability, aging, and rehabilitative services  
 17 administration.

18 (2) For the state fiscal year beginning July 1, 2004:

19 (A) thirty million three hundred thousand dollars  
 20 (\$30,300,000) for developmentally disabled client services;  
 21 and

22 (B) three million dollars (\$3,000,000) for the division of  
 23 disability, aging, and rehabilitative services  
 24 administration.

25 (c) Notwithstanding section 14.3(d) and 14.3(e) of this chapter,  
 26 if the sum of the appropriations made in IC 4-12-7-9, subsection  
 27 (a), and subsection (b) for any state fiscal year exceeds the  
 28 permissible amount of expenditures from the Indiana tobacco  
 29 master settlement agreement fund under section 14.3(d) of this  
 30 chapter, the balance in the fund shall be added to the amount  
 31 available under section 14.3(d) of this chapter to provide for the  
 32 appropriations in IC 4-12-7-9, subsection (a), and subsection (b).

33 (d) Notwithstanding section 14.3(d) and 14.3(e) of this chapter,  
 34 the following provisions apply if the Indiana tobacco master  
 35 settlement agreement fund contains insufficient money to make the  
 36 appropriations made in IC 4-12-7-9, subsection (a), and subsection  
 37 (b) for any state fiscal year after the adjustment specified in  
 38 subsection (c) is made:

39 (1) The appropriations made in IC 4-12-7-9 and subsection  
 40 (a)(1) are not subject to any reduction.

41 (2) Each appropriation listed in subsection (a)(2) through  
 42 (a)(7) and subsection (b) is subject to a pro rata reduction.



C  
O  
P  
Y

1           **The amount of each appropriation is determined under STEP**  
 2           **THREE of the following formula:**

3           **STEP ONE: Subtract the sum of the appropriations made**  
 4           **in IC 4-12-7-9 and subsection (a)(1) from the amount**  
 5           **available under subsection (c).**

6           **STEP TWO: Divide the appropriation by the sum of the**  
 7           **appropriations made under subsection (a)(2) through**  
 8           **(a)(7) and subsection (b).**

9           **STEP THREE: Multiply the STEP ONE remainder by the**  
 10           **STEP TWO quotient.**

11           SECTION 4. IC 4-12-8.5-3, AS ADDED BY P.L.291-2001,  
 12           SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13           JULY 1, 2003]: Sec. 3. (a) The regional health care construction  
 14           account is established for the purpose of providing funding for state  
 15           psychiatric hospitals and developmental centers, regional health  
 16           centers, or other health facilities designed to provide crisis treatment,  
 17           rehabilitation, or intervention for adults or children with mental illness,  
 18           developmental disabilities, addictions, or other medical or  
 19           rehabilitative needs. The account consists of:

- 20           (1) amounts, if any, that any statute requires to be distributed to  
 21           the account from the Indiana tobacco master settlement  
 22           **agreement** fund;  
 23           (2) appropriations to the account from other sources; and  
 24           (3) grants, gifts, and donations intended for deposit in the  
 25           account.

26           **(b) Fourteen million dollars (\$14,000,000) shall be transferred**  
 27           **during state fiscal years 2001-2002 and 2002-2003 from the Indiana**  
 28           **tobacco master settlement fund to the account.**

29           **(c) (b)** The budget agency shall administer the account. Money in  
 30           the account at the end of a state fiscal year does not revert to the state  
 31           general fund but remains available for expenditure.

32           **(d) (c)** Money in the account may be used for:

- 33           (1) the construction, equipping, renovation, demolition,  
 34           refurbishing, or alteration of existing or new state hospitals,  
 35           regional health centers, or other health facilities; or  
 36           (2) lease rentals to the state office building commission or other  
 37           public or private providers of such facilities.

38           **(e) (d)** Money in the account shall be used to pay any outstanding  
 39           lease rentals before making any other payments from the account.

40           **(f) (e)** Money in the account is annually appropriated for the  
 41           purposes described in this chapter.

C  
o  
p  
y



1 SECTION 5. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999,  
 2 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

4 (1) an authority or agency established under IC 8-1-2.2 or  
 5 IC 8-9.5 through IC 8-23;

6 (2) the commission established under IC 4-13.5;

7 (3) only in connection with a program established under  
 8 IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;

9 or

10 (4) a fund or program established under IC 13-18-13 or  
 11 IC 13-18-21; or

12 **(5) the authority established under IC 4-4-31.**

13 SECTION 6. IC 8-9.5-9-8, AS AMENDED BY P.L.273-1999,  
 14 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2003]: Sec. 8. (a) With respect to all leases and contracts  
 16 entered into by the authority with the Indiana department of  
 17 transportation, the Indiana department of administration, a fund or  
 18 program established under IC 13-18-13 or IC 13-18-21, or any other  
 19 entity to support obligations, the lease or contract may provide that  
 20 payments under a swap agreement are treated as a debt service on the  
 21 obligations or as additional rental or other payment due under the lease  
 22 or contract as the authority may determine.

