



Reprinted
March 5, 2003

HOUSE BILL No. 2008

DIGEST OF HB 2008 (Updated March 4, 2003 4:19 PM - DI 51)

Citations Affected: IC 4-3; IC 4-4; IC 4-12; IC 6-1.1; IC 6-3.1; IC 8-9.5; IC 8-10; IC 20-12; IC 22-4.1; IC 36-7; noncode.

Synopsis: Energize Indiana program. Revises the membership on the board of the economic development council. Transfers the twenty-first century research and technology fund and program from the budget agency to the development finance authority. Establishes the tobacco settlement authority. Provides for the sale of bonds payable from future tobacco settlement payments to the state. Distributes over 10 years the net bond proceeds and income accruing to the authority to the: (1) state general fund; (2) twenty-first century research and technology fund; (3) venture fund; (4) technology development grant fund; (5) rural development council fund; (6) value added research fund; (7) rural development administration fund; and (8) growth scholars fund. Extends the research expense credit until 2010. Reduces the 30% personal property tax assessed valuation floor for property taxes payable after 2004 and before 2011. Provides a tax credit against state tax liability for: (1) employers that provide employment in targeted employment areas for students and graduates participating in a certified degree program; and (2) graduates of a certified degree program who are employed in Indiana after graduation. Provides for certification of degree programs. Authorizes the Indiana port commission to construct and finance: (1) maritime and nonmaritime port projects throughout Indiana for the transfer of goods and passengers between all modes of transportation; and (2) nonport projects to promote economic growth and development. Removes limitations on the establishment of certified technology parks. Establishes the government efficiency commission. Makes appropriations. Makes related changes.

Effective: January 1, 2003 (retroactive); upon passage; July 1, 2003; January 1, 2004.

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Crawford, Cochran, Hasler, Lytle, Bosma

(SENATE SPONSORS — BORST, SIMPSON, FORD, BRODEN)

January 23, 2003, read first time and referred to Committee on Rules and Legislative Procedures.
February 20, 2003, reassigned to Committee on Ways and Means.
February 25, 2003, amended, reported — Do Pass.
March 3, 2003, read second time, ordered engrossed.
March 4, 2003, engrossed. Read third time, recommitted to Committee of One, amended; passed. Yeas 90, nays 9.

HB 2008—LS 6486/DI 13+



Reprinted
March 5, 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. 2008

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

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

- 1 SECTION 1. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) The articles of
3 incorporation or bylaws of the corporation, as appropriate, must
4 provide that:
5 (1) the exclusive purpose of the corporation is to contribute to the
6 strengthening of the economy of the state by:
7 (A) coordinating the activities of all parties having a role in the
8 state's economic development through evaluating, overseeing,
9 and appraising those activities on an ongoing basis;
10 (B) overseeing the implementation of the state's economic
11 development plan and monitoring the updates of that plan; and
12 (C) educating and assisting all parties involved in improving
13 the long range vitality of the state's economy;
14 (2) the board ~~must include~~:
15 (A) ~~the governor~~;
16 (B) ~~the lieutenant governor~~;
17 (C) ~~the chief operating officer of the corporation~~;

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- 1 (D) the chief operating officer of the corporation for Indiana's
2 international future; and
- 3 (E) additional persons appointed by the governor, who are
4 actively engaged in Indiana in private enterprise, organized
5 labor, state or local governmental agencies, and education, and
6 who represent the diverse economic and regional interests
7 throughout Indiana; is composed of the following twenty-one
8 (21) members, none of whom may be members of the
9 general assembly:
- 10 (A) Three (3) persons appointed by the governor who must
11 be employed in or retired from the private or nonprofit
12 sector but may not represent organized labor.
13 Appointments made under this subdivision are also subject
14 to the requirements of subsection (a)(3).
- 15 (B) Three (3) persons appointed by the lieutenant governor
16 who must be employed in or retired from the private or
17 nonprofit sector but may not represent organized labor.
18 Appointments made under this subdivision are also subject
19 to the requirements of subsection (a)(3).
- 20 (C) Two (2) persons appointed by the speaker of the house
21 of representatives who must be employed in or retired
22 from the private or nonprofit sector. One (1) of these
23 appointees must represent organized labor and the other
24 appointee may not represent organized labor.
- 25 (D) Two (2) persons appointed by the minority leader of
26 the house of representatives who must be employed in or
27 retired from the private or nonprofit sector. One (1) of
28 these appointees must represent organized labor and the
29 other appointee may not represent organized labor.
- 30 (E) Two (2) persons appointed by the president pro
31 tempore of the senate who must be employed in or retired
32 from the private or nonprofit sector. One (1) of these
33 appointees must represent organized labor and the other
34 appointee may not represent organized labor.
- 35 (F) Two (2) persons appointed by the minority leader of
36 the senate who must be employed in or retired from the
37 private or nonprofit sector. One (1) of these appointees
38 must represent organized labor and the other appointee
39 may not represent organized labor.
- 40 (G) One (1) person appointed by the president of Indiana
41 University who must be employed in or retired from the
42 private or nonprofit sector or academia, but may not

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represent organized labor.

(H) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(I) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(J) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(K) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(L) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(M) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(3) The governor and lieutenant governor shall coordinate their appointments under subsection (a)(2)(A) and (a)(2)(B) so that those appointments include at least one (1) representative from each of the following industry sectors:

(A) Advanced manufacturing, such as automotive, electronics, aerospace, robotics, or engineering design technology.

(B) Information technology, such as informatics, certified network administration, software development, or fiber optics.

(C) Life sciences, such as orthopedics, medical devices, biomedical research and development, pharmaceutical manufacturing, agribusiness, nanotechnology, or molecular manufacturing.

(D) Logistics, such as high technology distribution, intermodal ports, or flow and storage of goods, services, and information.

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(E) Public utilities (as defined in IC 8-1-2-1).

(4) The terms of office of the members of the corporation are as follows:

(A) Members appointed by the governor, lieutenant governor, president pro tempore of the senate, or minority leader of the senate serve for terms of four (4) years.

(B) Members appointed by the speaker of the house of representatives, the minority leader of the house of representatives, or the president of a university or college serve for terms of two (2) years.

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

(5) The governor may designate a member of the board appointed by the governor under subsection (a)(2)(A) of this section to serve as chairperson. However, if the governor does not designate a chairperson, the members shall elect a chairperson from among the members.

(6) Fourteen (14) members constitute a quorum for the transaction of business. The affirmative vote of at least eleven (11) members is necessary for any action to be taken by the corporation. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.

(7) Meetings of the corporation shall be held at the call of the chairperson or whenever any five (5) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.

(8) The corporation shall determine qualifications, duties, compensation, and terms of service for persons designated in subsection (a)(9) and subsection(a)(10).

~~(3) the governor shall serve as chairman of the board of the corporation; and the lieutenant governor shall serve as the chief executive officer of the corporation;~~

~~(4) (9) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise; the board shall elect an executive director of the corporation;~~

~~(5) (10) the lieutenant governor executive director of the corporation shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation board and shall oversee the activities of the corporation's chief operating officer corporation;~~

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1 ~~(6)~~ the governor may appoint an executive committee composed
 2 of members of the board (size and structure of the executive
 3 committee shall be set by the articles and bylaws of the
 4 corporation);

5 ~~(7)~~ **(11)** the corporation may receive funds from any source and
 6 may expend funds for any activities necessary, convenient, or
 7 expedient to carry out its purposes;

8 ~~(8)~~ **(12)** any amendments to the articles of incorporation or bylaws
 9 of the corporation must be approved by the ~~governor; board;~~

10 ~~(9)~~ **(13)** the corporation shall submit an annual report to the
 11 governor, **lieutenant governor** and to the Indiana general
 12 assembly on or before the first day of November for each year;

13 ~~(10)~~ **(14)** the corporation shall conduct an annual public hearing
 14 to receive comment from interested parties regarding the annual
 15 report, and notice of the hearing shall be given at least fourteen
 16 (14) days prior to the hearing in accordance with
 17 IC 5-14-1.5-5(b); and

18 ~~(11)~~ **(15)** the corporation is subject to an annual audit by the state
 19 board of accounts, and the corporation shall bear the full costs of
 20 this audit.

21 **(b) The members of the corporation are entitled to a salary per
 22 diem for attending meetings equal to the per diem provided by law
 23 for members of the general assembly. The members of the
 24 corporation shall receive reimbursement for actual and necessary
 25 expenses on the same basis as state employees.**

26 **(c) Employees of the corporation are not employees of the state.**

27 **(d) The corporation may, without the approval of the attorney
 28 general or any other state officer, employ bond counsel, other legal
 29 counsel, technical experts, and other officers, agents, and
 30 employees, permanent or temporary, the corporation considers
 31 necessary to carry out the efficient operation of the corporation.**

32 ~~(b)~~ **(e) The corporation is granted all powers necessary or
 33 appropriate to carry out and effectuate the corporation's public
 34 and corporate purposes under this chapter.** The corporation may
 35 perform other acts and things necessary, convenient, or expedient to
 36 carry out the purposes identified in this section, and it has all rights,
 37 powers, and privileges granted to corporations by IC 23-17 and by
 38 common law.

39 SECTION 2. IC 4-4-3.4-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The value added
 41 research fund is established for the purpose of providing money for the
 42 center for value added research and the commissioner of agriculture to



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1 carry out the duties specified under this chapter. The fund shall be
2 administered by the commissioner of agriculture.

3 (b) The fund consists of money appropriated by the general
4 assembly.

5 (c) The treasurer of state shall invest the money in the fund not
6 currently needed to meet the obligations of the fund in the same
7 manner as other public funds may be invested.

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

10 (e) **In addition to any other appropriation made for the**
11 **purposes of the fund, the lesser of the amount transferred to the**
12 **fund under IC 4-4-32 or six hundred thousand dollars (\$600,000)**
13 **is annually appropriated from the fund for the purposes of the**
14 **fund in each of the state fiscal years beginning after June 30, 2003,**
15 **and ending before July 1, 2013. The spending authority granted by**
16 **an appropriation under this section does not expire at the end of**
17 **the state fiscal year for which the appropriation is made but**
18 **remains available for expenditure from the fund in any state fiscal**
19 **year that ends before July 1, 2013.**

20 SECTION 3. IC 4-4-5.1-0.5 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2003]: **Sec. 0.5. As used in this chapter, "authority" refers to the**
23 **Indiana development finance authority established by IC 4-4-11-4.**

24 SECTION 4. IC 4-4-5.1-3, AS ADDED BY P.L.190-1999,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2003]: Sec. 3. (a) The Indiana twenty-first century research
27 and technology fund is established to provide grants or loans to support
28 proposals for economic development in one (1) or more of the
29 following areas:

30 (1) To increase the capacity of Indiana institutions of higher
31 education, Indiana businesses, and Indiana nonprofit corporations
32 and organizations to compete successfully for federal or private
33 research and development funding.

34 (2) To stimulate the transfer of research and technology into
35 marketable products.

36 (3) To assist with diversifying Indiana's economy by focusing
37 investment in biomedical research and biotechnology, information
38 technology, and other high technology industry clusters requiring
39 high skill, high wage employees.

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

42 (b) The fund shall be administered by the ~~budget agency~~ **authority.**

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1 The fund consists of appropriations from the general assembly and gifts
 2 and grants to the fund. The ~~budget agency board~~ shall ~~review each~~
 3 ~~recommendation:~~ **approve and recommend applications to the**
 4 **budget committee.** The ~~budget agency;~~ **authority,** after review by the
 5 budget committee, may approve, deny, or modify grants and loans
 6 recommended by the board. Money in the fund may not be used to
 7 provide a recurring source of revenue for the normal operating
 8 expenditures of any project.

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

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

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

19 (1) To accept, analyze, and approve applications under this
 20 chapter.

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

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

27 (4) To approve and recommend applications for grants or loans
 28 from the fund to the budget committee and ~~budget agency:~~ **the**
 29 **authority.**

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

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

33 (2) require the lowest ratio of money from the fund compared
 34 with the combined financial commitments of the applicant and
 35 those cooperating on the project.

36 (c) The board shall make final funding determinations for
 37 applications for grants or loans from the fund that will be submitted to
 38 the budget agency **for approval, the budget committee** for review,
 39 **and the authority** for approval. In making a determination on a
 40 proposal intended to obtain federal or private research funding, the
 41 board shall be advised by a peer review panel and shall consider the
 42 following factors in evaluating the proposal:



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1 (1) The scientific merit of the proposal.

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

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

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

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

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

24 SECTION 6. IC 4-4-5.1-8.5 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2003]: **Sec. 8.5. (a) This section applies to a meeting of the board
27 at which at least four (4) members of the board are physically
28 present at the place where the meeting is conducted.**

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

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

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

34 **to simultaneously communicate with each other during the
35 meeting.**

36 **(c) A member who participates in a meeting under subsection
37 (b) is considered to be present at the meeting.**

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

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

42 **(2) participated in the meeting by using a means of**

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1 **communication described in subsection (b); and**
 2 **(3) was absent.**

3 SECTION 7. IC 4-4-5.1-11, AS ADDED BY P.L.190-1999,
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2003]: Sec. 11. The board may use money in the fund to cover
 6 administrative expenses incurred in carrying out the requirements of
 7 this chapter, **including the following administrative expenses:**

- 8 **(1) Staff salaries.**
 9 **(2) Professional fees.**
 10 **(3) Office expenses.**
 11 **(4) Training expenses.**
 12 **(5) Expenses for studies.**
 13 **(6) Educational programs or conferences that will assist**
 14 **applicants or awardees.**

15 SECTION 8. IC 4-4-5.1-12 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2003]: Sec. 12. **The board shall submit an annual report to the**
 18 **legislative council before September 1. The report shall contain the**
 19 **following information concerning fund activity in the preceding**
 20 **state fiscal year:**

- 21 **(1) The name of each entity receiving a grant from the fund.**
 22 **(2) The location of each entity sorted by:**
 23 **(A) county, in the case of an entity located in Indiana; or**
 24 **(B) state, in the case of an entity located outside Indiana.**
 25 **(3) The amount of each grant awarded to each entity.**

26 SECTION 9. IC 4-4-9.3 IS ADDED TO THE INDIANA CODE AS
 27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2003]:

29 **Chapter 9.3. Rural Development Administration Fund**

30 Sec. 1. (a) **The rural development administration fund is**
 31 **established for the purpose of enhancing and developing rural**
 32 **communities. The fund shall be administered by the Indiana rural**
 33 **development council.**

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

36 (c) **Notwithstanding IC 5-13, the treasurer of state shall invest**
 37 **the money in the fund not currently needed to meet the obligations**
 38 **of the fund under IC 5-10.3-5. The treasurer of state may contract**
 39 **with investment management professionals, investment advisers,**
 40 **and legal counsel to assist in the management of the fund and may**
 41 **pay the state expenses incurred under those contracts.**

42 (d) **Money in the fund at the end of a state fiscal year does not**

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revert to the state general fund.

Sec. 2. (a) Money in the fund may be used for the following purposes:

- (1) To create, assess, and assist a pilot project to enhance the economic and community development in a rural area.**
- (2) To establish a local revolving loan fund for an industrial, a commercial, an agricultural, or a tourist venture.**
- (3) To provide a loan for an economic development project in a rural area.**
- (4) To provide technical assistance to a rural organization.**
- (5) To assist in the development and creation of a rural cooperative.**
- (6) To address rural workforce development challenges.**
- (7) To assist in addressing telecommunications needs in a rural area.**

(b) Expenditures from the fund are subject to appropriation by the general assembly and approval by the Indiana rural development council under IC 4-4-9.5. The council may not approve an expenditure from the fund unless the rural development administration advisory board established by section 3 of this chapter has recommended the expenditure.

Sec. 3. (a) The rural development administration advisory board is established to make recommendations concerning the expenditure of money from the fund.

(b) The advisory board shall meet at least four (4) times per year and shall also meet at the call of the executive director of the rural development council.

(c) The advisory board consists of the following members:

- (1) The executive director of the Indiana rural development council, who serves as an ex officio member and as the chairperson of the advisory board.**
- (2) Two (2) members of the senate, who may not be members of the same political party, and who are appointed by the president pro tempore of the senate.**
- (3) Two (2) members of the house of representatives, who may not be members of the same political party, and who are appointed by the speaker of the house of representatives.**
- (4) A representative of the commissioner of agriculture, to be appointed by the governor.**
- (5) A representative of the department of commerce, to be appointed by the governor.**
- (6) A representative of the department of workforce**

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development, to be appointed by the governor.

(7) Two (2) persons with knowledge and experience in state and regional economic needs, to be appointed by the governor.

(8) A representative of a local rural economic development organization, to be appointed by the governor.

(9) A representative of a small town or rural community, to be appointed by the governor.

(10) A representative of the rural development council, to be appointed by the governor.

(11) A representative of rural education, to be appointed by the governor.

(12) A representative of the league of regional conservation and development districts, to be appointed by the governor.

(13) A person currently enrolled in rural secondary education, to be appointed by the governor.

(d) The members of the advisory board listed in subsection (c)(1) through (c)(3) are nonvoting members.

(e) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member if the member:

- (1) is no longer a member of the chamber from which the member was appointed; or
- (2) is removed from the advisory board by the appointing authority who appointed the legislator.

(f) The term of office of a voting member of the advisory board is four (4) years. However, these members serve at the pleasure of the governor and may be removed for any reason.

(g) If a vacancy exists on the advisory board, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

(h) Six (6) voting members of the advisory board constitute a quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least six (6) voting members is necessary for the advisory board to take action.

Sec. 4. In addition to any other appropriation made for the purposes of the fund, the lesser of the amount transferred to the fund under IC 4-4-32 or two million four hundred thousand dollars (\$2,400,000) is annually appropriated from the fund for the purposes of the fund in each of the state fiscal years beginning after June 30, 2003, and ending before July 1, 2013. The spending

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1 authority granted by an appropriation under this section does not
 2 expire at the end of the state fiscal year for which the
 3 appropriation is made but remains available for expenditure from
 4 the fund in any state fiscal year that ends before July 1, 2013.

5 SECTION 10. IC 4-4-9.5-4 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2003]: **Sec. 4. (a) The rural development council fund is**
 8 **established to be used exclusively for the purposes set forth in**
 9 **sections 2 and 3 of this chapter. The fund shall be administered by**
 10 **the council.**

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

13 (c) Notwithstanding IC 5-13, the treasurer of state shall invest
 14 the money in the fund not currently needed to meet the obligations
 15 of the fund under IC 5-10.3-5. The treasurer of state may contract
 16 with investment management professionals, investment advisers,
 17 and legal counsel to assist in the management of the fund and may
 18 pay the state expenses incurred under those contracts.

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

21 (e) In addition to any other appropriation made for the
 22 purposes of the fund, the lesser of the amount transferred to the
 23 fund under IC 4-4-32 or one million two hundred thousand dollars
 24 (\$1,200,000) is annually appropriated from the fund for the
 25 purposes of the fund in each of the state fiscal years beginning after
 26 June 30, 2003, and ending before July 1, 2013. The spending
 27 authority granted by an appropriation under this section does not
 28 expire at the end of the state fiscal year for which the
 29 appropriation is made but remains available for expenditure from
 30 the fund in any state fiscal year that ends before July 1, 2013.

31 SECTION 11. IC 4-4-10.9-0.5 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. "Accredited investor" has the**
 34 **meaning set forth in IC 4-4-11.7-1.**

35 SECTION 12. IC 4-4-10.9-3.5 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. "Business" means a**
 38 **partnership, a firm, an association, a joint venture, a limited**
 39 **liability company, a limited liability partnership, or a corporation.**

40 SECTION 13. IC 4-4-10.9-4 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. "Contracting party"**
 42 **means any party to a lease, sales contract, co-venture investment**

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1 **agreement (whether in the form of a loan, loan guarantee, or pool**
 2 **participation agreement),** or loan agreement other than the authority.

