

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 2008 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 4-4-3.4-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The value added
4 research fund is established for the purpose of providing money for the
5 center for value added research and the commissioner of agriculture to
6 carry out the duties specified under this chapter. The fund shall be
7 administered by the commissioner of agriculture.
8 (b) The fund consists of money appropriated by the general
9 assembly.
10 (c) The treasurer of state shall invest the money in the fund not
11 currently needed to meet the obligations of the fund in the same
12 manner as other public funds may be invested.
13 (d) Money in the fund at the end of a state fiscal year does not revert
14 to the state general fund **or any other fund.**
15 (e) **Subject to IC 4-4-31-26(h), six hundred thousand dollars**
16 **(\$600,000) is annually appropriated to the value added research**
17 **fund from the Indiana tobacco master settlement agreement fund**
18 **during each state fiscal year beginning after June 30, 2003.**
19 SECTION 2. IC 4-4-5.1-0.5 IS ADDED TO THE INDIANA CODE
20 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
21 1, 2003]: **Sec. 0.5. As used in this chapter, "authority" refers to the**
22 **Indiana development finance authority established by IC 4-4-11-4.**
23 SECTION 3. IC 4-4-5.1-3, AS ADDED BY P.L.190-1999,
24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2003]: Sec. 3. (a) The Indiana twenty-first century research
26 and technology fund is established to provide grants or loans to support
27 proposals for economic development in one (1) or more of the
28 following areas:
29 (1) To increase the capacity of Indiana institutions of higher
30 education, Indiana businesses, and Indiana nonprofit corporations
31 and organizations to compete successfully for federal or private

- 1 research and development funding.
- 2 (2) To stimulate the transfer of research and technology into
- 3 marketable products.
- 4 (3) To assist with diversifying Indiana's economy by focusing
- 5 investment in biomedical research and biotechnology, information
- 6 technology, and other high technology industry clusters requiring
- 7 high skill, high wage employees.
- 8 (4) To encourage an environment of innovation and cooperation
- 9 among universities and businesses to promote research activity.
- 10 (b) The fund shall be administered by the ~~budget agency~~ **authority**.
- 11 The fund consists of appropriations from the general assembly and gifts
- 12 and grants to the fund. The ~~budget agency board~~ shall ~~review each~~
- 13 ~~recommendation~~ **approve and recommend applications to the**
- 14 **budget committee**. The ~~budget agency~~ **authority**, after review by the
- 15 budget committee, may approve, deny, or modify grants and loans
- 16 recommended by the board. Money in the fund may not be used to
- 17 provide a recurring source of revenue for the normal operating
- 18 expenditures of any project.
- 19 (c) The ~~treasurer of state~~ **authority** shall invest the money in the
- 20 fund not currently needed to meet the obligations of the fund in ~~the~~
- 21 ~~same manner as other public funds may be invested~~ **conformity with**
- 22 **IC 4-4-11 and the investment policy established by the authority**.
- 23 (d) The money in the fund at the end of a state fiscal year does not
- 24 revert to the state general fund **or any other fund** but remains in the
- 25 fund to be used exclusively for the purposes of this chapter.
- 26 SECTION 4. IC 4-4-5.1-5, AS ADDED BY P.L.190-1999,
- 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2003]: Sec. 5. (a) The board has the following powers:
- 29 (1) To accept, analyze, and approve applications under this
- 30 chapter.
- 31 (2) To contract with experts for advice and counsel.
- 32 (3) To employ staff to assist in carrying out this chapter, including
- 33 providing assistance to applicants who wish to apply for a grant
- 34 or loan from the fund, analyzing proposals, working with experts
- 35 engaged by the board, and preparing reports and
- 36 recommendations for the board.
- 37 (4) To approve and recommend applications for grants or loans
- 38 from the fund to the budget committee and ~~budget agency~~ **the**
- 39 **authority**.
- 40 (b) The board shall give priority to applications for grants or loans
- 41 from the fund that:
- 42 (1) have the greatest economic development potential; and
- 43 (2) require the lowest ratio of money from the fund compared
- 44 with the combined financial commitments of the applicant and
- 45 those cooperating on the project.
- 46 (c) The board shall make final funding determinations for
- 47 applications for grants or loans from the fund that will be submitted to

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

6 (1) The scientific merit of the proposal.