23 (b) The authority may determine that payments under a swap  
 24 agreement may be integrated with payments on obligations for the  
 25 purpose of meeting any statutory requirements related to the issuance  
 26 of obligations. **The authority may also determine to secure its  
 27 payments under the swap agreement with the same collateral  
 28 securing the related obligations, either on a parity or a subordinate  
 29 basis.**

30 SECTION 7. IC 12-10-16-7 IS ADDED TO THE INDIANA CODE  
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 32 1, 2003]: **Sec. 7. An individual:**

33 **(1) whose family income does not exceed one hundred  
 34 eighty-five percent (185%) of the federal income poverty level  
 35 for the same size family; and**

36 **(2) who meets other eligibility requirements established by the  
 37 office under section 5 of this chapter;**

38 **is eligible to participate in the program.**

39 SECTION 8. IC 20-12-21.9-4 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The nursing  
 41 scholarship fund is established:

C  
o  
p  
y



- 1 (1) to encourage and promote qualified individuals to pursue a
- 2 career in nursing in Indiana; and
- 3 (2) in recognition of the fact that there is a shortage of nurses in
- 4 Indiana.

- 5 (b) The fund consists of the following:
- 6 (1) **Appropriations made from the Indiana tobacco master**
- 7 **settlement agreement fund under section 11 of this chapter.**
- 8 (2) **Other** appropriations by the general assembly.
- 9 ~~(2)~~ (3) Gifts to the fund.

10 SECTION 9. IC 20-12-21.9-5 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The commission  
 12 shall administer the fund.

13 (b) The expenses of administering the fund shall be paid from  
 14 money in the fund.

15 (c) The treasurer of state shall invest the money in the fund not  
 16 currently needed to meet the obligations of the fund in the same  
 17 manner as other public funds. Interest that accrues from those  
 18 investments shall be deposited in the fund.

19 (d) Money in the fund at the end of a fiscal year does not revert to  
 20 the state general fund **or the Indiana tobacco master settlement**  
 21 **agreement fund.**

22 SECTION 10. IC 20-12-21.9-11 IS ADDED TO THE INDIANA  
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2003]: **Sec. 11. The amount determined**  
 25 **under STEP FOUR of the following formula for each state fiscal**  
 26 **year is appropriated annually to the nursing scholarship fund from**  
 27 **the Indiana tobacco master settlement agreement fund for use in**  
 28 **providing scholarships under this chapter:**

29 **STEP ONE: Determine the amount remaining in the nursing**  
 30 **scholarship fund on June 30 of the preceding state fiscal year.**

31 **STEP TWO: Determine the amount of the appropriations, if**  
 32 **any, made to the nursing scholarship fund for the current**  
 33 **state fiscal year from sources other than the Indiana tobacco**  
 34 **settlement master agreement fund.**

35 **STEP THREE: Subtract the sum of the STEP ONE and STEP**  
 36 **TWO amounts from five million dollars (\$5,000,000).**

37 **STEP FOUR: If the STEP THREE remainder is greater than**  
 38 **zero (0), the amount of the appropriation is equal to the STEP**  
 39 **THREE remainder. If the STEP THREE remainder is less**  
 40 **than zero (0), the amount of the appropriation is zero (0).**

C  
o  
p  
y





1 SECTION 11. IC 20-12-22.2 IS ADDED TO THE INDIANA  
2 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2003]:

4 **Chapter 22.2. Health Professions Scholarship Fund**

5 **Sec. 1. As used in this chapter, "approved institution of higher**  
6 **learning" has the meaning set forth in IC 20-12-21-3.**

7 **Sec. 2. As used in this chapter, "commission" refers to the state**  
8 **student assistance commission established by IC 20-12-21-4.**

9 **Sec. 3. As used in this chapter, "fund" refers to the health**  
10 **professions scholarship fund.**

11 **Sec. 4. (a) The health professions scholarship fund is established**  
12 **to encourage and promote qualified individuals to pursue careers**  
13 **in health professions in Indiana.**

14 **(b) The fund consists of the following:**

15 **(1) Appropriations by the general assembly from the Indiana**  
16 **tobacco master settlement agreement fund.**

17 **(2) Other appropriations by the general assembly.**

18 **(3) Gifts to the fund.**

19 **Sec. 5. (a) The commission shall administer the fund.**

20 **(b) The expenses of administering the fund shall be paid from**  
21 **money in the fund.**

22 **(c) The treasurer of state shall invest the money in the fund not**  
23 **currently needed to meet the obligations of the fund in the same**  
24 **manner as other public funds may be invested. Interest that**  
25 **accrues from those investments shall be deposited in the fund.**

26 **(d) Money in the fund at the end of a fiscal year does not revert**  
27 **to the state general fund or the Indiana tobacco master settlement**  
28 **agreement fund.**

29 **Sec. 6. (a) The money in the fund shall be used to provide annual**  
30 **scholarships to:**

31 **(1) students in programs leading to degrees that will enable**  
32 **the students to qualify for licensing in health professions**  
33 **governed by the:**

34 **(A) board of environmental health specialists (IC 25-32);**

35 **(B) speech-language pathology and audiology board**  
36 **(IC 25-35.6-2);**

