

Adopted                  Rejected
-----------------------------------

## COMMITTEE REPORT

YES:	17
NO:	11

**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:*

- 1            Delete the title and insert the following:
- 2            A BILL FOR AN ACT to amend the Indiana Code concerning
- 3            economic development and to make an appropriation.
- 4            Delete everything after the enacting clause and insert the following:
- 5            SECTION 1. IC 4-4-3.4-4 IS AMENDED TO READ AS
- 6            FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The value added
- 7            research fund is established for the purpose of providing money for the
- 8            center for value added research and the commissioner of agriculture to
- 9            carry out the duties specified under this chapter. The fund shall be
- 10           administered by the commissioner of agriculture.
- 11           (b) The fund consists of money appropriated by the general
- 12           assembly.
- 13           (c) The treasurer of state shall invest the money in the fund not
- 14           currently needed to meet the obligations of the fund in the same
- 15           manner as other public funds may be invested.
- 16           (d) Money in the fund at the end of a state fiscal year does not revert

1 to the state general fund.

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

12 SECTION 2. IC 4-4-5.1-0.5 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2003]: **Sec. 0.5. As used in this chapter, "authority" refers to the**  
 15 **Indiana development finance authority established by IC 4-4-11-4.**

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

22 (1) To increase the capacity of Indiana institutions of higher  
 23 education, Indiana businesses, and Indiana nonprofit corporations  
 24 and organizations to compete successfully for federal or private  
 25 research and development funding.

26 (2) To stimulate the transfer of research and technology into  
 27 marketable products.

28 (3) To assist with diversifying Indiana's economy by focusing  
 29 investment in biomedical research and biotechnology, information  
 30 technology, and other high technology industry clusters requiring  
 31 high skill, high wage employees.

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

34 (b) The fund shall be administered by the ~~budget agency~~ **authority**.  
 35 The fund consists of appropriations from the general assembly and gifts  
 36 and grants to the fund. The ~~budget agency board~~ shall ~~review each~~  
 37 ~~recommendation~~ **approve and recommend applications to the**  
 38 **budget committee**. The ~~budget agency~~ **authority**, after review by the

1 budget committee, may approve, deny, or modify grants and loans  
 2 recommended by the board. Money in the fund may not be used to  
 3 provide a recurring source of revenue for the normal operating  
 4 expenditures of any project.

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

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

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

15 (1) To accept, analyze, and approve applications under this  
 16 chapter.

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

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

23 (4) To approve and recommend applications for grants or loans  
 24 from the fund to the budget committee and ~~budget agency.~~ **the**  
 25 **authority.**

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

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

29 (2) require the lowest ratio of money from the fund compared  
 30 with the combined financial commitments of the applicant and  
 31 those cooperating on the project.

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

- 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 5. 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**

- 1 **IC 5-14-1.5-4 must also state the name of each member who:**  
 2 **(1) was physically present at the place where the meeting was**  
 3 **conducted;**  
 4 **(2) participated in the meeting by using a means of**  
 5 **communication described in subsection (b); and**  
 6 **(3) was absent.**

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

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

19 SECTION 7. IC 4-4-5.1-12 IS ADDED TO THE INDIANA CODE  
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 21 1, 2003]: **Sec. 12. The board shall submit an annual report to the**  
 22 **legislative council before September 1. The report shall contain the**  
 23 **following information concerning fund activity in the preceding**  
 24 **state fiscal year:**

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

30 SECTION 8. IC 4-4-9.3 IS ADDED TO THE INDIANA CODE AS  
 31 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 32 1, 2003]:

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

34 **Sec. 1. (a) The rural development administration fund is**  
 35 **established for the purpose of enhancing and developing rural**  
 36 **communities. The fund shall be administered by the Indiana rural**  
 37 **development council.**

38 **(b) The expenses of administering the fund shall be paid from**

1       **the money in the fund.**

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

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

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

12           **(1) To create, assess, and assist a pilot project to enhance the**  
 13 **economic and community development in a rural area.**

14           **(2) To establish a local revolving loan fund for an industrial,**  
 15 **a commercial, an agricultural, or a tourist venture.**

16           **(3) To provide a loan for an economic development project in**  
 17 **a rural area.**

18           **(4) To provide technical assistance to a rural organization.**

19           **(5) To assist in the development and creation of a rural**  
 20 **cooperative.**

21           **(6) To address rural workforce development challenges.**

22           **(7) To assist in addressing telecommunications needs in a**  
 23 **rural area.**

24           **(b) Expenditures from the fund are subject to appropriation by**  
 25 **the general assembly and approval by the Indiana rural**  
 26 **development council under IC 4-4-9.5. The council may not**  
 27 **approve an expenditure from the fund unless the rural**  
 28 **development administration advisory board established by section**  
 29 **3 of this chapter has recommended the expenditure.**

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

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

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

37           **(1) The executive director of the Indiana rural development**  
 38 **council, who serves as an ex officio member and as the**

- 1 chairperson of the advisory board.
- 2 (2) Two (2) members of the senate, who may not be members  
3 of the same political party, and who are appointed by the  
4 president pro tempore of the senate.
- 5 (3) Two (2) members of the house of representatives, who may  
6 not be members of the same political party, and who are  
7 appointed by the speaker of the house of representatives.
- 8 (4) A representative of the commissioner of agriculture, to be  
9 appointed by the governor.
- 10 (5) A representative of the department of commerce, to be  
11 appointed by the governor.
- 12 (6) A representative of the department of workforce  
13 development, to be appointed by the governor.
- 14 (7) Two (2) persons with knowledge and experience in state  
15 and regional economic needs, to be appointed by the  
16 governor.
- 17 (8) A representative of a local rural economic development  
18 organization, to be appointed by the governor.
- 19 (9) A representative of a small town or rural community, to be  
20 appointed by the governor.
- 21 (10) A representative of the rural development council, to be  
22 appointed by the governor.
- 23 (11) A representative of rural education, to be appointed by  
24 the governor.
- 25 (12) A representative of the league of regional conservation  
26 and development districts, to be appointed by the governor.
- 27 (13) A person currently enrolled in rural secondary education,  
28 to be appointed by the governor.
- 29 (d) The members of the advisory board listed in subsection  
30 (c)(1) through (c)(3) are nonvoting members.
- 31 (e) The term of office of a legislative member of the advisory  
32 board is four (4) years. However, a legislative member of the  
33 advisory board ceases to be a member if the member:
- 34 (1) is no longer a member of the chamber from which the  
35 member was appointed; or
- 36 (2) is removed from the advisory board by the appointing  
37 authority who appointed the legislator.
- 38 (f) The term of office of a voting member of the advisory board

1 is four (4) years. However, these members serve at the pleasure of  
2 the governor and may be removed for any reason.

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

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

11 **Sec. 4.** In addition to any other appropriation made for the  
12 purposes of the fund, the lesser of the amount transferred to the  
13 fund under IC 4-4-32 or two million four hundred thousand dollars  
14 (\$2,400,000) is annually appropriated from the fund for the  
15 purposes of the fund in each of the state fiscal years beginning after  
16 June 30, 2003, and ending before July 1, 2013. The spending  
17 authority granted by an appropriation under this section does not  
18 expire at the end of the state fiscal year for which the  
19 appropriation is made but remains available for expenditure from  
20 the fund in any state fiscal year that ends before July 1, 2013.

21 SECTION 9. IC 4-4-9.5-4 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2003]: **Sec. 4. (a)** The rural development council fund is  
24 established to be used exclusively for the purposes set forth in  
25 sections 2 and 3 of this chapter. The fund shall be administered by  
26 the council.

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

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

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

37 (e) In addition to any other appropriation made for the  
38 purposes of the fund, the lesser of the amount transferred to the



1 **fund under IC 4-4-32 or one million two hundred thousand dollars**  
 2 **(\$1,200,000) is annually appropriated from the fund for the**  
 3 **purposes of the fund in each of the state fiscal years beginning after**  
 4 **June 30, 2003, and ending before July 1, 2013. The spending**  
 5 **authority granted by an appropriation under this section does not**  
 6 **expire at the end of the state fiscal year for which the**  
 7 **appropriation is made but remains available for expenditure from**  
 8 **the fund in any state fiscal year that ends before July 1, 2013.**

9 SECTION 10. IC 4-4-10.9-0.5 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. "Accredited investor" has the**  
 12 **meaning set forth in IC 4-4-11.7-1.**

13 SECTION 11. IC 4-4-10.9-3.5 IS ADDED TO THE INDIANA  
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. "Business" means a**  
 16 **partnership, a firm, an association, a joint venture, a limited**  
 17 **liability company, a limited liability partnership, or a corporation.**

18 SECTION 12. IC 4-4-10.9-4 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. "Contracting party"**  
 20 **means any party to a lease, sales contract, co-venture investment**  
 21 **agreement (whether in the form of a loan, loan guarantee, or pool**  
 22 **participation agreement), or loan agreement other than the authority.**

23 SECTION 13. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA  
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Co-venture investment**  
 26 **loan" means a venture capital or seed capital investment in the**  
 27 **form of a loan by the authority that is made to a business after or**  
 28 **in conjunction with equity investments by one (1) or more**  
 29 **professional or accredited investors that have made or are making**  
 30 **equity investments in the business.**

31 SECTION 14. IC 4-4-10.9-6.2, AS AMENDED BY P.L.4-2002,  
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2003]: **Sec. 6.2. (a) "Educational facility project" includes:**

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

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

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

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

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

17 (A) real property and improvements;

18 (B) personal property; or

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

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

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

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

30 SECTION 15. IC 4-4-10.9-9.5, AS ADDED BY P.L.227-1999,

31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

32 JULY 1, 2003]: Sec. 9.5. "High growth company with high skilled  
33 jobs" means a company that satisfies all of the following conditions:

34 (1) The company:

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

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

1 (C) is classified in an industry that had at least a ~~fifteen ten~~  
2 percent ~~(+5%)~~ **(10%)** average annual growth in ~~earnings gross~~  
3 **revenue** during the past three (3) years.

4 (2) The company has a substantial number of employees in jobs:  
5 (A) requiring post-secondary education or its equivalent; or  
6 (B) that are in occupational codes classified as high skill by  
7 the Bureau of Labor Statistics, United States Department of  
8 Labor.

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

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

18 SECTION 17. IC 4-4-10.9-24.5 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2003]: **Sec. 24.5. "Professional investor"**  
21 **means a bank, a bank holding company, a savings institution, a**  
22 **trust company, a credit union, an insurance company, an**  
23 **investment company registered under the federal Investment**  
24 **Company Act of 1940, a pension or profit sharing trust, another**  
25 **financial institution or institutional buyer, a licensee under the**  
26 **federal Small Business Investment Act of 1958, et seq., or any**  
27 **person, partnership, or other entity whose:**

- 28 (1) principal business is making venture capital investments;
- 29 and
- 30 (2) net worth exceeds two hundred fifty (\$250,000) thousand
- 31 dollars.

32 SECTION 18. IC 4-4-10.9-26.5 IS ADDED TO THE INDIANA  
33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
34 [EFFECTIVE JULY 1, 2003]: **Sec. 26.5. "Seed capital" means**  
35 **financing that is provided for:**

- 36 (1) the applied research, development, testing, and initial
- 37 marketing of a technology, product, process, or invention;
- 38 (2) company formation;

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

3           SECTION 19. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA  
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Technology**  
 6 **commercialization project" means any combination of:**

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

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

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

24           SECTION 21. IC 4-4-11-2, AS AMENDED BY P.L.4-2002,  
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2003]: **Sec. 2. (a) The legislature makes the following findings**  
 27 **of fact:**

28           **(1) That there currently exists in certain areas of the state critical**  
 29           **conditions of unemployment, lack of adequate capital for**  
 30           **research and technology commercialization, or environmental**  
 31           **pollution, including water pollution, air pollution, sewage and**  
 32           **solid waste, radioactive waste, thermal pollution, radiation**  
 33           **contamination, and noise pollution, and that these conditions may**  
 34           **well exist, from time to time, in other areas of the state.**

35           **(2) That in some areas of the state such conditions are chronic and**  
 36           **of long standing and that without remedial measures they may**  
 37           **become so in other areas of the state.**

38           **(3) That economic insecurity due to unemployment, inadequate**

- 1           **capital**, or environmental pollution is a menace to the health,  
2           safety, morals, and general welfare of not only the people of the  
3           affected areas but of the people of the entire state.
- 4           (4) That involuntary unemployment and its resulting burden of  
5           indigency falls with crushing force upon the unemployed worker  
6           and ultimately upon the state in the form of public assistance and  
7           unemployment compensation.
- 8           (5) That security against unemployment and the resulting spread  
9           of indigency and economic stagnation in the areas affected can  
10          best be provided by:
- 11           (A) the promotion, attraction, stimulation, rehabilitation, and  
12           revitalization of industrial development projects, **technology**  
13           **commercialization projects**, rural development projects,  
14           mining operations, and agricultural operations that involve the  
15           processing of agricultural products;
- 16           (B) the promotion and stimulation of international exports; and
- 17           (C) the education, both formal and informal, of people of all  
18           ages throughout the state by the promotion, attraction,  
19           construction, renovation, rehabilitation, and revitalization of  
20           and assistance to educational facility projects.
- 21          (6) That the present and prospective health, safety, morals, right  
22          to gainful employment, and general welfare of the people of the  
23          state require as a public purpose the abatement or control of  
24          pollution, the promotion of increased educational enrichment  
25          (including cultural, intellectual, scientific, or artistic  
26          opportunities) for people of all ages through new, expanded, or  
27          revitalized educational facility projects or through assisting  
28          educational facility projects, and the promotion of employment  
29          creation or retention through development of new and expanded  
30          industrial development projects, **technology commercialization**  
31          **projects**, rural development projects, mining operations, and  
32          agricultural operations that involve the processing of agricultural  
33          products.
- 34          (7) That there is a need to stimulate a larger flow of private  
35          investment funds from commercial banks, investment bankers,  
36          **professional investors**, insurance companies, other financial  
37          institutions, and individuals into such industrial development  
38          projects, **technology commercialization projects**, rural

1 development projects, mining operations, international exports,  
2 and agricultural operations that involve the processing of  
3 agricultural products in the state.

