



January 31, 2003

HOUSE BILL No. 1006

DIGEST OF HB 1006 (Updated January 22, 2003 6:50 PM - DI 103)

Citations Affected: IC 4-4.

Synopsis: Indiana growth fund and economic development. Transfers the twenty-first century research and technology fund and program from the budget agency to the development finance authority. Makes changes in the administration of the program. Removes the exclusion of the funding of ordinary and recurring operating costs or expenditures from the definition of an educational facility project. Establishes the venture fund and program. Provides for the transfer of money from the business development loan fund. Changes the definition of "high growth company with high skilled jobs". Makes related changes in the development finance authority. Establishes the growth fund. Provides for the transfer of money to the twenty-first century research and technology fund and the venture fund from money realized from the securitization of the payments under the tobacco settlement agreement. Requires the report of financial data by a business enterprise to the authority to be prepared according to generally accepted accounting principles.

Effective: July 1, 2003.

Hasler, Welch, Scholer

January 15, 2003, read first time and referred to Committee on Technology, Research and Development.

January 23, 2003, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1006—LS 7861/DI 51+



January 31, 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.

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HOUSE BILL No. 1006

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

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

- 1 SECTION 1. IC 4-4-5.1-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 0.5. As used in this chapter, "authority" refers to the**
4 **Indiana development finance authority established by IC 4-4-11-4.**
5 SECTION 2. IC 4-4-5.1-3, AS ADDED BY P.L.190-1999,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2003]: Sec. 3. (a) The Indiana twenty-first century research
8 and technology fund is established to provide grants or loans to support
9 proposals for economic development in one (1) or more of the
10 following areas:
11 (1) To increase the capacity of Indiana institutions of higher
12 education, Indiana businesses, and Indiana nonprofit corporations
13 and organizations to compete successfully for federal or private
14 research and development funding.
15 (2) To stimulate the transfer of research and technology into
16 marketable products.
17 (3) To assist with diversifying Indiana's economy by focusing

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1 investment in biomedical research and biotechnology, information
 2 technology, and other high technology industry clusters requiring
 3 high skill, high wage employees.

4 (4) To encourage an environment of innovation and cooperation
 5 among universities and businesses to promote research activity.

6 (b) The fund shall be administered by the ~~budget agency~~ **authority**.
 7 The fund consists of appropriations from the general assembly and gifts
 8 and grants to the fund. The ~~budget agency board~~ shall ~~review each~~
 9 ~~recommendation~~ **approve and recommend applications to the**
 10 **budget committee**. The ~~budget agency~~ **authority**, after review by the
 11 budget committee, may approve, deny, or modify grants and loans
 12 recommended by the board. Money in the fund may not be used to
 13 provide a recurring source of revenue for the normal operating
 14 expenditures of any project.

15 (c) The ~~treasurer of state~~ **authority** shall invest the money in the
 16 fund not currently needed to meet the obligations of the fund in ~~the~~
 17 ~~same manner as other public funds may be invested~~ **conformity with**
 18 **IC 4-4-11 and the investment policy established by the authority**.

19 (d) The money in the fund at the end of a state fiscal year does not
 20 revert to the state general fund but remains in the fund to be used
 21 exclusively for the purposes of this chapter.

22 SECTION 3. IC 4-4-5.1-5, AS ADDED BY P.L.190-1999,
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2003]: Sec. 5. (a) The board has the following powers:

25 (1) To accept, analyze, and approve applications under this
 26 chapter.

27 (2) To contract with experts for advice and counsel.

28 (3) To employ staff to assist in carrying out this chapter, including
 29 providing assistance to applicants who wish to apply for a grant
 30 or loan from the fund, analyzing proposals, working with experts
 31 engaged by the board, and preparing reports and
 32 recommendations for the board.

33 (4) To approve and recommend applications for grants or loans
 34 from the fund to the budget committee and ~~budget agency~~ **the**
 35 **authority**.

36 (b) The board shall give priority to applications for grants or loans
 37 from the fund that:

38 (1) have the greatest economic development potential; and

39 (2) require the lowest ratio of money from the fund compared
 40 with the combined financial commitments of the applicant and
 41 those cooperating on the project.

42 (c) The board shall make final funding determinations for

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1 applications for grants or loans from the fund that will be submitted to
 2 the budget agency **for approval, the budget committee** for review,
 3 and **the authority for** approval. In making a determination on a
 4 proposal intended to obtain federal or private research funding, the
 5 board shall be advised by a peer review panel and shall consider the
 6 following factors in evaluating the proposal:

7 (1) The scientific merit of the proposal.

8 (2) The predicted future success of federal or private funding for
 9 the proposal.

10 (3) The ability of the researcher to attract merit based scientific
 11 funding of research.

12 (4) The extent to which the proposal evidences interdisciplinary
 13 or inter-institutional collaboration among two (2) or more Indiana
 14 institutions of higher education or private sector partners, as well
 15 as cost sharing and partnership support from the business
 16 community.

17 (d) The peer review panel shall be chosen by and report to the
 18 board. In determining the composition and duties of a peer review
 19 panel, the board shall consider the National Institutes of Health and the
 20 National Science Foundation peer review processes as models. The
 21 members of the panel must have extensive experience in federal
 22 research funding. A panel member may not have a relationship with
 23 any private entity or academic institution in Indiana that would
 24 constitute a conflict of interest for the panel member.

25 (e) In making a determination on any other application for a grant
 26 or loan from the fund involving a proposal to transfer research results
 27 and technologies into marketable products or commercial ventures, the
 28 board shall consult with experts as necessary to analyze the likelihood
 29 of success of the proposal and the relative merit of the proposal.

30 SECTION 4. IC 4-4-5.1-8.5 IS ADDED TO THE INDIANA CODE
 31 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 32 1, 2003]: **Sec. 8.5. (a) This section applies to a meeting of the board
 33 at which at least four (4) members of the board are physically
 34 present at the place where the meeting is conducted.**

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

37 **(1) all other members participating in the meeting; and**

38 **(2) all members of the public physically present at the place
 39 where the meeting is conducted;**

40 **to simultaneously communicate with each other during the
 41 meeting.**

42 **(c) A member who participates in a meeting under subsection**



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1 (b) is considered to be present at the meeting.

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

4 (1) was physically present at the place where the meeting was
5 conducted;

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

8 (3) was absent.

9 SECTION 5. IC 4-4-5.1-11, AS ADDED BY P.L.190-1999,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2003]: Sec. 11. The board may use money in the fund to cover
12 administrative expenses incurred in carrying out the requirements of
13 this chapter, **including the following administrative expenses:**

14 (1) Staff salaries.

15 (2) Professional fees.

16 (3) Office expenses.

17 (4) Training expenses.

18 (5) Expenses for studies.

19 (6) Educational programs or conferences that will assist
20 applicants or awardees.