37 **(C) controlled substances advisory committee**  
38 **(IC 35-48-2-1);**

39 **(D) Indiana physical therapy committee (IC 25-27);**

40 **(E) respiratory care committee (IC 25-34.5);**

41 **(F) occupational therapy committee (IC 25-23.5);**

42 **(G) physician assistant committee (IC 25-27.5); and**



C  
O  
P  
Y

- 1                   **(H) Indiana dietitians certification board (IC 25-14.5-2-1);**  
2                   **and**  
3                   **(2) students in training programs identified by the medical**  
4                   **licensing board by rule adopted under IC 25-22.5-2-7 as**  
5                   **training programs for nonlicensed allied health care**  
6                   **professions.**
- 7                   **(b) Scholarships shall be awarded under this section to students**  
8                   **who qualify by demonstrating a financial need and meeting the**  
9                   **requirements listed under section 8 of this chapter in an amount**  
10                  **that is equal to the lesser of the following amounts:**
- 11                  **(1) The balance of the student's total cost of tuition or fees in**  
12                  **attending the eligible institution for the academic year.**  
13                  **(2) Five thousand dollars (\$5,000).**
- 14                  **(c) A scholarship awarded under this section may be used only**  
15                  **for the payment of tuition or fees that are:**
- 16                  **(1) approved by the approved institution of higher learning**  
17                  **that awards the scholarship; and**  
18                  **(2) not otherwise payable under any other scholarship or form**  
19                  **of financial assistance specifically designated for tuition or**  
20                  **fees.**
- 21                  **(d) Subject to section 7(c) of this chapter, each scholarship**  
22                  **awarded under this section is renewable under section 8(b) of this**  
23                  **chapter for a total number of terms that does not exceed eight (8)**  
24                  **full-time (or part-time equivalent) semesters or twelve (12)**  
25                  **full-time (or part-time equivalent) quarters.**
- 26                  **Sec. 7. (a) The commission for higher education shall provide**  
27                  **the commission with the most recent information concerning the**  
28                  **number of students enrolled in programs described in section 6 of**  
29                  **this chapter at each eligible institution.**
- 30                  **(b) The commission shall allocate the available money from the**  
31                  **fund to each approved institution of higher learning that has a**  
32                  **program for persons training for health professions designated in**  
33                  **section 6 of this chapter in proportion to the number of students**  
34                  **enrolled in courses for health professions designated in section 6 of**  
35                  **this chapter at each eligible institution based upon the information**  
36                  **received by the commission under subsection (a).**
- 37                  **(c) Each approved institution of higher learning shall determine**  
38                  **the scholarship recipients under this chapter based upon the**  
39                  **criteria set forth in section 8 of this chapter and the rules adopted**  
40                  **by the commission under section 10 of this chapter. In addition, the**  
41                  **approved institution of higher learning shall consider the need of**  
42                  **the applicant when awarding scholarships under this chapter.**

C  
O  
P  
Y

1           (d) The approved institution of higher learning may not grant  
2 a scholarship renewal to a student for an academic year that ends  
3 later than six (6) years after the date the student received the initial  
4 scholarship under this chapter.

5           (e) Any funds that:

6               (1) are allocated to an approved institution of higher learning;  
7               and

8               (2) are not used for scholarships under this chapter;  
9 shall be returned to the commission for reallocation by the  
10 commission to any other eligible institution in need of additional  
11 funds.

12          Sec. 8. (a) To qualify initially for a scholarship from the fund, a  
13 student must:

14               (1) be admitted to an approved institution of higher learning  
15 as a full-time or part-time student in one (1) of the areas  
16 designated in section 6(a) of this chapter;

17               (2) agree, in writing, to work in a health profession described  
18 in section 6(a) of this chapter in any type of health care setting  
19 in Indiana for at least two (2) years following graduation;

20               (3) meet any other minimum criteria established by the  
21 commission; and

22               (4) demonstrate a financial need for the scholarship.

23          (b) To qualify for a scholarship renewal from the fund, a health  
24 professions student must:

25               (1) comply with the criteria set forth in subsection (a);

26               (2) maintain at least the cumulative grade point average:

27                       (A) that is required by an approved institution of higher  
28 learning for admission to the approved institution of  
29 higher learning; or

30                       (B) equivalent to 2.0 on a 4.0 grading scale, as established  
31 by the approved institution of higher learning, if the  
32 institution's program for health professions described in  
33 section 6 of this chapter does not require a certain  
34 minimum cumulative grade point average; and

35               (3) demonstrate a continuing financial need for the  
36 scholarship.

37          Sec. 9. (a) The commission shall maintain complete and accurate  
38 records in implementing the program, including the following:

39               (1) Scholarships awarded under this chapter.

40               (2) The number of individuals who fulfilled the agreement  
41 described under section 8(a)(2) of this chapter.