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

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

- 16 (A) gainful employment;
- 17 (B) business opportunities;
- 18 (C) educational enrichment (including cultural, intellectual,
- 19 scientific, or artistic opportunities);
- 20 (D) the abatement, reduction, or prevention of pollution;
- 21 (E) the removal or treatment of any substances in materials
- 22 being processed that otherwise would cause pollution when
- 23 used; or
- 24 (F) increased options for and availability of child care;

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

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

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

- 1 (1) promoting opportunities for gainful employment and business  
 2 opportunities by the promotion and development of industrial  
 3 development projects, **technology commercialization projects**,  
 4 rural development projects, mining operations, international  
 5 exports, and agricultural operations that involve the processing of  
 6 agricultural products, in any areas of the state;
- 7 (2) promoting the educational enrichment (including cultural,  
 8 intellectual, scientific, or artistic opportunities) of all the people  
 9 of the state by the promotion, development, and assistance of  
 10 educational facility projects;
- 11 (3) promoting affordable farm credit and agricultural loan  
 12 financing at interest rates that are consistent with the needs of  
 13 borrowers for farming and agricultural enterprises;
- 14 (4) preventing and remediating environmental pollution,  
 15 including water pollution, air pollution, sewage and solid waste  
 16 disposal, radioactive waste, thermal pollution, radiation  
 17 contamination, and noise pollution affecting the health and well  
 18 being of the people of the state by the promotion and development  
 19 of industrial development projects; ~~and~~
- 20 (5) promoting affordable and accessible child care for the people  
 21 of the state by the promotion and development of child care  
 22 facilities; **and**
- 23 **(6) promoting research, innovation, technology transfer, and**  
 24 **technology commercialization by the promotion, development,**  
 25 **and assistance of technology commercialization projects.**

26 SECTION 22. IC 4-4-11-15, AS AMENDED BY P.L.4-2002,  
 27 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2003]: Sec. 15. (a) The authority is granted all powers  
 29 necessary or appropriate to carry out and effectuate its public and  
 30 corporate purposes under this chapter, **IC 4-4-11.5**, IC 4-4-21,  
 31 **IC 4-4-26, IC 13-19-5**, and IC 15-7-5, including but not limited to the  
 32 following:

- 33 (1) Have perpetual succession as a body politic and corporate and  
 34 an independent instrumentality exercising essential public  
 35 functions.
- 36 (2) Without complying with IC 4-22-2, adopt, amend, and repeal  
 37 bylaws, rules, and regulations not inconsistent with this chapter,  
 38 **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26, IC 13-19-5**, and IC 15-7-5 and

- 1 necessary or convenient to regulate its affairs and to carry into  
 2 effect the powers, duties, and purposes of the authority and  
 3 conduct its business.
- 4 (3) Sue and be sued in its own name.
- 5 (4) Have an official seal and alter it at will.
- 6 (5) Maintain an office or offices at a place or places within the  
 7 state as it may designate.
- 8 (6) Make and execute contracts and all other instruments  
 9 necessary or convenient for the performance of its duties and the  
 10 exercise of its powers and functions under this chapter,  
 11 **IC 4-4-11.5**, IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5.
- 12 (7) Employ architects, engineers, attorneys, **financial advisers**,  
 13 inspectors, accountants, agriculture experts, silviculture experts,  
 14 aquaculture experts, and financial experts, and such other  
 15 advisors, consultants, and agents as may be necessary in its  
 16 judgment and to fix their compensation.
- 17 (8) Procure insurance against any loss in connection with its  
 18 property and other assets, including loans and loan notes in  
 19 amounts and from insurers as it may consider advisable.
- 20 (9) Borrow money, make guaranties, issue bonds, and otherwise  
 21 incur indebtedness for any of the authority's purposes, and issue  
 22 debentures, notes, or other evidences of indebtedness, whether  
 23 secured or unsecured, to any person, as provided by this chapter,  
 24 IC 4-4-21, **IC 13-19-5**, and IC 15-7-5.
- 25 (10) Procure insurance or guaranties from any public or private  
 26 entities, including any department, agency, or instrumentality of  
 27 the United States, for payment of any bonds issued by the  
 28 authority or for reinsurance on amounts paid from the industrial  
 29 development project guaranty fund, including the power to pay  
 30 premiums on any insurance or reinsurance.
- 31 (11) Purchase, receive, take by grant, gift, devise, bequest, or  
 32 otherwise, and accept, from any source, aid or contributions of  
 33 money, property, labor, or other things of value to be held, used,  
 34 and applied to carry out the purposes of this chapter, **IC 4-4-11.5**,  
 35 IC 4-4-21, **IC 4-4-26**, **IC 13-19-5**, and IC 15-7-5, subject to the  
 36 conditions upon which the grants or contributions are made,  
 37 including but not limited to gifts or grants from any department,  
 38 agency, or instrumentality of the United States, and lease or



1 otherwise acquire, own, hold, improve, employ, use, and  
2 otherwise deal in and with real or personal property or any  
3 interest in real or personal property, wherever situated, for any  
4 purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.  
5 (12) Enter into agreements with any department, agency, or  
6 instrumentality of the United States or this state and with lenders  
7 and enter into loan agreements, sales contracts, and leases with  
8 contracting parties, including borrowers, lenders, developers,  
9 **professional or accredited investors**, or users, for the purpose  
10 of planning, regulating, and providing for the financing and  
11 refinancing of any agricultural enterprise (as defined in  
12 IC 15-7-4.9-2), rural development project (as defined in  
13 IC 15-7-4.9-19.5), industrial development project, **technology**  
14 **commercialization project**, or international exports, and  
15 distribute data and information concerning the encouragement  
16 and improvement of agricultural enterprises and agricultural  
17 employment, rural development projects, industrial development  
18 projects, international exports, and other types of employment in  
19 the state undertaken with the assistance of the authority under this  
20 chapter.  
21 (13) Enter into contracts or agreements with lenders and lessors  
22 for the servicing and processing of loans and leases pursuant to  
23 this chapter, IC 4-4-21, and IC 15-7-5.  
24 (14) Provide technical assistance to local public bodies and to  
25 profit and nonprofit entities in the development or operation of  
26 agricultural enterprises, rural development projects, **technology**  
27 **commercialization projects**, and industrial development  
28 projects.  
29 (15) To the extent permitted under its contract with the holders of  
30 the bonds of the authority, consent to any modification with  
31 respect to the rate of interest, time, and payment of any  
32 installment of principal or interest, or any other term of any  
33 contract, loan, loan note, loan note commitment, contract, lease,  
34 or agreement of any kind to which the authority is a party.  
35 (16) To the extent permitted under its contract with the holders of  
36 bonds of the authority, enter into contracts with any lender  
37 containing provisions enabling it to reduce the rental or carrying  
38 charges to persons unable to pay the regular schedule of charges

1 when, by reason of other income or payment by any department,  
2 agency, or instrumentality of the United States of America or of  
3 this state, the reduction can be made without jeopardizing the  
4 economic stability of the agricultural enterprise, rural  
5 development project, or industrial development project being  
6 financed.

7 (17) Invest any funds not needed for immediate disbursement,  
8 including any funds held in reserve, in direct and general  
9 obligations of or obligations fully and unconditionally guaranteed  
10 by the United States, obligations issued by agencies of the United  
11 States, obligations of this state, or any obligations or securities  
12 which may from time to time be legally purchased by  
13 governmental subdivisions of this state pursuant to IC 5-13, or  
14 any obligations or securities which are permitted investments for  
15 bond proceeds or any construction, debt service, or reserve funds  
16 secured under the trust indenture or resolution pursuant to which  
17 bonds are issued.

18 (18) Collect fees and charges, as the authority determines to be  
19 reasonable, in connection with its loans, **co-venture investment**  
20 **loans and loan guarantees**, guarantees, advances, insurance,  
21 commitments, and servicing.

22 (19) Cooperate and exchange services, personnel, and information  
23 with any federal, state, or local government agency, or  
24 instrumentality of the United States or this state.

25 (20) Sell, at public or private sale, with or without public bidding,  
26 any loan or other obligation held by the authority.

27 (21) Enter into agreements concerning, and acquire, hold, and  
28 dispose by any lawful means, land or interests in land, building  
29 improvements, structures, personal property, franchises, patents,  
30 accounts receivable, loans, assignments, guarantees, and  
31 insurance needed for the purposes of this chapter, IC 4-4-21,  
32 **IC 4-4-26, IC 13-19-5**, or IC 15-7-5.

33 (22) Take assignments of accounts receivable, loans, guarantees,  
34 insurance, notes, mortgages, security agreements securing notes,  
35 and other forms of security, attach, seize, or take title by  
36 foreclosure or conveyance to any industrial development project  
37 **or technology commercialization project** when a guaranteed  
38 loan thereon is clearly in default and when in the opinion of the

1 authority such acquisition is necessary to safeguard the industrial  
 2 development project guaranty fund **or the Indiana venture fund,**  
 3 and sell, or on a temporary basis, lease, or rent such industrial  
 4 development project **or technology commercialization project**  
 5 for any use.

6 (23) Expend money, as the authority considers appropriate, from  
 7 the industrial development project guaranty fund created by  
 8 section 16 of this chapter **and the Indiana venture fund**  
 9 **established by IC 4-4-11.7-5.**

10 (24) Purchase, lease as lessee, construct, remodel, rebuild,  
 11 enlarge, or substantially improve industrial development projects,  
 12 including land, machinery, equipment, or any combination  
 13 thereof.

14 (25) Lease industrial development projects to users or developers,  
 15 with or without an option to purchase.

16 (26) Sell industrial development projects to users or developers,  
 17 for consideration to be paid in installments or otherwise.

18 (27) Make direct loans from the proceeds of the bonds to users or  
 19 developers for:

20 (A) the cost of acquisition, construction, or installation of  
 21 industrial development projects, including land, machinery,  
 22 equipment, or any combination thereof; **or**

23 (B) eligible expenditures for an educational facility project  
 24 described in IC 4-4-10.9-6.2(a)(2); **or**

25 (C) **eligible expenditures for a technology**  
 26 **commercialization project;**

27 with the loans to be secured by the pledge of one (1) or more  
 28 bonds, notes, warrants, or other secured or unsecured debt  
 29 obligations of the users or developers.

30 (28) Lend or deposit the proceeds of bonds to or with a lender **or**  
 31 **professional or accredited investor** for the purpose of:

32 (A) furnishing funds to such lender **or investor** to be used for  
 33 making a loan to a developer or user for the financing of  
 34 industrial development projects under this chapter; **or**

35 (B) **making capital available to an eligible technology**  
 36 **commercialization project.**

37 (29) Enter into agreements with users or developers to allow the  
 38 users or developers, directly or as agents for the authority, to

- 1 wholly or partially construct industrial development projects to be  
2 leased from or to be acquired by the authority.
- 3 (30) Establish reserves from the proceeds of the sale of bonds,  
4 other funds, or both, in the amount determined to be necessary by  
5 the authority to secure the payment of the principal and interest on  
6 the bonds.
- 7 (31) Adopt ~~rules~~ **guidelines, without complying with IC 4-22-2,**  
8 governing its activities authorized under this chapter, IC 4-4-21,  
9 **IC 4-4-11.7, IC 4-4-26, IC 13-19-5,** and IC 15-7-5.
- 10 (32) Use the proceeds of bonds to make guaranteed participating  
11 loans.
- 12 (33) Purchase, discount, sell, and negotiate, with or without  
13 guaranty, notes and other evidences of indebtedness.
- 14 (34) Sell and guarantee securities.
- 15 (35) Make guaranteed participating loans under IC 4-4-21-26.
- 16 (36) Procure insurance to guarantee, insure, coinsure, and  
17 reinsure against political and commercial risk of loss, and any  
18 other insurance the authority considers necessary, including  
19 insurance to secure the payment of principal and interest on notes  
20 or other obligations of the authority.
- 21 (37) Provide performance bond guarantees to support eligible  
22 export loan transactions, subject to the terms of this chapter or  
23 IC 4-4-21.
- 24 (38) Provide financial counseling services to Indiana exporters.
- 25 (39) Accept gifts, grants, or loans from, and enter into contracts  
26 or other transactions with, any federal or state agency,  
27 municipality, private organization, or other source.
- 28 (40) Sell, convey, lease, exchange, transfer, or otherwise dispose  
29 of property or any interest in property, wherever the property is  
30 located.
- 31 (41) Cooperate with other public and private organizations to  
32 promote export trade activities in Indiana.
- 33 (42) Make guarantees and administer the agricultural loan and  
34 rural development project guarantee fund established by  
35 IC 15-7-5.
- 36 (43) Take assignments of notes and mortgages and security  
37 agreements securing notes and other forms of security, and attach,  
38 seize, or take title by foreclosure or conveyance to any

1 agricultural enterprise or rural development project when a  
 2 guaranteed loan to the enterprise or rural development project is  
 3 clearly in default and when in the opinion of the authority the  
 4 acquisition is necessary to safeguard the agricultural loan and  
 5 rural development project guarantee fund, and sell, or on a  
 6 temporary basis, lease or rent the agricultural enterprise or rural  
 7 development project for any use.