3 SECTION 14. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Co-venture investment**
 6 **loan" means a venture capital or seed capital investment in the**
 7 **form of a loan by the authority that is made to a business after or**
 8 **in conjunction with equity investments by one (1) or more**
 9 **professional or accredited investors that have made or are making**
 10 **equity investments in the business.**

11 SECTION 15. IC 4-4-10.9-6.2, AS AMENDED BY P.L.4-2002,
 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]: Sec. 6.2. (a) "Educational facility project" includes:

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

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

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

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

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

35 (A) real property and improvements;

36 (B) personal property; or

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

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

42 (1) qualified as tax exempt under Section 501(c)(3) of the Internal

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1 Revenue Code; and

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

6 SECTION 16. IC 4-4-10.9-9.5, AS ADDED BY P.L.227-1999,
7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2003]: Sec. 9.5. "High growth company with high skilled
9 jobs" means a company that satisfies all of the following conditions:

10 (1) The company:

11 (A) had at least a ~~fifteen ten~~ percent ~~(15%) (10%)~~ average
12 annual growth in company ~~earnings gross revenue~~ during the
13 past three (3) years;

14 (B) is entering a new product or process area; or

15 (C) is classified in an industry that had at least a ~~fifteen ten~~
16 percent ~~(15%) (10%)~~ average annual growth in ~~earnings gross~~
17 ~~revenue~~ during the past three (3) years.

18 (2) The company has a substantial number of employees in jobs:

19 (A) requiring post-secondary education or its equivalent; or

20 (B) that are in occupational codes classified as high skill by
21 the Bureau of Labor Statistics, United States Department of
22 Labor.

23 (3) The company has a substantial number of employees that earn
24 at least one hundred fifty percent (150%) of Indiana per capita
25 personal income.

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

32 SECTION 18. IC 4-4-10.9-24.5 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2003]: **Sec. 24.5. "Professional investor"**
35 **means a bank, a bank holding company, a savings institution, a**
36 **trust company, a credit union, an insurance company, an**
37 **investment company registered under the federal Investment**
38 **Company Act of 1940, a pension or profit sharing trust, another**
39 **financial institution or institutional buyer, a licensee under the**
40 **federal Small Business Investment Act of 1958, et seq., or any**
41 **person, partnership, or other entity whose:**

42 (1) principal business is making venture capital investments;



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and
(2) net worth exceeds two hundred fifty (\$250,000) thousand dollars.

SECTION 19. IC 4-4-10.9-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 26.5. "Seed capital" means financing that is provided for:**

- (1) the applied research, development, testing, and initial marketing of a technology, product, process, or invention;**
- (2) company formation;**
- (3) intellectual property protection and acquisition; and**
- (4) associated working capital.**

SECTION 20. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Technology commercialization project" means any combination of:**

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

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

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

SECTION 22. IC 4-4-11-2, AS AMENDED BY P.L.4-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a) The legislature makes the following findings of fact:**

- (1) That there currently exists in certain areas of the state critical conditions of unemployment, lack of adequate capital for research and technology commercialization, or environmental pollution, including water pollution, air pollution, sewage and solid waste, radioactive waste, thermal pollution, radiation**

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

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1 institutions, and individuals into such industrial development
 2 projects, **technology commercialization projects**, rural
 3 development projects, mining operations, international exports,
 4 and agricultural operations that involve the processing of
 5 agricultural products in the state.

6 (8) That the authority can encourage the making of loans, **loan**
 7 **guarantees, co-venture investment loans**, or leases for creation
 8 or expansion of industrial development projects, **technology**
 9 **commercialization projects**, rural development projects, mining
 10 operations, international exports, and agricultural operations that
 11 involve the processing of agricultural products, thus putting a
 12 larger portion of the private capital available in Indiana for
 13 investment to use in ~~the general economic development of the~~
 14 **state: in Indiana.**

15 (9) That the issuance of bonds of the authority to create a
 16 financing pool for industrial development projects promoting a
 17 substantial likelihood of opportunities for:

18 (A) gainful employment;

19 (B) business opportunities;

20 (C) educational enrichment (including cultural, intellectual,
 21 scientific, or artistic opportunities);

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

23 (E) the removal or treatment of any substances in materials
 24 being processed that otherwise would cause pollution when
 25 used; or

26 (F) increased options for and availability of child care;

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

30 (10) That the issuance of bonds of the authority to create a
 31 funding source for the making of guaranteed participating loans
 32 will promote and encourage an expanding international exports
 33 market and international exports sales and will promote the
 34 general welfare of all of the people of Indiana by assisting Indiana
 35 businesses through stimulation of the expansion of international
 36 exports sales for Indiana products and services, especially those
 37 of small and medium-sized businesses, by providing financial
 38 assistance through the authority.

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

41 (1) promoting opportunities for gainful employment and business
 42 opportunities by the promotion and development of industrial

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1 development projects, **technology commercialization projects**,
 2 rural development projects, mining operations, international
 3 exports, and agricultural operations that involve the processing of
 4 agricultural products, in any areas of the state;

5 (2) promoting the educational enrichment (including cultural,
 6 intellectual, scientific, or artistic opportunities) of all the people
 7 of the state by the promotion, development, and assistance of
 8 educational facility projects;

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

12 (4) preventing and remediating environmental pollution,
 13 including water pollution, air pollution, sewage and solid waste
 14 disposal, radioactive waste, thermal pollution, radiation
 15 contamination, and noise pollution affecting the health and well
 16 being of the people of the state by the promotion and development
 17 of industrial development projects; ~~and~~

18 (5) promoting affordable and accessible child care for the people
 19 of the state by the promotion and development of child care
 20 facilities; **and**

21 **(6) promoting research, innovation, technology transfer, and**
 22 **technology commercialization by the promotion, development,**
 23 **and assistance of technology commercialization projects.**

24 SECTION 23. IC 4-4-11-15, AS AMENDED BY P.L.4-2002,
 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2003]: Sec. 15. (a) The authority is granted all powers
 27 necessary or appropriate to carry out and effectuate its public and
 28 corporate purposes under this chapter, **IC 4-4-11.5**, IC 4-4-21,
 29 **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, including but not limited to the
 30 following:

31 (1) Have perpetual succession as a body politic and corporate and
 32 an independent instrumentality exercising essential public
 33 functions.

34 (2) Without complying with IC 4-22-2, adopt, amend, and repeal
 35 bylaws, rules, and regulations not inconsistent with this chapter,
 36 **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5 and
 37 necessary or convenient to regulate its affairs and to carry into
 38 effect the powers, duties, and purposes of the authority and
 39 conduct its business.

40 (3) Sue and be sued in its own name.

41 (4) Have an official seal and alter it at will.

42 (5) Maintain an office or offices at a place or places within the

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state as it may designate.
(6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5.
(7) Employ architects, engineers, attorneys, **financial advisers**, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.
(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.
(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by this chapter, IC 4-4-21, **IC 13-19-5**, and IC 15-7-5.
(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.
(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.
(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including borrowers, lenders, developers, **professional or accredited investors**, or users, for the purpose of planning, regulating, and providing for the financing and

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1 refinancing of any agricultural enterprise (as defined in
2 IC 15-7-4.9-2), rural development project (as defined in
3 IC 15-7-4.9-19.5), industrial development project, **technology**
4 **commercialization project**, or international exports, and
5 distribute data and information concerning the encouragement
6 and improvement of agricultural enterprises and agricultural
7 employment, rural development projects, industrial development
8 projects, international exports, and other types of employment in
9 the state undertaken with the assistance of the authority under this
10 chapter.

11 (13) Enter into contracts or agreements with lenders and lessors
12 for the servicing and processing of loans and leases pursuant to
13 this chapter, IC 4-4-21, and IC 15-7-5.

14 (14) Provide technical assistance to local public bodies and to
15 profit and nonprofit entities in the development or operation of
16 agricultural enterprises, rural development projects, **technology**
17 **commercialization projects**, and industrial development
18 projects.

19 (15) To the extent permitted under its contract with the holders of
20 the bonds of the authority, consent to any modification with
21 respect to the rate of interest, time, and payment of any
22 installment of principal or interest, or any other term of any
23 contract, loan, loan note, loan note commitment, contract, lease,
24 or agreement of any kind to which the authority is a party.

25 (16) To the extent permitted under its contract with the holders of
26 bonds of the authority, enter into contracts with any lender
27 containing provisions enabling it to reduce the rental or carrying
28 charges to persons unable to pay the regular schedule of charges
29 when, by reason of other income or payment by any department,
30 agency, or instrumentality of the United States of America or of
31 this state, the reduction can be made without jeopardizing the
32 economic stability of the agricultural enterprise, rural
33 development project, or industrial development project being
34 financed.

35 (17) Invest any funds not needed for immediate disbursement,
36 including any funds held in reserve, in direct and general
37 obligations of or obligations fully and unconditionally guaranteed
38 by the United States, obligations issued by agencies of the United
39 States, obligations of this state, or any obligations or securities
40 which may from time to time be legally purchased by
41 governmental subdivisions of this state pursuant to IC 5-13, or
42 any obligations or securities which are permitted investments for

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- 1 bond proceeds or any construction, debt service, or reserve funds
 2 secured under the trust indenture or resolution pursuant to which
 3 bonds are issued.
- 4 (18) Collect fees and charges, as the authority determines to be
 5 reasonable, in connection with its loans, **co-venture investment**
 6 **loans and loan guarantees**, guarantees, advances, insurance,
 7 commitments, and servicing.
- 8 (19) Cooperate and exchange services, personnel, and information
 9 with any federal, state, or local government agency, or
 10 instrumentality of the United States or this state.
- 11 (20) Sell, at public or private sale, with or without public bidding,
 12 any loan or other obligation held by the authority.
- 13 (21) Enter into agreements concerning, and acquire, hold, and
 14 dispose by any lawful means, land or interests in land, building
 15 improvements, structures, personal property, franchises, patents,
 16 accounts receivable, loans, assignments, guarantees, and
 17 insurance needed for the purposes of this chapter, IC 4-4-21,
 18 **IC 4-4-26, IC 13-19-5, or IC 15-7-5.**
- 19 (22) Take assignments of accounts receivable, loans, guarantees,
 20 insurance, notes, mortgages, security agreements securing notes,
 21 and other forms of security, attach, seize, or take title by
 22 foreclosure or conveyance to any industrial development project
 23 **or technology commercialization project** when a guaranteed
 24 loan thereon is clearly in default and when in the opinion of the
 25 authority such acquisition is necessary to safeguard the industrial
 26 development project guaranty fund **or the Indiana venture fund**,
 27 and sell, or on a temporary basis, lease, or rent such industrial
 28 development project **or technology commercialization project**
 29 for any use.
- 30 (23) Expend money, as the authority considers appropriate, from
 31 the industrial development project guaranty fund created by
 32 section 16 of this chapter **and the Indiana venture fund**
 33 **established by IC 4-4-11.7-5.**
- 34 (24) Purchase, lease as lessee, construct, remodel, rebuild,
 35 enlarge, or substantially improve industrial development projects,
 36 including land, machinery, equipment, or any combination
 37 thereof.
- 38 (25) Lease industrial development projects to users or developers,
 39 with or without an option to purchase.
- 40 (26) Sell industrial development projects to users or developers,
 41 for consideration to be paid in installments or otherwise.
- 42 (27) Make direct loans from the proceeds of the bonds to users or

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- 1 developers for:
- 2 (A) the cost of acquisition, construction, or installation of
- 3 industrial development projects, including land, machinery,
- 4 equipment, or any combination thereof; ~~or~~
- 5 (B) eligible expenditures for an educational facility project
- 6 described in IC 4-4-10.9-6.2(a)(2); **or**
- 7 **(C) eligible expenditures for a technology**
- 8 **commercialization project;**
- 9 with the loans to be secured by the pledge of one (1) or more
- 10 bonds, notes, warrants, or other secured or unsecured debt
- 11 obligations of the users or developers.
- 12 (28) Lend or deposit the proceeds of bonds to or with a lender **or**
- 13 **professional or accredited investor** for the purpose of:
- 14 **(A) furnishing funds to such lender or investor** to be used for
- 15 making a loan to a developer or user for the financing of
- 16 industrial development projects under this chapter; **or**
- 17 **(B) making capital available to an eligible technology**
- 18 **commercialization project.**
- 19 (29) Enter into agreements with users or developers to allow the
- 20 users or developers, directly or as agents for the authority, to
- 21 wholly or partially construct industrial development projects to be
- 22 leased from or to be acquired by the authority.
- 23 (30) Establish reserves from the proceeds of the sale of bonds,
- 24 other funds, or both, in the amount determined to be necessary by
- 25 the authority to secure the payment of the principal and interest on
- 26 the bonds.
- 27 (31) Adopt ~~rules guidelines~~, **without complying with IC 4-22-2,**
- 28 **governing its activities authorized under this chapter, IC 4-4-21,**
- 29 **IC 4-4-11.7, IC 4-4-26, IC 13-19-5, and IC 15-7-5.**
- 30 (32) Use the proceeds of bonds to make guaranteed participating
- 31 loans.
- 32 (33) Purchase, discount, sell, and negotiate, with or without
- 33 guaranty, notes and other evidences of indebtedness.
- 34 (34) Sell and guarantee securities.
- 35 (35) Make guaranteed participating loans under IC 4-4-21-26.
- 36 (36) Procure insurance to guarantee, insure, coinsure, and
- 37 reinsure against political and commercial risk of loss, and any
- 38 other insurance the authority considers necessary, including
- 39 insurance to secure the payment of principal and interest on notes
- 40 or other obligations of the authority.
- 41 (37) Provide performance bond guarantees to support eligible
- 42 export loan transactions, subject to the terms of this chapter or

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- 1 IC 4-4-21.
 2 (38) Provide financial counseling services to Indiana exporters.
 3 (39) Accept gifts, grants, or loans from, and enter into contracts
 4 or other transactions with, any federal or state agency,
 5 municipality, private organization, or other source.
 6 (40) Sell, convey, lease, exchange, transfer, or otherwise dispose
 7 of property or any interest in property, wherever the property is
 8 located.
 9 (41) Cooperate with other public and private organizations to
 10 promote export trade activities in Indiana.
 11 (42) Make guarantees and administer the agricultural loan and
 12 rural development project guarantee fund established by
 13 IC 15-7-5.
 14 (43) Take assignments of notes and mortgages and security
 15 agreements securing notes and other forms of security, and attach,
 16 seize, or take title by foreclosure or conveyance to any
 17 agricultural enterprise or rural development project when a
 18 guaranteed loan to the enterprise or rural development project is
 19 clearly in default and when in the opinion of the authority the
 20 acquisition is necessary to safeguard the agricultural loan and
 21 rural development project guarantee fund, and sell, or on a
 22 temporary basis, lease or rent the agricultural enterprise or rural
 23 development project for any use.
 24 (44) Expend money, as the authority considers appropriate, from
 25 the agricultural loan and rural development project guarantee
 26 fund created by IC 15-7-5-19.5.
 27 (45) Reimburse from bond proceeds expenditures for industrial
 28 development projects under this chapter.
 29 **(46) Make direct loans and co-venture investment loans and**
 30 **loan guarantees to professional and accredited investors to**
 31 **provide seed and venture capital to technology**
 32 **commercialization projects.**
 33 **(47) Through administration of the twenty-first century**
 34 **research and technology fund and the Indiana venture fund,**
 35 **award grants to and enter into contracts with universities and**
 36 **research institutions to:**
 37 **(A) increase the capacity of Indiana institutions of higher**
 38 **education, Indiana businesses, and Indiana nonprofit**
 39 **corporations and organizations to compete successfully for**
 40 **federal and private research and development funds;**
 41 **(B) stimulate the transfer of research and technology into**
 42 **marketable products;**

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1 (C) assist with diversifying Indiana's economy by focusing
 2 investment on biomedical research, biotechnology,
 3 information technology, and other high technology
 4 industry clusters requiring high skill, high wage
 5 employees; and

6 (D) encourage an environment of innovation and
 7 cooperation among universities and businesses to promote
 8 research.

9 (48) Do any act necessary or convenient to the exercise of the
 10 powers granted by this chapter, IC 4-4-11.5, IC 4-4-21,
 11 IC 4-4-26, IC 13-19-5, or IC 15-7-5, or reasonably implied from
 12 those statutes, including but not limited to compliance with
 13 requirements of federal law imposed from time to time for the
 14 issuance of bonds.

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

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

22 SECTION 24. IC 4-4-11-16.3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.3. To further the
 24 purposes of this chapter, and in addition to the authority's other powers
 25 under this chapter, the authority may transfer funds:

26 (1) from the industrial development guaranty project fund to the
 27 capital access account established by IC 4-4-26-37; and

28 (2) from the business development loan fund (IC 4-4-11-16.5)
 29 to the Indiana venture fund established by IC 4-4-11.7-5.

30 SECTION 25. IC 4-4-11.7 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2003]:

33 **Chapter 11.7. Indiana Venture Fund**

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

37 (1) in the federal Securities Act of 1933; or

38 (2) by the Securities and Exchange Commission.

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

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

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

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

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

8 **Sec. 7.** The authority shall invest the money in the fund not
9 currently needed to meet the obligations of the fund in conformity
10 with IC 4-4-11 and the investment policies established by the
11 authority. Interest that accrues from these investments shall be
12 deposited in the fund.

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

15 **Sec. 9.** The authority may accept:

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

31 for deposit in the fund.

32 **Sec. 10.** The authority may invest and reinvest the fund and the
33 income from money in the fund as follows:

- 34 (1) To make a direct loan to a technology commercialization
35 project to provide seed capital or venture capital. A direct
36 loan under this subdivision may not exceed the lesser of the
37 following:

- 38 (A) Forty percent (40%) of the estimated cost of the initial
39 funding for the project (including development, testing,
40 initial production and marketing, company formation,
41 intellectual property protection and acquisition, and
42 associated working capital for the technology, product,

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1 process, or invention).

2 (B) Six hundred thousand dollars (\$600,000).

3 (2) To make direct or co-venture investments in the form of
4 loans or loan guarantees by entering into agreements with one
5 (1) or more professional or accredited investors who have
6 formally agreed to invest at least as much as the authority
7 invests in a technology commercialization project to provide
8 venture capital or seed capital. Not more than one million
9 dollars (\$1,000,000) may be loaned or guaranteed by the
10 authority to any single business under this subdivision.
11 However, an amount not exceeding an additional five hundred
12 thousand dollars (\$500,000) may be loaned or guaranteed to
13 the single business if the authority finds, after the initial
14 investment by the authority, that additional investments in the
15 business are necessary to protect or enhance the initial
16 investment of the authority. Each co-venture investment
17 agreement must provide that the authority is to recover its
18 investment before or simultaneously with any distribution to
19 participating professional or accredited investors. The
20 agreement must provide that the authority and participating
21 professional or accredited investors are to share ratably in the
22 profits earned in any form on the co-venture investment.

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

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1 **However, either:**

2 **(A) no amount shall be received by the manager upon sale**
 3 **or other disposition of assets of the pool until recovery by**
 4 **the authority of its investment, and upon liquidation or**
 5 **withdrawal of the authority from the pool of funds, the**
 6 **manager shall be obligated to refund any amount received**
 7 **by it from the manager's percentage if necessary to allow**
 8 **the authority to recover its investment; or**

9 **(B) the terms of payment of cash and other property to the**
 10 **authority must not be less favorable to the authority than**
 11 **payments to other investors (other than the manager) who**
 12 **are parties to the agreement or contract.**

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

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

18 **(1) Three (3) members of the authority, other than the**
 19 **lieutenant governor or the lieutenant governor's designee,**
 20 **selected by the governor.**

21 **(2) Three (3) members of the twenty-first century research**
 22 **and technology fund board established by IC 4-4-5.1-6, other**
 23 **than the lieutenant governor or the lieutenant governor's**
 24 **designee, selected by the governor.**

25 **(3) The lieutenant governor or the lieutenant governor's**
 26 **designee.**

27 **A member selected by the governor under this section serves at the**
 28 **pleasure of the governor.**

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

31 **Sec. 14. The advisory board shall make recommendations to the**
 32 **authority, which shall make the final determination regarding**
 33 **investments.**

34 **Sec. 15. The advisory board shall keep the twenty-first century**
 35 **research and technology fund board apprised of its**
 36 **recommendations.**

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

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

42 **(b) Subsections (c) through (e) apply to a meeting of the**

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1 advisory board at which at least four (4) members of the advisory
2 board are physically present at the place where the meeting is
3 conducted.

4 (c) A member of the advisory board may participate in a
5 meeting of the advisory board by using a means of communication
6 that permits:

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

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

10 to simultaneously communicate with each other during the
11 meeting.

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

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

16 (1) was physically present at the place where the meeting was
17 conducted;

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

20 (3) was absent.