C  
O  
P  
Y



- 1           (3) The number of individuals who did not fulfill the  
2           agreement described under section 8(a)(2) of this chapter.
- 3           (b) Each eligible institution shall provide the commission with  
4           information concerning the following:
- 5           (1) The awarding of scholarships under this chapter.
- 6           (2) The academic progress made by each recipient of a  
7           scholarship under this chapter.
- 8           (3) Other pertinent information requested by the commission.
- 9           Sec. 10. The commission shall adopt rules under IC 4-22-2  
10           necessary to carry out this chapter, including rules governing the  
11           enforcement of the agreements under section 8(a)(2) of this  
12           chapter.
- 13           Sec. 11. There is annually appropriated to the health professions  
14           scholarship fund from the Indiana tobacco master settlement  
15           agreement fund for use in providing scholarships under this  
16           chapter the amount determined under STEP FOUR of the  
17           following formula for each state fiscal year:
- 18           STEP ONE: Determine the amount remaining in the health  
19           professions scholarship fund on June 30 of the preceding state  
20           fiscal year.
- 21           STEP TWO: Determine the amount of the appropriations, if  
22           any, made to the health professions scholarship fund for the  
23           current state fiscal year from sources other than the Indiana  
24           tobacco master settlement agreement fund.
- 25           STEP THREE: Subtract the sum of the STEP ONE and STEP  
26           TWO amounts from five million dollars (\$5,000,000).
- 27           STEP FOUR: If the STEP THREE remainder is greater than  
28           zero (0), the amount of the appropriation is equal to the STEP  
29           THREE remainder. If the STEP THREE remainder is less  
30           than zero (0), the amount of the appropriation is zero (0).
- 31           SECTION 12. IC 25-22.5-2-7 IS AMENDED TO READ AS  
32           FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board shall do  
33           the following:
- 34           (1) Adopt rules and forms necessary to implement this article that  
35           concern, but are not limited to, the following areas:
- 36           (A) Qualification by education, residence, citizenship,  
37           training, and character for admission to an examination for  
38           licensure or by endorsement for licensure.
- 39           (B) The examination for licensure.
- 40           (C) The license or permit.
- 41           (D) Fees for examination, permit, licensure, and registration.
- 42           (E) Reinstatement of licenses and permits.



C  
o  
p  
y

- 1 (F) Payment of costs in disciplinary proceedings conducted by
- 2 the board.
- 3 (2) Administer oaths in matters relating to the discharge of its
- 4 official duties.
- 5 (3) Enforce this article and assign service bureau personnel duties
- 6 as may be necessary in the discharge of the board's duty.
- 7 (4) Maintain, through the service bureau, full and complete
- 8 records of all applicants for licensure or permit and of all licenses
- 9 and permits issued.
- 10 (5) Make available, upon request, the complete schedule of
- 11 minimum requirements for licensure or permit.
- 12 (6) Issue, at the board's discretion, a temporary permit to an
- 13 applicant for the interim from the date of application until the
- 14 next regular meeting of the board.
- 15 (7) Issue an unlimited license, a limited license, or a temporary
- 16 medical permit, depending upon the qualifications of the
- 17 applicant, to any applicant who successfully fulfills all of the
- 18 requirements of this article.
- 19 (8) Adopt rules establishing standards for the competent practice
- 20 of medicine, osteopathic medicine, or any other form of practice
- 21 regulated by a limited license or permit issued under this article.
- 22 (9) Adopt rules regarding the appropriate prescribing of Schedule
- 23 III or Schedule IV controlled substances for the purpose of weight
- 24 reduction or to control obesity.
- 25 **(10) Adopt rules identifying training programs for**
- 26 **nonlicensed allied health care professions that qualify for**
- 27 **annual scholarships under IC 20-12-22.2.**

28 SECTION 13. [EFFECTIVE JULY 1, 2003] **There is appropriated**

29 **to the tobacco settlement authority established by IC 4-4-31, as**

30 **added by this act, one hundred twenty million dollars**

31 **(\$120,000,000) from the Indiana tobacco master settlement**

32 **agreement fund for deposit in the same fund in which net proceeds**

33 **of bonds issued by the authority must be deposited, as provided by**

34 **IC 4-4-31, as added by this act. The money appropriated by this**

35 **SECTION does not revert to the Indiana tobacco master settlement**

36 **agreement fund at the close of any state fiscal year but remains**

37 **available for distribution.**

COPY



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1002, 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 3, line 19, delete "seven (7)" and insert "**nine (9)**".

Page 3, between lines 30 and 31, begin a new line block indented and insert:

**"(5) Two (2) members appointed by the governor, from recommendations made by the speaker of the house of representatives and the president pro tempore of the senate, who are persons of known probity and who possess adequate capacity for the performance of the duties of members of the authority. The speaker of the house of representatives and the president pro tempore of the senate shall each make at least two (2) recommendations to the governor. The members appointed under this subdivision may not be from the same political party."**

Page 4, line 8, delete "Four (4)" and insert "**Five (5)**".

Page 4, line 9, delete "Four (4)" and insert "**Five (5)**".

Page 5, line 5, delete "The" and insert "**Subject to section 36 of this chapter, the**".

Page 5, line 14, delete "chairman" and insert "**chairperson**".

Page 6, line 42, delete "in the principal amounts".

Page 7, line 18, delete "two (2) newspapers" and insert "**a newspaper**".

Page 7, line 19, delete "the city of Indianapolis." and insert "**each of the four (4) counties having the greatest population in Indiana.**".

Page 10, line 8, delete "forty percent (40%)" and insert "**twenty percent (20%)**".