8 (44) Expend money, as the authority considers appropriate, from  
 9 the agricultural loan and rural development project guarantee  
 10 fund created by IC 15-7-5-19.5.

11 (45) Reimburse from bond proceeds expenditures for industrial  
 12 development projects under this chapter.

13 **(46) Make direct loans and co-venture investment loans and**  
 14 **loan guarantees to professional and accredited investors to**  
 15 **provide seed and venture capital to technology**  
 16 **commercialization projects.**

17 **(47) Through administration of the twenty-first century**  
 18 **research and technology fund and the Indiana venture fund,**  
 19 **award grants to and enter into contracts with universities and**  
 20 **research institutions to:**

21 **(A) increase the capacity of Indiana institutions of higher**  
 22 **education, Indiana businesses, and Indiana nonprofit**  
 23 **corporations and organizations to compete successfully for**  
 24 **federal and private research and development funds;**

25 **(B) stimulate the transfer of research and technology into**  
 26 **marketable products;**

27 **(C) assist with diversifying Indiana's economy by focusing**  
 28 **investment on biomedical research, biotechnology,**  
 29 **information technology, and other high technology**  
 30 **industry clusters requiring high skill, high wage**  
 31 **employees; and**

32 **(D) encourage an environment of innovation and**  
 33 **cooperation among universities and businesses to promote**  
 34 **research.**

35 **(48) Do any act necessary or convenient to the exercise of the**  
 36 **powers granted by this chapter, IC 4-4-11.5, IC 4-4-21,**  
 37 **IC 4-4-26, IC 13-19-5, or IC 15-7-5, or reasonably implied from**  
 38 **those statutes, including but not limited to compliance with**

1 requirements of federal law imposed from time to time for the  
2 issuance of bonds.

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

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

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

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

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

18 SECTION 24. IC 4-4-11.7 IS ADDED TO THE INDIANA CODE  
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2003]:

21 **Chapter 11.7. Indiana Venture Fund**

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

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

26 (2) by the Securities and Exchange Commission.

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

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

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

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

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

38 **Sec. 7. The authority shall invest the money in the fund not**

1 currently needed to meet the obligations of the fund in conformity  
 2 with IC 4-4-11 and the investment policies established by the  
 3 authority. Interest that accrues from these investments shall be  
 4 deposited in the fund.

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

7 Sec. 9. The authority may accept:

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

23 for deposit in the fund.

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

- 26 (1) To make a direct loan to a technology commercialization  
 27 project to provide seed capital or venture capital. A direct  
 28 loan under this subdivision may not exceed the lesser of the  
 29 following:
  - 30 (A) Forty percent (40%) of the estimated cost of the initial  
 31 funding for the project (including development, testing,  
 32 initial production and marketing, company formation,  
 33 intellectual property protection and acquisition, and  
 34 associated working capital for the technology, product,  
 35 process, or invention).
  - 36 (B) Six hundred thousand dollars (\$600,000).
- 37 (2) To make direct or co-venture investments in the form of  
 38 loans or loan guarantees by entering into agreements with one

1           **(1) or more professional or accredited investors who have**  
2           **formally agreed to invest at least as much as the authority**  
3           **invests in a technology commercialization project to provide**  
4           **venture capital or seed capital. Not more than one million**  
5           **dollars (\$1,000,000) may be loaned or guaranteed by the**  
6           **authority to any single business under this subdivision.**  
7           **However, an amount not exceeding an additional five hundred**  
8           **thousand dollars (\$500,000) may be loaned or guaranteed to**  
9           **the single business if the authority finds, after the initial**  
10           **investment by the authority, that additional investments in the**  
11           **business are necessary to protect or enhance the initial**  
12           **investment of the authority. Each co-venture investment**  
13           **agreement must provide that the authority is to recover its**  
14           **investment before or simultaneously with any distribution to**  
15           **participating professional or accredited investors. The**  
16           **agreement must provide that the authority and participating**  
17           **professional or accredited investors are to share ratably in the**  
18           **profits earned in any form on the co-venture investment.**  
19           **(3) To enter into written agreements or with one (1) or more**  
20           **professional investors to establish a pool of funds to be used**  
21           **exclusively as venture capital or seed capital investments. The**  
22           **authority may not invest more than two million dollars**  
23           **(\$2,000,000) in a single pool of funds or in affiliated pools of**  
24           **funds. The agreement or contract must provide for the pool**  
25           **of funds to be managed by a professional investor. The**  
26           **authority must specifically find that the professional investor**  
27           **meets the requirements of IC 4-4-10.9-24.5 and is competent**  
28           **to adequately monitor the pool. The authority may, by**  
29           **guideline, limit or decline investment in funds that are not**  
30           **Indiana or Midwest based. The authority may also limit or**  
31           **decline investment in funds that do not commit to investing in**  
32           **Indiana companies. The pool agreement or contract may**  
33           **provide for reimbursement of expenses of, and payment of a**  
34           **fee to, the manager. The agreement or contract may also**  
35           **provide for payment to the manager of a percentage, not to**  
36           **exceed forty percent (40%) (computed on an annual basis), of**  
37           **cash and other property payable to the authority as its pro**  
38           **rata share of distributions to investors in the pool of funds.**



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

**However, either:**

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

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

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

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

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

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

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

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

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

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

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

**Sec. 16. The advisory board may request that the authority consult with and hire professionals on its behalf as the authority**

1 considers necessary to evaluate applications. The professionals  
2 may be compensated from the fund or the applicant, or both.

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

4 **(b) Subsections (c) through (e) apply to a meeting of the**  
5 **advisory board at which at least four (4) members of the advisory**  
6 **board are physically present at the place where the meeting is**  
7 **conducted.**

8 **(c) A member of the advisory board may participate in a**  
9 **meeting of the advisory board by using a means of communication**  
10 **that permits:**

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

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

14 **to simultaneously communicate with each other during the**  
15 **meeting.**

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

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

20 **(1) was physically present at the place where the meeting was**  
21 **conducted;**

22 **(2) participated in the meeting by using a means of**  
23 **communication described in subsection (c); and**

24 **(3) was absent.**

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

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

36 **Sec. 20. Each co-venture investment loan or guarantee or pool**  
37 **participation agreement shall provide that the authority must be**  
38 **repaid before or simultaneously with any distribution to**

1 participating professional or accredited investors. The authority  
2 and participating professional or accredited investors must share  
3 ratably in the profits earned in any form on the co-venture  
4 investment. Unless the investment is a pooled investment, the  
5 agreement must also provide that the professional or accredited  
6 investor must share its initial due diligence report on the business  
7 and any subsequent analysis of and information received about the  
8 business.

9 **Sec. 21. An application for a direct loan or a co-venture**  
10 **investment loan or guarantee from the fund must include the**  
11 **following:**

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

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

- 33 (1) **Whether the business has a reasonable chance of success.**
- 34 (2) **Whether the technology, product, process, or invention for**  
35 **which the loan is being made is feasible and has the potential**  
36 **to achieve commercial success.**
- 37 (3) **Whether the entrepreneur, investors, shareholders, and**  
38 **other founders of the business have already made or are**

1           **obligated in writing to make a substantial financial and time**  
2           **commitment to the enterprise.**

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

10           **(1) The authority determines that there is a reasonable**  
11           **possibility that the authority will recoup its investment**  
12           **within:**

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

14                   **(B) another period negotiated by the authority;**

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

18           **(2) Binding commitments have been made to the authority by**  
19           **the enterprise for adequate reporting of financial data to the**  
20           **authority and any participating professional investors. The**  
21           **report must include an annual audit of the books of the**  
22           **enterprise by an independent certified public accountant if**  
23           **required by the authority. The report must be prepared in**  
24           **accordance with generally accepted accounting principles.**  
25           **The authority and any participating professional or**  
26           **accredited investors shall secure sufficient contractual rights**  
27           **from the business as the authority shall consider prudent to**  
28           **protect the investment of the authority, including, at the**  
29           **discretion of the authority and without limitation, a right of**  
30           **access to financial and other records of the business.**

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

- 1 professional investors.
- 2 (4) The authority has:
- 3 (A) received a copy of the professional or accredited
- 4 investor's due diligence report on the business, including
- 5 its analysis of the factors in section 22 of this chapter and
- 6 this section; and
- 7 (B) determined the report to be adequate.
- 8 (5) The authority must find that the professional or accredited
- 9 investor meets the respective definition in IC 4-4-10.9-0.5 or
- 10 IC 4-4-10.9-24.5 and that the professional or accredited
- 11 investor is competent and adequately prepared to monitor the
- 12 progress of the business.
- 13 (6) If the co-venture investment is in the form of a loan
- 14 guarantee, the authority must make the following additional
- 15 findings:
- 16 (A) Sufficient reserves exist in the fund to support the loan
- 17 guarantee.
- 18 (B) The professional or accredited investor to whom the
- 19 guarantee is provided has made a commitment to keep the
- 20 authority informed on all aspects of the business receiving
- 21 the investment.
- 22 **Sec. 24. The authority, with recommendations from the advisory**
- 23 **board, may invest money in the fund in accordance with the**
- 24 **investment guidelines established by the authority. IC 4-22-2 does**
- 25 **not apply to these guidelines.**
- 26 **Sec. 25. Applicants that have received:**
- 27 (1) prior funding from the twenty-first century research and
- 28 technology fund; or
- 29 (2) favorable reviews during the peer review process
- 30 conducted on an application for funding from the twenty-first
- 31 century research and technology fund;
- 32 shall receive preference from the advisory board during the
- 33 application review process. The authority may, by guideline,
- 34 require that all applicants meet the requirement of either
- 35 subdivision (1) or (2).
- 36 **Sec. 26. The authority's interest in any single business in the**
- 37 **form of a loan or co-venture investment loan or guarantee may not**
- 38 **represent more than forty percent (40%) of the capitalization of**

1 the business.

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

6 (1) the operation of any business conducted by an applicant  
7 for, or recipient of, any form of assistance which the authority  
8 is empowered to render; or

9 (2) the competitive position of the business in a particular  
10 field of endeavor;

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

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

16 (1) be submitted on a form; and

17 (2) contain the information;

18 prescribed by the authority.

19 **Sec. 29. The authority may not enter into any agreement or**  
20 **contract regarding a pool of funds unless the agreement or**  
21 **contract provides that the pool of funds is to be invested in an**  
22 **enterprise only if the professional investor or manager finds all the**  
23 **following:**

24 (1) The enterprise has a reasonable chance of success.

25 (2) The technology, product, process, or invention for which  
26 the investment is being made is feasible and has the potential  
27 to achieve commercial success.

28 (3) The entrepreneur, investors, shareholders, or founders of  
29 the enterprise have made or are obligated to make a  
30 substantial commitment of time and funds to the enterprise.

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

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

38 **Sec. 30. The fund and all proceeds of the fund are public**

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

9       SECTION 25. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS  
 10      A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 11      1, 2003]:

12       **Chapter 31. Tobacco Settlement Authority**

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

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

17       **Sec. 3.** As used in this chapter, "bonds" means bonds, notes, and  
 18      any other obligations and financing arrangements issued or  
 19      entered into by the authority under this chapter and any such  
 20      bonds, notes, obligations, or other financing arrangements entered  
 21      into to refund the foregoing, whether on a current or an advance  
 22      basis.

23       **Sec. 4.** As used in this chapter, "financing costs" means  
 24      capitalized interest, capitalized operating expenses, debt service  
 25      reserves, operating reserves, and any cost of issuance, credit  
 26      enhancement, swap agreement under IC 8-9.5-9, or item of expense  
 27      directly or indirectly payable or reimbursable by the authority and  
 28      related to the authorization, sale, or issuance of the bonds,  
 29      including, but not limited to, underwriting fees and fees and  
 30      expenses for professional consultants and fiduciaries.

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

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

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

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

7           **Sec. 9. As used in this chapter, "sales agreement" means any**  
8 **agreement authorized under this chapter in which the state sells to**  
9 **the authority a portion of the amounts and revenues required to be**  
10 **paid by tobacco product manufacturers to the state and the state's**  
11 **rights to receive the amounts and revenues under the master**  
12 **settlement agreement.**

13           **Sec. 10. As used in this chapter, "state" means the state of**  
14 **Indiana, acting by and through its budget agency, or any other**  
15 **state agency, state office, or state officer required by law or**  
16 **contract to act on behalf of the state of Indiana for a particular**  
17 **purpose.**

18           **Sec. 11. (a) The general assembly declares it to be the public**  
19 **policy of the state and a recognized governmental function to assist**  
20 **in securitizing the revenue stream from the master settlement**  
21 **agreement between the state and tobacco product manufacturers**  
22 **in order to provide a current and reliable source of revenue for the**  
23 **state. The purpose of this chapter is to establish a tobacco**  
24 **settlement authority having the power to purchase certain rights**  
25 **of the state under the master settlement agreement and to issue**  
26 **nonrecourse revenue bonds.**

27           **(b) This chapter, being necessary for the welfare of the state and**  
28 **its inhabitants, shall be liberally construed to effect the purposes**  
29 **thereof.**

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

36           **(1) The creation of the authority.**

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

38           **(3) The sale to the authority of a portion of the amounts and**



1 revenues required to be paid by tobacco product  
2 manufacturers to the state and the state's right to receive the  
3 amounts and revenues under the master settlement  
4 agreement.

5 (4) The issuance of bonds.

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

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

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

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

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

18 (4) Four (4) members appointed by the governor who are  
19 persons of known probity and who possess adequate capacity  
20 for the performance of the duties of members of the authority.

21 Not more than two (2) of the members appointed under this  
22 subdivision may be members of the same political party.