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

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

32 **Sec. 20. Each co-venture investment loan or guarantee or pool**
33 **participation agreement shall provide that the authority must be**
34 **repaid before or simultaneously with any distribution to**
35 **participating professional or accredited investors. The authority**
36 **and participating professional or accredited investors must share**
37 **ratably in the profits earned in any form on the co-venture**
38 **investment. Unless the investment is a pooled investment, the**
39 **agreement must also provide that the professional or accredited**
40 **investor must share its initial due diligence report on the business**
41 **and any subsequent analysis of and information received about the**
42 **business.**



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1 **Sec. 21. An application for a direct loan or a co-venture**
2 **investment loan or guarantee from the fund must include the**
3 **following:**

- 4 **(1) Payment of a fee, as determined by the authority.**
5 **(2) A business plan, including a description of the business**
6 **and its management.**
7 **(3) A statement of the amount, timing, and projected use of**
8 **the capital required.**
9 **(4) A statement concerning the feasibility of the proposed**
10 **technology, product, process, or invention, its state of**
11 **development, and the likelihood of commercial success**
12 **(including intellectual property protection and licensing**
13 **arrangements for technologies).**
14 **(5) A statement of the potential economic impact of the**
15 **business on Indiana, including the number, location, and types**
16 **of jobs expected to be created.**
17 **(6) Financial projections.**
18 **(7) A listing of business and legal advisors engaged.**
19 **(8) Any other information that the authority or the advisory**
20 **board requires.**

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

- 25 **(1) Whether the business has a reasonable chance of success.**
26 **(2) Whether the technology, product, process, or invention for**
27 **which the loan is being made is feasible and has the potential**
28 **to achieve commercial success.**
29 **(3) Whether the entrepreneur, investors, shareholders, and**
30 **other founders of the business have already made or are**
31 **obligated in writing to make a substantial financial and time**
32 **commitment to the enterprise.**

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

- 40 **(1) The authority determines that there is a reasonable**
41 **possibility that the authority will recoup its investment**
42 **within:**

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- 1 (A) ten (10) years after making the investment; or
 2 (B) another period negotiated by the authority;
 3 through the receipt of principal and interest payments or
 4 other distribution of profits or royalties on investments made
 5 by the authority.
- 6 (2) Binding commitments have been made to the authority by
 7 the enterprise for adequate reporting of financial data to the
 8 authority and any participating professional investors. The
 9 report must include an annual audit of the books of the
 10 enterprise by an independent certified public accountant if
 11 required by the authority. The report must be prepared in
 12 accordance with generally accepted accounting principles.
 13 The authority and any participating professional or
 14 accredited investors shall secure sufficient contractual rights
 15 from the business as the authority shall consider prudent to
 16 protect the investment of the authority, including, at the
 17 discretion of the authority and without limitation, a right of
 18 access to financial and other records of the business.
- 19 (3) If the loan is a co-venture investment loan or guarantee, a
 20 binding commitment has been made to the business from a
 21 participating professional or accredited investor in at least the
 22 amount requested by the authority and the authority has a
 23 written commitment from the participating professional or
 24 accredited investor that the authority is to be repaid on its
 25 co-venture investment loan or guarantee before or
 26 simultaneously with any distribution to participating
 27 professional investors.
- 28 (4) The authority has:
 29 (A) received a copy of the professional or accredited
 30 investor's due diligence report on the business, including
 31 its analysis of the factors in section 22 of this chapter and
 32 this section; and
 33 (B) determined the report to be adequate.
- 34 (5) The authority must find that the professional or accredited
 35 investor meets the respective definition in IC 4-4-10.9-0.5 or
 36 IC 4-4-10.9-24.5 and that the professional or accredited
 37 investor is competent and adequately prepared to monitor the
 38 progress of the business.
- 39 (6) If the co-venture investment is in the form of a loan
 40 guarantee, the authority must make the following additional
 41 findings:
 42 (A) Sufficient reserves exist in the fund to support the loan

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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:

- (1) prior funding from the twenty-first century research and technology fund; or
- (2) favorable reviews during the peer review process conducted on an application for funding from the twenty-first century research and technology fund;

shall receive preference from the advisory board during the application review process. The authority may, by guideline, require that all applicants meet the requirement of either subdivision (1) or (2).

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

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

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

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

Sec. 28. Proposals for the establishment of pools of funds must:

- (1) be submitted on a form; and
- (2) contain the information;

prescribed by the authority.

Sec. 29. The authority may not enter into any agreement or contract regarding a pool of funds unless the agreement or

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1 contract provides that the pool of funds is to be invested in an
2 enterprise only if the professional investor or manager finds all the
3 following:

- 4 (1) The enterprise has a reasonable chance of success.
- 5 (2) The technology, product, process, or invention for which
6 the investment is being made is feasible and has the potential
7 to achieve commercial success.
- 8 (3) The entrepreneur, investors, shareholders, or founders of
9 the enterprise have made or are obligated to make a
10 substantial commitment of time and funds to the enterprise.
- 11 (4) That there is a reasonable opportunity that it will recoup
12 their investment within ten (10) years after the investment,
13 through the receipt of principal and interest, dividends,
14 capital gains, or other distributions of profit or royalties.
- 15 (5) The enterprise has made binding commitments for
16 adequate reporting of and access to financing data of the
17 enterprise.

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

27 SECTION 26. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2003]:

30 **Chapter 31. Tobacco Settlement Authority**

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

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

35 **Sec. 3.** As used in this chapter, "bonds" means bonds, notes, and
36 any other obligations and financing arrangements issued or
37 entered into by the authority under this chapter and any such
38 bonds, notes, obligations, or other financing arrangements entered
39 into to refund the foregoing, whether on a current or an advance
40 basis.

41 **Sec. 4.** As used in this chapter, "financing costs" means
42 capitalized interest, capitalized operating expenses, debt service

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

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

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

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

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

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

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

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

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

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thereof.

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

- (1) The creation of the authority.
- (2) Entering into one (1) or more sales agreements.
- (3) The sale to the authority of a portion of the amounts and revenues required to be paid by tobacco product manufacturers to the state and the state's right to receive the amounts and revenues under the master settlement agreement.
- (4) The issuance of bonds.

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

Sec. 13. (a) The powers of the authority are vested in and shall be exercised by a board consisting of the following seven (7) members:

- (1) The governor, or the governor's designee, who serves as chairperson.
- (2) The lieutenant governor, or the lieutenant governor's designee, who serves as vice chairperson.
- (3) The treasurer of state, or the treasurer of state's designee.
- (4) Four (4) members appointed by the governor who are persons of known probity and who possess adequate capacity for the performance of the duties of members of the authority. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.

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

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

- (d) Each member of the board appointed by the governor:
 - (1) shall hold office for the term of the member's respective appointment;

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- 1 (2) shall continue to serve after the expiration of the
 2 appointment until a successor is appointed and qualified;
 3 (3) is eligible for reappointment; and
 4 (4) serves at the pleasure of the governor and may be removed
 5 from office by the governor at any time.

6 (e) The members of the board are not entitled to any
 7 compensation for their services but are entitled to reimbursement
 8 for actual and necessary expenses on the same basis as state
 9 employees.

10 Sec. 14. Four (4) members of the board constitute a quorum.
 11 Four (4) affirmative votes are required for the board to take
 12 action.

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

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

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

- 21 (1) all other members of the board participating in the
 22 meeting; and
 23 (2) all members of the public physically present at the place
 24 where the meeting is conducted;

25 to simultaneously communicate with each other during the
 26 meeting.

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

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

- 32 (1) was physically present at the place where the meeting was
 33 conducted;
 34 (2) participated in the meeting by using a means of
 35 communication described in subsection (b); and
 36 (3) was absent.

37 Sec. 17. Any member or employee of the authority who has, will
 38 have, or later acquires an interest, direct or indirect, in any
 39 transaction with the authority shall immediately disclose the
 40 nature and extent of the interest in writing to the authority as soon
 41 as the member or employee has knowledge of the actual or
 42 prospective interest. The disclosure shall be announced in open



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1 meeting and entered upon the minutes of the authority. Upon
 2 disclosure, the member or employee shall not participate in any
 3 action by the authority authorizing the transaction. However, such
 4 an interest shall not invalidate actions by the authority with the
 5 participation of the disclosing member prior to the time when the
 6 member became aware of the interest.

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

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

28 (1) adopt:

29 (A) rules under IC 4-22-2; or

30 (B) a policy;

31 establishing a code of ethics for its employees; or

32 (2) decide it wishes to be under the jurisdiction and rules
 33 adopted by the state ethics commission.

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

36 **Sec. 20.** The authority has all the general powers necessary to
 37 carry out its purposes and duties and to exercise its specific
 38 powers. In addition to other powers specified in this chapter, the
 39 authority may:

40 (1) sue and be sued in the name of the authority;

41 (2) make and execute agreements, contracts, and other
 42 instruments, with any public or private person, in accordance

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- with this chapter;
- (3) invest monies held by the authority or on its behalf under any trust agreement of the authority or otherwise in the manner determined by resolution of the authority or under the trust agreement (an investment under this subdivision is not restricted by or subject to any other law);
- (4) establish any general or special funds, accounts, or subaccounts, and controls on deposits to and disbursements from them, as it finds necessary, desirable, or convenient for the implementation of this chapter;
- (5) procure insurance, other credit enhancements, and other financing arrangements for its bonds to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit;
- (6) accept appropriations, gifts, grants, loans, or other aid from public or private entities;
- (7) establish a stable source of revenue to be used for the purposes designated in this chapter;
- (8) enter into one (1) or more sales agreements with the state for purchase of a portion 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;
- (9) issue bonds in one (1) or more series;
- (10) sell, pledge, or assign, as security, all or a portion of the revenues derived by the authority under any sales agreement to provide for and secure the issuance of its bonds;
- (11) manage its funds, obligations, and investments as necessary and as consistent with its purpose;
- (12) without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business; and
- (13) exercise any other power reasonably required, convenient, or desirable to implement the purposes of this chapter.

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

Sec. 21. The authority may not:

- (1) exercise the power of eminent domain; or

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(2) levy taxes of any kind.

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

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

(b) The net proceeds of the bonds shall be deposited as follows:

- (1) Five-sevenths (5/7) of the net proceeds shall be deposited in the Indiana growth fund established by IC 4-4-32-3.
- (2) Two-sevenths (2/7) of the net proceeds shall be deposited in the state general fund.

However, the net proceeds of any refunding bonds shall be deposited in accordance with a trust agreement of the authority.

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

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

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

(d) The bonds, when issued, shall have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26-1 and are incontestable in the hands of a bona fide purchaser or owner of the bond for value. Bonds issued under this chapter are exempt from the registration requirements of

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- 1 IC 23-2-1 and any other state securities registration statutes.
- 2 (e) The authority's bonds shall:
- 3 (1) bear the date or dates;
- 4 (2) mature at the time or times;
- 5 (3) be in the denominations;
- 6 (4) be in the form;
- 7 (5) be registered or registrable in the manner;
- 8 (6) be made transferable, exchangeable, and interchangeable;
- 9 (7) be payable in the medium of payment and at the place or
- 10 places;
- 11 (8) be subject to the terms of redemption;
- 12 (9) bear the fixed or variable rate or rates of interest;
- 13 (10) be payable at the time or times; and
- 14 (11) be sold at a public or negotiated sale in the manner and
- 15 at the price or prices;
- 16 as the authority determines.
- 17 (f) The bonds shall be executed by one (1) or more officers of the
- 18 authority and by the trustee or paying agent. Execution of the
- 19 bonds may be by manual or facsimile signature.
- 20 (g) The bonds of the authority are subject to the terms,
- 21 conditions, covenants, and protective provisions that are found
- 22 necessary or desirable by the authority, including, but not limited
- 23 to, pledges of the authority's assets, setting aside of reserves, and
- 24 other provisions the authority finds are necessary or desirable for
- 25 the security of bondholders.
- 26 (h) Any pledge of revenues to be derived by the authority under
- 27 a sales agreement or from any other source, and the right to
- 28 receive revenues under a sales agreement or from any other
- 29 source, or any pledge of a special fund, account, or subaccount
- 30 created by the authority, together with any investment earnings, is
- 31 valid and binding at the time the pledge is made. Property so
- 32 pledged is immediately subject to the lien of the pledge without any
- 33 physical delivery thereof or further act. The lien of such a pledge
- 34 is valid and binding as against all parties having claims of any kind
- 35 in tort, contract, or otherwise against the authority, regardless of
- 36 whether the parties have notice of the lien. Notwithstanding any
- 37 other provision of law to the contrary, the resolution or trust
- 38 agreement of the authority or any other instrument by which the
- 39 pledge is created need not be recorded or filed except in the records
- 40 of the authority to perfect the pledge.
- 41 (i) Neither a member of the board nor a person executing bonds
- 42 or notes issued under this article is liable personally on the bonds

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or notes.

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

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

(b) All property of the authority is 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. All bonds issued under this chapter are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose, and the bonds, the interest thereon, the proceeds received by the holder from the sale of the bonds to the extent of the holder's cost of acquisition proceeds received upon redemption prior to maturity, and proceeds received at maturity and the receipt of the interest and proceeds are exempt from taxation in the state for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

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

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

11 **Sec. 26. (a) Without complying with any other law governing the**
 12 **sale or disposition of property by the state, the state may sell and**
 13 **assign to the authority, and the authority may purchase, all of the**
 14 **state's right to receive a part not to exceed thirty-five percent**
 15 **(35%) of the state's annual share of the amounts and revenues due**
 16 **to the state under the master settlement agreement and of the**
 17 **state's rights to receive those amounts and revenues. The state,**
 18 **including the governor and the attorney general, may take any**
 19 **action necessary or convenient to facilitate and complete the sale.**
 20 **The authority may take any action necessary or convenient to**
 21 **facilitate and complete the purchase.**

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

37 **(c) The state hereby covenants and agrees with the holders of**
 38 **any bonds that so long as any bonds of the authority issued under**
 39 **this chapter are outstanding and unpaid, the state will not limit or**
 40 **alter the rights vested in the authority to fulfill the terms of any**
 41 **agreements made with, or make payments to, the holders of the**
 42 **bonds or in any way impair the rights and remedies of the**

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bondholders, until the bonds, together with interest thereon, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholder are fully paid, satisfied, and discharged.

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

- (1) the state shall have no right, title, or interest in the property sold and assigned;**
- (2) the property sold and assigned is the property of the authority and not the property of the state;**
- (3) the property sold and assigned shall be owned, received, held, and disbursed by the authority or its trustee or assignee and not by the state;**
- (4) none of the property sold and assigned shall be subject to garnishment, levy, execution, attachment, or other process, writ, (including writ of mandate), or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state; and**
- (5) the portion of the amounts and revenues due under the master settlement agreement that are sold and assigned to the authority must be paid directly to the authority or its trustee or assignee and shall not be considered money drawn from the state treasury.**

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

(f) The state shall:

- (1) notify the independent auditor and the escrow agent under the master settlement agreement that a portion of the amounts and revenues due under the master settlement agreement has been sold and assigned to the authority; and**
- (2) irrevocably instruct the independent auditor and the escrow agent that, after the date of the notice under subdivision (1), the portion of the amounts and revenues due under the master settlement agreement sold and assigned to 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**

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1 resolution or trust agreement.

2 (g) For purposes of IC 4-12-1-14.3, the part of the amounts and
3 revenues due under the master settlement agreement that is sold
4 and assigned to the authority:

5 (1) is not money received by the state under the master
6 settlement agreement; and

7 (2) shall not be deposited in the Indiana tobacco master
8 settlement agreement fund.

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

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

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

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

42 Sec. 30. Before issuing any bonds, the authority shall enter into

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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 settlement agreement and sold under the sales agreement, to the full extent permitted by the master settlement agreement;
- (2) diligently enforce the qualifying statute as contemplated by the master settlement agreement against all tobacco product manufacturers that are selling tobacco products in Indiana and are not signatories to the master settlement agreement;
- (3) neither amend the master settlement agreement nor take any other action that would in any way:
 - (A) alter, limit, or impair the authority's right to receive the portion of the amounts and revenues due under the master settlement agreement and sold under the sales agreement;
 - (B) limit or alter the rights vested in the authority by this chapter or other law to fulfill its agreements with the bond owners; or
 - (C) impair the rights and remedies of the bond owners or the security for the bonds;

until the bonds, together with the interest on the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the bond owners, are fully paid and discharged (however, nothing in this subdivision shall be construed to preclude the state's regulation of smoking and taxation and regulation of the sale of cigarettes or other tobacco products);

- (4) not amend, supersede, or repeal the qualifying statute in any way that would violate section 26(c) of this chapter; or
- (5) take no action that would adversely affect the tax exempt status of any tax exempt bonds issued by the authority.

Sec. 31. The authority shall contract with an independent certified public accountant for an annual financial audit of the authority. The certified public accountant shall present an audit report not later than seven (7) months after the end of each fiscal year of the authority.

Sec. 32. The state board of accounts may at any time conduct an audit of the authority.

Sec. 33. The authority shall submit copies of its annual budget and the audit report referred to in section 31 of this chapter to the budget director, the legislative council, and the state board of

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1 accounts.

2 **Sec. 34. Income or revenues of the authority not required to**
 3 **meet its obligations (including redemption obligations on its bonds)**
 4 **shall be paid over to the state general fund if directed by the**
 5 **governor.**

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

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

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

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

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

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

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

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

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

38 **(1) the authority is dissolved under section 29 of this chapter;**

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

41 **(3) a state court has entered a final judgment from which no**
 42 **further appeal is allowed ordering the judgment debtor**

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1 tobacco manufacturer to pay the state both its obligations
2 under the master settlement agreement and any punitive
3 damages to be paid to the state without setoff, credit, or
4 reduction of one (1) obligation on account of the other.

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

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

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

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

- 35 **(1) The factors or criteria that will be used in evaluating the**
36 **responses.**
37 **(2) A statement concerning the relative importance of price**
38 **and the other evaluation factors.**
39 **(3) A statement concerning whether the response must be**
40 **accompanied by a certified check or other evidence of**
41 **financial responsibility.**
42 **(4) A statement concerning whether discussions may be**

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

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- 1 contract.
- 2 (l) The register of responses must contain the following:
- 3 (1) A copy of the request for qualifications.
- 4 (2) A list of all persons to whom copies of the request for
- 5 qualifications were given.
- 6 (3) A list of all responses received, which must include all of
- 7 the following:
- 8 (A) The names and addresses of all respondents.
- 9 (B) The manner in which the amount payable to the
- 10 respondent would be determined.
- 11 (C) The name of the successful respondent and the manner
- 12 in which the amount payable to that respondent is to be
- 13 determined.
- 14 (4) The basis on which the contract was entered into.
- 15 (5) The entire contents of the contract file except for
- 16 proprietary information, such as trade secrets and financial
- 17 information that was not required to be made available for
- 18 public inspection by the terms of the request for
- 19 qualifications.
- 20 SECTION 27. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS
- 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 22 1, 2003]:
- 23 **Chapter 32. Indiana Growth Fund**
- 24 **Sec. 1. As used in this chapter, "authority" refers to tobacco**
- 25 **settlement authority established by IC 4-4-31-12.**
- 26 **Sec. 2. As used in this chapter, "fund" refers to the Indiana**
- 27 **growth fund established by section 3 of this chapter.**
- 28 **Sec. 3. The Indiana growth fund is established to provide the**
- 29 **necessary money for projects and programs that will energize**
- 30 **Indiana economic development.**
- 31 **Sec. 4. The money from the following sources shall be deposited**
- 32 **in the fund:**
- 33 (1) The net proceeds of bonds issued to securitize the
- 34 payments under the tobacco settlement agreement and
- 35 deposited in the fund under IC 4-4-31-22.
- 36 (2) Appropriations, if any, made to the fund by the general
- 37 assembly.
- 38 (3) Grants, gifts, and donations intended for deposit in the
- 39 fund.
- 40 (4) Interest that accrues from investment of money in the
- 41 fund.
- 42 **Sec. 5. The fund shall be administered by the authority.**

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

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

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

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

10 (1) make the distributions authorized by the general
 11 assembly; and

12 (2) pay the expenses of operating the authority and the
 13 expenses of administering the fund.

14 **Sec. 10.** A distribution that is required to be made in a state
 15 fiscal year must be made during that state fiscal year on the earlier
 16 of:

17 (1) the schedule specified by the budget agency; or

18 (2) June 30.

19 **Sec. 11. (a)** If there is insufficient money in the fund for the
 20 authority to make the total amount of transfers required by
 21 sections 12 through 15 of this chapter for any state fiscal year, the
 22 authority shall make transfers for that state fiscal year as directed
 23 by the budget agency after review by the budget committee.