Page 14, line 1, delete "of Indiana, or an agency of the state of Indiana," and insert "**or an agency of the state**".

Page 14, line 8, delete "of Indiana, or an agency of the state of Indiana," and insert "**or an agency of the state**".

Page 14, line 12, delete "of Indiana," and insert ",".

Page 14, line 13, delete "of Indiana," and insert ",".

Page 14, line 17, delete ", at the direction of the treasurer of state,".

Page 14, line 23, delete "of Indiana".

Page 14, line 24, delete "of Indiana," and insert ",".

Page 14, delete lines 38 through 41, begin a new paragraph and insert:

C  
O  
P  
Y



**"Sec. 36. (a) As used in this section, "bond service provider" means any bond counsel, other attorney, financial adviser, senior managing underwriter, or verification agent who provides bond services.**

**(b) As used in this section, "bond services" includes legal, financial, and other services by a bond service provider rendered in conjunction with the issuance and sale of bonds. The term does not include services provided by nationally recognized credit rating agencies, co-managing underwriters and selling group members, or forecasters of cigarette consumption and providers of similar reports for use in an official statement or other disclosure document in connection with the sale of bonds.**

**(c) If the authority determines that a bond service required by the authority cannot be performed by employees of the authority, the authority shall enter into a contract for the bond service with a bond service provider. The authority shall have wide discretion in establishing criteria for entering into contracts under this section and selecting the bond service providers the authority considers to be necessary or appropriate to provide bond services. In the exercise of this discretion, the authority shall consider all proposed fee schedules and the public interest in achieving issuance and sale of bonds on terms and conditions most favorable to the authority. Notwithstanding any other provision of this section to the contrary, the general assembly finds that it is in the public interest to enter into contracts for bond services with Indiana based and minority and women's business enterprises.**

**(d) The authority shall seek responses to requests for qualifications for a contract for bond services under this section. Requests for qualifications for bond services must include the following:**

- (1) The factors or criteria that will be used in evaluating the responses.**
- (2) A statement concerning the relative importance of price and the other evaluation factors.**
- (3) A statement concerning whether the response must be accompanied by a certified check or other evidence of financial responsibility.**
- (4) A statement concerning whether discussions may be conducted with responsible respondents.**

**(e) The authority shall give public notice of the request for qualifications for bond services by publication in the manner required by IC 4-4-31-22(b) and shall also provide electronic access**

C  
O  
P  
Y

to the notice through the electronic gateway administered by the intelenet commission.

(f) Responses must be opened so as to avoid disclosure of contents to competing respondents during the process of negotiation.

(g) As provided in the request for qualifications or under the rules or policies of the authority, discussions may be conducted with, and best and final responses obtained from, responsible respondents.

(h) Respondents must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of responses. In conducting discussions with a respondent, information derived from responses submitted by competing respondents may not be disclosed.

(i) The only factors or criteria that may be used in the evaluation of responses are those specified in the request for qualifications.

(j) The authority shall enter into a contract with the responsible respondent whose response is determined in writing to be the most advantageous to the authority, taking into consideration price and other evaluation factors set forth in the request for qualifications. The following provisions apply to the authority's determination as to whether a respondent is responsible:

(1) If a respondent fails to provide information required by the authority concerning a determination of whether the respondent is responsible, that respondent may not be considered responsible under this article.

(2) In determining whether a respondent is responsible, the authority may consider the following factors:

(A) The ability and capacity of the respondent to provide the bond service.

(B) The integrity, character, and reputation of the respondent.

(C) The competency and experience of the respondent.

(k) A register of responses must be:

(1) prepared for each contract entered into under this section; and

(2) open for public inspection after the execution of the contract.

(l) The register of responses must contain the following:

(1) A copy of the request for qualifications.

C  
O  
P  
Y





- (2) A list of all persons to whom copies of the request for qualifications were given.
- (3) A list of all responses received, which must include all of the following:
  - (A) The names and addresses of all respondents.
  - (B) The manner in which the amount payable to the respondent would be determined.
  - (C) The name of the successful respondent and the manner in which the amount payable to that respondent is to be determined.
- (4) The basis on which the contract was entered into.
- (5) The entire contents of the contract file except for proprietary information, such as trade secrets and financial information that was not required to be made available for public inspection by the terms of the request for qualifications.

SECTION 2. IC 4-12-1-14.3, AS AMENDED BY P.L.291-2001, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.3. (a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(b) There is hereby created the Indiana tobacco master settlement agreement fund for the purpose of depositing and distributing money received under the master settlement agreement. The fund consists of:

- (1) all money received by the state under the master settlement agreement;
- (2) appropriations made to the fund by the general assembly; ~~and~~
- (3) grants, gifts, and donations intended for deposit in the fund; ~~and~~
- (4) interest accruing to the fund.**

**However, the fund does not include any amounts that are sold and assigned to the tobacco settlement authority under a sales agreement entered into under IC 4-4-31.**

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by ~~subsections~~ **subsection (d), through (e)**; and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

~~(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:~~



C  
O  
P  
Y

STEP ONE: Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001.

STEP TWO: Subtract from the STEP ONE sum the amount appropriated by P.L.273-1999, SECTION 8, to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999, and July 1, 2000.