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

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

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

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

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

35 (3) is eligible for reappointment; and

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

38 (e) The members of the board are not entitled to any

1 compensation for their services but are entitled to reimbursement  
2 for actual and necessary expenses on the same basis as state  
3 employees.

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

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

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

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

15 (1) all other members of the board participating in the  
16 meeting; and

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

19 to simultaneously communicate with each other during the  
20 meeting.

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

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

26 (1) was physically present at the place where the meeting was  
27 conducted;

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

30 (3) was absent.

31 Sec. 17. Any member or employee of the authority who has, will  
32 have, or later acquires an interest, direct or indirect, in any  
33 transaction with the authority shall immediately disclose the  
34 nature and extent of the interest in writing to the authority as soon  
35 as the member or employee has knowledge of the actual or  
36 prospective interest. The disclosure shall be announced in open  
37 meeting and entered upon the minutes of the authority. Upon  
38 disclosure, the member or employee shall not participate in any

1        **action by the authority authorizing the transaction. However, such**  
 2        **an interest shall not invalidate actions by the authority with the**  
 3        **participation of the disclosing member prior to the time when the**  
 4        **member became aware of the interest.**

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

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

26            **(1) adopt:**

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

28                    **(B) a policy;**

29            **establishing a code of ethics for its employees; or**

30            **(2) decide it wishes to be under the jurisdiction and rules**  
 31            **adopted by the state ethics commission.**

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

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

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

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

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

5       **Sec. 21. The authority may not:**

- 6           **(1) exercise the power of eminent domain; or**
- 7           **(2) levy taxes of any kind.**

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

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

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

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

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

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

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

36       **may be brought after the fifteenth day following the publication of**  
 37       **the notice. If an action challenging the bonds or sales agreement is**  
 38       **not brought within the time prescribed by this subsection, the**

1       **bonds or sales agreement shall be conclusively presumed to be fully**  
2       **authorized and valid under the laws of the state and any person or**  
3       **entity is estopped from further questioning the authorization,**  
4       **validity, execution, delivery, or issuance of the bonds or the sales**  
5       **agreement.**

6       **(d) The bonds, when issued, shall have all the qualities of**  
7       **negotiable instruments, subject to provisions for registration,**  
8       **under IC 26-1 and are incontestable in the hands of a bona fide**  
9       **purchaser or owner of the bond for value. Bonds issued under this**  
10       **chapter are exempt from the registration requirements of**  
11       **IC 23-2-1 and any other state securities registration statutes.**

12       **(e) The authority's bonds shall:**

13               **(1) bear the date or dates;**

14               **(2) mature at the time or times;**

15               **(3) be in the denominations;**

16               **(4) be in the form;**

17               **(5) be registered or registrable in the manner;**

18               **(6) be made transferable, exchangeable, and interchangeable;**

19               **(7) be payable in the medium of payment and at the place or**  
20               **places;**

21               **(8) be subject to the terms of redemption;**

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

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

24               **(11) be sold at a public or negotiated sale in the manner and**  
25               **at the price or prices;**

26       **as the authority determines.**

27       **(f) The bonds shall be executed by one (1) or more officers of the**  
28       **authority and by the trustee or paying agent. Execution of the**  
29       **bonds may be by manual or facsimile signature.**

30       **(g) The bonds of the authority are subject to the terms,**  
31       **conditions, covenants, and protective provisions that are found**  
32       **necessary or desirable by the authority, including, but not limited**  
33       **to, pledges of the authority's assets, setting aside of reserves, and**  
34       **other provisions the authority finds are necessary or desirable for**  
35       **the security of bondholders.**

36       **(h) Any pledge of revenues to be derived by the authority under**  
37       **a sales agreement or from any other source, and the right to**  
38       **receive revenues under a sales agreement or from any other**

1 source, or any pledge of a special fund, account, or subaccount  
2 created by the authority, together with any investment earnings, is  
3 valid and binding at the time the pledge is made. Property so  
4 pledged is immediately subject to the lien of the pledge without any  
5 physical delivery thereof or further act. The lien of such a pledge  
6 is valid and binding as against all parties having claims of any kind  
7 in tort, contract, or otherwise against the authority, regardless of  
8 whether the parties have notice of the lien. Notwithstanding any  
9 other provision of law to the contrary, the resolution or trust  
10 agreement of the authority or any other instrument by which the  
11 pledge is created need not be recorded or filed except in the  
12 records of the authority to perfect the pledge.

13 (i) Neither a member of the board nor a person executing bonds  
14 or notes issued under this article is liable personally on the bonds  
15 or notes.

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

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

38 (b) All property of the authority is public property devoted to

1 an essential public and governmental function and purpose and is  
2 exempt from all taxes and special assessments, direct or indirect,  
3 of the state or a political subdivision of the state. All bonds issued  
4 under this chapter are issued by a body corporate and politic of  
5 this state, but not a state agency, and for an essential public and  
6 governmental purpose, and the bonds, the interest thereon, the  
7 proceeds received by the holder from the sale of the bonds to the  
8 extent of the holder's cost of acquisition proceeds received upon  
9 redemption prior to maturity, and proceeds received at maturity  
10 and the receipt of the interest and proceeds are exempt from  
11 taxation in the state for all purposes except the financial  
12 institutions tax imposed under IC 6-5.5 or a state inheritance tax  
13 imposed under IC 6-4.1.

14 **Sec. 24.** Contracts entered into by the authority shall be entered  
15 into in the name of the authority and not in the name of the state  
16 of Indiana. The obligations of the authority under the contracts are  
17 obligations only of the authority and are not in any way obligations  
18 of the state of Indiana.

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

29 **Sec. 26. (a)** Without complying with any other law governing the  
30 sale or disposition of property by the state, the state may sell and  
31 assign to the authority, and the authority may purchase, all of the  
32 state's right to receive a part not to exceed thirty-five percent  
33 (35%) of the state's annual share of the amounts and revenues due  
34 to the state under the master settlement agreement and of the  
35 state's rights to receive those amounts and revenues. The state,  
36 including the governor and the attorney general, may take any  
37 action necessary or convenient to facilitate and complete the sale.  
38 The authority may take any action necessary or convenient to



1 facilitate and complete the purchase.

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

17 (c) The state hereby covenants and agrees with the holders of  
18 any bonds that so long as any bonds of the authority issued under  
19 this chapter are outstanding and unpaid, the state will not limit or  
20 alter the rights vested in the authority to fulfill the terms of any  
21 agreements made with, or make payments to, the holders of the  
22 bonds or in any way impair the rights and remedies of the  
23 bondholders, until the bonds, together with interest thereon, and  
24 all costs and expenses in connection with any action or proceedings  
25 by or on behalf of the bondholder are fully paid, satisfied, and  
26 discharged.

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

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

31 (2) the property sold and assigned is the property of the  
32 authority and not the property of the state;

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

36 (4) none of the property sold and assigned shall be subject to  
37 garnishment, levy, execution, attachment, or other process,  
38 writ, (including writ of mandate), or remedy in connection

1 with the assertion or enforcement of any debt, claim,  
2 settlement, or judgment against the state; and

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

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

14 (f) The state shall:

15 (1) notify the independent auditor and the escrow agent under  
16 the master settlement agreement that a portion of the  
17 amounts and revenues due under the master settlement  
18 agreement has been sold and assigned to the authority; and

19 (2) irrevocably instruct the independent auditor and the  
20 escrow agent that, after the date of the notice under  
21 subdivision (1), the portion of the amounts and revenues due  
22 under the master settlement agreement sold and assigned to  
23 the authority is to be paid directly to the trustee under the  
24 trust agreement of the authority for the benefit of the owners  
25 of the bonds secured by a pledge of those amounts and  
26 revenues until the bonds are no longer outstanding under the  
27 resolution or trust agreement.

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

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

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

35 **Sec. 27.** Members of the board, the officers and employees of the  
36 authority, the agents of the authority, and any other persons  
37 executing bonds issued under this chapter are not subject to  
38 personal liability or accountability by reason of any act authorized

1 by this chapter, including, without limitation, the issuance of  
2 bonds, the failure to issue bonds, the execution of bonds, and the  
3 exercise of any other powers contemplated by this chapter.

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

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

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

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

- 32 (1) diligently enforce the authority's right to receive the  
33 portion of the amounts and revenues due under the master  
34 settlement agreement and sold under the sales agreement, to  
35 the full extent permitted by the master settlement agreement;  
36 (2) diligently enforce the qualifying statute as contemplated  
37 by the master settlement agreement against all tobacco  
38 product manufacturers that are selling tobacco products in

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

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

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

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

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

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

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

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

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

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

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

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

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

1           **(3) a state court has entered a final judgment from which no**  
2           **further appeal is allowed ordering the judgment debtor**  
3           **tobacco manufacturer to pay the state both its obligations**  
4           **under the master settlement agreement and any punitive**  
5           **damages to be paid to the state without setoff, credit, or**  
6           **reduction of one (1) obligation on account of the other.**

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

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

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

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

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

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

- 1           **(2) In determining whether a respondent is responsible, the**  
 2           **authority may consider the following factors:**
- 3               **(A) The ability and capacity of the respondent to provide**  
 4               **the bond service.**
- 5               **(B) The integrity, character, and reputation of the**  
 6               **respondent.**
- 7               **(C) The competency and experience of the respondent.**
- 8           **(k) A register of responses must be:**
- 9               **(1) prepared for each contract entered into under this section;**  
 10              **and**
- 11              **(2) open for public inspection after the execution of the**  
 12              **contract.**
- 13           **(l) The register of responses must contain the following:**
- 14               **(1) A copy of the request for qualifications.**
- 15               **(2) A list of all persons to whom copies of the request for**  
 16               **qualifications were given.**
- 17               **(3) A list of all responses received, which must include all of**  
 18               **the following:**
- 19                   **(A) The names and addresses of all respondents.**
- 20                   **(B) The manner in which the amount payable to the**  
 21                   **respondent would be determined.**
- 22                   **(C) The name of the successful respondent and the manner**  
 23                   **in which the amount payable to that respondent is to be**  
 24                   **determined.**
- 25               **(4) The basis on which the contract was entered into.**
- 26               **(5) The entire contents of the contract file except for**  
 27               **proprietary information, such as trade secrets and financial**  
 28               **information that was not required to be made available for**  
 29               **public inspection by the terms of the request for**  
 30               **qualifications.**
- 31           SECTION 26. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS  
 32           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 33           1, 2003]:
- 34           **Chapter 32. Indiana Growth Fund**
- 35           **Sec. 1. As used in this chapter, "authority" refers to tobacco**  
 36           **settlement authority established by IC 4-4-31-12.**
- 37           **Sec. 2. As used in this chapter, "fund" refers to the Indiana**  
 38           **growth fund established by section 3 of this chapter.**



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

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

6           (1) **The net proceeds of bonds issued to securitize the**  
7 **payments under the tobacco settlement agreement and**  
8 **deposited in the fund under IC 4-4-31-22.**

9           (2) **Appropriations, if any, made to the fund by the general**  
10 **assembly.**

11           (3) **Grants, gifts, and donations intended for deposit in the**  
12 **fund.**

13           (4) **Interest that accrues from investment of money in the**  
14 **fund.**

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

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

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

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

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

25           (1) **make the distributions authorized by the general**  
26 **assembly; and**

27           (2) **pay the expenses of operating the authority and the**  
28 **expenses of administering the fund.**

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

32           (1) **the schedule specified by the budget agency; or**

33           (2) **June 30.**

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

- 1           **(b) If money subsequently becomes available to make both:**  
 2           **(1) the total amount of transfers required by law in a state**  
 3           **fiscal year, including the supplemental distribution required**  
 4           **under section 12 of this chapter; and**  
 5           **(2) one (1) or more transfers that were deferred or reduced**  
 6           **under this section in a prior state fiscal year;**  
 7           **the budget agency, after review by the budget committee, may**  
 8           **direct the authority to make part or all of the deferred or reduced**  
 9           **distribution for the purpose specified by law for that distribution**  
 10           **in any state fiscal year before July 1, 2013.**
- 11           **Sec. 12. (a) In each state fiscal year beginning after June 30,**  
 12           **2003, and ending before July 1, 2013, the authority shall distribute**  
 13           **twenty-five million dollars (\$25,000,000) from the fund to the**  
 14           **Indiana development finance authority established by IC 4-4-11-4.**
- 15           **(b) In addition, if, in any state fiscal year, the budget agency**  
 16           **after review by the budget committee determines that the balance**  
 17           **in the fund is greater than the amount necessary to make all**  
 18           **distributions from the fund required by law, the budget agency**  
 19           **shall direct the authority to make a supplemental distribution from**  
 20           **the fund to the Indiana development finance authority established**  
 21           **by IC 4-4-11-4. However, the supplemental distribution when**  
 22           **added to the amount distributed under subsection (a) may not**  
 23           **exceed thirty-six million dollars (\$36,000,000) in any state fiscal**  
 24           **year.**
- 25           **(c) Money transferred to the Indiana development finance**  
 26           **authority under this section:**
- 27           **(1) must be deposited either in:**
- 28           **(A) the twenty-first century research and development**  
 29           **fund (IC 4-4-5.1-3); or**
- 30           **(B) the Indiana venture fund (IC 4-4-11.7-5); and**
- 31           **(2) may be used only for the purposes of the twenty-first**  
 32           **century research and development fund or the Indiana**  
 33           **venture fund.**
- 34           **(d) Money that is deposited in or transferred to the twenty-first**  
 35           **century research and development fund or the Indiana venture**  
 36           **fund under this section and not currently needed to meet the**  
 37           **obligations of the fund may be:**