21 SECTION 6. IC 4-4-10.9-0.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. "Accredited investor" has the
24 meaning set forth in IC 4-4-11.7-1.**

25 SECTION 7. IC 4-4-10.9-3.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. "Business" means a
28 partnership, a firm, an association, a joint venture, a limited
29 liability company, a limited liability partnership, or a corporation.**

30 SECTION 8. IC 4-4-10.9-4 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. "Contracting party"**
32 **means any party to a lease, sales contract, co-venture investment**
33 **agreement (whether in the form of a loan, loan guarantee, or pool**
34 **participation agreement), or loan agreement other than the authority.**

35 SECTION 9. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Co-venture investment**
38 **loan" means a venture capital or seed capital investment in the**
39 **form of a loan by the authority that is made to a business after or**
40 **in conjunction with equity investments by one (1) or more**
41 **professional or accredited investors that have made or are making**
42 **equity investments in the business.**



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1 SECTION 10. IC 4-4-10.9-6.2, AS AMENDED BY P.L.4-2002,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2003]: Sec. 6.2. (a) "Educational facility project" includes:

4 (1) the acquisition of land, site improvements, infrastructure
 5 improvements, buildings, or structures, the rehabilitation,
 6 renovation, and enlargement of buildings and structures,
 7 machinery, equipment, furnishings, or facilities (or any
 8 combination of these):

9 (A) comprising or being functionally related and subordinate
 10 to any aquaria, botanical societies, historical societies,
 11 libraries, museums, performing arts associations or societies,
 12 scientific societies, zoological societies, and independent
 13 elementary, secondary, or postsecondary schools (or any
 14 combination of these) that engages in the cultural, intellectual,
 15 scientific, educational, or artistic enrichment of the people of
 16 the state the development or expansion of which serves the
 17 purposes set forth in IC 4-4-11-2;

18 (B) is not used or to be used primarily for sectarian instruction
 19 or study or as a place for devotional activities; and

20 (C) is not used or to be used primarily in connection with any
 21 part of the program of a school or department of divinity for
 22 any religious denomination; or

23 (2) funding (including reimbursement or refinancing) by a
 24 nonprofit organization described in subsection (b) of:

25 (A) real property and improvements;

26 (B) personal property; or

27 (C) noncapital costs to fund a judgment, a settlement, or other
 28 cost or liability. ~~other than an ordinary and recurring operating
 29 cost or expenditure.~~

30 (b) For purposes of subsection (a)(2), a nonprofit organization must
 31 be:

32 (1) qualified as tax exempt under Section 501(c)(3) of the Internal
 33 Revenue Code; and

34 (2) have headquarters or a primary educational or exhibit facility
 35 located on property owned by or titled in the name of the state of
 36 Indiana or an agency, a commission, or an instrumentality of the
 37 state of Indiana that serves the purposes set forth in IC 4-4-11-2.

38 SECTION 11. IC 4-4-10.9-9.5, AS ADDED BY P.L.227-1999,
 39 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2003]: Sec. 9.5. "High growth company with high skilled
 41 jobs" means a company that satisfies all of the following conditions:

42 (1) The company:

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- 1 (A) had at least a ~~fifteen~~ **ten** percent ~~(15%)~~ **(10%)** average
 2 annual growth in company ~~earnings~~ **gross revenue** during the
 3 past three (3) years;
 4 (B) is entering a new product or process area; or
 5 (C) is classified in an industry that had at least a ~~fifteen~~ **ten**
 6 percent ~~(15%)~~ **(10%)** average annual growth in ~~earnings~~ **gross**
 7 **revenue** during the past three (3) years.
- 8 (2) The company has a substantial number of employees in jobs:
 9 (A) requiring post-secondary education or its equivalent; or
 10 (B) that are in occupational codes classified as high skill by
 11 the Bureau of Labor Statistics, United States Department of
 12 Labor.
- 13 (3) The company has a substantial number of employees that earn
 14 at least one hundred fifty percent (150%) of Indiana per capita
 15 personal income.

16 SECTION 12. IC 4-4-10.9-15.5 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2003]: **Sec. 15.5. "Loan guarantee" means,**
 19 **in addition to the guaranty program, a loan guarantee provided to**
 20 **professional or accredited investors from the Indiana venture fund**
 21 **under IC 4-4-11.7.**

22 SECTION 13. IC 4-4-10.9-24.5 IS ADDED TO THE INDIANA
 23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2003]: **Sec. 24.5. "Professional investor"**
 25 **means a bank, a bank holding company, a savings institution, a**
 26 **trust company, a credit union, an insurance company, an**
 27 **investment company registered under the federal Investment**
 28 **Company Act of 1940, a pension or profit sharing trust, another**
 29 **financial institution or institutional buyer, a licensee under the**
 30 **federal Small Business Investment Act of 1958, et seq., or any**
 31 **person, partnership, or other entity whose:**

- 32 (1) **principal business is making venture capital investments;**
 33 **and**
 34 (2) **net worth exceeds two hundred fifty (\$250,000) thousand**
 35 **dollars.**

36 SECTION 14. IC 4-4-10.9-26.5 IS ADDED TO THE INDIANA
 37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2003]: **Sec. 26.5. "Seed capital" means**
 39 **financing that is provided for:**

- 40 (1) **the applied research, development, testing, and initial**
 41 **marketing of a technology, product, process, or invention;**
 42 (2) **company formation;**



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- 1 **(3) intellectual property protection and acquisition; and**
 2 **(4) associated working capital.**

3 SECTION 15. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Technology**
 6 **commercialization project" means any combination of:**

- 7 **(1) applied research, development, testing, and initial**
 8 **marketing of a technology, a product, a process, or an**
 9 **invention and associated working capital, including the hiring**
 10 **of professionals;**
 11 **(2) the development of a technology, product, process, or**
 12 **invention; and**
 13 **(3) rehabilitation, creation, or enhancement of research**
 14 **facilities, renovation, and enlargement of buildings and**
 15 **structures, machinery, equipment, or supplies;**

16 **comprising or being functionally related or subordinate to any**
 17 **project, the development or expansion of which serves the public**
 18 **purposes set forth in IC 4-4-11-2.**

19 SECTION 16. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Venture capital" means**
 22 **financing that is provided for the capital needs of a business that**
 23 **is developing a new technology, product, process, or invention.**

24 SECTION 17. IC 4-4-11-2, AS AMENDED BY P.L.4-2002,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2003]: **Sec. 2. (a) The legislature makes the following findings**
 27 **of fact:**

- 28 **(1) That there currently exists in certain areas of the state critical**
 29 **conditions of unemployment, lack of adequate capital for**
 30 **research and technology commercialization, or environmental**
 31 **pollution, including water pollution, air pollution, sewage and**
 32 **solid waste, radioactive waste, thermal pollution, radiation**
 33 **contamination, and noise pollution, and that these conditions may**
 34 **well exist, from time to time, in other areas of the state.**
 35 **(2) That in some areas of the state such conditions are chronic and**
 36 **of long standing and that without remedial measures they may**
 37 **become so in other areas of the state.**
 38 **(3) That economic insecurity due to unemployment, inadequate**
 39 **capital, or environmental pollution is a menace to the health,**
 40 **safety, morals, and general welfare of not only the people of the**
 41 **affected areas but of the people of the entire state.**
 42 **(4) That involuntary unemployment and its resulting burden of**

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1 indigency falls with crushing force upon the unemployed worker
 2 and ultimately upon the state in the form of public assistance and
 3 unemployment compensation.