STEP THREE: Multiply the STEP TWO remainder by fifty percent (50%).

(e) (d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001, 2003, and each state fiscal year after that is determined under STEP THREE of the following formula:

STEP ONE: Determine the amount of money received or to be received by payable to the state under the master settlement agreement during that state fiscal year, **including any amounts that are sold and assigned to the tobacco settlement authority under a sales agreement entered into under IC 4-4-31.**

STEP TWO: Multiply the STEP ONE amount by sixty percent (60%).

STEP THREE: Add to the STEP TWO product any amounts that were available for expenditure, transfer, or distribution under this subsection or subsection (d) section during preceding state fiscal years but that were not expended, transferred, or distributed.

(f) (e) The following amounts shall be retained in the fund and may not be expended, transferred, or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures, transfers, or distributions permitted under subsections (c) through (e): (d). **This subdivision does not apply to amounts payable under the master settlement agreement that are sold and assigned to the tobacco settlement authority under a sales agreement entered into under IC 4-4-31.**

(2) All interest that accrues from investment of money in the fund, unless specifically appropriated by the general assembly. Interest that is appropriated from the fund by the general assembly may not be considered in determining the maximum amount of expenditures, transfers, or distributions under subsection (e): (d).

(g) (f) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in

C  
o  
p  
y



the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

~~(h)~~ (g) The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement. ~~If such a shortfall occurs in any state fiscal year, the budget agency shall make the full transfer to the regional health facilities construction account and then reduce all remaining expenditures, transfers, and distributions affected by the shortfall.~~

SECTION 3. IC 4-12-1-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.5. (a) In addition to the appropriation of three million dollars (\$3,000,000) made annually by IC 4-12-7-9 to provide funding for local boards of health, the following appropriations are made annually from the Indiana tobacco master settlement agreement fund:**

- (1) For the tobacco use prevention and cessation trust fund, thirty-five million dollars (\$35,000,000) to be used in accordance with IC 4-12-4-10.
- (2) For the office of Medicaid policy and planning within the office of the secretary of family and social services, thirty-three million six hundred thousand dollars (\$33,600,000) to be used for the children's health insurance program.
- (3) For the state department of health, one million four hundred thousand dollars (\$1,400,000) to be used for local health maintenance fund programs.
- (4) For the state department of health, fifteen million dollars (\$15,000,000) to be used for community health centers.
- (5) For the Indiana prescription drug account established by IC 4-12-8-2, twenty million dollars (\$20,000,000) to be used in accordance with IC 4-12-8-2.



C  
o  
p  
y

(6) For the nursing scholarship fund established by IC 20-12-21.9-4, the amount determined under IC 20-12-21.9-11, to be used in accordance with IC 20-12-21.9.

(7) For the health professions scholarship fund established by IC 20-12-22.2-4, the amount determined under IC 20-12-22.2-11, to be used in accordance with IC 20-12-22.2.

(b) The following appropriations are made from the Indiana tobacco master settlement agreement fund to the office of the secretary of family and social services for the indicated state fiscal years:

(1) For the state fiscal year beginning July 1, 2003:

(A) thirty million three hundred thousand dollars (\$30,300,000) for developmentally disabled client services; and

(B) three million dollars (\$3,000,000) for the division of disability, aging, and rehabilitative services administration.

(2) For the state fiscal year beginning July 1, 2004:

(A) thirty million three hundred thousand dollars (\$30,300,000) for developmentally disabled client services; and

(B) three million dollars (\$3,000,000) for the division of disability, aging, and rehabilitative services administration.

(c) Notwithstanding section 14.3(d) and 14.3(e) of this chapter, if the sum of the appropriations made in IC 4-12-7-9, subsection (a), and subsection (b) for any state fiscal year exceeds the permissible amount of expenditures from the Indiana tobacco master settlement agreement fund under section 14.3(d) of this chapter, the balance in the fund shall be added to the amount available under section 14.3(d) of this chapter to provide for the appropriations in IC 4-12-7-9, subsection (a), and subsection (b).

(d) Notwithstanding section 14.3(d) and 14.3(e) of this chapter, the following provisions apply if the Indiana tobacco master settlement agreement fund contains insufficient money to make the appropriations made in IC 4-12-7-9, subsection (a), and subsection (b) for any state fiscal year after the adjustment specified in subsection (c) is made:

(1) The appropriations made in IC 4-12-7-9 and subsection (a)(1) are not subject to any reduction.

(2) Each appropriation listed in subsection (a)(2) through (a)(7) and subsection (b) is subject to a pro rata reduction.



C  
O  
P  
Y

**The amount of each appropriation is determined under STEP THREE of the following formula:**

**STEP ONE: Subtract the sum of the appropriations made in IC 4-12-7-9 and subsection (a)(1) from the amount available under subsection (c).**

**STEP TWO: Divide the appropriation by the sum of the appropriations made under subsection (a)(2) through (a)(7) and subsection (b).**

**STEP THREE: Multiply the STEP ONE remainder by the STEP TWO quotient.**

SECTION 4. IC 4-12-8.5-3, AS ADDED BY P.L.291-2001, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The regional health care construction account is established for the purpose of providing funding for state psychiatric hospitals and developmental centers, regional health centers, or other health facilities designed to provide crisis treatment, rehabilitation, or intervention for adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs. The account consists of:

- (1) amounts, if any, that any statute requires to be distributed to the account from the Indiana tobacco master settlement **agreement** fund;
- (2) appropriations to the account from other sources; and
- (3) grants, gifts, and donations intended for deposit in the account.