- 1           **(1) used in a subsequent state fiscal year for the purposes of**  
 2           **the fund in which it is deposited; or**  
 3           **(2) transferred between the funds and used for the purposes**  
 4           **of the fund to which the money is transferred in the state**  
 5           **fiscal year in which it is transferred or a subsequent state**  
 6           **fiscal year.**

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

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

- 18           **(1) One million two hundred thousand dollars (\$1,200,000) for**  
 19           **deposit in the rural development council fund (IC 4-4-9.5-4).**  
 20           **(2) Six hundred thousand dollars (\$600,000) for deposit in the**  
 21           **value added research fund (IC 4-4-3.4-4).**  
 22           **(3) Two million four hundred thousand dollars (\$2,400,000)**  
 23           **for deposit in the rural development administration fund (IC**  
 24           **4-4-9.3).**

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

28           **Sec. 15. The authority shall make the following distributions**  
 29           **from the fund to the treasurer of state for deposit in the Indiana**  
 30           **growth scholars fund in the following specified state fiscal years:**

- 31           **(1) Four million seven hundred thousand dollars (\$4,700,000)**  
 32           **in the state fiscal year beginning July 1, 2003, and ending**  
 33           **June 30, 2004.**  
 34           **(2) Five million one hundred thousand dollars (\$5,100,000) in**  
 35           **the state fiscal year beginning July 1, 2004, and ending June**  
 36           **30, 2005.**

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

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

7           **Money distributed under this section to Indiana growth scholars**  
 8           **fund may be used only for the purposes of the Indiana growth**  
 9           **scholars fund.**

10           **Sec. 16. This chapter expires June 30, 2013.**

11           SECTION 27. IC 4-12-11 IS ADDED TO THE INDIANA CODE  
 12           AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 13           JULY 1, 2003]:

14           **Chapter 11. Technology Development Grant Fund**

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

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

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

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

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

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

29           **(1) Advanced manufacturing, including the following:**

30                   **(A) Automotive and electronics.**

31                   **(B) Aerospace technology.**

32                   **(C) Robotics.**

33                   **(D) Engineering design technology.**

34           **(2) Life sciences, including the following:**

35                   **(A) Orthopedics or medical devices.**

36                   **(B) Biomedical research or development.**

37                   **(C) Pharmaceutical manufacturing.**

38                   **(D) Agribusiness.**

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

1           **(B) the grant being applied for under this chapter will**  
 2           **assist the redevelopment commission in accomplishing the**  
 3           **goals of the technology park under IC 36-7-32; and**

4           **(3) provide the other information required by the department.**

5           **Sec. 15. The department shall provide grants on a competitive**  
 6           **basis from the fund to businesses that apply for a grant under this**  
 7           **chapter. The department may select and fund part or all of an**  
 8           **application request that:**

9           **(1) is submitted during an application period; or**

10          **(2) was submitted in a prior application period but not fully**  
 11          **funded in that application period.**

12          **Sec. 16. (a) For purposes of this section, "operating**  
 13          **expenditures" includes the following:**

14          **(1) Business plans.**

15          **(2) Marketing studies.**

16          **(3) Mentor identification.**

17          **(4) Securitization of capital.**

18          **(5) Legal services.**

19          **(6) Other necessary services.**

20          **(b) The total of all grants provided under this chapter for a**  
 21          **technology park may not exceed the following:**

22          **(1) Two million dollars (\$2,000,000) for the leasing,**  
 23          **construction, or purchase of capital assets.**

24          **(2) Two million dollars (\$2,000,000) for operating**  
 25          **expenditures, and, subject to subsection (d), with not more**  
 26          **than five hundred thousand dollars (\$500,000) being**  
 27          **distributed in any one (1) fiscal year.**

28          **(c) This subsection applies to a grant provided under subsection**  
 29          **(b)(1) for the leasing of a capital asset. The grant may be applied**  
 30          **only to lease payments made during:**

31          **(1) the fiscal year; or**

32          **(2) each of the three (3) fiscal years immediately following the**  
 33          **fiscal year;**

34          **in which the grant is provided.**

35          **(d) The annual distribution of a grant under subsection (b)(2)**  
 36          **may not exceed the following:**

37          **(1) Eighty percent (80%) of total operating expenditures in**  
 38          **the fiscal year in which the grant is provided.**

1           **(2) Sixty percent (60%) of total operating expenditures in the**  
2           **fiscal year after the fiscal year in which the grant is provided.**

3           **(3) Forty percent (40%) of total operating expenditures in the**  
4           **second fiscal year after the fiscal year in which the grant is**  
5           **provided.**

6           **(4) Twenty percent (20%) of total operating expenditures in**  
7           **the third fiscal year after the fiscal year in which the grant is**  
8           **provided.**

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

11           **(1) two million dollars (\$2,000,000); or**

12           **(2) fifty percent (50%) of the total capital costs;**  
13          **of the project being funded by the grant be matched from other**  
14          **sources.**

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

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

32          **SECTION 28. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE**  
33          **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
34          **JANUARY 1, 2003 (RETROACTIVE)]:**

35           **Chapter 25. Internship Payroll Credit**

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

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

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

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

6               (1) a corporation that is exempt from the adjusted gross  
7 income tax under IC 6-3-2-2.8(2);

8               (2) a partnership;

9               (3) a limited liability company; or

10              (4) a limited liability partnership.

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

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

16               (1) IC 6-3 (adjusted gross income tax);

17               (2) IC 6-5.5 (the financial institutions tax); and

18               (3) IC 27-1-18-2 (insurance premiums tax);

19 as computed after the application of the credits that under  
20 IC 6-3.1-1-2 are to be applied before the credit provided by this  
21 chapter.

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

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

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

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

29               (1) employs in targeted employment at least one (1) student or  
30 graduate; and

31               (2) complies with the terms of the internship or postgraduate  
32 component of a certified degree program through which the  
33 student was placed with the taxpayer;

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

36           **(b)** A taxpayer that during a taxable year employs in targeted  
37 employment a student or graduate of a certified degree program



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

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

4 (1) five hundred dollars (\$500) for each targeted employment  
5 position:

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

11 (B) approved by the sponsoring institution of higher  
12 learning; plus

13 (2) the lesser of:

14 (A) the payroll expenditures incurred by the taxpayer in  
15 the taxable year to employ the student or graduate in  
16 targeted employment; or

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

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

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

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

32 (2) the percentage of the pass through entity's distributive  
33 income to which the shareholder, partner, or member is  
34 entitled.

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

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

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

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

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

16 **or**

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

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

20 SECTION 30. IC 8-9.5-9-8, AS AMENDED BY P.L.273-1999,  
21 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2003]: Sec. 8. (a) With respect to all leases and contracts  
23 entered into by the authority with the Indiana department of  
24 transportation, the Indiana department of administration, a fund or  
25 program established under IC 13-18-13 or IC 13-18-21, or any other  
26 entity to support obligations, the lease or contract may provide that  
27 payments under a swap agreement are treated as a debt service on the  
28 obligations or as additional rental or other payment due under the lease  
29 or contract as the authority may determine.

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

37 SECTION 31. IC 8-10-1-1 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote

1 the agricultural, industrial and commercial development of the state,  
 2 and to provide for the general welfare by the construction and  
 3 operation, in cooperation with the federal government, or otherwise, of  
 4 a modern port ~~on Lake Michigan and/or the Ohio River, and/or the~~  
 5 ~~Wabash River,~~ **system** with terminal facilities to accommodate water,  
 6 rail, truck, ~~and~~ air-borne, **and other forms of** transportation, the  
 7 Indiana Port Commission is hereby authorized and empowered to  
 8 construct, maintain and operate, in cooperation with the federal  
 9 government, or otherwise, at such ~~location on Lake Michigan and/or~~  
 10 ~~the Ohio River, and/or the Wabash River,~~ **locations** as shall be  
 11 approved by the governor, **projects, including without limitation**  
 12 public ports with terminal facilities and traffic exchange points  
 13 **throughout Indiana** for all forms of transportation, giving particular  
 14 attention to the benefits which may accrue to the state and its citizens  
 15 from ~~the St. Lawrence Seaway,~~ **all forms of transportation,** and to  
 16 issue ~~port~~ revenue bonds of the state payable solely from revenues, to  
 17 pay the cost of such projects. **The commission's powers are not**  
 18 **limited to ports and may be exercised throughout Indiana for**  
 19 **projects that enhance, foster, aid, provide, or promote economic**  
 20 **development, public-private partnerships, and other industrial,**  
 21 **commercial, business, and transportation purposes.**

22 SECTION 32. IC 8-10-1-2 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this  
 24 chapter, the following words and terms shall have the following  
 25 meanings, unless the context shall indicate another or different  
 26 meaning or intent:

27 (a) The word "commission" shall mean the Indiana Port  
 28 Commission created by section 3 of this chapter, or, if said commission  
 29 shall be abolished, the board, body or commission succeeding to the  
 30 principal functions thereof, or to whom the powers given by this  
 31 chapter to the commission shall be given by law.

32 (b) The word "port" shall include **any combination of:**

33 (1) any place or places on Lake Michigan, the Ohio River, ~~and~~ the  
 34 Wabash River, **or other water bodies,** natural or artificial, in  
 35 which water-borne vessels capable of carrying articles of  
 36 commerce over navigable bodies of water may be loaded,  
 37 unloaded or accommodated; **and**

1           **(2) nonmaritime port and traffic exchange points throughout**  
2           **Indiana for the transfer of goods and passengers between all**  
3           **modes of transportation.**

4           (c) The words "~~port word~~ "project" shall include:

5           **(1) any facilities, adjuncts and appurtenances necessary or useful**  
6           **to operate a modern port, whether or not permanently situated**  
7           **at the port, including:**

8               (A) the dredging of approaches ~~thereto, and including, among~~  
9               ~~other things; but not limited to~~ **to a port; and**

10              (B) breakwaters, inner harbors, outer harbors, channels,  
11              canals, turning basins, docks, wharves, piers, quays, slips,  
12              loading, unloading, handling and storage equipment,  
13              warehouses, refrigerating plants and equipment, elevators for  
14              the handling and storage of grain, coal and other bulk  
15              commodities, terminal buildings or facilities, railroad  
16              equipment and trackage, roadways, airplane landing fields,  
17              parking lots, garages, automotive equipment, tugs, ferries,  
18              maintenance and construction vessels, communication  
19              systems, sewers, drains, works for the treatment of sewage,  
20              garbage and wastes, and the furnishing of utility service  
21              necessary to serve the property under the jurisdiction or  
22              control of the commission, and other buildings and facilities  
23              which the commission may deem necessary for the operation  
24              of the port; **and**

25           **(2) any other project located in Indiana, other than at a port,**  
26           **that the commission finds will enhance, foster, aid, provide, or**  
27           **promote economic development, public-private partnerships,**  
28           **and other industrial, commercial, business, and**  
29           **transportation purposes.**

30           (d) The word "cost" as applied to a port or ~~port~~ project ~~shall~~  
31           ~~embrace means:~~

32               **(1) the cost of construction;**

33               **(2) the cost of acquisition of all land, rights-of-way, property,**  
34               **rights, easements and interests, including lands under water and**  
35               **riparian rights acquired by the commission for ~~such~~ construction;**

36               **(3) the cost of demolishing or removing any buildings or**  
37               **structures on land so acquired, including the cost of acquiring any**  
38               **lands to which ~~such~~ buildings or structures may be moved;**

- 1           (4) the cost of relocating public roads;  
 2           (5) **the cost of** land or easements ~~therefor~~, **for roads**;  
 3           (6) the cost of all machinery and equipment;  
 4           (7) financing charges;  
 5           (8) interest prior to and during construction and for not exceeding  
 6           two (2) years after the estimated date of completion of  
 7           construction;  
 8           (9) **the** cost of engineering and legal expenses, plans,  
 9           specifications, surveys, **and** estimates of cost, traffic and  
 10          revenues;  
 11          (10) other expenses necessary or incident to determining the  
 12          feasibility or practicability of constructing any such project;  
 13          (11) administrative expense; and ~~such~~  
 14          (12) other expenses as may be necessary or incident to the  
 15          **acquisition or** construction of the project, the financing of ~~such~~  
 16          **the acquisition or** construction, and the placing of the project in  
 17          operation, **including the amount authorized in the resolution**  
 18          **of the port commission providing for the issuance of port**  
 19          **commission revenue bonds to be paid into any special funds**  
 20          **from the proceeds of the bonds.**

21          (e) **Any obligation, cost, or expense incurred by any**  
 22          **governmental agency or person for surveys, borings, the**  
 23          **preparation of plans and specifications, and other engineering**  
 24          **services, or any other cost described in this section that is incurred**  
 25          **in connection with the acquisition or construction of a project may**  
 26          **be regarded as part of the cost of the project and may be**  
 27          **reimbursed out of the proceeds of port commission revenue bonds**  
 28          **as authorized by this chapter.**

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

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

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

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

14           **(b)** The commission shall consist of seven (7) members, appointed  
15 by the governor, no more than four (4) of whom shall be members of  
16 the same political party. The members shall be residents of the state,  
17 and shall have been qualified electors therein for a period of at least  
18 five (5) years next preceding their appointment. The members of the  
19 commission first appointed shall continue in office for terms expiring,  
20 in the case of two (2) members, on July 1, 1962, and in the case of  
21 three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and  
22 the first two (2) members appointed after January 1, 1975, shall  
23 continue in office for terms expiring July 1, 1977, for one (1) member  
24 and July 1, 1979, for the other member, respectively, and until their  
25 respective successors shall be duly appointed and qualified. The term  
26 of any member of the commission first appointed shall be designated  
27 by the governor. The successor of each such member shall be  
28 appointed for a term of four (4) years, except that any person appointed  
29 to fill a vacancy shall be appointed to serve only for the unexpired  
30 term, and a member of the commission shall be eligible for  
31 reappointment. The governor may at any time remove any member of  
32 the commission for misfeasance, nonfeasance, or malfeasance in office.  
33 The members of the commission shall, within ten (10) days after their  
34 appointment, meet and qualify by subscribing an oath to discharge  
35 honestly and faithfully the duties of their office as members of such  
36 commission. The commission shall thereafter elect one (1) of the  
37 members as chairman and another as vice-chairman, and shall appoint  
38 a secretary-treasurer who need not be a member of the commission.