4 (5) That security against unemployment and the resulting spread
 5 of indigency and economic stagnation in the areas affected can
 6 best be provided by:

7 (A) the promotion, attraction, stimulation, rehabilitation, and
 8 revitalization of industrial development projects, **technology**
 9 **commercialization projects**, rural development projects,
 10 mining operations, and agricultural operations that involve the
 11 processing of agricultural products;

12 (B) the promotion and stimulation of international exports; and

13 (C) the education, both formal and informal, of people of all
 14 ages throughout the state by the promotion, attraction,
 15 construction, renovation, rehabilitation, and revitalization of
 16 and assistance to educational facility projects.

17 (6) That the present and prospective health, safety, morals, right
 18 to gainful employment, and general welfare of the people of the
 19 state require as a public purpose the abatement or control of
 20 pollution, the promotion of increased educational enrichment
 21 (including cultural, intellectual, scientific, or artistic
 22 opportunities) for people of all ages through new, expanded, or
 23 revitalized educational facility projects or through assisting
 24 educational facility projects, and the promotion of employment
 25 creation or retention through development of new and expanded
 26 industrial development projects, **technology commercialization**
 27 **projects**, rural development projects, mining operations, and
 28 agricultural operations that involve the processing of agricultural
 29 products.

30 (7) That there is a need to stimulate a larger flow of private
 31 investment funds from commercial banks, investment bankers,
 32 **professional investors**, insurance companies, other financial
 33 institutions, and individuals into such industrial development
 34 projects, **technology commercialization projects**, rural
 35 development projects, mining operations, international exports,
 36 and agricultural operations that involve the processing of
 37 agricultural products in the state.

38 (8) That the authority can encourage the making of loans, **loan**
 39 **guarantees, co-venture investment loans**, or leases for creation
 40 or expansion of industrial development projects, **technology**
 41 **commercialization projects**, rural development projects, mining
 42 operations, international exports, and agricultural operations that

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1 involve the processing of agricultural products, thus putting a
 2 larger portion of the private capital available in Indiana for
 3 investment to use in ~~the general economic development of the~~
 4 ~~state: in Indiana.~~

5 (9) That the issuance of bonds of the authority to create a
 6 financing pool for industrial development projects promoting a
 7 substantial likelihood of opportunities for:

8 (A) gainful employment;

9 (B) business opportunities;

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

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

13 (E) the removal or treatment of any substances in materials
 14 being processed that otherwise would cause pollution when
 15 used; or

16 (F) increased options for and availability of child care;
 17 will improve the health, safety, morals, and general welfare of the
 18 people of the state and constitutes a public purpose for which the
 19 authority shall exist and operate.

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

29 (b) The Indiana development finance authority shall exist and
 30 operate for the public purposes of:

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

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

41 (3) promoting affordable farm credit and agricultural loan
 42 financing at interest rates that are consistent with the needs of

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- 1 borrowers for farming and agricultural enterprises;
- 2 (4) preventing and remediating environmental pollution,
- 3 including water pollution, air pollution, sewage and solid waste
- 4 disposal, radioactive waste, thermal pollution, radiation
- 5 contamination, and noise pollution affecting the health and well
- 6 being of the people of the state by the promotion and development
- 7 of industrial development projects; ~~and~~
- 8 (5) promoting affordable and accessible child care for the people
- 9 of the state by the promotion and development of child care
- 10 facilities; **and**
- 11 **(6) promoting research, innovation, technology transfer, and**
- 12 **technology commercialization by the promotion, development,**
- 13 **and assistance of technology commercialization projects.**

14 SECTION 18. IC 4-4-11-15, AS AMENDED BY P.L.4-2002,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 15. (a) The authority is granted all powers
 17 necessary or appropriate to carry out and effectuate its public and
 18 corporate purposes under this chapter, **IC 4-4-11.5**, IC 4-4-21,
 19 **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, including but not limited to the
 20 following:

- 21 (1) Have perpetual succession as a body politic and corporate and
- 22 an independent instrumentality exercising essential public
- 23 functions.
- 24 (2) Without complying with IC 4-22-2, adopt, amend, and repeal
- 25 bylaws, rules, and regulations not inconsistent with this chapter,
- 26 **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5 and
- 27 necessary or convenient to regulate its affairs and to carry into
- 28 effect the powers, duties, and purposes of the authority and
- 29 conduct its business.
- 30 (3) Sue and be sued in its own name.
- 31 (4) Have an official seal and alter it at will.
- 32 (5) Maintain an office or offices at a place or places within the
- 33 state as it may designate.
- 34 (6) Make and execute contracts and all other instruments
- 35 necessary or convenient for the performance of its duties and the
- 36 exercise of its powers and functions under this chapter,
- 37 **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5.
- 38 (7) Employ architects, engineers, attorneys, **financial advisers**,
- 39 inspectors, accountants, agriculture experts, silviculture experts,
- 40 aquaculture experts, and financial experts, and such other
- 41 advisors, consultants, and agents as may be necessary in its
- 42 judgment and to fix their compensation.

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- 1 (8) Procure insurance against any loss in connection with its
 2 property and other assets, including loans and loan notes in
 3 amounts and from insurers as it may consider advisable.
- 4 (9) Borrow money, make guaranties, issue bonds, and otherwise
 5 incur indebtedness for any of the authority's purposes, and issue
 6 debentures, notes, or other evidences of indebtedness, whether
 7 secured or unsecured, to any person, as provided by this chapter,
 8 IC 4-4-21, **IC 13-19-5**, and IC 15-7-5.
- 9 (10) Procure insurance or guaranties from any public or private
 10 entities, including any department, agency, or instrumentality of
 11 the United States, for payment of any bonds issued by the
 12 authority or for reinsurance on amounts paid from the industrial
 13 development project guaranty fund, including the power to pay
 14 premiums on any insurance or reinsurance.
- 15 (11) Purchase, receive, take by grant, gift, devise, bequest, or
 16 otherwise, and accept, from any source, aid or contributions of
 17 money, property, labor, or other things of value to be held, used,
 18 and applied to carry out the purposes of this chapter, **IC 4-4-11.5**,
 19 IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, subject to the
 20 conditions upon which the grants or contributions are made,
 21 including but not limited to gifts or grants from any department,
 22 agency, or instrumentality of the United States, and lease or
 23 otherwise acquire, own, hold, improve, employ, use, and
 24 otherwise deal in and with real or personal property or any
 25 interest in real or personal property, wherever situated, for any
 26 purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.
- 27 (12) Enter into agreements with any department, agency, or
 28 instrumentality of the United States or this state and with lenders
 29 and enter into loan agreements, sales contracts, and leases with
 30 contracting parties, including borrowers, lenders, developers,
 31 **professional or accredited investors**, or users, for the purpose
 32 of planning, regulating, and providing for the financing and
 33 refinancing of any agricultural enterprise (as defined in
 34 IC 15-7-4.9-2), rural development project (as defined in
 35 IC 15-7-4.9-19.5), industrial development project, **technology**
 36 **commercialization projects**, or international exports, and
 37 distribute data and information concerning the encouragement
 38 and improvement of agricultural enterprises and agricultural
 39 employment, rural development projects, industrial development
 40 projects, international exports, and other types of employment in
 41 the state undertaken with the assistance of the authority under this
 42 chapter.