24 **(b)** If money subsequently becomes available to make both:

25 (1) the total amount of transfers required by law in a state
 26 fiscal year, including the supplemental distribution required
 27 under section 12 of this chapter; and

28 (2) one (1) or more transfers that were deferred or reduced
 29 under this section in a prior state fiscal year;

30 the budget agency, after review by the budget committee, may
 31 direct the authority to make part or all of the deferred or reduced
 32 distribution for the purpose specified by law for that distribution
 33 in any state fiscal year before July 1, 2013.

34 **Sec. 12. (a)** In each state fiscal year beginning after June 30,
 35 2003, and ending before July 1, 2013, the authority shall distribute
 36 twenty-five million dollars (\$25,000,000) from the fund to the
 37 Indiana development finance authority established by IC 4-4-11-4.

38 **(b)** In addition, if, in any state fiscal year, the budget agency
 39 after review by the budget committee determines that the balance
 40 in the fund is greater than the amount necessary to make all
 41 distributions from the fund required by law, the budget agency
 42 shall direct the authority to make a supplemental distribution from

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1 the fund to the Indiana development finance authority established
 2 by IC 4-4-11-4. However, the supplemental distribution when
 3 added to the amount distributed under subsection (a) may not
 4 exceed thirty-six million dollars (\$36,000,000) in any state fiscal
 5 year.

6 (c) Money transferred to the Indiana development finance
 7 authority under this section:

8 (1) must be deposited either in:

9 (A) the twenty-first century research and development
 10 fund (IC 4-4-5.1-3); or

11 (B) the Indiana venture fund (IC 4-4-11.7-5); and

12 (2) may be used only for the purposes of the twenty-first
 13 century research and development fund or the Indiana
 14 venture fund.

15 (d) Money that is deposited in or transferred to the twenty-first
 16 century research and development fund or the Indiana venture
 17 fund under this section and not currently needed to meet the
 18 obligations of the fund may be:

19 (1) used in a subsequent state fiscal year for the purposes of
 20 the fund in which it is deposited; or

21 (2) transferred between the funds and used for the purposes
 22 of the fund to which the money is transferred in the state
 23 fiscal year in which it is transferred or a subsequent state
 24 fiscal year.

25 Sec. 13. In each state fiscal year beginning after June 30, 2003,
 26 and ending before July 1, 2013, the authority shall distribute four
 27 million dollars (\$4,000,000) from the fund to the treasurer of state
 28 for deposit in the technology development grant fund established
 29 under IC 4-12-11-8. Money distributed under this section to the
 30 technology development grant fund may be used only for the
 31 purposes of the technology development grant fund.

32 Sec. 14. In each state fiscal year beginning after June 30, 2003,
 33 and ending before July 1, 2013, the authority shall make the
 34 following annual distributions to the treasurer of state for deposit
 35 in the indicated funds:

36 (1) One million two hundred thousand dollars (\$1,200,000) for
 37 deposit in the rural development council fund (IC 4-4-9.5-4).

38 (2) Six hundred thousand dollars (\$600,000) for deposit in the
 39 value added research fund (IC 4-4-3.4-4).

40 (3) Two million four hundred thousand dollars (\$2,400,000)
 41 for deposit in the rural development administration fund
 42 (IC 4-4-9.3).



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1 Money distributed under this section to a fund described in
2 subdivisions (1) through (3) may be used only for the purposes of
3 the fund to which it is distributed.

4 Sec. 15. The authority shall make the following distributions
5 from the fund to the treasurer of state for deposit in the Indiana
6 growth scholars fund in the following specified state fiscal years:

7 (1) Four million seven hundred thousand dollars (\$4,700,000)
8 in the state fiscal year beginning July 1, 2003, and ending
9 June 30, 2004.

10 (2) Five million one hundred thousand dollars (\$5,100,000) in
11 the state fiscal year beginning July 1, 2004, and ending June
12 30, 2005.

13 (3) Five million six hundred thousand dollars (\$5,600,000) in
14 the state fiscal year beginning July 1, 2005, and ending June
15 30, 2006.

16 (4) Six million one hundred thousand dollars (\$6,100,000) in
17 the state fiscal year beginning July 1, 2006, and ending June
18 30, 2007.

19 Money distributed under this section to Indiana growth scholars
20 fund may be used only for the purposes of the Indiana growth
21 scholars fund.

22 Sec. 16. This chapter expires June 30, 2013.

23 SECTION 28. IC 4-12-11 IS ADDED TO THE INDIANA CODE
24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2003]:

26 Chapter 11. Technology Development Grant Fund

27 Sec. 1. As used in this chapter, "department" refers to the
28 department of commerce established by IC 4-4-3-2.

29 Sec. 2. As used in this chapter, "fund" refers to the technology
30 development grant fund established by section 8 of this chapter.

31 Sec. 3. As used in this chapter, "political subdivision" has the
32 meaning set forth in IC 36-1-2-13.

33 Sec. 4. As used in this chapter, "redevelopment commission"
34 refers to a redevelopment commission established under
35 IC 36-7-14-3 or a commission (as defined in IC 36-7-15.1-3) that
36 establishes a technology park.

37 Sec. 5. As used in this chapter, "technology park" refers to a
38 certified technology park established under IC 36-7-32.

39 Sec. 6. As used in this chapter, "targeted employment" means
40 employment in any of the following business activities:

- 41 (1) Advanced manufacturing, including the following:
42 (A) Automotive and electronics.

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- 1 **(B) Aerospace technology.**
 2 **(C) Robotics.**
 3 **(D) Engineering design technology.**
 4 **(2) Life sciences, including the following:**
 5 **(A) Orthopedics or medical devices.**
 6 **(B) Biomedical research or development.**
 7 **(C) Pharmaceutical manufacturing.**
 8 **(D) Agribusiness.**
 9 **(E) Nanotechnology or molecular manufacturing.**
 10 **(3) Information technology, including the following:**
 11 **(A) Informatics.**
 12 **(B) Certified network administration.**
 13 **(C) Software development.**
 14 **(D) Fiber optics.**
 15 **(4) Twenty-first century logistics, including the following:**
 16 **(A) High technology distribution.**
 17 **(B) Efficient and effective flow and storage of goods,**
 18 **services, or information.**
 19 **(C) Intermodal ports.**
- 20 **Sec. 7. As used in this chapter, "technology product" means a**
 21 **product that involves high technology activity or otherwise**
 22 **involves targeted employment.**
- 23 **Sec. 8. The technology development grant fund is established to**
 24 **provide the necessary money for grants to redevelopment**
 25 **commissions under this chapter and the administration of this**
 26 **program.**
- 27 **Sec. 9. The fund shall be administered by the department.**
- 28 **Sec. 10. The expenses of administering the fund shall be paid**
 29 **from money in the fund. Interest that accrues from these**
 30 **investments shall be deposited in the fund.**
- 31 **Sec. 11. The treasurer of state shall invest the money in the fund**
 32 **not currently needed to meet the obligations of the fund in the same**
 33 **manner as other public funds are invested.**
- 34 **Sec. 12. Money in the fund at the end of a state fiscal year does**
 35 **not revert to the state general fund.**
- 36 **Sec. 13. The department shall establish a grant application**
 37 **procedure for redevelopment commissions.**
- 38 **Sec. 14. To qualify for a grant under this chapter, a**
 39 **redevelopment commission must:**
 40 **(1) submit an application in the form prescribed by the**
 41 **department;**
 42 **(2) demonstrate that:**



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- 1 (A) the redevelopment commission has established a
 2 technology park; and
 3 (B) the grant being applied for under this chapter will
 4 assist the redevelopment commission in accomplishing the
 5 goals of the technology park under IC 36-7-32; and
 6 (3) provide the other information required by the department.
- 7 **Sec. 15.** The department shall provide grants on a competitive
 8 basis from the fund to businesses that apply for a grant under this
 9 chapter. The department may select and fund part or all of an
 10 application request that:
 11 (1) is submitted during an application period; or
 12 (2) was submitted in a prior application period but not fully
 13 funded in that application period.
- 14 **Sec. 16. (a)** For purposes of this section, "operating
 15 expenditures" includes the following:
 16 (1) Business plans.
 17 (2) Marketing studies.
 18 (3) Mentor identification.
 19 (4) Securitization of capital.
 20 (5) Legal services.
 21 (6) Other necessary services.
- 22 (b) The total of all grants provided under this chapter for a
 23 technology park may not exceed the following:
 24 (1) Two million dollars (\$2,000,000) for the leasing,
 25 construction, or purchase of capital assets.
 26 (2) Two million dollars (\$2,000,000) for operating
 27 expenditures, and, subject to subsection (d), with not more
 28 than five hundred thousand dollars (\$500,000) being
 29 distributed in any one (1) fiscal year.
- 30 (c) This subsection applies to a grant provided under subsection
 31 (b)(1) for the leasing of a capital asset. The grant may be applied
 32 only to lease payments made during:
 33 (1) the fiscal year; or
 34 (2) each of the three (3) fiscal years immediately following the
 35 fiscal year;
 36 in which the grant is provided.
- 37 (d) The annual distribution of a grant under subsection (b)(2)
 38 may not exceed the following:
 39 (1) Eighty percent (80%) of total operating expenditures in
 40 the fiscal year in which the grant is provided.
 41 (2) Sixty percent (60%) of total operating expenditures in the
 42 fiscal year after the fiscal year in which the grant is provided.

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- 1 **(3) Forty percent (40%) of total operating expenditures in the**
- 2 **second fiscal year after the fiscal year in which the grant is**
- 3 **provided.**
- 4 **(4) Twenty percent (20%) of total operating expenditures in**
- 5 **the third fiscal year after the fiscal year in which the grant is**
- 6 **provided.**

7 **Sec. 17. A capital expenditure grant under this chapter shall**
 8 **require that the lesser of:**

- 9 **(1) two million dollars (\$2,000,000); or**
- 10 **(2) fifty percent (50%) of the total capital costs;**
- 11 **of the project being funded by the grant be matched from other**
- 12 **sources.**

13 **Sec. 18. The department may, under rules established by the**
 14 **department of local government finance and the procedures**
 15 **established by the department, award grants from the fund to one**
 16 **(1) or more political subdivisions to reimburse the political**
 17 **subdivisions for ad valorem property taxes allocated to an**
 18 **allocation area as a result of a resolution adopted under**
 19 **IC 36-7-32-15.**

20 **Sec. 19. In addition to any other appropriation made for the**
 21 **purposes of the fund, the lesser of the amount transferred to the**
 22 **fund under IC 4-4-32 or four million dollars (\$4,000,000) is**
 23 **annually appropriated from the fund for the purposes of the fund**
 24 **in each of the state fiscal years beginning after June 30, 2003, and**
 25 **ending before July 1, 2013. The spending authority granted by an**
 26 **appropriation under this section does not expire at the end of the**
 27 **state fiscal year for which the appropriation is made but remains**
 28 **available for expenditure from the fund in any state fiscal year that**
 29 **ends before July 1, 2013.**

30 **SECTION 29. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss),**
 31 **SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 32 **JULY 1, 2003]: Sec. 22. (a) Except to the extent that it conflicts with**
 33 **a statute, 50 IAC 4.2 (as in effect January 1, 2001) is incorporated by**
 34 **reference into this section.**

35 **(b) Tangible personal property within the scope of 50 IAC 4.2 (as**
 36 **in effect January 1, 2001) shall be assessed on the assessment dates in**
 37 **calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as**
 38 **in effect January 1, 2001), except that the rate of total valuation**
 39 **percentage to apply to a taxpayer in a taxing district under 50**
 40 **IAC 4.2-4-9 is the following:**

- 41 **(1) Twenty-five percent (25%) on an assessment date in 2004**
- 42 **for property taxes first due and payable in 2005.**

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1 **(2) Twenty percent (20%) on an assessment date in 2005 for**
 2 **property taxes first due and payable in 2006 and on an**
 3 **assessment date each year thereafter through payable 2010.**

4 (c) The publisher of the Indiana Administrative Code may continue
 5 to publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana
 6 Administrative Code.

7 (d) 50 IAC 4.3 and any other rule to the extent that it conflicts with
 8 this section is void.

9 (e) A reference in 50 IAC 4.2 to a governmental entity that has been
 10 terminated or a statute that has been repealed or amended shall be
 11 treated as a reference to its successor.

12 SECTION 30. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss),
 13 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2003]: Sec. 44.(a) Except to the extent that it conflicts with a
 15 statute, 50 IAC 5.1 (as in effect January 1, 2001) is incorporated by
 16 reference into this section.

17 (b) Tangible personal property within the scope of 50 IAC 5.1 (as
 18 in effect January 1, 2001) shall be assessed on the assessment dates in
 19 calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as
 20 in effect January 1, 2001), **except that the rate of total valuation**
 21 **percentage to apply to a taxpayer in a taxing district under 50**
 22 **IAC 5.1-6-9 is the following:**

23 **(1) Twenty-five percent (25%) on an assessment date in 2004**
 24 **for property taxes first due and payable in 2005.**

25 **(2) Twenty percent (20%) on an assessment date in 2005 for**
 26 **property taxes first due and payable in 2006 and on an**
 27 **assessment date each year thereafter through payable 2010.**

28 (c) The publisher of the Indiana Administrative Code may continue
 29 to publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana
 30 Administrative Code.

31 (d) 50 IAC 5.2 and any other rule to the extent that it conflicts with
 32 this section is void.

33 (e) A reference in 50 IAC 5.1 to a governmental entity that has been
 34 terminated or a statute that has been repealed or amended shall be
 35 treated as a reference to its successor.

36 SECTION 31. IC 6-3.1-4-6, AS AMENDED BY P.L.192-2002(ss),
 37 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2003]: Sec. 6. Notwithstanding the other provisions of this
 39 chapter, a taxpayer is not entitled to a credit for Indiana qualified
 40 research expense incurred after December 31, ~~2004~~. **2010.**
 41 Notwithstanding Section 41 of the Internal Revenue Code, the
 42 termination date in Section 41(h) of the Internal Revenue Code does

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1 not apply to a taxpayer who is eligible for the credit under this chapter
 2 for the taxable year in which the Indiana qualified research expense is
 3 incurred.

4 SECTION 32. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2003 (RETROACTIVE)]:

7 **Chapter 25. Internship Payroll Credit**

8 **Sec. 1. As used in this chapter, "certified degree program" has**
 9 **the meaning set forth in IC 22-4.1-7-1.**

10 **Sec. 2. As used in this chapter, "graduate" has the meaning set**
 11 **forth in IC 22-4.1-7-5.**

12 **Sec. 3. As used in this chapter, "institution of higher learning"**
 13 **has the meaning set forth in IC 20-12-29.5-4.**

14 **Sec. 4. As used in this chapter, "pass through entity" means:**

- 15 (1) a corporation that is exempt from the adjusted gross
 16 income tax under IC 6-3-2-2.8(2);
 17 (2) a partnership;
 18 (3) a limited liability company; or
 19 (4) a limited liability partnership.

20 **Sec. 5. As used in this chapter, "payroll expenditures" means**
 21 **wages and other compensation reportable as taxable income to a**
 22 **student or graduate.**

23 **Sec. 6. As used in this chapter, "state tax liability" means the**
 24 **total tax liability incurred under:**

- 25 (1) IC 6-3 (adjusted gross income tax);
 26 (2) IC 6-5.5 (the financial institutions tax); and
 27 (3) IC 27-1-18-2 (insurance premiums tax);

28 **as computed after the application of the credits that under**
 29 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
 30 **chapter.**

31 **Sec. 7. As used in this chapter, "student" has the meaning set**
 32 **forth in IC 22-4.1-7-7.**

33 **Sec. 8. As used in this chapter, "targeted employment" has the**
 34 **meaning set forth in IC 22-4.1-7-8.**

35 **Sec. 9. As used in this chapter, "taxpayer" means an individual**
 36 **or entity that has state tax liability or is a pass through entity.**

37 **Sec. 10. (a) A taxpayer that during a taxable year:**

- 38 (1) employs in targeted employment at least one (1) student or
 39 graduate; and
 40 (2) complies with the terms of the internship or postgraduate
 41 component of a certified degree program through which the
 42 student was placed with the taxpayer;



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1 is entitled to a credit against the taxpayer's state tax liability in the
2 taxable year.

3 (b) A taxpayer that during a taxable year employs in targeted
4 employment a student or graduate of a certified degree program
5 is entitled to a credit against the taxpayer's state tax liability in the
6 taxable year.

7 **Sec. 11. A credit under this chapter is equal to the sum of:**

8 (1) five hundred dollars (\$500) for each targeted employment
9 position:

10 (A) filled by a student in or a graduate of a certified degree
11 program certified by the state student assistance
12 commission, in consultation with the department of
13 workforce development and the commission for higher
14 education under IC 22-4.1-7; and

15 (B) approved by the sponsoring institution of higher
16 learning; plus

17 (2) the lesser of:

18 (A) the payroll expenditures incurred by the taxpayer in
19 the taxable year to employ the student or graduate in
20 targeted employment; or

21 (B) five hundred dollars (\$500).

22 **Sec. 12. If the credit for which a taxpayer is eligible in a taxable**
23 **year under this chapter exceeds the taxpayer's state tax liability for**
24 **the taxable year, the taxpayer may carry over the excess to the**
25 **immediately following taxable years. The amount of the credit**
26 **carryover from a taxable year shall be reduced to the extent that**
27 **the carryover is used by the taxpayer to obtain a credit under this**
28 **chapter for any subsequent taxable year. A taxpayer is not entitled**
29 **to any carryback or refund.**

30 **Sec. 13. If a pass through entity does not have state income tax**
31 **liability against which the credit under this chapter may be**
32 **applied, a shareholder, partner, or member of the pass through**
33 **entity is entitled to a credit equal to:**

34 (1) the credit determined under this chapter for the pass
35 through entity for the taxable year; multiplied by

36 (2) the percentage of the pass through entity's distributive
37 income to which the shareholder, partner, or member is
38 entitled.

39 **Sec. 14. To receive a credit under this chapter, a taxpayer must**
40 **claim the credit on the taxpayer's state tax return in the manner**
41 **prescribed by the department. The taxpayer must submit to the**
42 **department proof of payment of the payroll expenditures and all**

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1 information that the department determines is necessary to
2 determine the taxpayer's eligibility for the credit.

3 **Sec. 15.** A taxpayer is not eligible to receive both a credit for an
4 employee under this chapter and a credit or deduction for the same
5 employee under any of the following:

6 (1) IC 6-3-3-10 (enterprise zone employment credit).

7 (2) IC 6-3.1-6 (prison investment credit).

8 SECTION 33. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2003]:

11 **Chapter 26. Indiana Growth Scholars Tax Credit**

12 **Sec. 1.** As used in this chapter, "eligible taxpayer" means an
13 individual who satisfies the following requirements:

14 (1) The individual participated in the Indiana growth scholars
15 program established under IC 20-12-20.3.

16 (2) The individual received provisional tax credits under the
17 program described in subdivision (1).

18 (3) The individual graduated from a certified degree program
19 (as defined in IC 20-12-20.3-1).

20 (4) The individual is employed in Indiana.

21 **Sec. 2.** As used in this chapter, "state income tax liability"
22 means an individual's adjusted gross income tax liability under
23 IC 6-3.

24 **Sec. 3. (a)** Beginning with the eligible taxpayer's first taxable
25 year that begins after the date that the eligible taxpayer graduated
26 from a certified degree program, an eligible taxpayer is entitled to
27 a refundable credit against the eligible taxpayer's state income tax
28 liability. The amount of the tax credit is equal to the amount of the
29 provisional credit awarded to the eligible taxpayer in the academic
30 year that corresponds to the number of taxable years following the
31 eligible taxpayer's graduation as follows:

32 Taxable year following	Academic year in the
33 graduation	program
34 1st	1st
35 2nd	2nd
36 3rd	3rd
37 4th	4th

38 (b) If the amount of the credit under this chapter exceeds the
39 eligible taxpayer's state tax liability for the taxable year, the excess
40 shall be refunded to the eligible taxpayer.

41 **Sec. 4.** To obtain the credit provided by this chapter, an eligible
42 taxpayer must file with the department information proving the

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1 **amount of the provisional tax credits awarded to the eligible**
2 **taxpayer as a student participating in the Indiana growth scholars**
3 **program and any other information required by the department.**

4 SECTION 34. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999,
5 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

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

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

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

12 **or**

13 (4) a fund or program established under IC 13-18-13 or
14 IC 13-18-21; **or**

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

16 SECTION 35. IC 8-9.5-9-8, AS AMENDED BY P.L.273-1999,
17 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2003]: Sec. 8. (a) With respect to all leases and contracts
19 entered into by the authority with the Indiana department of
20 transportation, the Indiana department of administration, a fund or
21 program established under IC 13-18-13 or IC 13-18-21, or any other
22 entity to support obligations, the lease or contract may provide that
23 payments under a swap agreement are treated as a debt service on the
24 obligations or as additional rental or other payment due under the lease
25 or contract as the authority may determine.