1 Four (4) members of the commission shall constitute a quorum and the  
2 affirmative vote of four (4) members shall be necessary for any official  
3 action taken by the commission. No vacancy in the membership of the  
4 commission shall impair the rights of a quorum to exercise all the  
5 rights and perform all the duties of the commission.

6 (c) Before the issuance of any ~~port~~ revenue bonds under the  
7 provisions of this chapter, each appointed member of the commission  
8 shall give a surety bond to the state in the penal sum of twenty-five  
9 thousand dollars (\$25,000) and the secretary-treasurer shall give a  
10 surety bond to the state in the penal sum of fifty thousand dollars  
11 (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the  
12 faithful performance of the duties of the office, to be executed by a  
13 surety company authorized to transact business in the state as surety  
14 and to be approved by the governor and filed in the office of the  
15 secretary of state.

16 (d) Each appointed member of the commission shall receive an  
17 annual salary of seven thousand, five hundred dollars (\$7,500), payable  
18 in monthly instalments. However, no members of such commission as  
19 appointed hereunder shall receive any salary except a per diem as fixed  
20 and approved by the budget director until said commission is able to  
21 carry on the full operations as intended by this chapter, and the budget  
22 director, subject to the approval of the governor of the state of Indiana,  
23 shall determine when said salaries for said commission members shall  
24 commence. ~~The governor shall, however, appoint said members as~~  
25 ~~herein provided within a period of sixty (60) days following the~~  
26 ~~effective date of this chapter.~~

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

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

35 SECTION 34. IC 8-10-1-4 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds  
37 issued under the provisions of this chapter shall not be deemed to  
38 constitute a debt of the state or of any political subdivision thereof or

1 a pledge of the faith and credit of the state or of any such political  
 2 subdivision, but such bonds shall be payable solely from the funds  
 3 pledged for their payment as authorized in this chapter, unless such  
 4 bonds are refunded by refunding bonds, issued under the provisions of  
 5 this chapter, which refunding bonds shall be payable solely from funds  
 6 pledged for their payment as authorized herein. All such revenue bonds  
 7 shall contain on the face thereof a statement to the effect that the bonds,  
 8 as to both principal and interest, are not an obligation of the state of  
 9 Indiana, or of any political subdivision thereof, but are payable solely  
 10 from revenues pledged for their payment. All expenses incurred in  
 11 carrying out the provisions of this chapter shall be payable solely from  
 12 funds provided under the authority of this chapter and nothing in this  
 13 chapter contained shall be construed to authorize the commission to  
 14 incur indebtedness or liability on behalf of or payable by the state or  
 15 any political subdivision thereof.

16 SECTION 35. IC 8-10-1-5 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port  
 18 commission may:

- 19 (1) prepare sketches, plans, and descriptive material relating to  
 20 ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible,  
 21 to compile data and prepare literature as to the necessity or  
 22 advisability thereof, and to do other acts and things it considers  
 23 necessary to promote ~~such public port or port~~ **the ports or**  
 24 projects and deems to be in the public interest;
- 25 (2) carry on, in its discretion, negotiations and enter into  
 26 agreements and contracts with the federal government or agencies  
 27 of the federal government or an authority established under  
 28 IC 36-7-23 for the building and construction of public ports  
 29 including terminal facilities, to be located within Indiana, on Lake  
 30 Michigan, the Ohio River, the Wabash River, or in waters  
 31 adjacent to Indiana;
- 32 (3) locate and acquire a suitable ~~site~~ **sites** for ~~such public port or~~  
 33 ~~port ports or~~ projects;
- 34 (4) construct, develop, maintain, and operate the same in  
 35 cooperation with the federal government, any agency of the  
 36 federal government, a corporation established under IC 36-7-23,  
 37 or otherwise, in such a manner and on such terms as will, in the



- 1 discretion of the commission, best serve the commercial,  
 2 industrial, and agricultural interests of the state;  
 3 (5) provide adequate port and terminal facilities to accommodate  
 4 water, rail, truck, ~~and~~ airborne **and other forms of** transportation;  
 5 and  
 6 (6) provide a traffic exchange point for all forms of transportation,  
 7 giving particular attention to the benefits which may accrue to the  
 8 state and its citizens by the opening of the St. Lawrence Seaway  
 9 and river transportation.

10 (b) The title to all property included in any port **or** project shall be  
 11 taken in the name of, and shall be in, the state of Indiana.

12 SECTION 36. IC 8-10-1-7 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is  
 14 authorized and empowered **to do the following:**

- 15 (1) To adopt bylaws for the regulation of its affairs and the  
 16 conduct of its business.  
 17 (2) To adopt an official seal which shall not be the seal of the  
 18 state of Indiana.  
 19 (3) To maintain a principal office and sub-offices at such place or  
 20 places within the state as it may designate.  
 21 (4) To sue and be sued, and to plead and be impleaded in its own  
 22 name. However, actions at law against the commission shall be  
 23 brought in the circuit court of the county in which the principal  
 24 office of the commission is located or in the circuit court of the  
 25 county in which the cause of action arose, if the county is located  
 26 within the state. All summonses and legal notices of every kind  
 27 shall be served on the commission by leaving a copy thereof at the  
 28 principal office of the commission with the person in charge  
 29 thereof or with the secretary of the commission. However, no such  
 30 action shall be deemed commenced until a copy of the summons  
 31 and complaint, cross complaint, petition, bill, or pleading is  
 32 served upon the attorney general of Indiana.  
 33 (5) To acquire, lease, construct, maintain, repair, police, and  
 34 operate a port or ~~port~~ project as provided in this chapter, and to  
 35 establish rules and regulations for the use of ~~such the~~ port or ~~port~~  
 36 project, and other property subject to the jurisdiction and control  
 37 of the commission.

- 1 (6) To issue ~~port~~ **both taxable and tax exempt** revenue bonds of  
2 the state, payable solely from revenues, as herein provided, for the  
3 purpose of paying all or any part of the cost of a port or ~~port~~  
4 project.
- 5 (7) To acquire, lease, and operate tug boats, locomotives, and any  
6 and every kind of motive power and conveyances or appliances  
7 necessary or proper to carry passengers, goods, wares,  
8 merchandise, or articles of commerce in, on, or around the port or  
9 ~~port~~ project.
- 10 (8) To fix and revise from time to time and to collect fees, rentals,  
11 tolls, and other charges for the use of any port or ~~port~~ project.
- 12 (9) To acquire, obtain option on, hold, and dispose of real and  
13 personal property in the exercise of its powers and the  
14 performance of its duties under this chapter.
- 15 (10) To designate the location and establish, limit, and control  
16 points of ingress to and egress from ~~the a port property. or~~  
17 **project.**
- 18 (11) To lease to others for development or operation such portions  
19 of any port or port project, on such terms and conditions as the  
20 commission shall deem advisable.
- 21 (12) To make and enter into all contracts, undertakings, and  
22 agreements necessary or incidental to the performance of its  
23 duties and the execution of its powers under this chapter. When  
24 the cost of any such contract for construction, or for the purchase  
25 of equipment, materials, or supplies, involves an expenditure of  
26 more than twenty-five thousand dollars (\$25,000), the  
27 commission shall make a written contract with the lowest and best  
28 bidder after advertisement for not less than two (2) consecutive  
29 weeks in a newspaper of general circulation in ~~Marion County,~~  
30 **Indiana; the county where the construction will occur** and in  
31 such other publications as the commission shall determine. The  
32 notice shall state the general character of the work and the general  
33 character of the materials to be furnished, the place where plans  
34 and specifications therefor may be examined, and the time and  
35 place of receiving bids. Each bid shall contain the full name of  
36 every person or company interested in it and shall be  
37 accompanied by a sufficient bond or certified check on a solvent  
38 bank that if the bid is accepted a contract will be entered into and

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

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

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

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

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

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

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

35 SECTION 37. IC 8-10-1-8 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission  
 37 shall find it necessary to change the location of any portion of any  
 38 public road, **highway**, railroad, or public utility facility, it shall cause

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

1 regulations for the installation, construction, maintenance, repair,  
2 renewal, relocation, and removal of tracks, pipes, mains, conduits,  
3 cables, wires, towers, poles, and other equipment and appliances  
4 (referred to in this section as "public utility facilities") of any public  
5 utility in, on, along, over, or under any port or ~~port~~ project. Whenever  
6 the commission shall determine that it is necessary that any such public  
7 utility facilities which are, on or after March 2, 1961, located in, on,  
8 along, over, or under any ~~such~~ port or ~~port~~ project should be relocated  
9 or should be removed from ~~such the~~ port or ~~port~~ project, the public  
10 utility owning or operating such facilities shall relocate or remove the  
11 same in accordance with the order of the commission. ~~provided;~~  
12 However, ~~that~~ the cost and expenses of such relocation or removal,  
13 including the cost of installing such facilities in a new location or new  
14 locations, and the cost of any lands, or any rights or interests in lands,  
15 and any other rights, acquired to accomplish such relocation or  
16 removal, shall be ascertained and paid by the commission as a part of  
17 the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in  
18 which such equipment or facilities are located within the limits of  
19 highways or public thoroughfares being constructed, reconstructed, or  
20 improved under the provisions of this chapter. In case of any such  
21 relocation or removal of facilities, the public utility owning or  
22 operating the same, its successors or assigns, may maintain and operate  
23 such facilities, with the necessary appurtenances, in the new location  
24 or new locations, for as long a period, and upon the same terms and  
25 conditions, as it had the right to maintain and operate such facilities in  
26 their former location or locations subject, however, to the state's right  
27 of regulation under its police powers.

28 SECTION 38. IC 8-10-1-9 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission  
30 shall have power to adopt such by-laws, rules and regulations as it may  
31 deem advisable for the control and regulation of any port or ~~port~~ project  
32 or traffic on any port or ~~port~~ project, for the protection of and  
33 preservation of property under its jurisdiction and control, and for the  
34 maintenance and preservation of good order within the property under  
35 its control, and such by-laws, rules and regulations shall be published  
36 in a newspaper of general circulation in Marion County, Indiana, and  
37 in such other manner as the commission shall prescribe; however, such  
38 rules and regulations shall provide that public officers shall be afforded

1 ready access, while in performance of their official duty, to all property  
2 under the jurisdiction or control of the commission without the  
3 payment of tolls.

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

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

8 SECTION 39. IC 8-10-1-10 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission  
10 is hereby authorized and empowered to acquire by purchase whenever  
11 it shall deem such purchase expedient, any land, property, rights,  
12 right-of-ways, franchises, easements and other interests in lands,  
13 including lands under water and riparian rights, as it may deem  
14 necessary or convenient for the construction and operation of any port  
15 or port project, upon such terms and at such price as may be considered  
16 by it to be reasonable and can be agreed upon between the commission  
17 and the owner thereof, and to take title thereto in the name of the state.

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

35 (c) The commission shall also be authorized to lease, or grant  
36 options to lease, to others for development any portion of the land  
37 owned by the commission, on such terms as the commission shall  
38 determine to be advantageous. All such leases or options to lease which

1 leases cover a period of more than four (4) years shall be subject to the  
 2 approval of the Governor. Leases of lands under the jurisdiction or  
 3 control of the commission shall be made only for such uses and  
 4 purposes as are calculated to contribute to the growth and development  
 5 of ~~the port and ports~~, terminal facilities, **and projects** under the  
 6 jurisdiction or control of the commission. In the event the commission  
 7 shall lease to others a building or structure financed by the issuance of  
 8 revenue bonds the rental shall be in an amount at least sufficient to pay  
 9 the interest on and principal of the amount of such bonds representing  
 10 the cost of such building or structure to the extent such interest and  
 11 principal is payable during the term of the lease, as well as to pay the  
 12 cost of maintenance, repair and insurance for such building and a  
 13 reasonable portion of the commission's administrative expense incurred  
 14 during the term of the lease which is allocable to such building or  
 15 structure.

16 **(d) No tenant, lessee, licensee, owner of real estate located within**  
 17 **a port or project, or other person or entity has any right, claim,**  
 18 **title, or interest in any real estate, personal property, or common**  
 19 **property owned by the commission, a port, a project, or the state,**  
 20 **unless a written agreement entered into by the commission**  
 21 **expressly provides:**

22 **(1) the exact nature and extent of the right, claim, title, or**  
 23 **interest;**

24 **(2) all the conditions under which the right, claim, title, or**  
 25 **interest is granted; and**

26 **(3) a legal or complete description of the specific property.**

27 SECTION 40. IC 8-10-1-11 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is  
 29 hereby authorized and empowered to acquire by appropriation, under  
 30 the provisions of the eminent domain law of the state, any land,  
 31 including lands under water and riparian rights, property, rights,  
 32 rights-of-way, franchises, easements, or other property necessary or  
 33 proper for the construction or the efficient operation of any port or ~~port~~  
 34 project. The commission shall also be empowered to exercise such  
 35 powers of eminent domain as may be conferred upon the commission  
 36 by an act of Congress of the United States now in force, or which may  
 37 hereafter be enacted. Title to the property condemned shall be taken in  
 38 the name of the state of Indiana. Nothing herein shall authorize the

1 commission to take or disturb property or facilities constituting all or  
2 part of any presently existing or operating public port and nothing  
3 herein shall authorize the commission to take or disturb property or  
4 facilities belonging to any public utility or to a common carrier engaged  
5 in interstate commerce, which property or facilities are required for the  
6 proper and convenient operation of such public utility or common  
7 carrier, unless provision is made for the restoration, relocation or  
8 duplication of such property or facilities elsewhere at the sole cost of  
9 the commission excepting however, cases in which such equipment or  
10 facilities are located within the limits of existing highways or public  
11 thoroughfares.