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- 1 (13) Enter into contracts or agreements with lenders and lessors
 2 for the servicing and processing of loans and leases pursuant to
 3 this chapter, IC 4-4-21, and IC 15-7-5.
 4 (14) Provide technical assistance to local public bodies and to
 5 profit and nonprofit entities in the development or operation of
 6 agricultural enterprises, rural development projects, **technology**
 7 **commercialization projects**, and industrial development
 8 projects.
 9 (15) To the extent permitted under its contract with the holders of
 10 the bonds of the authority, consent to any modification with
 11 respect to the rate of interest, time, and payment of any
 12 installment of principal or interest, or any other term of any
 13 contract, loan, loan note, loan note commitment, contract, lease,
 14 or agreement of any kind to which the authority is a party.
 15 (16) To the extent permitted under its contract with the holders of
 16 bonds of the authority, enter into contracts with any lender
 17 containing provisions enabling it to reduce the rental or carrying
 18 charges to persons unable to pay the regular schedule of charges
 19 when, by reason of other income or payment by any department,
 20 agency, or instrumentality of the United States of America or of
 21 this state, the reduction can be made without jeopardizing the
 22 economic stability of the agricultural enterprise, rural
 23 development project, or industrial development project being
 24 financed.
 25 (17) Invest any funds not needed for immediate disbursement,
 26 including any funds held in reserve, in direct and general
 27 obligations of or obligations fully and unconditionally guaranteed
 28 by the United States, obligations issued by agencies of the United
 29 States, obligations of this state, or any obligations or securities
 30 which may from time to time be legally purchased by
 31 governmental subdivisions of this state pursuant to IC 5-13, or
 32 any obligations or securities which are permitted investments for
 33 bond proceeds or any construction, debt service, or reserve funds
 34 secured under the trust indenture or resolution pursuant to which
 35 bonds are issued.
 36 (18) Collect fees and charges, as the authority determines to be
 37 reasonable, in connection with its loans, **co-venture investment**
 38 **loans and loan guarantees**, guarantees, advances, insurance,
 39 commitments, and servicing.
 40 (19) Cooperate and exchange services, personnel, and information
 41 with any federal, state, or local government agency, or
 42 instrumentality of the United States or this state.

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- 1 (20) Sell, at public or private sale, with or without public bidding,
2 any loan or other obligation held by the authority.
- 3 (21) Enter into agreements concerning, and acquire, hold, and
4 dispose by any lawful means, land or interests in land, building
5 improvements, structures, personal property, franchises, patents,
6 accounts receivable, loans, assignments, guarantees, and
7 insurance needed for the purposes of this chapter, IC 4-4-21,
8 **IC 4-4-26, IC 13-19-5, or IC 15-7-5.**
- 9 (22) Take assignments of accounts receivable, loans, guarantees,
10 insurance, notes, mortgages, security agreements securing notes,
11 and other forms of security, attach, seize, or take title by
12 foreclosure or conveyance to any industrial development project
13 **or technology commercialization project** when a guaranteed
14 loan thereon is clearly in default and when in the opinion of the
15 authority such acquisition is necessary to safeguard the industrial
16 development project guaranty **fund or the Indiana venture fund,**
17 and sell, or on a temporary basis, lease, or rent such industrial
18 development project **or technology commercialization project**
19 for any use.
- 20 (23) Expend money, as the authority considers appropriate, from
21 the industrial development project guaranty fund created by
22 section 16 of this chapter **and the Indiana venture fund**
23 **established by IC 4-4-11.7-5.**
- 24 (24) Purchase, lease as lessee, construct, remodel, rebuild,
25 enlarge, or substantially improve industrial development projects,
26 including land, machinery, equipment, or any combination
27 thereof.
- 28 (25) Lease industrial development projects to users or developers,
29 with or without an option to purchase.
- 30 (26) Sell industrial development projects to users or developers,
31 for consideration to be paid in installments or otherwise.
- 32 (27) Make direct loans from the proceeds of the bonds to users or
33 developers for:
- 34 (A) the cost of acquisition, construction, or installation of
35 industrial development projects, including land, machinery,
36 equipment, or any combination thereof; ~~or~~
- 37 (B) eligible expenditures for an educational facility project
38 described in IC 4-4-10.9-6.2(a)(2); **or**
- 39 (C) **eligible expenditures for a technology**
40 **commercialization project;**
- 41 with the loans to be secured by the pledge of one (1) or more
42 bonds, notes, warrants, or other secured or unsecured debt

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- 1 obligations of the users or developers.
 2 (28) Lend or deposit the proceeds of bonds to or with a lender **or**
 3 **professional or accredited investor** for the purpose of:
 4 (A) furnishing funds to such lender **or investor** to be used for
 5 making a loan to a developer or user for the financing of
 6 industrial development projects under this chapter; **or**
 7 (B) **making capital available to an eligible technology**
 8 **commercialization project.**
 9 (29) Enter into agreements with users or developers to allow the
 10 users or developers, directly or as agents for the authority, to
 11 wholly or partially construct industrial development projects to be
 12 leased from or to be acquired by the authority.
 13 (30) Establish reserves from the proceeds of the sale of bonds,
 14 other funds, or both, in the amount determined to be necessary by
 15 the authority to secure the payment of the principal and interest on
 16 the bonds.
 17 (31) Adopt ~~rules~~ **guidelines, without complying with IC 4-22-2,**
 18 governing its activities authorized under this chapter, IC 4-4-21,
 19 **IC 4-4-11.7, IC 4-4-26, IC 13-19-5,** and IC 15-7-5.
 20 (32) Use the proceeds of bonds to make guaranteed participating
 21 loans.
 22 (33) Purchase, discount, sell, and negotiate, with or without
 23 guaranty, notes and other evidences of indebtedness.
 24 (34) Sell and guarantee securities.
 25 (35) Make guaranteed participating loans under IC 4-4-21-26.
 26 (36) Procure insurance to guarantee, insure, coinsure, and
 27 reinsure against political and commercial risk of loss, and any
 28 other insurance the authority considers necessary, including
 29 insurance to secure the payment of principal and interest on notes
 30 or other obligations of the authority.
 31 (37) Provide performance bond guarantees to support eligible
 32 export loan transactions, subject to the terms of this chapter or
 33 IC 4-4-21.
 34 (38) Provide financial counseling services to Indiana exporters.
 35 (39) Accept gifts, grants, or loans from, and enter into contracts
 36 or other transactions with, any federal or state agency,
 37 municipality, private organization, or other source.
 38 (40) Sell, convey, lease, exchange, transfer, or otherwise dispose
 39 of property or any interest in property, wherever the property is
 40 located.
 41 (41) Cooperate with other public and private organizations to
 42 promote export trade activities in Indiana.