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

33 SECTION 36. IC 8-10-1-1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote
35 the agricultural, industrial and commercial development of the state,
36 and to provide for the general welfare by the construction and
37 operation, in cooperation with the federal government, or otherwise, of
38 a modern port on ~~Lake Michigan and/or the Ohio River, and/or the~~
39 ~~Wabash River,~~ **system** with terminal facilities to accommodate water,
40 rail, truck, ~~and~~ **air-borne, and other forms of** transportation, the
41 Indiana Port Commission is hereby authorized and empowered to
42 construct, maintain and operate, in cooperation with the federal

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1 government, or otherwise, at such ~~location on Lake Michigan and/or~~
 2 ~~the Ohio River, and/or the Wabash River,~~ **locations** as shall be
 3 approved by the governor, **projects, including without limitation**
 4 public ports with terminal facilities and traffic exchange points
 5 **throughout Indiana** for all forms of transportation, giving particular
 6 attention to the benefits which may accrue to the state and its citizens
 7 from ~~the St. Lawrence Seaway,~~ **all forms of transportation,** and to
 8 issue ~~port~~ revenue bonds of the state payable solely from revenues, to
 9 pay the cost of such projects. **The commission's powers are not**
 10 **limited to ports and may be exercised throughout Indiana for**
 11 **projects that enhance, foster, aid, provide, or promote economic**
 12 **development, public-private partnerships, and other industrial,**
 13 **commercial, business, and transportation purposes.**

14 SECTION 37. IC 8-10-1-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this
 16 chapter, the following words and terms shall have the following
 17 meanings, unless the context shall indicate another or different
 18 meaning or intent:

19 (a) The word "commission" shall mean the Indiana Port
 20 Commission created by section 3 of this chapter, or, if said commission
 21 shall be abolished, the board, body or commission succeeding to the
 22 principal functions thereof, or to whom the powers given by this
 23 chapter to the commission shall be given by law.

24 (b) The word "port" shall include **any combination of:**
 25 (1) any place or places on Lake Michigan, the Ohio River, ~~and the~~
 26 ~~Wabash River,~~ **or other water bodies,** natural or artificial, in
 27 which water-borne vessels capable of carrying articles of
 28 commerce over navigable bodies of water may be loaded,
 29 unloaded or accommodated; **and**
 30 (2) **nonmaritime port and traffic exchange points throughout**
 31 **Indiana for the transfer of goods and passengers between all**
 32 **modes of transportation.**

33 (c) The ~~words~~ "port" ~~word~~ "project" shall include:
 34 (1) any facilities, adjuncts and appurtenances necessary **or useful**
 35 to operate a modern port, **whether or not permanently situated**
 36 **at the port,** including:

- 37 (A) the dredging of approaches ~~thereto, and including, among~~
 38 ~~other things, but not limited to~~ **to a port; and**
- 39 (B) breakwaters, inner harbors, outer harbors, channels,
 40 canals, turning basins, docks, wharves, piers, quays, slips,
 41 loading, unloading, handling and storage equipment,
 42 warehouses, refrigerating plants and equipment, elevators for

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1 the handling and storage of grain, coal and other bulk
2 commodities, terminal buildings or facilities, railroad
3 equipment and trackage, roadways, airplane landing fields,
4 parking lots, garages, automotive equipment, tugs, ferries,
5 maintenance and construction vessels, communication
6 systems, sewers, drains, works for the treatment of sewage,
7 garbage and wastes, and the furnishing of utility service
8 necessary to serve the property under the jurisdiction or
9 control of the commission, and other buildings and facilities
10 which the commission may deem necessary for the operation
11 of the port; **and**

12 **(2) any other project located in Indiana, other than at a port,**
13 **that the commission finds will enhance, foster, aid, provide, or**
14 **promote economic development, public-private partnerships,**
15 **and other industrial, commercial, business, and**
16 **transportation purposes.**

17 (d) The word "cost" as applied to a port or port project shall
18 embrace means:

- 19 (1) the cost of construction;
- 20 (2) the cost of acquisition of all land, rights-of-way, property,
- 21 rights, easements and interests, including lands under water and
- 22 riparian rights acquired by the commission for such construction;
- 23 (3) the cost of demolishing or removing any buildings or
- 24 structures on land so acquired, including the cost of acquiring any
- 25 lands to which such buildings or structures may be moved;
- 26 (4) the cost of relocating public roads;
- 27 (5) **the cost of land or easements therefor, for roads;**
- 28 (6) the cost of all machinery and equipment;
- 29 (7) financing charges;
- 30 (8) interest prior to and during construction and for not exceeding
- 31 two (2) years after the estimated date of completion of
- 32 construction;
- 33 (9) **the cost of engineering and legal expenses, plans,**
- 34 **specifications, surveys, and estimates of cost, traffic and**
- 35 **revenues;**
- 36 (10) other expenses necessary or incident to determining the
- 37 feasibility or practicability of constructing any such project;
- 38 (11) administrative expense; and such
- 39 (12) other expenses as may be necessary or incident to the
- 40 **acquisition or construction of the project, the financing of such**
- 41 **the acquisition or construction, and the placing of the project in**
- 42 **operation, including the amount authorized in the resolution**

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1 **of the port commission providing for the issuance of port**
 2 **commission revenue bonds to be paid into any special funds**
 3 **from the proceeds of the bonds.**

4 **(e) Any obligation, cost, or expense incurred by any**
 5 **governmental agency or person for surveys, borings, the**
 6 **preparation of plans and specifications, and other engineering**
 7 **services, or any other cost described in this section that is incurred**
 8 **in connection with the acquisition or construction of a project may**
 9 **be regarded as part of the cost of the project and may be**
 10 **reimbursed out of the proceeds of port commission revenue bonds**
 11 **as authorized by this chapter.**

12 ~~(e)~~ **(f)** The word "owner" shall include all individuals,
 13 copartnerships, associations or corporations having any title or interest
 14 in any property, rights, easements and other interests authorized to be
 15 acquired by this chapter.

16 ~~(f)~~ **(g)** The word "revenues" shall mean all fees, tolls, rentals, gifts,
 17 grants, moneys and all other funds coming into the possession or under
 18 the control of the commission by virtue of the terms and provisions of
 19 this chapter, but shall not include real property or personal property
 20 other than money, nor the proceeds from the sale of bonds issued under
 21 provisions of this chapter.

22 ~~(g)~~ **(h)** The word "public roads" shall include all public highways,
 23 roads, and streets in the state, whether maintained by the state, county,
 24 city, township or other political subdivision.

25 SECTION 38. IC 8-10-1-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby
 27 created a commission to be known as the "Indiana port commission"
 28 and by that name the commission may sue and be sued, and plead and
 29 be impleaded. The commission hereby created is a body both corporate
 30 and politic in the state of Indiana, and the exercise by the commission
 31 of the powers conferred by this chapter in the construction, operation
 32 and maintenance of a port **or** project shall be deemed and held to be
 33 essential governmental functions of the state, but the commission shall
 34 not however be immune from liability by reason thereof.

35 **(b)** The commission shall consist of seven (7) members, appointed
 36 by the governor, no more than four (4) of whom shall be members of
 37 the same political party. The members shall be residents of the state,
 38 and shall have been qualified electors therein for a period of at least
 39 five (5) years next preceding their appointment. The members of the
 40 commission first appointed shall continue in office for terms expiring,
 41 in the case of two (2) members, on July 1, 1962, and in the case of
 42 three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and



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1 the first two (2) members appointed after January 1, 1975, shall
 2 continue in office for terms expiring July 1, 1977, for one (1) member
 3 and July 1, 1979, for the other member, respectively, and until their
 4 respective successors shall be duly appointed and qualified. The term
 5 of any member of the commission first appointed shall be designated
 6 by the governor. The successor of each such member shall be
 7 appointed for a term of four (4) years, except that any person appointed
 8 to fill a vacancy shall be appointed to serve only for the unexpired
 9 term, and a member of the commission shall be eligible for
 10 reappointment. The governor may at any time remove any member of
 11 the commission for misfeasance, nonfeasance, or malfeasance in office.
 12 The members of the commission shall, within ten (10) days after their
 13 appointment, meet and qualify by subscribing an oath to discharge
 14 honestly and faithfully the duties of their office as members of such
 15 commission. The commission shall thereafter elect one (1) of the
 16 members as chairman and another as vice-chairman, and shall appoint
 17 a secretary-treasurer who need not be a member of the commission.
 18 Four (4) members of the commission shall constitute a quorum and the
 19 affirmative vote of four (4) members shall be necessary for any official
 20 action taken by the commission. No vacancy in the membership of the
 21 commission shall impair the rights of a quorum to exercise all the
 22 rights and perform all the duties of the commission.

23 (c) Before the issuance of any ~~port~~ revenue bonds under the
 24 provisions of this chapter, each appointed member of the commission
 25 shall give a surety bond to the state in the penal sum of twenty-five
 26 thousand dollars (\$25,000) and the secretary-treasurer shall give a
 27 surety bond to the state in the penal sum of fifty thousand dollars
 28 (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the
 29 faithful performance of the duties of the office, to be executed by a
 30 surety company authorized to transact business in the state as surety
 31 and to be approved by the governor and filed in the office of the
 32 secretary of state.

33 (d) Each appointed member of the commission shall receive an
 34 annual salary of seven thousand, five hundred dollars (\$7,500), payable
 35 in monthly instalments. However, no members of such commission as
 36 appointed hereunder shall receive any salary except a per diem as fixed
 37 and approved by the budget director until said commission is able to
 38 carry on the full operations as intended by this chapter, and the budget
 39 director, subject to the approval of the governor of the state of Indiana,
 40 shall determine when said salaries for said commission members shall
 41 commence. ~~The governor shall, however, appoint said members as~~
 42 ~~herein provided within a period of sixty (60) days following the~~



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effective date of this chapter.

(e) Each member shall be reimbursed for ~~his~~ **the member's** actual expenses necessarily incurred in the performance of ~~his~~ **the member's** duties.

(f) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this chapter.

SECTION 39. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this chapter, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and nothing in this chapter contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 40. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

- (1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such~~ **public port or port the ports or** projects and deems to be in the public interest;
- (2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake

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- 1 Michigan, the Ohio River, the Wabash River, or in waters
 2 adjacent to Indiana;
- 3 (3) locate and acquire a suitable ~~site sites~~ for ~~such public port or~~
 4 ~~port ports or~~ projects;
- 5 (4) construct, develop, maintain, and operate the same in
 6 cooperation with the federal government, any agency of the
 7 federal government, a corporation established under IC 36-7-23,
 8 or otherwise, in such a manner and on such terms as will, in the
 9 discretion of the commission, best serve the commercial,
 10 industrial, and agricultural interests of the state;
- 11 (5) provide adequate port and terminal facilities to accommodate
 12 water, rail, truck, ~~and~~ airborne ~~and other forms of~~ transportation;
 13 and
- 14 (6) provide a traffic exchange point for all forms of transportation,
 15 giving particular attention to the benefits which may accrue to the
 16 state and its citizens by the opening of the St. Lawrence Seaway
 17 and river transportation.
- 18 (b) The title to all property included in any port ~~or~~ project shall be
 19 taken in the name of, and shall be in, the state of Indiana.
- 20 SECTION 41. IC 8-10-1-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is
 22 authorized and empowered **to do the following:**
- 23 (1) To adopt bylaws for the regulation of its affairs and the
 24 conduct of its business.
- 25 (2) To adopt an official seal which shall not be the seal of the
 26 state of Indiana.
- 27 (3) To maintain a principal office and sub-offices at such place or
 28 places within the state as it may designate.
- 29 (4) To sue and be sued, and to plead and be impleaded in its own
 30 name. However, actions at law against the commission shall be
 31 brought in the circuit court of the county in which the principal
 32 office of the commission is located or in the circuit court of the
 33 county in which the cause of action arose, if the county is located
 34 within the state. All summonses and legal notices of every kind
 35 shall be served on the commission by leaving a copy thereof at the
 36 principal office of the commission with the person in charge
 37 thereof or with the secretary of the commission. However, no such
 38 action shall be deemed commenced until a copy of the summons
 39 and complaint, cross complaint, petition, bill, or pleading is
 40 served upon the attorney general of Indiana.
- 41 (5) To acquire, lease, construct, maintain, repair, police, and
 42 operate a port or ~~port~~ project as provided in this chapter, and to

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establish rules and regulations for the use of ~~such the~~ port or port project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port both taxable and tax exempt~~ revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or port project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or port project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or port project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property.~~ **or project.**

(11) To lease to others for development or operation such portions of any port or port project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana,~~ **the county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may

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1 reject any and all bids. A bond with good and sufficient surety as
 2 shall be approved by the commission, shall be required of all
 3 contractors in an amount equal to at least fifty percent (50%) of
 4 the contract price conditioned upon the faithful performance of
 5 the contract.

6 **(13) To construct, assemble, or otherwise build, own, lease,**
 7 **operate, manage, or otherwise control any project throughout**
 8 **Indiana for the purpose of promoting economic growth and**
 9 **development throughout Indiana, retaining existing**
 10 **employment within Indiana, and attracting new employment**
 11 **opportunities within Indiana.**

12 ~~(13)~~ **(14)** To employ an executive director or manager, consulting
 13 engineers, superintendents, and such other engineers, construction
 14 and accounting experts, attorneys, and other employees and
 15 agents as may be necessary in its judgment, and to fix their
 16 compensation, but no compensation of any employee of the
 17 commission shall exceed the compensation of the highest paid
 18 officer or employee of the state. However, the employment of an
 19 attorney shall be subject to such approval of the attorney general
 20 as may be required by law.

21 ~~(14)~~ **(15)** To receive and accept from any federal agency grants
 22 for or in aid of the construction of any port or ~~port~~ project, and to
 23 receive and accept aid or contributions from any source of either
 24 money, property, labor, or other things of value, to be held, used,
 25 and applied only for the purposes for which such grants and
 26 contributions may be made.

27 ~~(15)~~ **(16)** To provide coverage for its employees under the
 28 provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

29 ~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out
 30 the powers expressly granted in this chapter. ~~and~~

31 ~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums
 32 as may herein or hereafter be appropriated or transferred to the
 33 commission.

34 SECTION 42. IC 8-10-1-8 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission
 36 shall find it necessary to change the location of any portion of any
 37 public road, **highway**, railroad, or public utility facility, it shall cause
 38 the same to be reconstructed at such location as the division of
 39 government having jurisdiction over such road, highway, railroad or
 40 public utility facility shall deem most favorable and of substantially the
 41 same type and in as good condition as the original road, highway, or
 42 railroad or public utility facility. The cost of such reconstruction,

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1 relocation, or removal and any damage incurred in changing the
2 location of any such road, highway, railroad, or public utility facility,
3 shall be ascertained and paid by the commission as a part of the cost of
4 ~~such the~~ port or ~~port~~ project. The commission shall have authority to
5 petition the circuit court of the county wherein is situated any public
6 road or part thereof, affected by the location therein of any port or ~~port~~
7 project, for the vacation or relocation of such road or any part thereof
8 with the same force and effect as statutes in effect on March 2, 1961,
9 to the inhabitants of any municipality or governmental subdivision of
10 the state. The proceedings upon such petition, whether it be for the
11 appointment of appraisers or otherwise, shall be the same as provided
12 by statutes in effect on March 2, 1961, for similar proceedings upon
13 such petitions. In addition to the foregoing powers, the commission and
14 its authorized agents and employees, after proper notice, may enter
15 upon any lands, waters, and premises in the state for the purpose of
16 making surveys, soundings, drillings, and examinations as are
17 necessary or proper for the purposes of this chapter, and such entry
18 shall not be deemed a trespass, nor shall an entry for such purpose be
19 deemed an entry under any condemnation proceedings which may be
20 then pending; provided, that before entering upon the premises of any
21 railroad, notice shall be given to the superintendent of such railroad
22 involved at least five (5) days in advance of such entry, and provided,
23 that no survey, sounding, drilling, and examination shall be made
24 between the rails, or so close to a railroad track, as would render said
25 track unusable. The commission shall make reimbursement for any
26 actual damage resulting to such lands, waters, and premises and to
27 private property located in, on, along, over, or under such lands, waters
28 and premises, as a result of such activities. The state of Indiana, subject
29 to the approval of the governor, hereby consents to the use of lands
30 owned by it, including lands lying under water and riparian rights,
31 which are necessary or proper for the construction or operation of any
32 port or ~~port~~ project, provided adequate compensation is made for such
33 use. The commission shall also have power to make reasonable
34 regulations for the installation, construction, maintenance, repair,
35 renewal, relocation, and removal of tracks, pipes, mains, conduits,
36 cables, wires, towers, poles, and other equipment and appliances
37 (referred to in this section as "public utility facilities") of any public
38 utility in, on, along, over, or under any port or ~~port~~ project. Whenever
39 the commission shall determine that it is necessary that any such public
40 utility facilities which are, on or after March 2, 1961, located in, on,
41 along, over, or under any ~~such~~ port or ~~port~~ project should be relocated
42 or should be removed from ~~such the~~ port or ~~port~~ project, the public

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1 utility owning or operating such facilities shall relocate or remove the
 2 same in accordance with the order of the commission. ~~provided;~~
 3 However, ~~that~~ the cost and expenses of such relocation or removal,
 4 including the cost of installing such facilities in a new location or new
 5 locations, and the cost of any lands, or any rights or interests in lands,
 6 and any other rights, acquired to accomplish such relocation or
 7 removal, shall be ascertained and paid by the commission as a part of
 8 the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in
 9 which such equipment or facilities are located within the limits of
 10 highways or public thoroughfares being constructed, reconstructed, or
 11 improved under the provisions of this chapter. In case of any such
 12 relocation or removal of facilities, the public utility owning or
 13 operating the same, its successors or assigns, may maintain and operate
 14 such facilities, with the necessary appurtenances, in the new location
 15 or new locations, for as long a period, and upon the same terms and
 16 conditions, as it had the right to maintain and operate such facilities in
 17 their former location or locations subject, however, to the state's right
 18 of regulation under its police powers.

19 SECTION 43. IC 8-10-1-9 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission
 21 shall have power to adopt such by-laws, rules and regulations as it may
 22 deem advisable for the control and regulation of any port or ~~port~~ project
 23 or traffic on any port or ~~port~~ project, for the protection of and
 24 preservation of property under its jurisdiction and control, and for the
 25 maintenance and preservation of good order within the property under
 26 its control, and such by-laws, rules and regulations shall be published
 27 in a newspaper of general circulation in Marion County, Indiana, and
 28 in such other manner as the commission shall prescribe; however, such
 29 rules and regulations shall provide that public officers shall be afforded
 30 ready access, while in performance of their official duty, to all property
 31 under the jurisdiction or control of the commission without the
 32 payment of tolls.

33 (b) Such rules and regulations adopted under this section shall be
 34 adopted under IC 4-22-2.

35 (c) A person who violates a rule or regulation of the commission
 36 commits a Class C infraction.

37 SECTION 44. IC 8-10-1-10 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission
 39 is hereby authorized and empowered to acquire by purchase whenever
 40 it shall deem such purchase expedient, any land, property, rights,
 41 right-of-ways, franchises, easements and other interests in lands,
 42 including lands under water and riparian rights, as it may deem

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1 necessary or convenient for the construction and operation of any port
 2 or port project, upon such terms and at such price as may be considered
 3 by it to be reasonable and can be agreed upon between the commission
 4 and the owner thereof, and to take title thereto in the name of the state.

5 (b) The commission is hereby further authorized and empowered to
 6 sell, transfer and convey any such land or any interest therein so
 7 acquired, or any portion thereof, when the same shall no longer be
 8 needed for such purposes. ~~and it~~ **The commission** is further authorized
 9 and empowered to transfer and convey any such lands or interest
 10 therein as may be necessary or convenient for the construction and
 11 operation of any port or port project, or as otherwise required under the
 12 provisions of this chapter. ~~Provided, That~~ **However**, no such sale shall
 13 be made without **first obtaining** the approval of the Governor, ~~first~~
 14 ~~obtained~~ and **a sale may not be made** at ~~not~~ less than the appraised
 15 value established by three (3) independent appraisers appointed by the
 16 Governor. The commission shall be authorized to restrict the use of any
 17 land so sold by it and provide for a reversion to the commission in the
 18 event the land shall not be used for the purpose represented by the
 19 purchaser, and such restrictions and reversions shall be set out in
 20 appropriate covenants in the deeds of conveyance, which deeds shall
 21 be subject to the approval of the Governor.