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

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

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

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

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

29 SECTION 5. IC 4-4-5.1-8.5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2003]: **Sec. 8.5. (a) This section applies to a meeting of the board
 32 at which at least four (4) members of the board are physically
 33 present at the place where the meeting is conducted.**

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

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

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

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

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

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

45 **(1) was physically present at the place where the meeting was
 46 conducted;**

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

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

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

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

15 SECTION 7. IC 4-4-5.1-12 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2003]: **Sec. 12. The board shall submit an annual report to the**
 18 **legislative council before September 1. The report shall contain the**
 19 **following information concerning fund activity in the preceding**
 20 **state fiscal year:**

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

26 SECTION 8. IC 4-4-9.3 IS ADDED TO THE INDIANA CODE AS
 27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2003]:

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

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

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

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

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

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

- 46 **(1) To assist tobacco growers in transitioning from tobacco**
 47 **production to other agricultural enterprises.**
- 48 **(2) To create, assess, and assist a pilot project to enhance the**

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

12 In making expenditures from the fund, the Indiana rural
 13 development council shall give priority to programs that carry out
 14 the purpose described in subdivision (1).

15 (b) Expenditures from the fund are subject to appropriation by
 16 the general assembly and approval by the Indiana rural
 17 development council under IC 4-4-9.5. The council may not
 18 approve an expenditure from the fund unless the rural
 19 development administration advisory board established by section
 20 3 of this chapter has recommended the expenditure.

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

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

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

- 28 (1) The executive director of the Indiana rural development
 29 council, who serves as an ex officio member and as the
 30 chairperson of the advisory board.
 31 (2) Two (2) members of the senate, who may not be members
 32 of the same political party, and who are appointed by the
 33 president pro tempore of the senate.
 34 (3) Two (2) members of the house of representatives, who may
 35 not be members of the same political party, and who are
 36 appointed by the speaker of the house of representatives.
 37 (4) A representative of the commissioner of agriculture, to be
 38 appointed by the governor.
 39 (5) A representative of the department of commerce, to be
 40 appointed by the governor.
 41 (6) A representative of the department of workforce
 42 development, to be appointed by the governor.
 43 (7) Two (2) persons with knowledge and experience in state
 44 and regional economic needs, to be appointed by the
 45 governor.
 46 (8) A representative of a local rural economic development
 47 organization, to be appointed by the governor.
 48 (9) A representative of a small town or rural community, to be