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- 1 (42) Make guarantees and administer the agricultural loan and
- 2 rural development project guarantee fund established by
- 3 IC 15-7-5.
- 4 (43) Take assignments of notes and mortgages and security
- 5 agreements securing notes and other forms of security, and attach,
- 6 seize, or take title by foreclosure or conveyance to any
- 7 agricultural enterprise or rural development project when a
- 8 guaranteed loan to the enterprise or rural development project is
- 9 clearly in default and when in the opinion of the authority the
- 10 acquisition is necessary to safeguard the agricultural loan and
- 11 rural development project guarantee fund, and sell, or on a
- 12 temporary basis, lease or rent the agricultural enterprise or rural
- 13 development project for any use.
- 14 (44) Expend money, as the authority considers appropriate, from
- 15 the agricultural loan and rural development project guarantee
- 16 fund created by IC 15-7-5-19.5.
- 17 (45) Reimburse from bond proceeds expenditures for industrial
- 18 development projects under this chapter.
- 19 (46) **Make direct loans and co-venture investment loans and**
- 20 **loan guarantees to professional and accredited investors to**
- 21 **provide seed and venture capital to technology**
- 22 **commercialization projects.**
- 23 (47) **Through administration of the twenty-first century**
- 24 **research and technology fund and the Indiana venture fund,**
- 25 **award grants to and enter into contracts with universities and**
- 26 **research institutions to:**
 - 27 (A) **increase the capacity of Indiana institutions of higher**
 - 28 **education, Indiana businesses, and Indiana nonprofit**
 - 29 **corporations and organizations to compete successfully for**
 - 30 **federal and private research and development funds;**
 - 31 (B) **stimulate the transfer of research and technology into**
 - 32 **marketable products;**
 - 33 (C) **assist with diversifying Indiana's economy by focusing**
 - 34 **investment on biomedical research, biotechnology,**
 - 35 **information technology, and other high technology**
 - 36 **industry clusters requiring high skill, high wage**
 - 37 **employees; and**
 - 38 (D) **encourage an environment of innovation and**
 - 39 **cooperation among universities and businesses to promote**
 - 40 **research.**
- 41 (48) Do any act necessary or convenient to the exercise of the
- 42 powers granted by this chapter, **IC 4-4-11.5**, IC 4-4-21,

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1 **IC 4-4-26, IC 13-19-5**, or IC 15-7-5, or reasonably implied from
2 those statutes, including but not limited to compliance with
3 requirements of federal law imposed from time to time for the
4 issuance of bonds.

5 (b) The authority's powers under this chapter shall be interpreted
6 broadly to effectuate the purposes of this chapter and may not be
7 construed as a limitation of powers.

8 (c) This chapter does not authorize the financing of industrial
9 development projects for a developer unless any written agreement that
10 may exist between the developer and the user at the time of the bond
11 resolution is fully disclosed to and approved by the authority.

12 SECTION 19. IC 4-4-11-16.3 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.3. To further the
14 purposes of this chapter, and in addition to the authority's other powers
15 under this chapter, the authority may transfer funds:

- 16 (1) from the industrial development guaranty project fund to the
- 17 capital access account established by IC 4-4-26-37; **and**
- 18 (2) **from the business development loan fund (IC 4-4-11-16.5)**
- 19 **to the Indiana venture fund established by IC 4-4-11.7-5.**

20 SECTION 20. IC 4-4-11.7 IS ADDED TO THE INDIANA CODE
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2003]:

23 **Chapter 11.7. Indiana Venture Fund**

24 **Sec. 1. As used in this chapter, "accredited investor" means an**
25 **investor who meets the most current definition of accredited**
26 **investor as defined:**

- 27 (1) **in the federal Securities Act of 1933; or**
- 28 (2) **by the Securities and Exchange Commission.**

29 **Sec. 2. As used in this chapter, "advisory board" refers to the**
30 **advisory board established by section 11 of this chapter.**

31 **Sec. 3. As used in this chapter, "authority" refers to the Indiana**
32 **development finance authority established by IC 4-4-11-4.**

33 **Sec. 4. As used in this chapter, "fund" refers to the Indiana**
34 **venture fund established by section 5 of this chapter.**

35 **Sec. 5. The Indiana venture fund is established for the purposes**
36 **described in section 10 of this chapter. The fund shall be**
37 **administered by the authority separately from the state treasury.**

38 **Sec. 6. The expenses of administering the fund shall be paid**
39 **from money in the fund.**

40 **Sec. 7. The authority shall invest the money in the fund not**
41 **currently needed to meet the obligations of the fund in conformity**
42 **with IC 4-4-11 and the investment policies established by the**

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1 authority. Interest that accrues from these investments shall be
2 deposited in the fund.

3 Sec. 8. Money in the fund at the end of a state fiscal year does
4 not revert to the state general fund.

5 Sec. 9. The authority may accept:

- 6 (1) grants;
- 7 (2) loans;
- 8 (3) subsidies;
- 9 (4) matching funds;
- 10 (5) reimbursements;
- 11 (6) appropriations;
- 12 (7) transfers of appropriations;
- 13 (8) bond proceeds from tobacco securitization;
- 14 (9) federal grant money;
- 15 (10) income derived from investments; or
- 16 (11) other things of value from:
 - 17 (A) the federal government or state governments;
 - 18 (B) any agency of any other state; or
 - 19 (C) any institution, person, firm, or corporation, public or
 - 20 private;

21 for deposit in the fund.

22 Sec. 10. The authority may invest and reinvest the fund and the
23 income from money in the fund as follows:

- 24 (1) To make a direct loan to a technology commercialization
25 project to provide seed capital or venture capital. A direct
26 loan under this subdivision may not exceed the lesser of the
27 following:
 - 28 (A) Forty percent (40%) of the estimated cost of the initial
29 funding for the project (including development, testing,
30 initial production and marketing, company formation,
31 intellectual property protection and acquisition, and
32 associated working capital for the technology, product,
33 process, or invention).
 - 34 (B) Six hundred thousand dollars (\$600,000).
- 35 (2) To make direct or co-venture investments in the form of
36 loans or loan guarantees by entering into agreements with one
37 (1) or more professional or accredited investors who have
38 formally agreed to invest at least as much as the authority
39 invests in a technology commercialization project to provide
40 venture capital or seed capital. Not more than one million
41 dollars (\$1,000,000) may be loaned or guaranteed by the
42 authority to any single business under this subdivision.