22 (c) The commission shall also be authorized to lease, or grant
 23 options to lease, to others for development any portion of the land
 24 owned by the commission, on such terms as the commission shall
 25 determine to be advantageous. All such leases or options to lease which
 26 leases cover a period of more than four (4) years shall be subject to the
 27 approval of the Governor. Leases of lands under the jurisdiction or
 28 control of the commission shall be made only for such uses and
 29 purposes as are calculated to contribute to the growth and development
 30 of ~~the port and ports~~, terminal facilities, **and projects** under the
 31 jurisdiction or control of the commission. In the event the commission
 32 shall lease to others a building or structure financed by the issuance of
 33 revenue bonds the rental shall be in an amount at least sufficient to pay
 34 the interest on and principal of the amount of such bonds representing
 35 the cost of such building or structure to the extent such interest and
 36 principal is payable during the term of the lease, as well as to pay the
 37 cost of maintenance, repair and insurance for such building and a
 38 reasonable portion of the commission's administrative expense incurred
 39 during the term of the lease which is allocable to such building or
 40 structure.

41 (d) **No tenant, lessee, licensee, owner of real estate located within**
 42 **a port or project, or other person or entity has any right, claim,**



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1 title, or interest in any real estate, personal property, or common
2 property owned by the commission, a port, a project, or the state,
3 unless a written agreement entered into by the commission
4 expressly provides:

- 5 (1) the exact nature and extent of the right, claim, title, or
- 6 interest;
- 7 (2) all the conditions under which the right, claim, title, or
- 8 interest is granted; and
- 9 (3) a legal or complete description of the specific property.

10 SECTION 45. IC 8-10-1-11 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is
12 hereby authorized and empowered to acquire by appropriation, under
13 the provisions of the eminent domain law of the state, any land,
14 including lands under water and riparian rights, property, rights,
15 rights-of-way, franchises, easements, or other property necessary or
16 proper for the construction or the efficient operation of any port or port
17 project. The commission shall also be empowered to exercise such
18 powers of eminent domain as may be conferred upon the commission
19 by an act of Congress of the United States now in force, or which may
20 hereafter be enacted. Title to the property condemned shall be taken in
21 the name of the state of Indiana. Nothing herein shall authorize the
22 commission to take or disturb property or facilities constituting all or
23 part of any presently existing or operating public port and nothing
24 herein shall authorize the commission to take or disturb property or
25 facilities belonging to any public utility or to a common carrier engaged
26 in interstate commerce, which property or facilities are required for the
27 proper and convenient operation of such public utility or common
28 carrier, unless provision is made for the restoration, relocation or
29 duplication of such property or facilities elsewhere at the sole cost of
30 the commission excepting however, cases in which such equipment or
31 facilities are located within the limits of existing highways or public
32 thoroughfares.

33 SECTION 46. IC 8-10-1-12 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and
35 distinct revolving fund is hereby created, to be known as the Indiana
36 port fund. Expenditures from said fund shall be made only for the
37 acquisition of land including lands under water and riparian rights, or
38 options for the purchase of such land for a port or project site, and
39 incidental expenses incurred in connection with such acquisition, and
40 for studies in connection with the port or project, and including
41 administrative expenses of the commission. Said fund shall be held in
42 the name of the Indiana port commission, shall be administered by the

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1 commission, and all expenditures therefrom shall be made by the
 2 commission, subject, however, to the approval by governor and the
 3 state budget committee of all expenditures of moneys advanced to said
 4 fund by the state of Indiana. Requests for such approval shall be made
 5 in such form as shall be prescribed by the budget committee, but
 6 expenditures for acquisition of land including lands under water and
 7 riparian rights, or options for the purchase of such land, shall be
 8 specifically requested and approved as to the land to be acquired and
 9 the amount to be expended. No transfers from said fund to any other
 10 fund of the state shall be made except pursuant to legislative action. All
 11 unexpended funds appropriated to the Indiana board of public harbors
 12 and terminals by Acts 1957, c.286, s.6, are hereby transferred to and
 13 made a part of the Indiana port fund created by this section, and shall
 14 be expended for the purpose and in the manner provided by this
 15 chapter, subject only to the restrictions contained in this chapter and no
 16 others; provided, however, that not to exceed one hundred thousand
 17 dollars (\$100,000) shall be expended for any purpose other than the
 18 acquisition of land, including lands under water and riparian rights, or
 19 options for the purchase of such land for a port **or project** site, and
 20 incidental expenses incurred in connection with such acquisition.

21 (b) Upon the sale of port revenue bonds for any port **or project**, the
 22 funds expended from the Indiana port fund in connection with the
 23 development of such **port or project** and any obligation or expense
 24 incurred by the commission for surveys, preparation of plans and
 25 specifications, and other engineering or other services in connection
 26 with development of such **port or project** shall be reimbursed to the
 27 state general fund from the proceeds of such bonds.

28 SECTION 47. IC 8-10-1-13 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission
 30 is hereby authorized to provide by resolution, at one **(1)** time or from
 31 time to time, for the issuance of port revenue bonds of the state for the
 32 purpose of paying all or any part of the cost of a port **or project**. The
 33 principal of and the interest on such bonds shall be payable solely from
 34 the revenues specifically pledged to the payment thereof. The bonds of
 35 each issue shall be dated, shall bear interest at any rate, shall mature at
 36 such time or times not exceeding fifty (50) years from the date thereof,
 37 as may be determined by the commission, and may be made
 38 redeemable before maturity, at the option of the commission, at such
 39 price or prices and under such terms and conditions as may be fixed by
 40 the commission in the authorizing resolution.

41 (b) The commission shall determine the form of the bonds,
 42 including any interest coupons to be attached thereto, and shall fix the



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1 denomination or denominations of the bonds and the place or places of
2 payment of principal and interest which may be at any bank or trust
3 company within or without the state.

4 (c) The bonds shall be signed in the name of the commission, by its
5 chairman or vice chairman or by the facsimile signature of such
6 chairman or vice chairman, and the official seal of the commission, or
7 facsimile thereof, shall be affixed thereto and attested by the
8 secretary-treasurer of the commission, and any coupons attached
9 thereto shall bear the facsimile signature of the chairman of the
10 commission. In case any officer whose signature or a facsimile of
11 whose signature shall appear on any bonds or coupons shall cease to be
12 such officer before the delivery of such bonds, such signature or such
13 facsimile shall nevertheless be valid and sufficient for all purposes the
14 same as if he had remained in office until such delivery.

15 (d) All bonds issued under this chapter shall have and are hereby
16 declared to have all the qualities and incidents of negotiable
17 instruments under the negotiable instruments law of the state of
18 Indiana.

19 (e) The bonds may be issued in coupon or in registered form, or
20 both, as the commission may determine, and provision may be made
21 for the registration of any coupon bonds as to principal alone and also
22 as to both principal and interest, and for the reconversion into coupon
23 bonds of any bonds registered as to both principal and interest.

24 (f) The bonds shall be sold at public sale in accordance with
25 IC 4-1-5, **except as provided in IC 8-10-4.**

26 (g) **No action to contest the validity of any bonds issued by the**
27 **commission under this chapter shall be commenced more than**
28 **thirty (30) days following the adoption of the resolution approving**
29 **the bonds as provided in this chapter.**

30 SECTION 48. IC 8-10-1-14 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the
32 bonds of each issue shall be used solely for the payment of the cost of
33 the port **or** project for which such bonds shall have been issued, and
34 shall be disbursed in such manner and under such restrictions, if any,
35 as the commission may provide in the resolution authorizing the
36 issuance of such bonds or in the trust agreement mentioned in this
37 chapter securing the same. If the proceeds of the bonds of any issue, by
38 error of estimates or otherwise, shall be less than such cost, additional
39 bonds may in like manner be issued to provide the amount of such
40 deficit, and, unless otherwise provided in the resolution authorizing the
41 issuance of such bonds or in the trust agreement securing the same,
42 shall be deemed to be of the same issue and shall be entitled to

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1 payment from that same fund without preference or priority of the
 2 bonds first issued. If the proceeds of the bonds of any issue shall
 3 exceed the cost of the port **or** project for which the same shall have
 4 been issued, the surplus shall be deposited to the credit of the sinking
 5 fund for such bonds. Prior to the preparation of definitive bonds, the
 6 commission may, under like restrictions, issue interim receipts or
 7 temporary bonds, with or without coupons, exchangeable for definitive
 8 bonds when such bonds shall have been executed and are available for
 9 delivery. The commission may also provide for the replacement of any
 10 bonds which shall become mutilated or shall be destroyed or lost.
 11 **Bonds and any other instruments or the security for the bonds and**
 12 **other instruments that are authorized by this chapter** may be issued
 13 under the provisions of this chapter without obtaining the consent of
 14 any officer, department, division, commission, board, bureau, or
 15 agency of the state, and without any other proceedings or the happening
 16 of any other conditions or things than those proceedings, conditions, or
 17 things which are specifically required by this chapter.

18 SECTION 49. IC 8-10-1-15 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is
 20 hereby authorized to provide by resolution for the issuance of ~~port~~
 21 ~~revenue~~ refunding bonds of the state payable solely from revenues for
 22 the purpose of refunding any bonds then outstanding which shall have
 23 been issued under the provisions of **section 13** of this chapter,
 24 including the payment of any redemption premium thereon and any
 25 interest accrued or to accrue to the date of redemption of such bonds,
 26 and, if deemed advisable by the commission, for the additional purpose
 27 of constructing improvements, extensions, or enlargements of the port
 28 **or** project in connection with which the bonds to be refunded shall
 29 have been issued. The issuance of such bonds, the maturities and other
 30 details thereof, the rights of the holders thereof and the rights, duties,
 31 and obligations of the commission in respect of the same, shall be
 32 governed by the provisions of this chapter insofar as the same may be
 33 applicable.

34 SECTION 50. IC 8-10-1-16 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of
 36 the commission any bonds issued under the provisions of this act may
 37 be secured by a trust agreement by and between the commission and a
 38 corporate trustee, which may be any trust company or bank having the
 39 powers of a trust company within the state. Any resolution adopted by
 40 the commission providing for the issuance of **revenue** bonds and any
 41 trust agreement pursuant to which such bonds are issued may pledge
 42 or assign all or any portion of the revenues received or to be received



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1 by the commission except such part as may be necessary to pay the cost
2 of the commission's administrative expenses, operation, maintenance,
3 and repair and to provide reserves therefor and depreciation reserves
4 required by any bond resolution adopted or trust agreement executed
5 by the commission, but the commission shall not convey or mortgage
6 any port ~~port or~~ project or any part thereof. In authorizing the issuance
7 of bonds for any particular port ~~or~~ project, ~~undertaken in connection~~
8 ~~with the development of the port~~, the commission may limit the amount
9 of such bonds that may be issued as a first lien and charge against the
10 revenues pledged to the payment of such bonds or the commission may
11 authorize the issuance from time to time thereafter of additional bonds
12 secured by the same lien to provide funds for the completion of the port
13 ~~or~~ project on account of which the original bonds were issued, or to
14 provide funds to pay the cost of additional ~~port~~ projects undertaken in
15 connection with the development of the port ~~or~~ **project**, or for both
16 such purposes. Such additional bonds shall be issued on such terms and
17 conditions as may be provided in the bond resolution or resolutions
18 adopted by the commission and in the trust agreement or any
19 agreement supplemental thereto and may be secured equally and
20 ratably without preference, priority or distinction with the original issue
21 of bonds or may be made junior thereto. Any pledge or assignment
22 made by the commission pursuant hereto shall be valid and binding
23 from the time that the pledge or assignment is made and the revenues
24 so pledged and thereafter received by the commission shall
25 immediately be subject to the lien of such pledge or assignment without
26 physical delivery thereof or further act. The lien of such pledge or
27 assignment shall be valid and binding against all parties having claims
28 of any kind in tort, contract or otherwise against the commission
29 irrespective of whether such parties have notice thereof. Neither the
30 resolution nor any trust agreement by which a pledge is created or
31 assignment made need be filed or recorded except in the records of the
32 commission. Any such trust agreement or any resolution providing for
33 the issuance of such bonds may contain such provisions for protecting
34 and enforcing the rights and remedies of the bondholders as may be
35 reasonable and proper and not in violation of law, including, but not
36 limited to, covenants setting forth the duties of the commission in
37 relation to the acquisition of property and the construction,
38 improvement, maintenance, repair, operation, and insurance of the port
39 ~~or~~ project in connection with which such bonds shall have been
40 authorized, the rates of fees, tolls, rentals, or other charges, to be
41 collected for the use of the project, and the custody, safeguarding, and
42 application of all moneys, and provisions for the employment of

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1 consulting engineers in connection with the construction or operation
 2 of such project. It shall be lawful for any bank or trust company
 3 incorporated under the laws of the state which may act as depository of
 4 the proceeds of bonds or other funds of the commission, to furnish such
 5 indemnifying bonds or to pledge such securities as may be required by
 6 the commission. Any such trust agreement may set forth the rights and
 7 remedies of the bondholders and of the trustee, and may restrict the
 8 individual right of action by bondholders as is customary in trust
 9 agreements or trust indentures securing bonds or debentures of private
 10 corporations. In addition to the foregoing, any such trust agreement
 11 may contain such other provisions as the commission may deem
 12 reasonable and proper for the security of the bondholders. All expenses
 13 incurred in carrying out the provisions of any such trust agreement may
 14 be treated as a part of the cost of the operation of the port **or** project.

15 SECTION 51. IC 8-10-1-17 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission
 17 shall be authorized to fix, review, charge, and collect fees, tolls, rentals,
 18 and other charges for the use of the ~~port, port project,~~ **ports, projects,**
 19 terminal facilities, and lands under the jurisdiction or control of the
 20 commission or services rendered by the commission, and the aggregate
 21 thereof shall provide revenues at least sufficient to pay the cost of
 22 operation, maintenance and repair of the port **or project** and terminal
 23 facilities, including the administration expenses of the commission, and
 24 in case revenue bonds are issued, sufficient to pay the interest on and
 25 principal of the bonds in accordance with their terms, and also
 26 sufficient to establish and maintain reserves created for all such
 27 purposes and for depreciation purposes. The fixing and collection of
 28 such fees, tolls, rentals and other charges and the expenditure of the
 29 revenues derived therefrom shall not be subject to the supervision or
 30 regulation by any other officer, commission, board, bureau, or agency
 31 of the state. After such bonds have been fully paid and discharged and
 32 all obligations under any trust agreement securing the same have been
 33 performed or satisfied, any remaining surplus net revenues and all
 34 surplus net revenues thereafter derived from the operation of ~~such the~~
 35 port **or project** shall be paid into the state general fund.

36 SECTION 52. IC 8-10-1-19 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of
 38 bonds issued under the provisions of this chapter or any of the coupons
 39 appertaining thereto, and the trustee under any trust agreement, except
 40 to the extent the rights given in this chapter may be restricted by the
 41 authorizing resolution or trust agreement, may, either at law or in
 42 equity, by suit, action, mandamus, or other proceedings, protect and



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1 enforce any and all rights under the statutes of the state or granted
 2 under this chapter or under such trust agreement, or the resolution
 3 authorizing the issuance of such bonds, and may enforce and compel
 4 the performance of all duties required by this chapter or by such trust
 5 agreement or resolution to be performed by the commission or by any
 6 officer thereof, including the fixing, charging, and collecting of fees,
 7 tolls, rentals, or other charges for the use of the port or ~~port~~ project.

8 SECTION 53. IC 8-10-1-20 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~
 10 project, as defined in section 2 of this chapter, when constructed and
 11 **opened to traffic placed in operation** shall be maintained and kept in
 12 good condition and repair by the commission. Each such project shall
 13 also be policed and operated by such force of police, tolltakers, and
 14 other operating employees as the commission may in its discretion
 15 employ. All public or private property damaged or destroyed in
 16 carrying out the powers granted by this chapter shall be restored or
 17 repaired and placed in its original condition as nearly as practicable or
 18 adequate compensation made therefor out of funds provided under the
 19 authority of this chapter.

20 SECTION 54. IC 8-10-1-21 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities,
 22 towns, townships and other political subdivisions and all public
 23 agencies and commissions of the state, notwithstanding any contrary
 24 provision of law, are hereby authorized and empowered to lease, lend,
 25 grant or convey to the commission at its request upon such terms and
 26 conditions as the proper authorities of such counties, cities, towns,
 27 townships, other political subdivisions or public agencies, and
 28 commissions of the state may deem reasonable and fair and without the
 29 necessity for an advertisement, order of court or other action or
 30 formality, other than the regular and formal action of the authorities
 31 concerned, any real **or personal** property owned by any such
 32 municipality or governmental subdivision which may be necessary or
 33 convenient to the effectuation of the authorized purposes of the
 34 commission.

35 SECTION 55. IC 8-10-1-22 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. **(a)** The commission
 37 shall cause an audit of its books and accounts to be made at least once
 38 each year by certified public accountants and the cost thereof may be
 39 treated as a part of the cost of construction or of operations of the
 40 ~~project:~~ **commission's ports and projects.** The accounts, books, and
 41 records of the Indiana port commission shall be audited annually by the
 42 state board of accounts, and the cost of such audit may be treated as a

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1 part of the cost of construction or of operations of the ~~port project~~.
2 **commission's ports and projects.**

3 **(b) The commission shall, following the close of each fiscal year,**
4 **submit an annual report of its activities for the preceding year to**
5 **the governor. Each member of the general assembly shall receive**
6 **a copy of such report by making a request for it to the chairman of**
7 **the commission. Each report shall set forth a complete operating**
8 **and financial statement for the commission during the fiscal year**
9 **it covers.**

10 SECTION 56. IC 8-10-1-25 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds
12 issued by the commission under the provisions of this chapter shall
13 constitute legal investments for any private trust funds, and the funds
14 of any banks, trust companies, insurance companies, building and loan
15 associations, credit unions, banks of discount and deposit, savings
16 banks, loan and trust, and safe deposit companies, rural loan and
17 savings associations, guaranty loan and savings associations, mortgage
18 guaranty companies, small loan companies, and industrial loan and
19 investment companies, and any other financial institutions organized
20 under Indiana statutes. **The bonds are also made securities that may**
21 **be deposited with and received by all public officers and bodies of**
22 **this state or any agency or political subdivisions of this state and all**
23 **municipalities and public commissions for any purpose for which**
24 **the deposit of bonds or other obligations of this state is now or may**
25 **be later authorized by law.**

26 SECTION 57. IC 8-10-1-27 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of
28 the powers granted by this chapter will be in all respects for the benefit
29 of the people of the state, for the increase of their commerce and
30 prosperity, and for the improvement of their health and living
31 conditions.

32 (b) As the operation and maintenance of a port ~~or~~ project by the
33 commission will constitute the performance of essential governmental
34 functions, the commission shall not be required to pay any taxes or
35 assessments upon any port ~~or~~ project or any property acquired or used
36 by the commission under the provisions of this chapter or upon the
37 income therefrom. The bonds issued by the commission, the interest
38 thereon, the proceeds received by a holder from the sale of such bonds
39 to the extent of the holder's cost of acquisition, or proceeds received
40 upon redemption prior to maturity or proceeds received at maturity, and
41 the receipt of such interest and proceeds shall be exempt from taxation
42 in the state of Indiana for all purposes except the financial institutions

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1 tax imposed under IC 6-5.5 or a state inheritance tax imposed under
2 IC 6-4.1.