12 SECTION 41. IC 8-10-1-12 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and  
14 distinct revolving fund is hereby created, to be known as the Indiana  
15 port fund. Expenditures from said fund shall be made only for the  
16 acquisition of land including lands under water and riparian rights, or  
17 options for the purchase of such land for a port **or project** site, and  
18 incidental expenses incurred in connection with such acquisition, and  
19 for studies in connection with the port **or project**, and including  
20 administrative expenses of the commission. Said fund shall be held in  
21 the name of the Indiana port commission, shall be administered by the  
22 commission, and all expenditures therefrom shall be made by the  
23 commission, subject, however, to the approval by governor and the  
24 state budget committee of all expenditures of moneys advanced to said  
25 fund by the state of Indiana. Requests for such approval shall be made  
26 in such form as shall be prescribed by the budget committee, but  
27 expenditures for acquisition of land including lands under water and  
28 riparian rights, or options for the purchase of such land, shall be  
29 specifically requested and approved as to the land to be acquired and  
30 the amount to be expended. No transfers from said fund to any other  
31 fund of the state shall be made except pursuant to legislative action. All  
32 unexpended funds appropriated to the Indiana board of public harbors  
33 and terminals by Acts 1957, c.286, s.6, are hereby transferred to and  
34 made a part of the Indiana port fund created by this section, and shall  
35 be expended for the purpose and in the manner provided by this  
36 chapter, subject only to the restrictions contained in this chapter and no  
37 others; provided, however, that not to exceed one hundred thousand  
38 dollars (\$100,000) shall be expended for any purpose other than the



1 acquisition of land, including lands under water and riparian rights, or  
2 options for the purchase of such land for a port **or project** site, and  
3 incidental expenses incurred in connection with such acquisition.

4 (b) Upon the sale of **port** revenue bonds for any port **or project**, the  
5 funds expended from the Indiana port fund in connection with the  
6 development of such **port or project** and any obligation or expense  
7 incurred by the commission for surveys, preparation of plans and  
8 specifications, and other engineering or other services in connection  
9 with development of such **port or project** shall be reimbursed to the  
10 state general fund from the proceeds of such bonds.

11 SECTION 42. IC 8-10-1-13 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission  
13 is hereby authorized to provide by resolution, at one **(1)** time or from  
14 time to time, for the issuance of **port** revenue bonds of the state for the  
15 purpose of paying all or any part of the cost of a port **or project**. The  
16 principal of and the interest on such bonds shall be payable solely from  
17 the revenues specifically pledged to the payment thereof. The bonds of  
18 each issue shall be dated, shall bear interest at any rate, shall mature at  
19 such time or times not exceeding fifty (50) years from the date thereof,  
20 as may be determined by the commission, and may be made  
21 redeemable before maturity, at the option of the commission, at such  
22 price or prices and under such terms and conditions as may be fixed by  
23 the commission in the authorizing resolution.

24 (b) The commission shall determine the form of the bonds,  
25 including any interest coupons to be attached thereto, and shall fix the  
26 denomination or denominations of the bonds and the place or places of  
27 payment of principal and interest which may be at any bank or trust  
28 company within or without the state.

29 (c) The bonds shall be signed in the name of the commission, by its  
30 chairman or vice chairman or by the facsimile signature of such  
31 chairman or vice chairman, and the official seal of the commission, or  
32 facsimile thereof, shall be affixed thereto and attested by the  
33 secretary-treasurer of the commission, and any coupons attached  
34 thereto shall bear the facsimile signature of the chairman of the  
35 commission. In case any officer whose signature or a facsimile of  
36 whose signature shall appear on any bonds or coupons shall cease to be  
37 such officer before the delivery of such bonds, such signature or such

1 facsimile shall nevertheless be valid and sufficient for all purposes the  
2 same as if he had remained in office until such delivery.

3 (d) All bonds issued under this chapter shall have and are hereby  
4 declared to have all the qualities and incidents of negotiable  
5 instruments under the negotiable instruments law of the state of  
6 Indiana.

7 (e) The bonds may be issued in coupon or in registered form, or  
8 both, as the commission may determine, and provision may be made  
9 for the registration of any coupon bonds as to principal alone and also  
10 as to both principal and interest, and for the reconversion into coupon  
11 bonds of any bonds registered as to both principal and interest.

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

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

18 SECTION 43. IC 8-10-1-14 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the  
20 bonds of each issue shall be used solely for the payment of the cost of  
21 the port **or** project for which such bonds shall have been issued, and  
22 shall be disbursed in such manner and under such restrictions, if any,  
23 as the commission may provide in the resolution authorizing the  
24 issuance of such bonds or in the trust agreement mentioned in this  
25 chapter securing the same. If the proceeds of the bonds of any issue, by  
26 error of estimates or otherwise, shall be less than such cost, additional  
27 bonds may in like manner be issued to provide the amount of such  
28 deficit, and, unless otherwise provided in the resolution authorizing the  
29 issuance of such bonds or in the trust agreement securing the same,  
30 shall be deemed to be of the same issue and shall be entitled to  
31 payment from that same fund without preference or priority of the  
32 bonds first issued. If the proceeds of the bonds of any issue shall  
33 exceed the cost of the port **or** project for which the same shall have  
34 been issued, the surplus shall be deposited to the credit of the sinking  
35 fund for such bonds. Prior to the preparation of definitive bonds, the  
36 commission may, under like restrictions, issue interim receipts or  
37 temporary bonds, with or without coupons, exchangeable for definitive  
38 bonds when such bonds shall have been executed and are available for

1 delivery. The commission may also provide for the replacement of any  
 2 bonds which shall become mutilated or shall be destroyed or lost.  
 3 **Bonds and any other instruments or the security for the bonds and**  
 4 **other instruments that are authorized by this chapter** may be issued  
 5 under the provisions of this chapter without obtaining the consent of  
 6 any officer, department, division, commission, board, bureau, or  
 7 agency of the state, and without any other proceedings or the happening  
 8 of any other conditions or things than those proceedings, conditions, or  
 9 things which are specifically required by this chapter.

10 SECTION 44. IC 8-10-1-15 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is  
 12 hereby authorized to provide by resolution for the issuance of ~~port~~  
 13 ~~revenue~~ refunding bonds of the state payable solely from revenues for  
 14 the purpose of refunding any bonds then outstanding which shall have  
 15 been issued under the provisions of **section 13** of this chapter,  
 16 including the payment of any redemption premium thereon and any  
 17 interest accrued or to accrue to the date of redemption of such bonds,  
 18 and, if deemed advisable by the commission, for the additional purpose  
 19 of constructing improvements, extensions, or enlargements of the port  
 20 **or** project in connection with which the bonds to be refunded shall  
 21 have been issued. The issuance of such bonds, the maturities and other  
 22 details thereof, the rights of the holders thereof and the rights, duties,  
 23 and obligations of the commission in respect of the same, shall be  
 24 governed by the provisions of this chapter insofar as the same may be  
 25 applicable.

26 SECTION 45. IC 8-10-1-16 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of  
 28 the commission any bonds issued under the provisions of this act may  
 29 be secured by a trust agreement by and between the commission and a  
 30 corporate trustee, which may be any trust company or bank having the  
 31 powers of a trust company within the state. Any resolution adopted by  
 32 the commission providing for the issuance of **revenue** bonds and any  
 33 trust agreement pursuant to which such bonds are issued may pledge  
 34 or assign all or any portion of the revenues received or to be received  
 35 by the commission except such part as may be necessary to pay the cost  
 36 of the commission's administrative expenses, operation, maintenance,  
 37 and repair and to provide reserves therefor and depreciation reserves  
 38 required by any bond resolution adopted or trust agreement executed

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

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 46. 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 47. 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

1 appertaining thereto, and the trustee under any trust agreement, except  
2 to the extent the rights given in this chapter may be restricted by the  
3 authorizing resolution or trust agreement, may, either at law or in  
4 equity, by suit, action, mandamus, or other proceedings, protect and  
5 enforce any and all rights under the statutes of the state or granted  
6 under this chapter or under such trust agreement, or the resolution  
7 authorizing the issuance of such bonds, and may enforce and compel  
8 the performance of all duties required by this chapter or by such trust  
9 agreement or resolution to be performed by the commission or by any  
10 officer thereof, including the fixing, charging, and collecting of fees,  
11 tolls, rentals, or other charges for the use of the port or ~~port~~ project.

12 SECTION 48. IC 8-10-1-20 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~  
14 project, as defined in section 2 of this chapter, when constructed and  
15 **opened to traffic placed in operation** shall be maintained and kept in  
16 good condition and repair by the commission. Each such project shall  
17 also be policed and operated by such force of police, tolltakers, and  
18 other operating employees as the commission may in its discretion  
19 employ. All public or private property damaged or destroyed in  
20 carrying out the powers granted by this chapter shall be restored or  
21 repaired and placed in its original condition as nearly as practicable or  
22 adequate compensation made therefor out of funds provided under the  
23 authority of this chapter.

24 SECTION 49. IC 8-10-1-21 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities,  
26 towns, townships and other political subdivisions and all public  
27 agencies and commissions of the state, notwithstanding any contrary  
28 provision of law, are hereby authorized and empowered to lease, lend,  
29 grant or convey to the commission at its request upon such terms and  
30 conditions as the proper authorities of such counties, cities, towns,  
31 townships, other political subdivisions or public agencies, and  
32 commissions of the state may deem reasonable and fair and without the  
33 necessity for an advertisement, order of court or other action or  
34 formality, other than the regular and formal action of the authorities  
35 concerned, any real **or personal** property owned by any such  
36 municipality or governmental subdivision which may be necessary or  
37 convenient to the effectuation of the authorized purposes of the  
38 commission.

1 SECTION 50. IC 8-10-1-22 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The commission  
3 shall cause an audit of its books and accounts to be made at least once  
4 each year by certified public accountants and the cost thereof may be  
5 treated as a part of the cost of construction or of operations of the  
6 ~~project: commission's ports and projects.~~ The accounts, books, and  
7 records of the Indiana port commission shall be audited annually by the  
8 state board of accounts, and the cost of such audit may be treated as a  
9 part of the cost of construction or of operations of the ~~port project:~~  
10 **commission's ports and projects.**

11 (b) **The commission shall, following the close of each fiscal year,**  
12 **submit an annual report of its activities for the preceding year to**  
13 **the governor. Each member of the general assembly shall receive**  
14 **a copy of such report by making a request for it to the chairman of**  
15 **the commission. Each report shall set forth a complete operating**  
16 **and financial statement for the commission during the fiscal year**  
17 **it covers.**

18 SECTION 51. IC 8-10-1-25 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds  
20 issued by the commission under the provisions of this chapter shall  
21 constitute legal investments for any private trust funds, and the funds  
22 of any banks, trust companies, insurance companies, building and loan  
23 associations, credit unions, banks of discount and deposit, savings  
24 banks, loan and trust, and safe deposit companies, rural loan and  
25 savings associations, guaranty loan and savings associations, mortgage  
26 guaranty companies, small loan companies, and industrial loan and  
27 investment companies, and any other financial institutions organized  
28 under Indiana statutes. **The bonds are also made securities that may**  
29 **be deposited with and received by all public officers and bodies of**  
30 **this state or any agency or political subdivisions of this state and all**  
31 **municipalities and public commissions for any purpose for which**  
32 **the deposit of bonds or other obligations of this state is now or may**  
33 **be later authorized by law.**

34 SECTION 52. IC 8-10-1-27 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of  
36 the powers granted by this chapter will be in all respects for the benefit  
37 of the people of the state, for the increase of their commerce and

1 prosperity, and for the improvement of their health and living  
2 conditions.

3 (b) As the operation and maintenance of a port **or** project by the  
4 commission will constitute the performance of essential governmental  
5 functions, the commission shall not be required to pay any taxes or  
6 assessments upon any port **or** project or any property acquired or used  
7 by the commission under the provisions of this chapter or upon the  
8 income therefrom. The bonds issued by the commission, the interest  
9 thereon, the proceeds received by a holder from the sale of such bonds  
10 to the extent of the holder's cost of acquisition, or proceeds received  
11 upon redemption prior to maturity or proceeds received at maturity, and  
12 the receipt of such interest and proceeds shall be exempt from taxation  
13 in the state of Indiana for all purposes except the financial institutions  
14 tax imposed under IC 6-5.5 or a state inheritance tax imposed under  
15 IC 6-4.1.