- 1 appointed by the governor.
- 2 (10) A representative of the rural development council, to be
- 3 appointed by the governor.
- 4 (11) A representative of rural education, to be appointed by
- 5 the governor.
- 6 (12) A representative of the league of regional conservation
- 7 and development districts, to be appointed by the governor.
- 8 (13) A person currently enrolled in rural secondary education,
- 9 to be appointed by the governor.
- 10 (d) The members of the advisory board listed in subsection
- 11 (c)(1) through (c)(3) are nonvoting members.
- 12 (e) The term of office of a legislative member of the advisory
- 13 board is four (4) years. However, a legislative member of the
- 14 advisory board ceases to be a member if the member:
- 15 (1) is no longer a member of the chamber from which the
- 16 member was appointed; or
- 17 (2) is removed from the advisory board by the appointing
- 18 authority who appointed the legislator.
- 19 (f) The term of office of a voting member of the advisory board
- 20 is four (4) years. However, these members serve at the pleasure of
- 21 the governor and may be removed for any reason.
- 22 (g) If a vacancy exists on the advisory board, the appointing
- 23 authority who appointed the former member whose position has
- 24 become vacant shall appoint an individual to fill the vacancy for
- 25 the balance of the unexpired term.
- 26 (h) Six (6) voting members of the advisory board constitute a
- 27 quorum for the transaction of business at a meeting of the advisory
- 28 board. The affirmative vote of at least six (6) voting members is
- 29 necessary for the advisory board to take action.
- 30 **Sec. 4. Subject to IC 4-4-31-26(h), two million four hundred**
- 31 **thousand dollars (\$2,400,000) is annually appropriated to the rural**
- 32 **development administration fund from the Indiana tobacco master**
- 33 **settlement agreement fund during each state fiscal year beginning**
- 34 **after June 30, 2003.**
- 35 SECTION 9. IC 4-4-9.5-4 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 37 1, 2003]: **Sec. 4. (a) The rural development council fund is**
- 38 **established to be used exclusively for the purposes set forth in**
- 39 **sections 2 and 3 of this chapter. The fund shall be administered by**
- 40 **the council.**
- 41 (b) The expenses of administering the fund shall be paid from
- 42 the money in the fund.
- 43 (c) Notwithstanding IC 5-13, the treasurer of state shall invest
- 44 the money in the fund not currently needed to meet the obligations
- 45 of the fund under IC 5-10.3-5. The treasurer of state may contract
- 46 with investment management professionals, investment advisers,
- 47 and legal counsel to assist in the management of the fund and may
- 48 pay the state expenses incurred under those contracts.

1 (d) Money in the fund at the end of a state fiscal year does not
2 revert to the state general fund or any other fund.

3 (e) Subject to IC 4-4-31-26(h), one million two hundred
4 thousand dollars (\$1,200,000) is annually appropriated to the rural
5 development council fund from the Indiana tobacco master
6 settlement agreement fund during each state fiscal year beginning
7 after June 30, 2003.

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

12 Delete pages 2 through 10.

13 Page 11, delete lines 1 through 3.

14 Page 11, line 7, delete "IC 4-4-31." and insert "**IC 4-4-33.**".

15 Page 11, between lines 7 and 8, begin a new paragraph and insert:
16 "SECTION 13. IC 4-4-10.9-3.5 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. "Business" means a**
19 **partnership, a firm, an association, a joint venture, a limited**
20 **liability company, a limited liability partnership, or a corporation.**

21 SECTION 14. IC 4-4-10.9-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. "Contracting party"
23 means any party to a lease, sales contract, **co-venture investment**
24 **agreement (whether in the form of a loan, loan guarantee, or pool**
25 **participation agreement),** or loan agreement other than the
26 authority."

27 Page 11, between lines 14 and 15, begin a new paragraph and insert:

28 "SECTION 16. IC 4-4-10.9-5.7 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2003]: **Sec. 5.7. "Co-venture investment**
31 **loan" means a venture capital or seed capital investment in the**
32 **form of a loan by the authority that is made to a business after or**
33 **in conjunction with equity investments by one (1) or more**
34 **professional or accredited investors that have made or are making**
35 **equity investments in the business."**

36 Page 11, line 29, delete "IC 4-4-31-1." and insert "**IC 4-4-33-1.**".

37 Page 12, between lines 24 and 25, begin a new paragraph and insert:

38 "SECTION 19. IC 4-4-10.9-9.5, AS ADDED BY P.L.227-1999,
39 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2003]: Sec. 9.5. "High growth company with high skilled
41 jobs" means a company that satisfies all of the following conditions:

42 (1) The company:

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

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

47 (C) is classified in an industry that had at least a ~~fifteen ten~~

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

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

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

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

31 SECTION 22. IC 4-4-10.9-26.5 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2003]: **Sec. 26.5. "Seed capital" means**
 34 **financing that is provided for:**