3 (c) Notwithstanding any other statute, a lessee's leasehold estate in
4 land that **is qualifies as** part of a port **under section 2(b)(1) of this**
5 **chapter** and that is owned by the state or the commission is exempt
6 from property taxation. **However, an exemption under this**
7 **subsection is not available for land that qualifies as part of a port**
8 **under section 2(b)(2) of this chapter or any other provision other**
9 **than section 2(b)(1) of this chapter.**

10 SECTION 58. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE
11 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
12 1, 2003]: **Sec. 30. The state hereby pledges and agrees with the**
13 **holders of any bonds issued under this chapter that the state will**
14 **not limit or alter the rights vested in the commission to fulfill the**
15 **terms of any agreements made with the holders or in any way**
16 **impair the rights or remedies of the holders until the bonds,**
17 **together with the interest, with interest on any unpaid installments**
18 **of interest, and all costs and expenses in connection with any action**
19 **or proceeding by or on behalf of the holders, are fully met and**
20 **discharged. The commission is authorized to include this pledge**
21 **and agreement of the state in any agreement with the holders of the**
22 **bonds.**

23 SECTION 59. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE
24 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
25 1, 2003]: **Sec. 31. (a) Except as provided in subsection (b), the**
26 **commission may not:**

- 27 (1) **enter into a contract for the construction or repair of any**
28 **building, structure, or other improvement;**
29 (2) **take another action in furtherance of the commission's**
30 **authorized purposes; or**
31 (3) **enter into a loan agreement for the borrowing of funds for**
32 **an improvement undertaken by the commission;**

33 **where the commission is the contracting entity, unless laborers and**
34 **mechanics employed on the improvements are paid the common**
35 **construction wage of laborers and mechanics for the class of work**
36 **called for by the improvement. For purposes of this section, wages**
37 **shall be determined in accordance with the requirements of**
38 **IC 5-16-7.**

39 (b) **Subsection (a) does not apply where the federal government**
40 **or any of its agencies furnishes by loan or grant all or any part of**
41 **the funds used in connection with the project and prescribes**
42 **predetermined minimum wages to be paid to the laborers and**

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1 **mechanics.**

2 SECTION 60. IC 8-10-2-2 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the
 4 powers conferred upon the Indiana port commission by other
 5 provisions of this article, the commission, whenever it finds that the
 6 economic welfare of the state would thereby be benefited, by additional
 7 employment opportunities, or by additional diversification of industry
 8 within the state, or by increased income or prosperity to the state and
 9 its residents, or for any other reason, shall have the power to acquire,
 10 construct, maintain, repair, police, and lease to others such facilities for
 11 manufacturing, storage, or processing of goods, or for the carrying on
 12 of commercial, business, or recreational activities as the commission
 13 further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~
 14 **project**. Any such facilities and the site thereof shall not be exempt
 15 from property taxation, and the lessee in any lease thereof shall agree
 16 to pay all property taxes levied on such facilities and the site thereof.

17 (b) In exercising the powers granted in this section, the commission
 18 shall have all the powers granted to it by this article, in connection with
 19 a ~~port~~ project, and the term "~~port~~" "project", as used in IC 8-10-1, shall
 20 be deemed to include facilities, adjuncts, and appurtenances of the
 21 character referred to in this section.

22 (c) It is further declared that the acquisition, construction,
 23 maintenance, repair, policing of, and leasing to others of such facilities
 24 under the conditions set forth in this section is a public purpose.

25 (d) Nothing in this section shall authorize the Indiana port
 26 commission to take, condemn, or disturb any property right or interest
 27 in property, existing on March 10, 1967, including permits and
 28 authorities to fill and reclaim submerged lands, or any facilities
 29 constituting all or part of any operating property or any private or
 30 public port. The Indiana port commission shall make reimbursement
 31 for any actual damage to any public or private facilities, including but
 32 not limited to breakwaters, water intakes, wharves, piers, boat docks,
 33 warehouses, and pipeline equipment resulting from the exercise by it
 34 of any powers granted to it by this section.

35 SECTION 61. IC 8-10-4-1 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this
 37 chapter, "self-liquidating ~~port~~ project" shall mean a ~~port~~ project for
 38 which a lease or leases have been executed providing for payment of
 39 rental in an amount at least sufficient to pay the interest and principal
 40 of such bonds to be issued to finance the cost of such ~~port~~ project and
 41 further providing for the payment by the lessee or lessees of all costs
 42 of maintenance, repair, and insurance of such ~~port~~ project.



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1 (b) Other words and terms used in this chapter shall have the same
2 meaning as in other provisions of this article, unless otherwise
3 specifically provided.

4 SECTION 62. IC 8-10-4-2 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the
6 powers conferred upon the Indiana port commission by other
7 provisions of this article, the commission, in connection with any
8 self-liquidating port project, shall have the following powers
9 notwithstanding any other provision of this article to the contrary:

10 (a) The revenue bonds issued by the commission to finance the
11 cost of such self-liquidating port project may be issued without
12 regard to any maximum interest rate limitation in this article or
13 any other law.

14 (b) The revenue bonds issued by the commission to finance the
15 cost of such self-liquidating port project may be sold in such
16 manner, either at public or private sale, as the commission may
17 determine, and the provisions of IC 4-1-5 shall not be applicable
18 to such sale.

19 (c) **IC 4-13.6, IC 5-16 (other than IC 5-16-7), and IC 36-1-12**
20 **do not apply to projects to be leased to a private party whose**
21 **lease payments are expected to be sufficient to pay all debt**
22 **service on bonds issued by the commission to finance the**
23 **project. However, the private party must comply with**
24 **IC 5-16-7.**

25 SECTION 63. IC 8-10-4-3 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port
27 project may provide that the lessee, as its reasonable portion of the
28 commission's administrative expense incurred during the term of the
29 lease which the lessee is required to pay by IC 8-10-1-10, shall pay to
30 the commission for the use of the harbor, the public docking facilities
31 and public wharves and piers, all harbor, dockage, and wharfage
32 charges established by the commission.

33 SECTION 64. IC 8-10-4-4 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port
35 project may include, instead of the cost of the acquisition of the land
36 constituting the site of such port project, the value of such land as
37 determined by the commission. The proceeds of any revenue bonds
38 representing the value of such land shall be deposited in the Indiana
39 port fund.

40 SECTION 65. IC 8-10-4-5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may
42 contract for the use of any license, process or device, whether patented

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1 or not, which the commission finds is necessary for the operation of
 2 any port project, and may permit the use thereof by any lessee on such
 3 terms and conditions as the commission may determine. The cost of
 4 such license, process or device may be included as part of the cost of
 5 the port project.

6 SECTION 66. IC 20-12-20.3 IS ADDED TO THE INDIANA CODE
 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2003]:

9 **Chapter 20.3. Indiana Growth Scholars Program**

10 **Sec. 1. As used in this chapter, "certified degree program" has**
 11 **the meaning set forth in IC 22-4.1-7-1.**

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

14 **Sec. 3. As used in this chapter, "eligible employer" means an**
 15 **employer that provides employment to an eligible student in**
 16 **targeted employment (as defined in IC 22-4.1-7-6) through the**
 17 **internship component of a certified degree program under**
 18 **IC 22-4.1-7. The term includes the following:**

19 (1) A person (as defined in IC 6-3-1-14) acting as a sole
 20 proprietor.

21 (2) A corporation (as defined in IC 6-3-1-10).

22 (3) A partnership (as defined in IC 6-3-1-19).

23 **Sec. 4. As used in this chapter, "eligible student" means a**
 24 **student (as defined in IC 22-4.1-7-5) who:**

25 (1) is enrolled full time as an undergraduate in a certified
 26 degree program through an institution of higher learning;

27 (2) is an Indiana resident;

28 (3) has achieved a Core 40 or an Academic Honors Diploma,
 29 or the equivalent of a Core 40 or an Academic Honors
 30 Diploma, as determined by the commission; and

31 (4) has a cumulative high school grade point average of at
 32 least 3.0 on a 4.0 scale.

33 **The commission may impose additional eligibility requirements,**
 34 **including requirements set forth in IC 20-12-21-6.**

35 **Sec. 5. As used in this chapter, "institution of higher learning"**
 36 **means:**

37 (1) a state educational institution (as defined in
 38 IC 20-12-0.5-1); or

39 (2) a private institution of higher education (as defined in
 40 IC 20-12-63-3(10)).

41 **Sec. 6. (a) The Indiana growth scholars program is established.**

42 **(b) The commission shall administer the program.**



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1 **Sec. 7. The executive director of the commission may employ or**
 2 **contract for clerical and professional staff and administrative**
 3 **support necessary to implement this chapter.**

4 **Sec. 8. (a) The commission shall award a provisional tax credit**
 5 **to an eligible student who:**

- 6 **(1) is enrolled in good standing in a certified degree program;**
 7 **(2) enters into an agreement with the commission under this**
 8 **chapter; and**
 9 **(3) complies with the requirements established under the rules**
 10 **of the commission.**

11 **(b) An eligible student may not claim a tax credit against the**
 12 **student's Indiana adjusted gross income tax under this chapter.**
 13 **However, proof of the provisional tax credit awarded under this**
 14 **chapter may be used to obtain a tax credit under IC 6-3.1-25 in a**
 15 **taxable year that begins after the eligible student graduates from**
 16 **a certified degree program and remains eligible for a tax credit**
 17 **under the requirements of IC 6-3.1-25.**

18 **Sec. 9. (a) The amount of a provisional tax credit awarded under**
 19 **section 8 of this chapter may be up to two thousand dollars (\$2,000)**
 20 **per academic year.**

21 **(b) The commission may not award total provisional tax credits**
 22 **in excess of twenty-eight million dollars (\$28,000,000) for any**
 23 **academic year. Furthermore, the commission must limit the award**
 24 **of provisional tax credits for the 2003-2004 academic year so that**
 25 **the total amount of tax credits claimed under this chapter for the**
 26 **2005 taxable year does not exceed seven million five hundred**
 27 **thousand dollars (\$7,500,000).**

28 **(c) The commission may consider any of the following factors in**
 29 **determining the amount of the grant to award under section 8 of**
 30 **this chapter:**

- 31 **(1) Whether an eligible student is enrolled in a certified**
 32 **degree program for less than a full academic year.**
 33 **(2) Whether a student receives additional aid from other state**
 34 **assistance programs.**
 35 **(3) Any other factor set forth in the rules of the commission.**

36 **Sec. 10. An eligible student must enter into an agreement with**
 37 **the commission to be eligible for a provisional tax credit under this**
 38 **chapter. The agreement must include the following requirements:**

- 39 **(1) The eligible student must remain enrolled in good standing**
 40 **in a certified degree program during the academic year.**
 41 **(2) The eligible student must remain and be employed in**
 42 **Indiana after the student graduates from the certified degree**

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- 1 program for a period of years equal to the number of years
2 for which the student received a provisional tax credit under
3 this chapter.
- 4 **The agreement may include any other provisions that the
5 commission considers necessary to administer this chapter.**
- 6 **Sec. 11. The commission shall enter into agreements with
7 institutions of higher learning to implement this chapter.**
- 8 **Sec. 12. The commission may adopt rules under IC 4-22-2 that
9 are necessary or appropriate to implement this chapter. The rules
10 that are adopted under this chapter may include rules establishing
11 different standards or procedures for resident and nonresident
12 students.**
- 13 SECTION 67. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]:
- 16 **Chapter 7. Certified Degree Programs**
- 17 **Sec. 1. As used in this chapter, "certified degree program"
18 means a degree program that:**
- 19 (1) is certified by the commission in consultation with the
20 department and the commission for higher education;
21 (2) addresses the areas of targeted employment; and
22 (3) includes an internship component described in section 10
23 of this chapter.
- 24 **Sec. 2. As used in this chapter, "commission" refers to the state
25 student assistance commission established by IC 20-12-21-4.**
- 26 **Sec. 3. As used in this chapter, "employer" has the meaning set
27 forth in IC 22-8-1.1-1.**
- 28 **Sec. 4. As used in this chapter, "fund" refers to the Indiana
29 growth scholars fund established by section 9 of this chapter.**
- 30 **Sec. 5. As used in this chapter, "graduate" means a graduate of
31 an institution of higher learning in Indiana who:**
- 32 (1) participated in a certified degree program; and
33 (2) remains and is employed in Indiana in targeted
34 employment after the student graduates from the certified
35 degree program to complete a post-graduate component of a
36 certified degree program.
- 37 **Sec. 6. As used in this chapter, "institution of higher learning"
38 means:**
- 39 (1) a state educational institution (as defined in
40 IC 20-12-0.5-1); or
41 (2) a private institution of higher education (as defined in
42 IC 20-12-63-3(10)).



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1 **Sec. 7. As used in this chapter, "student" means an individual**
 2 **who:**

- 3 **(1) is enrolled on a full-time basis as an undergraduate or**
 4 **graduate student at an institution of higher learning that**
 5 **conducts a certified degree program; and**
 6 **(2) participates in the internship component of a certified**
 7 **degree program conducted by the institution of higher**
 8 **learning.**

9 **Sec. 8. As used in this chapter, "targeted employment" means**
 10 **employment in any of the following business activities:**

- 11 **(1) Advanced manufacturing, including the following:**
 12 **(A) Automotive and electronics.**
 13 **(B) Aerospace technology.**
 14 **(C) Robotics.**
 15 **(D) Engineering design technology.**
 16 **(2) Life sciences, including the following:**
 17 **(A) Orthopedics or medical devices.**
 18 **(B) Biomedical research or development.**
 19 **(C) Pharmaceutical manufacturing.**
 20 **(D) Agribusiness.**
 21 **(E) Nanotechnology or molecular manufacturing.**
 22 **(3) Information technology, including the following:**
 23 **(A) Informatics.**
 24 **(B) Certified network administration.**
 25 **(C) Software development.**
 26 **(D) Fiber optics.**
 27 **(4) Twenty-first century logistics, including the following:**
 28 **(A) High technology distribution.**
 29 **(B) Efficient and effective flow and storage of goods,**
 30 **services, or information.**
 31 **(C) Intermodal ports.**

32 **Sec. 9. (a) The energize Indiana growth scholars fund is**
 33 **established for the following purposes:**

- 34 **(1) To pay the total operating expenses of the commission,**
 35 **including grants and administrative expenses, for the certified**
 36 **degree program.**
 37 **(2) To reimburse the state general fund for the amount by**
 38 **which internship payroll credits (IC 6-3.1-25) taken by**
 39 **taxpayers reduce tax revenue deposits into the state general**
 40 **fund.**
 41 **(b) The fund shall be administered by the budget agency.**
 42 **(c) The expenses of administering the fund shall be paid from**



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money in the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) 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 money may be invested.

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

Sec. 10. The commission, in consultation with the department of workforce development and the commission for higher education under IC 22-4.1-7, shall establish criteria for certification of a certified degree program under this chapter. The criteria must include the following:

(1) The certified degree program is operated or administered by an institution of higher learning or a department, school, or program within an institution of higher learning.

(2) The certified degree program integrates a particular curriculum or course of study offered at the institution of higher learning with career internships provided by employers.

(3) The certified degree program places students in career internships provided by employers in targeted employment.

(4) The certified degree program requires participating students to meet certain academic standards.

(5) The certified degree program requires employers to provide to participating students the:

(A) supervision; and

(B) payroll and personnel services;

that the employers provide to their regular part-time employees, if any.

(6) The certified degree program is designed to provide an internship experience that enriches and enhances the classroom experience of participating students in the field of the targeted employment.

(7) The certified degree program requires employers to comply with all state and federal laws pertaining to the workplace.

(8) The certified degree program complies with any other requirement adopted by rule by the commission after consultation with the department.

Sec. 11. The criteria for a certified degree program may allow:

(1) a student to participate in an internship with an employer in targeted employment at any time during the year, including

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the summer, as long as the student remains enrolled at the institution of higher learning that operates or administers the certified degree program; and

(2) a graduate of the institution of higher learning to participate in graduate position with an employer in targeted employment at any time during the year, including the summer, as long as the graduate is engaged in a post-graduate component of a certified degree program that is approved under this chapter.

Sec. 12. Any institution of higher learning may apply to the commission to be certified to conduct a certified degree program.

Sec. 13. An institution of higher learning that seeks certification for a certified degree program must:

(1) submit a request to the commission in the manner and in the form specified by the commission; and

(2) meet the criteria established under this chapter for the certified degree program.

Sec. 14. The commission, in consultation with the department of workforce development and the commission for higher education, shall certify certified degree programs.

Sec. 15. If an institution of higher learning is certified to conduct a certified degree program, the commission, in consultation with the department of workforce development, the commission for higher education, and the budget agency, shall allocate to the institution of higher learning, on the schedule determined by the commission, the maximum number of students and graduates that may be placed with an employer during a year through the certified degree program. The commission may increase or decrease the number of student and graduate positions allocated to an institution of higher learning, as needed, to:

(1) temporarily or permanently reallocate unused positions; and

(2) meet the requirements of section 16 of this chapter.

Sec. 16. The total number of student and graduate positions allocated under section 15 of this chapter to all institutions of higher learning that are certified under this chapter may not exceed a number of positions that will result in a transfer under section 17 of this chapter in any state fiscal year of an amount that exceeds the amount that will be available in the fund from appropriations from the fund, after taking into account any amounts reserved in the fund for transfers in a subsequent state fiscal year.

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1 **Sec. 17.** In each state fiscal year after June 30, 2003, the budget
 2 agency shall transfer from the fund an amount equal to the amount
 3 needed to reimburse the state general fund for the amount by
 4 which internship payroll credits (IC 6-3.1-25) taken by taxpayers
 5 reduced tax revenue deposits into the state general fund in that
 6 state fiscal year.

7 **Sec. 18.** If any money is available in the fund after:

8 (1) reserving amounts and transferring amounts, as needed,
 9 to comply with section 17 of this chapter; and

10 (2) meeting the other obligations of the fund;

11 the commission may award to a student a grant from the fund. If
 12 the commission awards a grant under this section, the commission
 13 shall award the grant in an amount determined by the commission
 14 for academic credit to fulfill the internship component of a
 15 certified degree program. A grant awarded under this section is in
 16 addition to any other grants awarded to a student.

17 **Sec. 19.** The commission, in consultation with the department
 18 and the commission for higher education, may adopt rules under
 19 IC 4-22-2 to implement this chapter.

20 **Sec. 20.** In addition to any other appropriation made for the
 21 purposes of the fund, the lesser of the amounts transferred to the
 22 fund under IC 4-3-32 or following amounts are appropriated from
 23 the fund for the purposes of the fund in each of the following
 24 specified state fiscal years:

25 (1) Four million seven hundred thousand dollars (\$4,700,000)
 26 in the state fiscal year beginning July 1, 2003, and ending
 27 June 30, 2004.

28 (2) Five million one hundred thousand dollars (\$5,100,000) in
 29 the state fiscal year beginning July 1, 2004, and ending June
 30 30, 2005.

31 (3) Five million six hundred thousand dollars (\$5,600,000) in
 32 the state fiscal year beginning July 1, 2005, and ending June
 33 30, 2006.

34 (4) Six million one hundred thousand dollars (\$6,100,000) in
 35 the state fiscal year beginning July 1, 2006, and ending June
 36 30, 2007.

37 The spending authority granted by an appropriation under this
 38 section does not expire at the end of the state fiscal year for which
 39 the appropriation is made but remains available for expenditure
 40 from the fund in any state fiscal year that ends before July 1, 2013.

41 **Sec. 21.** This chapter expires July 1, 2013.

42 SECTION 68. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss),



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1 SECTION 187, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2003]: Sec. 11.(a) After receipt of an
 3 application under section 10 of this chapter, and subject to subsection
 4 (b), the department of commerce may designate a certified technology
 5 park if the department determines that the application demonstrates a
 6 ~~firm commitment from at least one (+) business engaged in a high~~
 7 ~~technology activity creating a significant number of jobs and satisfies~~
 8 one (1) or more of the following ~~additional~~ criteria:

9 (1) A demonstration of significant support from an institution of
 10 higher education or a private research based institute located
 11 within, or in the vicinity of, the proposed certified technology
 12 park, as evidenced by the following criteria:

13 (A) Grants of preferences for access to and commercialization
 14 of intellectual property.

15 (B) Access to laboratory and other facilities owned by or under
 16 the control of the institution of higher education or private
 17 research based institute.

18 (C) Donations of services.

19 (D) Access to telecommunications facilities and other
 20 infrastructure.

21 (E) Financial commitments.

22 (F) Access to faculty, staff, and students.

23 (G) Opportunities for adjunct faculty and other types of staff
 24 arrangements or affiliations.

25 (H) Other criteria considered appropriate by the department.

26 (2) A demonstration of a significant commitment by the
 27 institution of higher education or private research based institute
 28 to the commercialization of research produced at the certified
 29 technology park, as evidenced by the intellectual property and, if
 30 applicable, tenure policies that reward faculty and staff for
 31 commercialization and collaboration with private businesses.

32 (3) A demonstration that the proposed certified technology park
 33 will be developed to take advantage of the unique characteristics
 34 and specialties offered by the public and private resources
 35 available in the area in which the proposed certified technology
 36 park will be located.

37 (4) The existence of or proposed development of a business
 38 incubator within the proposed certified technology park that
 39 exhibits the following types of resources and organization:

40 (A) Significant financial and other types of support from the
 41 public or private resources in the area in which the proposed
 42 certified technology park will be located.