~~(b)~~ **(b)** Fourteen million dollars (\$14,000,000) shall be transferred during state fiscal years 2001-2002 and 2002-2003 from the Indiana tobacco master settlement fund to the account.

~~(c)~~ **(b)** The budget agency shall administer the account. Money in the account at the end of a state fiscal year does not revert to the state general fund but remains available for expenditure.

~~(d)~~ **(c)** Money in the account may be used for:

- (1) the construction, equipping, renovation, demolition, refurbishing, or alteration of existing or new state hospitals, regional health centers, or other health facilities; or
- (2) lease rentals to the state office building commission or other public or private providers of such facilities.

~~(e)~~ **(d)** Money in the account shall be used to pay any outstanding lease rentals before making any other payments from the account.

~~(f)~~ **(e)** Money in the account is annually appropriated for the purposes described in this chapter."

Delete page 15.

C  
O  
P  
Y



Page 16, delete lines 1 through 31.

Page 17, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 5. IC 12-10-16-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 7. An individual:**

**(1) whose family income does not exceed one hundred eighty-five percent (185%) of the federal income poverty level for the same size family; and**

**(2) who meets other eligibility requirements established by the office under section 5 of this chapter;**

**is eligible to participate in the program.**

SECTION 6. IC 20-12-21.9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The nursing scholarship fund is established:

(1) to encourage and promote qualified individuals to pursue a career in nursing in Indiana; and

(2) in recognition of the fact that there is a shortage of nurses in Indiana.

(b) The fund consists of the following:

**(1) Appropriations made from the Indiana tobacco master settlement agreement fund under section 11 of this chapter.**

**(2) Other appropriations by the general assembly.**

~~(2)~~ **(3) Gifts to the fund.**

SECTION 7. IC 20-12-21.9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The commission shall administer the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds. Interest that accrues from those investments shall be deposited in the fund.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund **or the Indiana tobacco master settlement agreement fund.**

SECTION 8. IC 20-12-21.9-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 11. The amount determined under STEP FOUR of the following formula for each state fiscal year is appropriated annually to the nursing scholarship fund from the Indiana tobacco master settlement agreement fund for use in providing scholarships under this chapter:**



C  
O  
P  
Y

**STEP ONE:** Determine the amount remaining in the nursing scholarship fund on June 30 of the preceding state fiscal year.

**STEP TWO:** Determine the amount of the appropriations, if any, made to the nursing scholarship fund for the current state fiscal year from sources other than the Indiana tobacco settlement master agreement fund.

**STEP THREE:** Subtract the sum of the STEP ONE and STEP TWO amounts from five million dollars (\$5,000,000).

**STEP FOUR:** If the STEP THREE remainder is greater than zero (0), the amount of the appropriation is equal to the STEP THREE remainder. If the STEP THREE remainder is less than zero (0), the amount of the appropriation is zero (0).

SECTION 9. IC 20-12-22.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 22.2. Health Professions Scholarship Fund**

**Sec. 1.** As used in this chapter, "approved institution of higher learning" has the meaning set forth in IC 20-12-21-3.

**Sec. 2.** As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

**Sec. 3.** As used in this chapter, "fund" refers to the health professions scholarship fund.

**Sec. 4. (a)** The health professions scholarship fund is established to encourage and promote qualified individuals to pursue careers in health professions in Indiana.

**(b)** The fund consists of the following:

- (1)** Appropriations by the general assembly from the Indiana tobacco master settlement agreement fund.
- (2)** Other appropriations by the general assembly.
- (3)** Gifts to the fund.

**Sec. 5. (a)** The commission shall administer the fund.

**(b)** The expenses of administering the fund shall be paid from money in the fund.

**(c)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from those investments shall be deposited in the fund.

**(d)** Money in the fund at the end of a fiscal year does not revert to the state general fund or the Indiana tobacco master settlement agreement fund.

**Sec. 6. (a)** The money in the fund shall be used to provide annual scholarships to:

C  
O  
P  
Y



(1) students in programs leading to degrees that will enable the students to qualify for licensing in health professions governed by the:

- (A) board of environmental health specialists (IC 25-32);
  - (B) speech-language pathology and audiology board (IC 25-35.6-2);
  - (C) controlled substances advisory committee (IC 35-48-2-1);
  - (D) Indiana physical therapy committee (IC 25-27);
  - (E) respiratory care committee (IC 25-34.5);
  - (F) occupational therapy committee (IC 25-23.5);
  - (G) physician assistant committee (IC 25-27.5); and
  - (H) Indiana dietitians certification board (IC 25-14.5-2-1);
- and

(2) students in training programs identified by the medical licensing board by rule adopted under IC 25-22.5-2-7 as training programs for nonlicensed allied health care professions.