16 (c) Notwithstanding any other statute, a lessee's leasehold estate in  
17 land that **is qualifies as** part of a port **under section 2(b)(1) of this**  
18 **chapter** and that is owned by the state or the commission is exempt  
19 from property taxation. **However, an exemption under this**  
20 **subsection is not available for land that qualifies as part of a port**  
21 **under section 2(b)(2) of this chapter or any other provision other**  
22 **than section 2(b)(1) of this chapter.**

23 SECTION 53. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE  
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
25 1, 2003]: **Sec. 30. The state hereby pledges and agrees with the**  
26 **holders of any bonds issued under this chapter that the state will**  
27 **not limit or alter the rights vested in the commission to fulfill the**  
28 **terms of any agreements made with the holders or in any way**  
29 **impair the rights or remedies of the holders until the bonds,**  
30 **together with the interest, with interest on any unpaid installments**  
31 **of interest, and all costs and expenses in connection with any action**  
32 **or proceeding by or on behalf of the holders, are fully met and**  
33 **discharged. The commission is authorized to include this pledge**  
34 **and agreement of the state in any agreement with the holders of the**  
35 **bonds.**

36 SECTION 54. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE  
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2003]: **Sec. 31. (a) Except as provided in subsection (b), the commission may not:**

3           **(1) enter into a contract for the construction or repair of any**  
4           **building, structure, or other improvement;**

5           **(2) take another action in furtherance of the commission's**  
6           **authorized purposes; or**

7           **(3) enter into a loan agreement for the borrowing of funds for**  
8           **an improvement undertaken by the commission;**

9           **where the commission is the contracting entity, unless laborers and**  
10           **mechanics employed on the improvements are paid the common**  
11           **construction wage of laborers and mechanics for the class of work**  
12           **called for by the improvement. For purposes of this section, wages**  
13           **shall be determined in accordance with the requirements of**  
14           **IC 5-16-7.**

15           **(b) Subsection (a) does not apply where the federal government**  
16           **or any of its agencies furnishes by loan or grant all or any part of**  
17           **the funds used in connection with the project and prescribes**  
18           **predetermined minimum wages to be paid to the laborers and**  
19           **mechanics.**

20           SECTION 55. IC 8-10-2-2 IS AMENDED TO READ AS  
21           FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the  
22           powers conferred upon the Indiana port commission by other  
23           provisions of this article, the commission, whenever it finds that the  
24           economic welfare of the state would thereby be benefited, by additional  
25           employment opportunities, or by additional diversification of industry  
26           within the state, or by increased income or prosperity to the state and  
27           its residents, or for any other reason, shall have the power to acquire,  
28           construct, maintain, repair, police, and lease to others such facilities for  
29           manufacturing, storage, or processing of goods, or for the carrying on  
30           of commercial, business, or recreational activities as the commission  
31           further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~  
32           **project**. Any such facilities and the site thereof shall not be exempt  
33           from property taxation, and the lessee in any lease thereof shall agree  
34           to pay all property taxes levied on such facilities and the site thereof.

35           **(b) In exercising the powers granted in this section, the commission**  
36           **shall have all the powers granted to it by this article, in connection with**  
37           **a port project, and the term "port" "project", as used in IC 8-10-1, shall**

1 be deemed to include facilities, adjuncts, and appurtenances of the  
2 character referred to in this section.

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

6 (d) Nothing in this section shall authorize the Indiana port  
7 commission to take, condemn, or disturb any property right or interest  
8 in property, existing on March 10, 1967, including permits and  
9 authorities to fill and reclaim submerged lands, or any facilities  
10 constituting all or part of any operating property or any private or  
11 public port. The Indiana port commission shall make reimbursement  
12 for any actual damage to any public or private facilities, including but  
13 not limited to breakwaters, water intakes, wharves, piers, boat docks,  
14 warehouses, and pipeline equipment resulting from the exercise by it  
15 of any powers granted to it by this section.

16 SECTION 56. IC 8-10-4-1 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this  
18 chapter, "self-liquidating port project" shall mean a port project for  
19 which a lease or leases have been executed providing for payment of  
20 rental in an amount at least sufficient to pay the interest and principal  
21 of such bonds to be issued to finance the cost of such port project and  
22 further providing for the payment by the lessee or lessees of all costs  
23 of maintenance, repair, and insurance of such port project.

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

27 SECTION 57. IC 8-10-4-2 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the  
29 powers conferred upon the Indiana port commission by other  
30 provisions of this article, the commission, in connection with any  
31 self-liquidating port project, shall have the following powers  
32 notwithstanding any other provision of this article to the contrary:

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

37 (b) The revenue bonds issued by the commission to finance the  
38 cost of such self-liquidating port project may be sold in such

1 manner, either at public or private sale, as the commission may  
 2 determine, and the provisions of IC 4-1-5 shall not be applicable  
 3 to such sale.

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

10 SECTION 58. IC 8-10-4-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port  
 12 project may provide that the lessee, as its reasonable portion of the  
 13 commission's administrative expense incurred during the term of the  
 14 lease which the lessee is required to pay by IC 8-10-1-10, shall pay to  
 15 the commission for the use of the harbor, the public docking facilities  
 16 and public wharves and piers, all harbor, dockage, and wharfage  
 17 charges established by the commission.

18 SECTION 59. IC 8-10-4-4 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port  
 20 project may include, instead of the cost of the acquisition of the land  
 21 constituting the site of such port project, the value of such land as  
 22 determined by the commission. The proceeds of any revenue bonds  
 23 representing the value of such land shall be deposited in the Indiana  
 24 port fund.

25 SECTION 60. IC 8-10-4-5 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may  
 27 contract for the use of any license, process or device, whether patented  
 28 or not, which the commission finds is necessary for the operation of  
 29 any port project, and may permit the use thereof by any lessee on such  
 30 terms and conditions as the commission may determine. The cost of  
 31 such license, process or device may be included as part of the cost of  
 32 the port project.

33 SECTION 61. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]:

36 **Chapter 7. Certified Degree Programs**

37 **Sec. 1. As used in this chapter, "certified degree program"**  
 38 **means a degree program that:**

- 1           **(1) is certified by the commission in consultation with the**  
 2           **department and the commission for higher education;**  
 3           **(2) addresses the areas of targeted employment; and**  
 4           **(3) includes an internship component described in section 10**  
 5           **of this chapter.**

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

8           **Sec. 3. As used in this chapter, "employer" has the meaning set**  
 9           **forth in IC 22-8-1.1-1.**

10          **Sec. 4. As used in this chapter, "fund" refers to the Indiana**  
 11          **growth scholars fund established by section 9 of this chapter.**

12          **Sec. 5. As used in this chapter, "graduate" means a graduate of**  
 13          **an institution of higher learning in Indiana who:**

- 14           **(1) participated in a certified degree program; and**  
 15           **(2) remains and is employed in Indiana in targeted**  
 16           **employment after the student graduates from the certified**  
 17           **degree program to complete a post-graduate component of a**  
 18           **certified degree program.**

19          **Sec. 6. As used in this chapter, "institution of higher learning"**  
 20          **means:**

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

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

- 27           **(1) is enrolled on a full-time basis as an undergraduate or**  
 28           **graduate student at an institution of higher learning that**  
 29           **conducts a certified degree program; and**  
 30           **(2) participates in the internship component of a certified**  
 31           **degree program conducted by the institution of higher**  
 32           **learning.**

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

- 35           **(1) Advanced manufacturing, including the following:**  
 36           **(A) Automotive and electronics.**  
 37           **(B) Aerospace technology.**  
 38           **(C) Robotics.**

- 1                   **(D) Engineering design technology.**  
 2           **(2) Life sciences, including the following:**  
 3                   **(A) Orthopedics or medical devices.**  
 4                   **(B) Biomedical research or development.**  
 5                   **(C) Pharmaceutical manufacturing.**  
 6                   **(D) Agribusiness.**  
 7                   **(E) Nanotechnology or molecular manufacturing.**  
 8           **(3) Information technology, including the following:**  
 9                   **(A) Informatics.**  
 10                   **(B) Certified network administration.**  
 11                   **(C) Software development.**  
 12                   **(D) Fiber optics.**  
 13           **(4) Twenty-first century logistics, including the following:**  
 14                   **(A) High technology distribution.**  
 15                   **(B) Efficient and effective flow and storage of goods,**  
 16                   **services, or information.**  
 17                   **(C) Intermodal ports.**

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

- 20                   **(1) To pay the total operating expenses of the commission,**  
 21                   **including grants and administrative expenses, for the certified**  
 22                   **degree program.**  
 23                   **(2) To reimburse the state general fund for the amount by**  
 24                   **which internship payroll credits (IC 6-3.1-25) taken by**  
 25                   **taxpayers reduce tax revenue deposits into the state general**  
 26                   **fund.**  
 27           **(b) The fund shall be administered by the budget agency.**  
 28           **(c) The expenses of administering the fund shall be paid from**  
 29           **money in the fund. Interest that accrues from these investments**  
 30           **shall be deposited in the fund.**  
 31           **(d) The treasurer of state shall invest the money in the fund not**  
 32           **currently needed to meet the obligations of the fund in the same**  
 33           **manner as other public money may be invested.**  
 34           **(e) Money in the fund at the end of a state fiscal year does not**  
 35           **revert to the state general fund.**

36           **Sec. 10. The commission, in consultation with the department of**  
 37           **workforce development and the commission for higher education**  
 38           **under IC 22-4.1-7, shall establish criteria for certification of a**

1 certified degree program under this chapter. The criteria must  
2 include the following:

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

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

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

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

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

16 (A) supervision; and

17 (B) payroll and personnel services;

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

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

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

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

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

31 (1) a student to participate in an internship with an employer  
32 in targeted employment at any time during the year, including  
33 the summer, as long as the student remains enrolled at the  
34 institution of higher learning that operates or administers the  
35 certified degree program; and

36 (2) a graduate of the institution of higher learning to  
37 participate in graduate position with an employer in targeted  
38 employment at any time during the year, including the

1           summer, as long as the graduate is engaged in a post-graduate  
2           component of a certified degree program that is approved  
3           under this chapter.

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

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

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

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

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

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

25          (1) temporarily or permanently reallocate unused positions;  
26          and

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

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

37          **Sec. 17.** In each state fiscal year after June 30, 2003, the budget  
38          agency shall transfer from the fund an amount equal to the amount

1 needed to reimburse the state general fund for the amount by  
2 which internship payroll credits (IC 6-3.1-25) taken by taxpayers  
3 reduced tax revenue deposits into the state general fund in that  
4 state fiscal year.

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

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

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

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

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

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

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

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

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

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

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



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

2           SECTION 62. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss),  
 3           SECTION 187, IS AMENDED TO READ AS FOLLOWS  
 4           [EFFECTIVE JULY 1, 2003]: Sec. 11.(a) After receipt of an  
 5           application under section 10 of this chapter, and subject to subsection  
 6           (b), the department of commerce may designate a certified technology  
 7           park if the department determines that the application demonstrates a  
 8           firm commitment from at least one ~~(+) business engaged in a high~~  
 9           technology activity creating a significant number of jobs and satisfies  
 10          one (1) or more of the following ~~additional~~ criteria:

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

15           (A) Grants of preferences for access to and commercialization  
 16           of intellectual property.

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

20           (C) Donations of services.

21           (D) Access to telecommunications facilities and other  
 22           infrastructure.

23           (E) Financial commitments.

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

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

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

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

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

- 1 (4) The existence of or proposed development of a business  
 2 incubator within the proposed certified technology park that  
 3 exhibits the following types of resources and organization:
- 4 (A) Significant financial and other types of support from the  
 5 public or private resources in the area in which the proposed  
 6 certified technology park will be located.
  - 7 (B) A business plan exhibiting the economic utilization and  
 8 availability of resources and a likelihood of successful  
 9 development of technologies and research into viable business  
 10 enterprises.
  - 11 (C) A commitment to the employment of a qualified full-time  
 12 manager to supervise the development and operation of the  
 13 business incubator.
- 14 (5) The existence of a business plan for the proposed certified  
 15 technology park that identifies its objectives in a clearly focused  
 16 and measurable fashion and that addresses the following matters:
- 17 (A) A commitment to new business formation.
  - 18 (B) The clustering of businesses, technology, and research.
  - 19 (C) The opportunity for and costs of development of properties  
 20 under common ownership or control.
  - 21 (D) The availability of and method proposed for development  
 22 of infrastructure and other improvements, including  
 23 telecommunications technology, necessary for the  
 24 development of the proposed certified technology park.
  - 25 (E) Assumptions of costs and revenues related to the  
 26 development of the proposed certified technology park.
- 27 (6) A demonstrable and satisfactory assurance that the proposed  
 28 certified technology park can be developed to principally contain  
 29 property that is primarily used for, or will be primarily used for,  
 30 a high technology activity or a business incubator.
- 31 (b) The department of commerce may not approve an application  
 32 that would result in a substantial reduction or cessation of operations  
 33 in another location in Indiana in order to relocate them within the  
 34 certified technology park.
- 35 SECTION 63. IC 36-7-32-22, AS ADDED BY P.L.192-2002(ss),  
 36 SECTION 187, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The treasurer of state shall  
 38 establish an incremental tax financing fund for each certified

1 technology park designated under this chapter. The fund shall be  
 2 administered by the treasurer of state. Money in the fund does not  
 3 revert to the state general fund at the end of a state fiscal year.

4 (b) Subject to subsection (c), the following amounts shall be  
 5 deposited during each state fiscal year in the incremental tax financing  
 6 fund established for a certified technology park under subsection (a):

7 (1) The aggregate amount of state gross retail and use taxes that  
 8 are remitted under IC 6-2.5 by businesses operating in the  
 9 certified technology park, until the amount of state gross retail  
 10 and use taxes deposited equals the gross retail incremental  
 11 amount for the certified technology park.

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

16 (A) The adjusted gross income tax.

17 (B) The county adjusted gross income tax.

18 (C) The county option income tax.

19 (D) The county economic development income tax.

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

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

28 SECTION 64. [EFFECTIVE JANUARY 1, 2003  
 29 (RETROACTIVE)]: **(a) As used in this SECTION, "department"**  
 30 **refers to the department of workforce development.**

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

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

1           **SECTION 65. An emergency is declared for this act.**  
(Reference is to HB 2008 as introduced.)

**and when so amended that said bill do pass.**

---

Representative Crawford