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1 **However, an amount not exceeding an additional five hundred**
 2 **thousand dollars (\$500,000) may be loaned or guaranteed to**
 3 **the single business if the authority finds, after the initial**
 4 **investment by the authority, that additional investments in the**
 5 **business are necessary to protect or enhance the initial**
 6 **investment of the authority. Each co-venture investment**
 7 **agreement must provide that the authority is to recover its**
 8 **investment before or simultaneously with any distribution to**
 9 **participating professional or accredited investors. The**
 10 **agreement must provide that the authority and participating**
 11 **professional or accredited investors are to share ratably in the**
 12 **profits earned in any form on the co-venture investment.**

13 **(3) To enter into written agreements or with one (1) or more**
 14 **professional investors to establish a pool of funds to be used**
 15 **exclusively as venture capital or seed capital investments. The**
 16 **authority may not invest more than two million dollars**
 17 **(\$2,000,000) in a single pool of funds or in affiliated pools of**
 18 **funds. The agreement or contract must provide for the pool**
 19 **of funds to be managed by a professional investor. The**
 20 **authority must specifically find that the professional investor**
 21 **meets the requirements of IC 4-4-10.9-24.5 and is competent**
 22 **to adequately monitor the pool. The authority may, by**
 23 **guideline, limit or decline investment in funds that are not**
 24 **Indiana or Midwest based. The authority may also limit or**
 25 **decline investment in funds that do not commit to investing in**
 26 **Indiana companies. The pool agreement or contract may**
 27 **provide for reimbursement of expenses of, and payment of a**
 28 **fee to, the manager. The agreement or contract may also**
 29 **provide for payment to the manager of a percentage, not to**
 30 **exceed forty percent (40%) (computed on an annual basis), of**
 31 **cash and other property payable to the authority as its pro**
 32 **rata share of distributions to investors in the pool of funds.**

33 **However, either:**

34 **(A) no amount shall be received by the manager upon sale**
 35 **or other disposition of assets of the pool until recovery by**
 36 **the authority of its investment, and upon liquidation or**
 37 **withdrawal of the authority from the pool of funds, the**
 38 **manager shall be obligated to refund any amount received**
 39 **by it from the manager's percentage if necessary to allow**
 40 **the authority to recover its investment; or**

41 **(B) the terms of payment of cash and other property to the**
 42 **authority must not be less favorable to the authority than**

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1 payments to other investors (other than the manager) who
 2 are parties to the agreement or contract.

3 **Sec. 11. A seven (7) member advisory board shall evaluate**
 4 **applications for loans or co-venture investments in the form of**
 5 **loans or guarantees in accordance with the criteria established in**
 6 **this chapter and any guidelines issued by the authority.**

7 **Sec. 12. The advisory board consists of the following:**

8 (1) Three (3) members of the authority, other than the
 9 lieutenant governor or the lieutenant governor's designee,
 10 selected by the governor.

11 (2) Three (3) members of the twenty-first century research
 12 and technology fund board established by IC 4-4-5.1-6, other
 13 than the lieutenant governor or the lieutenant governor's
 14 designee, selected by the governor.

15 (3) The lieutenant governor or the lieutenant governor's
 16 designee.

17 A member selected by the governor under this section serves at the
 18 pleasure of the governor.

19 **Sec. 13. The lieutenant governor or the lieutenant governor's**
 20 **designee shall serve as chair of the advisory board.**

21 **Sec. 14. The advisory board shall make recommendations to the**
 22 **authority, which shall make the final determination regarding**
 23 **investments.**

24 **Sec. 15. The advisory board shall keep the twenty-first century**
 25 **research and technology fund board apprised of its**
 26 **recommendations.**

27 **Sec. 16. The advisory board may request that the authority**
 28 **consult with and hire professionals on its behalf as the authority**
 29 **considers necessary to evaluate applications. The professionals**
 30 **may be compensated from the fund or the applicant, or both.**

31 **Sec. 17. (a) The advisory board is subject to IC 5-14-1.5.**

32 (b) Subsections (c) through (e) apply to a meeting of the
 33 advisory board at which at least four (4) members of the advisory
 34 board are physically present at the place where the meeting is
 35 conducted.

36 (c) A member of the advisory board may participate in a
 37 meeting of the advisory board by using a means of communication
 38 that permits:

39 (1) all other members participating in the meeting; and
 40 (2) all members of the public physically present at the place
 41 where the meeting is conducted;

42 to simultaneously communicate with each other during the

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1 meeting.

2 (d) A member who participates in a meeting under subsection
3 (b) is considered to be present at the meeting.

4 (e) The memoranda of the meeting prepared under
5 IC 5-14-1.5-4 must also state the name of each member who:

6 (1) was physically present at the place where the meeting was
7 conducted;

8 (2) participated in the meeting by using a means of
9 communication described in subsection (c); and

10 (3) was absent.

11 **Sec. 18. Members of the advisory board who have a conflict with**
12 **respect to a particular application, whether due to a relationship**
13 **with the business or the professional investor, must abstain from**
14 **discussion and voting on the application.**

15 **Sec. 19. Members of the advisory board are not entitled to**
16 **receive per diem. The member is, however, entitled to**
17 **reimbursement for traveling expenses as provided under**
18 **IC 4-13-1-4 and other expenses actually incurred in connection**
19 **with the member's duties as provided in the state policies and**
20 **procedures established by the Indiana department of**
21 **administration and approved by the budget agency.**

22 **Sec. 20. Each co-venture investment loan or guarantee, or pool**
23 **participation agreement shall provide that the authority must be**
24 **repaid before or simultaneously with any distribution to**
25 **participating professional or accredited investors. The authority**
26 **and participating professional or accredited investors must share**
27 **ratably in the profits earned in any form on the co-venture**
28 **investment. Unless the investment is a pooled investment, the**
29 **agreement must also provide that the professional or accredited**
30 **investor must share its initial due diligence report on the business**
31 **and any subsequent analysis of and information received about the**
32 **business.**

33 **Sec. 21. An application for a direct loan or a co-venture**
34 **investment loan or guarantee from the fund must include the**
35 **following:**

36 (1) Payment of a fee, as determined by the authority.

37 (2) A business plan, including a description of the business
38 and its management.

39 (3) A statement of the amount, timing, and projected use of
40 the capital required.

41 (4) A statement concerning the feasibility of the proposed
42 technology, product, process, or invention, its state of



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development, and the likelihood of commercial success (including intellectual property protection and licensing arrangements for technologies).

(5) A statement of the potential economic impact of the business on Indiana, including the number, location, and types of jobs expected to be created.

(6) Financial projections.

(7) A listing of business and legal advisors engaged.

(8) Any other information that the authority or the advisory board requires.

Sec. 22. In addition to consideration of the information provided under section 21 of this chapter, the advisory board shall consider the following factors in making its recommendation to the authority:

(1) Whether the business has a reasonable chance of success.

(2) Whether the technology, product, process, or invention for which the loan is being made is feasible and has the potential to achieve commercial success.

(3) Whether the entrepreneur, investors, shareholders, and other founders of the business have already made or are obligated in writing to make a substantial financial and time commitment to the enterprise.

Sec. 23. After the authority receives the recommendation under section 22 of this chapter, the authority may approve an application for a direct loan or co-venture investment loan or guarantee only if the authority reviews the factors described in section 22 of this chapter, the authority makes findings in the affirmative relative to the factors described in section 22 of this chapter, and the following have occurred:

(1) The authority determines that there is a reasonable possibility that the authority will recoup its investment, within:

(A) ten (10) years after making the investment; or

(B) another period negotiated by the authority;

through the receipt of principal and interest payments or other distribution of profits or royalties on investments made by the authority.

(2) Binding commitments have been made to the authority by the enterprise for adequate reporting of financial data to the authority and any participating professional investors. The report must include an annual audit of the books of the enterprise by an independent certified public accountant if

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required by the authority. The report must be prepared in accordance with generally accepted accounting principles. The authority and any participating professional or accredited investors shall secure sufficient contractual rights from the business as the authority shall consider prudent to protect the investment of the authority, including, at the discretion of the authority and without limitation, a right of access to financial and other records of the business.