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- 1 (B) A business plan exhibiting the economic utilization and
 2 availability of resources and a likelihood of successful
 3 development of technologies and research into viable business
 4 enterprises.
- 5 (C) A commitment to the employment of a qualified full-time
 6 manager to supervise the development and operation of the
 7 business incubator.
- 8 (5) The existence of a business plan for the proposed certified
 9 technology park that identifies its objectives in a clearly focused
 10 and measurable fashion and that addresses the following matters:
 11 (A) A commitment to new business formation.
 12 (B) The clustering of businesses, technology, and research.
 13 (C) The opportunity for and costs of development of properties
 14 under common ownership or control.
 15 (D) The availability of and method proposed for development
 16 of infrastructure and other improvements, including
 17 telecommunications technology, necessary for the
 18 development of the proposed certified technology park.
 19 (E) Assumptions of costs and revenues related to the
 20 development of the proposed certified technology park.
- 21 (6) A demonstrable and satisfactory assurance that the proposed
 22 certified technology park can be developed to principally contain
 23 property that is primarily used for, or will be primarily used for,
 24 a high technology activity or a business incubator.
- 25 (b) The department of commerce may not approve an application
 26 that would result in a substantial reduction or cessation of operations
 27 in another location in Indiana in order to relocate them within the
 28 certified technology park.
- 29 SECTION 69. IC 36-7-32-22, AS ADDED BY P.L.192-2002(ss),
 30 SECTION 187, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The treasurer of state shall
 32 establish an incremental tax financing fund for each certified
 33 technology park designated under this chapter. The fund shall be
 34 administered by the treasurer of state. Money in the fund does not
 35 revert to the state general fund at the end of a state fiscal year.
- 36 (b) Subject to subsection (c), the following amounts shall be
 37 deposited during each state fiscal year in the incremental tax financing
 38 fund established for a certified technology park under subsection (a):
 39 (1) The aggregate amount of state gross retail and use taxes that
 40 are remitted under IC 6-2.5 by businesses operating in the
 41 certified technology park, until the amount of state gross retail
 42 and use taxes deposited equals the gross retail incremental

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1 amount for the certified technology park.

2 (2) The aggregate amount of the following taxes paid by
3 employees employed in the certified technology park with respect
4 to wages earned for work in the certified technology park, until
5 the amount deposited equals the income tax incremental amount:

6 (A) The adjusted gross income tax.

7 (B) The county adjusted gross income tax.

8 (C) The county option income tax.

9 (D) The county economic development income tax.

10 ~~(c) Not more than a total of five million dollars (\$5,000,000) may~~
11 ~~be deposited in a particular incremental tax financing fund for a~~
12 ~~certified technology park over the life of the certified technology park.~~

13 ~~(d) (c) On or before the twentieth day of each month, all amounts~~
14 ~~held in the incremental tax financing fund established for a certified~~
15 ~~technology park shall be distributed to the redevelopment commission~~
16 ~~for deposit in the certified technology park fund established under~~
17 ~~section 23 of this chapter.~~

18 SECTION 70. [EFFECTIVE JANUARY 1, 2003
19 (RETROACTIVE)]: (a) **As used in this SECTION, "department"**
20 **refers to the department of workforce development.**

21 (b) **The credit against a taxpayer's state tax liability provided**
22 **under IC 6-3.1-25, as added by this act, applies to taxable years**
23 **beginning after December 31, 2002.**

24 (c) **Notwithstanding IC 22-4.1-7-8, as added by this act, the state**
25 **student assistance commission, in consultation with the department**
26 **and the commission for higher education, may adopt temporary**
27 **rules to implement IC 22-4.1-7, as added by this act, in the same**
28 **manner as emergency rules are adopted under IC 4-22-2-37.1.**

29 SECTION 71. [EFFECTIVE JULY 1, 2003] (a) **As used in this**
30 **SECTION, "commission" refers to the government efficiency**
31 **commission established by subsection (c).**

32 (b) **As used in this SECTION, "state educational institution" has**
33 **the meaning set forth in IC 20-12-0.5-1.**

34 (c) **The government efficiency commission is established.**

35 (d) **The commission consists of the following members:**

36 (1) **One (1) co-chairperson appointed before July 16, 2003, by**
37 **the president pro tempore of the senate.**

38 (2) **One (1) co-chairperson appointed before July 16, 2003, by**
39 **the speaker of the house of representatives.**

40 (3) **Ten (10) members appointed before August 16, 2003, by**
41 **the president pro tempore of the senate, five (5) of those**
42 **members appointed with the advice and consent of the**

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- 1 minority leader of the senate.
- 2 (4) Ten (10) members appointed before August 16, 2003, by
- 3 the speaker of the house of representatives, five (5) of those
- 4 members appointed with the advice and consent of the
- 5 minority leader of the house of representatives.
- 6 (e) The following may not be members of the commission:
- 7 (1) An elected or appointed state or local official.
- 8 (2) An employee or a person receiving a pension or other
- 9 retirement benefit related to service to any of the following:
- 10 (A) A state educational institution.
- 11 (B) A school corporation or a charter school.
- 12 (C) The state or any agency of the state.
- 13 (3) A person who has a direct business relationship with any
- 14 of the following:
- 15 (A) A state educational institution.
- 16 (B) A public school corporation.
- 17 (C) The state or any agency of the state.
- 18 (D) An elected or appointed state agency official.
- 19 (E) The general assembly or any of its members.
- 20 (f) A member of the commission is not entitled to a salary per
- 21 diem.
- 22 (g) A member of the commission is entitled to reimbursement
- 23 for traveling expenses and other expenses actually incurred in
- 24 connection with the member's duties, as provided in the legislative
- 25 council's travel policies and procedures.
- 26 (h) The commission shall meet upon the call of the co-
- 27 chairpersons.
- 28 (i) The co-chairpersons may advise the president pro tempore
- 29 of the senate, the minority leader of the senate, the speaker of the
- 30 house of representatives, and the minority leader of the house of
- 31 representatives concerning the appointment of other members of
- 32 the commission.
- 33 (j) A quorum of the commission must be present to conduct
- 34 business. A quorum consists of a majority of the voting members
- 35 appointed to the commission.
- 36 (k) The commission may not take an official action unless the
- 37 official action has been approved by at least a majority of the
- 38 voting members appointed to serve on the commission.
- 39 (l) The co-chairpersons shall establish and appoint commission
- 40 members to four (4) subcommittees as follows:
- 41 (1) The K-12 education subcommittee.
- 42 (2) The higher education subcommittee.



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- 1 **(3) The Medicaid and human services subcommittee.**
2 **(4) The general government subcommittee.**
3 **(m) The co-chairpersons shall name the chairperson of each**
4 **subcommittee.**
5 **(n) The commission shall do the following:**
6 **(1) Review all state funded agencies, departments, and**
7 **programs.**
8 **(2) Make recommendations to improve efficiency and reduce**
9 **waste or other unnecessary costs associated with any state**
10 **funded agency, department, or program.**
11 **(o) The following persons shall serve as staff advisers to the**
12 **commission:**
13 **(1) The state budget director.**
14 **(2) The commissioner of the commission for higher education.**
15 **(3) The Indiana state board of education administrator.**
16 **(4) The executive director of the legislative services agency.**
17 **(p) The commission shall provide its final recommendations**
18 **before December 31, 2004, to the following:**
19 **(1) The governor.**
20 **(2) The general assembly.**
21 **(g) This SECTION expires January 1, 2005.**
22 **SECTION 72. [EFFECTIVE JANUARY 1, 2004]: No later than**
23 **April 1, 2004, the board in SECTION 1 shall amend its bylaws in**
24 **accordance with IC 4-3-14-4 as amended by this act.**
25 **SECTION 73. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 2008, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning economic development and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 2008 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 17, nays 11.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 2008 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE January 1, 2004]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

(A) the governor;

(B) the lieutenant governor;

(C) the chief operating officer of the corporation;

(D) the chief operating officer of the corporation for Indiana's international future; and

(E) additional persons appointed by the governor, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana; is composed of the

following twenty-one (21) members, none of whom may be members of the general assembly:

(A) Three (3) persons appointed by the governor who must be employed in or retired from the private or nonprofit sector but may not represent organized labor.

Appointments made under this subdivision are also subject to the requirements of subsection (a)(3).

(B) Three (3) persons appointed by the lieutenant governor who must be employed in or retired from the private or nonprofit sector but may not represent organized labor.

Appointments made under this subdivision are also subject to the requirements of subsection (a)(3).

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(C) Two (2) persons appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(D) Two (2) persons appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(E) Two (2) persons appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(F) Two (2) persons appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(G) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(H) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(I) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(J) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(K) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(L) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the

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private or nonprofit sector or academia, but may not represent organized labor.

(M) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(3) The governor and lieutenant governor shall coordinate their appointments under subsection (a)(2)(A) and (a)(2)(B) so that those appointments include at least one (1) representative from each of the following industry sectors:

(A) Advanced manufacturing, such as automotive, electronics, aerospace, robotics, or engineering design technology.

(B) Information technology, such as informatics, certified network administration, software development, or fiber optics.

(C) Life sciences, such as orthopedics, medical devices, biomedical research and development, pharmaceutical manufacturing, agribusiness, nanotechnology, or molecular manufacturing.

(D) Logistics, such as high technology distribution, intermodal ports, or flow and storage of goods, services, and information.

(E) Public utilities (as defined in IC 8-1-2-1).

(4) The terms of office of the members of the corporation are as follows:

(A) Members appointed by the governor, lieutenant governor, president pro tempore of the senate, or minority leader of the senate serve for terms of four (4) years.

(B) Members appointed by the speaker of the house of representatives, the minority leader of the house of representatives, or the president of a university or college serve for terms of two (2) years.

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

(5) The governor may designate a member of the board appointed by the governor under subsection (a)(2)(A) of this section to serve as chairperson. However, if the governor does not designate a chairperson, the members shall elect a chairperson from among the members.

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(6) Fourteen (14) members constitute a quorum for the transaction of business. The affirmative vote of at least eleven (11) members is necessary for any action to be taken by the corporation. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.

(7) Meetings of the corporation shall be held at the call of the chairperson or whenever any five (5) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.

(8) The corporation shall determine qualifications, duties, compensation, and terms of service for persons designated in subsection (a)(9) and subsection(a)(10).

~~(3) the governor shall serve as chairman of the board of the corporation; and the lieutenant governor shall serve as the chief executive officer of the corporation;~~

~~(4) (9) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise; the board shall elect an executive director of the corporation;~~

~~(5) (10) the lieutenant governor executive director of the corporation shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation board and shall oversee the activities of the corporation's chief operating officer corporation;~~

~~(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);~~

~~(7) (11) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;~~

~~(8) (12) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor; board;~~

~~(9) (13) the corporation shall submit an annual report to the governor, lieutenant governor and to the Indiana general assembly on or before the first day of November for each year;~~

~~(10) (14) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and~~

~~(11) (15) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of~~

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this audit.

(b) The members of the corporation are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the corporation shall receive reimbursement for actual and necessary expenses on the same basis as state employees.

(c) Employees of the corporation are not employees of the state.

(d) The corporation may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.

(e) The corporation is granted all powers necessary or appropriate to carry out and effectuate the corporation's public and corporate purposes under this chapter. The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law."

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 28. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss), SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) Except to the extent that it conflicts with a statute, 50 IAC 4.2 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 4.2 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as in effect January 1, 2001), **except that the rate of total valuation percentage to apply to a taxpayer in a taxing district under 50 IAC 4.2-4-9 is the following:**

(1) Twenty-five percent (25%) on an assessment date in 2004 for property taxes first due and payable in 2005.

(2) Twenty percent (20%) on an assessment date in 2005 for property taxes first due and payable in 2006 and on an assessment date each year thereafter through payable 2010.

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 4.3 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 4.2 to a governmental entity that has been

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terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 29. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss), SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 44.(a) Except to the extent that it conflicts with a statute, 50 IAC 5.1 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001), **except that the rate of total valuation percentage to apply to a taxpayer in a taxing district under 50 IAC 5.1-6-9 is the following:**

(1) Twenty-five percent (25%) on an assessment date in 2004 for property taxes first due and payable in 2005.

(2) Twenty percent (20%) on an assessment date in 2005 for property taxes first due and payable in 2006 and on an assessment date each year thereafter through payable 2010.

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 30. IC 6-3.1-4-6, AS AMENDED BY P.L.192-2002(ss), SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, ~~2004~~ **2010**. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred."

Page 52, between lines 20 and 21, begin a new paragraph and insert:
"SECTION 32. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26. Indiana Growth Scholars Tax Credit

Sec. 1. As used in this chapter, "eligible taxpayer" means an

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individual who satisfies the following requirements:

- (1) The individual participated in the Indiana growth scholars program established under IC 20-12-20.3.
- (2) The individual received provisional tax credits under the program described in subdivision (1).
- (3) The individual graduated from a certified degree program (as defined in IC 20-12-20.3-1).
- (4) The individual is employed in Indiana.

Sec. 2. As used in this chapter, "state income tax liability" means an individual's adjusted gross income tax liability under IC 6-3.

Sec. 3. (a) Beginning with the eligible taxpayer's first taxable year that begins after the date that the eligible taxpayer graduated from a certified degree program, an eligible taxpayer is entitled to a refundable credit against the eligible taxpayer's state income tax liability. The amount of the tax credit is equal to the amount of the provisional credit awarded to the eligible taxpayer in the academic year that corresponds to the number of taxable years following the eligible taxpayer's graduation as follows:

Taxable year following graduation	Academic year in the program
1st	1st
2nd	2nd
3rd	3rd
4th	4th

(b) If the amount of the credit under this chapter exceeds the eligible taxpayer's state tax liability for the taxable year, the excess shall be refunded to the eligible taxpayer.

Sec. 4. To obtain the credit provided by this chapter, an eligible taxpayer must file with the department information proving the amount of the provisional tax credits awarded to the eligible taxpayer as a student participating in the Indiana growth scholars program and any other information required by the department."

Page 75, between lines 22 and 23, begin a new paragraph and insert:
"SECTION 65. IC 20-12-20.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 20.3. Indiana Growth Scholars Program

Sec. 1. As used in this chapter, "certified degree program" has the meaning set forth in IC 22-4.1-7-1.

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



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Sec. 3. As used in this chapter, "eligible employer" means an employer that provides employment to an eligible student in targeted employment (as defined in IC 22-4.1-7-6) through the internship component of a certified degree program under IC 22-4.1-7. The term includes the following:

- (1) A person (as defined in IC 6-3-1-14) acting as a sole proprietor.
- (2) A corporation (as defined in IC 6-3-1-10).
- (3) A partnership (as defined in IC 6-3-1-19).

Sec. 4. As used in this chapter, "eligible student" means a student (as defined in IC 22-4.1-7-5) who:

- (1) is enrolled full time as an undergraduate in a certified degree program through an institution of higher learning;
- (2) is an Indiana resident;
- (3) has achieved a Core 40 or an Academic Honors Diploma, or the equivalent of a Core 40 or an Academic Honors Diploma, as determined by the commission; and
- (4) has a cumulative high school grade point average of at least 3.0 on a 4.0 scale.

The commission may impose additional eligibility requirements, including requirements set forth in IC 20-12-21-6.

Sec. 5. As used in this chapter, "institution of higher learning" means:

- (1) a state educational institution (as defined in IC 20-12-0.5-1); or
- (2) a private institution of higher education (as defined in IC 20-12-63-3(10)).

Sec. 6. (a) The Indiana growth scholars program is established.
(b) The commission shall administer the program.

Sec. 7. The executive director of the commission may employ or contract for clerical and professional staff and administrative support necessary to implement this chapter.

Sec. 8. (a) The commission shall award a provisional tax credit to an eligible student who:

- (1) is enrolled in good standing in a certified degree program;
- (2) enters into an agreement with the commission under this chapter; and
- (3) complies with the requirements established under the rules of the commission.

(b) An eligible student may not claim a tax credit against the student's Indiana adjusted gross income tax under this chapter. However, proof of the provisional tax credit awarded under this

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chapter may be used to obtain a tax credit under IC 6-3.1-25 in a taxable year that begins after the eligible student graduates from a certified degree program and remains eligible for a tax credit under the requirements of IC 6-3.1-25.

Sec. 9. (a) The amount of a provisional tax credit awarded under section 8 of this chapter may be up to two thousand dollars (\$2,000) per academic year.

(b) The commission may not award total provisional tax credits in excess of twenty-eight million dollars (\$28,000,000) for any academic year. Furthermore, the commission must limit the award of provisional tax credits for the 2003-2004 academic year so that the total amount of tax credits claimed under this chapter for the 2005 taxable year does not exceed seven million five hundred thousand dollars (\$7,500,000).

(c) The commission may consider any of the following factors in determining the amount of the grant to award under section 8 of this chapter:

- (1)** Whether an eligible student is enrolled in a certified degree program for less than a full academic year.
- (2)** Whether a student receives additional aid from other state assistance programs.
- (3)** Any other factor set forth in the rules of the commission.

Sec. 10. An eligible student must enter into an agreement with the commission to be eligible for a provisional tax credit under this chapter. The agreement must include the following requirements:

- (1)** The eligible student must remain enrolled in good standing in a certified degree program during the academic year.
- (2)** The eligible student must remain and be employed in Indiana after the student graduates from the certified degree program for a period of years equal to the number of years for which the student received a provisional tax credit under this chapter.

The agreement may include any other provisions that the commission considers necessary to administer this chapter.

Sec. 11. The commission shall enter into agreements with institutions of higher learning to implement this chapter.

Sec. 12. The commission may adopt rules under IC 4-22-2 that are necessary or appropriate to implement this chapter. The rules that are adopted under this chapter may include rules establishing different standards or procedures for resident and nonresident students."

Page 82, between lines 38 and 39, begin a new paragraph and insert:



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"SECTION 69. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "commission" refers to the government efficiency commission established by subsection (c).

(b) As used in this SECTION, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

(c) The government efficiency commission is established.

(d) The commission consists of the following members:

(1) One (1) co-chairperson appointed before July 16, 2003, by the president pro tempore of the senate.

(2) One (1) co-chairperson appointed before July 16, 2003, by the speaker of the house of representatives.

(3) Ten (10) members appointed before August 16, 2003, by the president pro tempore of the senate, five (5) of those members appointed with the advice and consent of the minority leader of the senate.

(4) Ten (10) members appointed before August 16, 2003, by the speaker of the house of representatives, five (5) of those members appointed with the advice and consent of the minority leader of the house of representatives.

(e) The following may not be members of the commission:

(1) An elected or appointed state or local official.

(2) An employee or a person receiving a pension or other retirement benefit related to service to any of the following:

(A) A state educational institution.

(B) A school corporation or a charter school.

(C) The state or any agency of the state.

(3) A person who has a direct business relationship with any of the following:

(A) A state educational institution.

(B) A public school corporation.

(C) The state or any agency of the state.

(D) An elected or appointed state agency official.

(E) The general assembly or any of its members.

(f) A member of the commission is not entitled to a salary per diem.

(g) A member of the commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the legislative council's travel policies and procedures.

(h) The commission shall meet upon the call of the co-chairpersons.

(i) The co-chairpersons may advise the president pro tempore

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of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives concerning the appointment of other members of the commission.

(j) A quorum of the commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the commission.

(k) The commission may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the commission.

(l) The co-chairpersons shall establish and appoint commission members to four (4) subcommittees as follows:

- (1) The K-12 education subcommittee.
- (2) The higher education subcommittee.
- (3) The Medicaid and human services subcommittee.
- (4) The general government subcommittee.

(m) The co-chairpersons shall name the chairperson of each subcommittee.

(n) The commission shall do the following:

- (1) Review all state funded agencies, departments, and programs.
- (2) Make recommendations to improve efficiency and reduce waste or other unnecessary costs associated with any state funded agency, department, or program.

(o) The following persons shall serve as staff advisers to the commission:

- (1) The state budget director.
- (2) The commissioner of the commission for higher education.
- (3) The Indiana state board of education administrator.
- (4) The executive director of the legislative services agency.

(p) The commission shall provide its final recommendations before December 31, 2004, to the following:

- (1) The governor.
- (2) The general assembly.

(g) This SECTION expires January 1, 2005.

SECTION 70. [EFFECTIVE JANUARY 1, 2004]: No later than April 1, 2004, the board in SECTION 1 shall amend its bylaws in accordance with IC 4-3-14-4 as amended by this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 2008, begs leave to report that said bill has been amended as directed.

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