(b) Scholarships shall be awarded under this section to students who qualify by demonstrating a financial need and meeting the requirements listed under section 8 of this chapter in an amount that is equal to the lesser of the following amounts:

- (1) The balance of the student's total cost of tuition or fees in attending the eligible institution for the academic year.
- (2) Five thousand dollars (\$5,000).

(c) A scholarship awarded under this section may be used only for the payment of tuition or fees that are:

- (1) approved by the approved institution of higher learning that awards the scholarship; and
- (2) not otherwise payable under any other scholarship or form of financial assistance specifically designated for tuition or fees.

(d) Subject to section 7(c) of this chapter, each scholarship awarded under this section is renewable under section 8(b) of this chapter for a total number of terms that does not exceed eight (8) full-time (or part-time equivalent) semesters or twelve (12) full-time (or part-time equivalent) quarters.

Sec. 7. (a) The commission for higher education shall provide the commission with the most recent information concerning the number of students enrolled in programs described in section 6 of this chapter at each eligible institution.



C  
O  
P  
Y



(b) The commission shall allocate the available money from the fund to each approved institution of higher learning that has a program for persons training for health professions designated in section 6 of this chapter in proportion to the number of students enrolled in courses for health professions designated in section 6 of this chapter at each eligible institution based upon the information received by the commission under subsection (a).

(c) Each approved institution of higher learning shall determine the scholarship recipients under this chapter based upon the criteria set forth in section 8 of this chapter and the rules adopted by the commission under section 10 of this chapter. In addition, the approved institution of higher learning shall consider the need of the applicant when awarding scholarships under this chapter.

(d) The approved institution of higher learning may not grant a scholarship renewal to a student for an academic year that ends later than six (6) years after the date the student received the initial scholarship under this chapter.

(e) Any funds that:

(1) are allocated to an approved institution of higher learning; and

(2) are not used for scholarships under this chapter;

shall be returned to the commission for reallocation by the commission to any other eligible institution in need of additional funds.

Sec. 8. (a) To qualify initially for a scholarship from the fund, a student must:

(1) be admitted to an approved institution of higher learning as a full-time or part-time student in one (1) of the areas designated in section 6(a) of this chapter;

(2) agree, in writing, to work in a health profession described in section 6(a) of this chapter in any type of health care setting in Indiana for at least two (2) years following graduation;

(3) meet any other minimum criteria established by the commission; and

(4) demonstrate a financial need for the scholarship.

(b) To qualify for a scholarship renewal from the fund, a health professions student must:

(1) comply with the criteria set forth in subsection (a);

(2) maintain at least the cumulative grade point average:

(A) that is required by an approved institution of higher learning for admission to the approved institution of higher learning; or

C  
O  
P  
Y



(B) equivalent to 2.0 on a 4.0 grading scale, as established by the approved institution of higher learning, if the institution's program for health professions described in section 6 of this chapter does not require a certain minimum cumulative grade point average; and

(3) demonstrate a continuing financial need for the scholarship.

**Sec. 9. (a)** The commission shall maintain complete and accurate records in implementing the program, including the following:

(1) Scholarships awarded under this chapter.

(2) The number of individuals who fulfilled the agreement described under section 8(a)(2) of this chapter.

(3) The number of individuals who did not fulfill the agreement described under section 8(a)(2) of this chapter.

**(b)** Each eligible institution shall provide the commission with information concerning the following:

(1) The awarding of scholarships under this chapter.

(2) The academic progress made by each recipient of a scholarship under this chapter.

(3) Other pertinent information requested by the commission.

**Sec. 10.** The commission shall adopt rules under IC 4-22-2 necessary to carry out this chapter, including rules governing the enforcement of the agreements under section 8(a)(2) of this chapter.

**Sec. 11.** There is annually appropriated to the health professions scholarship fund from the Indiana tobacco master settlement agreement fund for use in providing scholarships under this chapter the amount determined under STEP FOUR of the following formula for each state fiscal year:

**STEP ONE:** Determine the amount remaining in the health professions scholarship fund on June 30 of the preceding state fiscal year.

**STEP TWO:** Determine the amount of the appropriations, if any, made to the health professions scholarship fund for the current state fiscal year from sources other than the Indiana tobacco master settlement agreement fund.

**STEP THREE:** Subtract the sum of the STEP ONE and STEP TWO amounts from five million dollars (\$5,000,000).

**STEP FOUR:** If the STEP THREE remainder is greater than zero (0), the amount of the appropriation is equal to the STEP THREE remainder. If the STEP THREE remainder is less than zero (0), the amount of the appropriation is zero (0).



C  
O  
P  
Y

SECTION 10. IC 25-22.5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of its official duties.

(3) Enforce this article and assign service bureau personnel duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the service bureau, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

**(10) Adopt rules identifying training programs for nonlicensed allied health care professions that qualify for annual scholarships under IC 20-12-22.2."**

Page 17, line 21, delete "ninety-five" and insert "twenty".

Page 17, line 22, delete "(\$195,000,000)" and insert "\$120,000,000)".

C  
O  
P  
Y



Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1002 as introduced.)

BROWN C, Chair

Committee Vote: yeas 9, nays 3.

C  
o  
p  
y