(3) If the loan is a co-venture investment loan or guarantee, a binding commitment has been made to the business from a participating professional or accredited investor in at least the amount requested by from the authority, and the authority has a written commitment from the participating professional or accredited investor that the authority is to be repaid on its co-venture investment loan or guarantee before or simultaneously with any distribution to participating professional investors.

(4) The authority has:

(A) received a copy of the professional or accredited investor's due diligence report on the business, including its analysis of the factors in section 22 of this chapter and this section; and

(B) determined the report to be adequate.

(5) The authority must find that the professional or accredited investor meets the respective definition in IC 4-4-10.9-0.5 or IC 4-4-10.9-24.5 and that the professional or accredited investor is competent and adequately prepared to monitor the progress of the business.

(6) If the co-venture investment is in the form of a loan guarantee, the authority must make the following additional findings:

(A) Sufficient reserves exist in the fund to support the loan guarantee.

(B) The professional or accredited investor to whom the guarantee is provided has made a commitment to keep the authority informed on all aspects of the business receiving the investment.

Sec. 24. The authority, with recommendations from the advisory board, may invest money in the fund in accordance with the investment guidelines established by the authority. IC 4-22-2 does not apply to these guidelines.

Sec. 25. Applicants that have received:

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1 (1) prior funding from the twenty-first century research and
 2 technology fund; or
 3 (2) favorable reviews during the peer review process
 4 conducted on an application for funding from the twenty-first
 5 century research and technology fund;
 6 shall receive preference from the advisory board during the
 7 application review process. The authority may, by guideline,
 8 require that all applicants meet the requirement of either
 9 subdivision (1) or (2).

10 Sec. 26. The authority's interest in any single business in the
 11 form of a loan or co-venture investment loan or guarantee may not
 12 represent more than forty (40%) of the capitalization of the
 13 business.

14 Sec. 27. Any documentary materials or data made or received
 15 by any member, agent, or employee of the authority, to the extent
 16 that the material or data consist of trade secrets, commercial
 17 information, or financial information regarding:

- 18 (1) the operation of any business conducted by an applicant
 19 for, or recipient of, any form of assistance which the authority
 20 is empowered to render; or
- 21 (2) the competitive position of the business in a particular
 22 field of endeavor;

23 are confidential. Any discussion or consideration of the trade
 24 secrets or commercial or financial information may be held by the
 25 advisory board or the authority in executive sessions under
 26 IC 5-14-1.5-6.1 if notice of the executive session is properly posted.

27 Sec. 28. Proposals for the establishment of pools of funds must:
 28 (1) be submitted on a form; and
 29 (2) contain the information;
 30 prescribed by the authority.

31 Sec. 29. The authority may not enter into any agreement or
 32 contract regarding a pool of funds unless the agreement or
 33 contract provides that the pool of funds is to be invested in an
 34 enterprise only if the professional investor or manager finds all the
 35 following:

- 36 (1) The enterprise has a reasonable chance of success.
- 37 (2) The technology, product, process, or invention for which
 38 the investment is being made is feasible and has the potential
 39 to achieve commercial success.
- 40 (3) The entrepreneur, investors, shareholders, or founders of
 41 the enterprise have made or are obligated to make a
 42 substantial commitment of time and funds to the enterprise.

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(4) That there is a reasonable opportunity that it will recoup their investment within ten (10) years after the investment, through the receipt of principal and interest, dividends, capital gains, or other distributions of profit or royalties.

(5) The enterprise has made binding commitments for adequate reporting of and access to financing data of the enterprise.

Sec. 30. The fund and all proceeds of the fund are public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. However, this exemption does not exempt an enterprise in which the authority has invested from state taxes or other taxes levied in connection with the manufacture, production, use, or sale of any technologies, products, processes, or inventions that are the subject of an agreement.

SECTION 21. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 32. Indiana Growth Fund

Sec. 1. As used in this chapter, "authority" refers to an authority, separate from the state, established to securitize the payments under the tobacco settlement agreement.

Sec. 2. As used in this chapter, "fund" refers to the Indiana growth fund established by section 3 of this chapter.

Sec. 3. The Indiana growth fund is established to provide the necessary money for projects and programs that will energize Indiana economic development.

Sec. 4. The money from the following sources shall be deposited in the fund:

- (1) The net proceeds of bonds issued to securitize the payments under the tobacco settlement agreement.
- (2) Appropriations, if any, made to the fund by the general assembly.
- (3) Grants, gifts, and donations intended for deposit in the fund.
- (4) Interest that accrues from investment of money in the fund.

Sec. 5. The fund shall be administered by the authority.

Sec. 6. The expenses of administering the fund shall be paid from money in the fund. Interest that accrues from these investments shall be deposited in the fund.

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1 **Sec. 7.** The authority shall invest the money in the fund not
 2 currently needed to meet the obligations of the fund in conformity
 3 with the investment policies established by the authority.

4 **Sec. 8.** Money in the fund at the end of a state fiscal year does
 5 not revert to the state general fund.

6 **Sec. 9.** Money in the fund may be used to:

7 (1) make the distributions authorized by the general
 8 assembly; and

9 (2) pay the operating expenses of the authority related to its
 10 purposes.

11 **Sec. 10.** The authority shall make the following distributions
 12 from the fund on the schedule approved by the budget agency:

13 (1) In the state fiscal year beginning July 1, 2003, and ending
 14 June 30, 2004, the authority shall distribute thirty-six million
 15 dollars (\$36,000,000) to the Indiana development finance
 16 authority (IC 4-4-11-4) for deposit as follows:

17 (A) Thirty-two million four hundred thousand dollars
 18 (\$32,400,000) for deposit in the twenty-first century
 19 research and development fund (IC 4-4-5.1-3).

20 (B) Three million six hundred thousand dollars
 21 (\$3,600,000) for deposit in the Indiana venture fund
 22 (IC 4-4-11.7-5).

23 (2) In the state fiscal year beginning July 1, 2004, and ending
 24 June 30, 2005, the authority shall distribute thirty-six million
 25 dollars (\$36,000,000) to the Indiana development finance
 26 authority (IC 4-4-11-4) for deposit as follows:

27 (A) Twenty-eight million eight hundred thousand dollars
 28 (\$28,800,000) for deposit in the twenty-first century
 29 research and development fund (IC 4-4-5.1-3).

30 (B) Seven million two hundred thousand dollars
 31 (\$7,200,000) for deposit in the Indiana venture fund
 32 (IC 4-4-11.7-5).

33 (3) In the state fiscal year beginning July 1, 2005, and ending
 34 June 30, 2006, the authority shall distribute thirty-six million
 35 dollars (\$36,000,000) to the Indiana development finance
 36 authority (IC 4-4-11-4) for deposit as follows:

37 (A) Twenty-five million two hundred thousand dollars
 38 (\$25,200,000) for deposit in the twenty-first century
 39 research and development fund (IC 4-4-5.1-3).

40 (B) Ten million eight hundred thousand dollars
 41 (\$10,800,000) for deposit in the Indiana venture fund
 42 (IC 4-4-11.7-5).



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- 1 **(4) In the state fiscal year beginning July 1, 2006, and ending**
- 2 **June 30, 2007, the authority shall distribute thirty-six million**
- 3 **dollars (\$36,000,000) to the Indiana development finance**
- 4 **authority (IC 4-4-11-4) for deposit as follows:**
- 5 **(A) Twenty-one million six hundred thousand dollars**
- 6 **(\$21,600,000) for deposit in the twenty-first century**
- 7 **research and development fund (IC 4-4-5.1-3).**
- 8 **(B) Fourteen million four hundred thousand dollars**
- 9 **(\$14,400,000) for deposit in the Indiana venture fund**
- 10 **(IC 4-4-11.7-5).**
- 11 **(5) In the state fiscal year beginning July 1, 2007, and ending**
- 12 **June 30, 2008, the authority shall distribute thirty-six million**
- 13 **dollars (\$36,000,000) to the Indiana development finance**
- 14 **authority (IC 4-4-11-4) for deposit as follows:**
- 15 **(A) Eighteen million dollars (\$18,000,000) for deposit in**
- 16 **the twenty-first century research and development fund**
- 17 **(IC 4-4-5.1-3).**
- 18 **(B) Eighteen million dollars (\$18,000,000) for deposit in the**
- 19 **Indiana venture fund (IC 4-4-11.7-5).**
- 20 **(6) In the state fiscal year beginning July 1, 2008, and ending**
- 21 **June 30, 2009, the authority shall distribute thirty-six million**
- 22 **dollars (\$36,000,000) to the Indiana development finance**
- 23 **authority (IC 4-4-11-4) for deposit as follows:**
- 24 **(A) Eighteen million dollars (\$18,000,000) for deposit in**
- 25 **the twenty-first century research and development fund**
- 26 **(IC 4-4-5.1-3).**
- 27 **(B) Eighteen million dollars (\$18,000,000) for deposit in the**
- 28 **Indiana venture fund (IC 4-4-11.7-5).**
- 29 **(7) In the state fiscal year beginning July 1, 2009, and ending**
- 30 **June 30, 2010, the authority shall distribute thirty-six million**
- 31 **dollars (\$36,000,000) to the Indiana development finance**
- 32 **authority (IC 4-4-11-4) for deposit as follows:**
- 33 **(A) Eighteen million dollars (\$18,000,000) for deposit in**
- 34 **the twenty-first century research and development fund**
- 35 **(IC 4-4-5.1-3).**
- 36 **(B) Eighteen million dollars (\$18,000,000) for deposit in the**
- 37 **Indiana venture fund (IC 4-4-11.7-5).**
- 38 **(8) In the state fiscal year beginning July 1, 2010, and ending**
- 39 **June 30, 2011, the authority shall distribute thirty-six million**
- 40 **dollars (\$36,000,000) to the Indiana development finance**
- 41 **authority (IC 4-4-11-4) for deposit as follows:**
- 42 **(A) Eighteen million dollars (\$18,000,000) for deposit in**

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- 1 the twenty-first century research and development fund
2 (IC 4-4-5.1-3).
3 (B) Eighteen million dollars (\$18,000,000) for deposit in the
4 Indiana venture fund (IC 4-4-11.7-5).
5 (9) In the state fiscal year beginning July 1, 2011, and ending
6 June 30, 2012, the authority shall distribute thirty-six million
7 dollars (\$36,000,000) to the Indiana development finance
8 authority (IC 4-4-11-4) for deposit as follows:
9 (A) Eighteen million dollars (\$18,000,000) for deposit in
10 the twenty-first century research and development fund
11 (IC 4-4-5.1-3).
12 (B) Eighteen million dollars (\$18,000,000) for deposit in the
13 Indiana venture fund (IC 4-4-11.7-5).
14 (10) In the state fiscal year beginning July 1, 2012, and ending
15 June 30, 2013, the authority shall distribute thirty-six million
16 dollars (\$36,000,000) to the Indiana development finance
17 authority (IC 4-4-11-4) for deposit as follows:
18 (A) Eighteen million dollars (\$18,000,000) for deposit in
19 the twenty-first century research and development fund
20 (IC 4-4-5.1-3).
21 (B) Eighteen million dollars (\$18,000,000) for deposit in the
22 Indiana venture fund (IC 4-4-11.7-5).
23 Sec. 11. If there is insufficient money in the fund for the
24 authority to make the total amount of transfers required by law for
25 any fiscal year, the authority shall make transfers for that fiscal
26 year as directed by the budget agency after review by the budget
27 committee.
28 Sec. 12. The amounts distributed under this chapter to the
29 Indiana twenty-first century research and technology fund
30 (IC 4-4-5.1-6) shall be used for the purposes of that fund under
31 IC 4-4-5.1.
32 Sec. 13. The amounts distributed under this chapter to the
33 Indiana venture fund (IC 4-4-11.7-5) shall be used for the purposes
34 of that fund under IC 4-4-11.7.
35 Sec. 14. This chapter expires June 30, 2013.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1006, 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 4, after line 42, begin a new paragraph and insert:

"SECTION 10. IC 4-4-10.9-6.2, AS AMENDED BY P.L.4-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.2. (a) "Educational facility project" includes:

(1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, the rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these):

(A) comprising or being functionally related and subordinate to any aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies, zoological societies, and independent elementary, secondary, or postsecondary schools (or any combination of these) that engages in the cultural, intellectual, scientific, educational, or artistic enrichment of the people of the state the development or expansion of which serves the purposes set forth in IC 4-4-11-2;

(B) is not used or to be used primarily for sectarian instruction or study or as a place for devotional activities; and

(C) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination; or

(2) funding (including reimbursement or refinancing) by a nonprofit organization described in subsection (b) of:

(A) real property and improvements;

(B) personal property; or

(C) noncapital costs to fund a judgment, a settlement, or other cost or liability. ~~other than an ordinary and recurring operating cost or expenditure.~~

(b) For purposes of subsection (a)(2), a nonprofit organization must be:

(1) qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(2) have headquarters or a primary educational or exhibit facility located on property owned by or titled in the name of the state of Indiana or an agency, a commission, or an instrumentality of the

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state of Indiana that serves the purposes set forth in IC 4-4-11-2."

Page 5, line 7, strike "earnings" and insert "**gross revenue**".

Page 5, line 11, strike "earnings" and insert "**gross revenue**".

Page 6, line 16, delete "new".

Page 12, line 17, after "project" insert "**or technology commercialization project**".

Page 12, line 20, delete "fund," and insert "**fund or the Indiana venture fund,**".

Page 12, line 22, after "project" insert "**or technology commercialization project**".

Page 16, line 25, delete "shall" and insert "**may**".

Page 21, line 4, after "the authority." insert "**The report must be prepared in accordance with generally accepted accounting principles.**".

and when so amended that said bill do pass.

(Reference is to HB 1006 as introduced.)

HASLER, Chair

Committee Vote: yeas 13, nays 0.

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