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

41 SECTION 23. IC 4-4-10.9-27.8 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS
 43 [EFFECTIVE JULY 1, 2003]: **Sec. 27.8. "Technology**
 44 **commercialization project" means any combination of:**

- 45 (1) **applied research, development, testing, and initial**
 46 **marketing of a technology, a product, a process, or an**
 47 **invention and associated working capital, including the hiring**

- 1 **of professionals;**
 2 **(2) the development of a technology, a product, a process, or**
 3 **an invention; and**
 4 **(3) rehabilitation, creation, or enhancement of research**
 5 **facilities, renovation, and enlargement of buildings and**
 6 **structures, machinery, equipment, or supplies;**
 7 **comprising or being functionally related or subordinate to any**
 8 **project, the development or expansion of which serves the public**
 9 **purposes set forth in IC 4-4-11-2.**

10 SECTION 24. IC 4-4-10.9-29 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2003]: **Sec. 29. "Venture capital" means**
 13 **financing that is provided for the capital needs of a business that**
 14 **is developing a new technology, product, process, or invention.**

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

- 19 (1) That there currently exists in certain areas of the state critical
 20 conditions of unemployment, **lack of adequate capital for**
 21 **research and technology commercialization**, or environmental
 22 pollution, including water pollution, air pollution, sewage and
 23 solid waste, radioactive waste, thermal pollution, radiation
 24 contamination, and noise pollution, and that these conditions may
 25 well exist, from time to time, in other areas of the state.
 26 (2) That in some areas of the state such conditions are chronic and
 27 of long standing and that without remedial measures they may
 28 become so in other areas of the state.
 29 (3) That economic insecurity due to unemployment, **inadequate**
 30 **capital**, or environmental pollution is a menace to the health,
 31 safety, morals, and general welfare of not only the people of the
 32 affected areas but of the people of the entire state.
 33 (4) That involuntary unemployment and its resulting burden of
 34 indigency falls with crushing force upon the unemployed worker
 35 and ultimately upon the state in the form of public assistance and
 36 unemployment compensation.
 37 (5) That security against unemployment and the resulting spread
 38 of indigency and economic stagnation in the areas affected can
 39 best be provided by:
 40 (A) the promotion, attraction, stimulation, rehabilitation, and
 41 revitalization of industrial development projects, **technology**
 42 **commercialization projects**, rural development projects,
 43 mining operations, and agricultural operations that involve the
 44 processing of agricultural products;
 45 (B) the promotion and stimulation of international exports; and
 46 (C) the education, both formal and informal, of people of all
 47 ages throughout the state by the promotion, attraction,

- 1 construction, renovation, rehabilitation, and revitalization of
- 2 and assistance to educational facility projects.
- 3 (6) That the present and prospective health, safety, morals, right
- 4 to gainful employment, and general welfare of the people of the
- 5 state require as a public purpose the abatement or control of
- 6 pollution, the promotion of increased educational enrichment
- 7 (including cultural, intellectual, scientific, or artistic
- 8 opportunities) for people of all ages through new, expanded, or
- 9 revitalized educational facility projects or through assisting
- 10 educational facility projects, and the promotion of employment
- 11 creation or retention through development of new and expanded
- 12 industrial development projects, **technology commercialization**
- 13 **projects**, rural development projects, mining operations, and
- 14 agricultural operations that involve the processing of agricultural
- 15 products.
- 16 (7) That there is a need to stimulate a larger flow of private
- 17 investment funds from commercial banks, investment bankers,
- 18 **professional investors**, insurance companies, other financial
- 19 institutions, and individuals into such industrial development
- 20 projects, **technology commercialization projects**, rural
- 21 development projects, mining operations, international exports,
- 22 and agricultural operations that involve the processing of
- 23 agricultural products in the state.
- 24 (8) That the authority can encourage the making of loans, **loan**
- 25 **guarantees, co-venture investment loans**, or leases for creation
- 26 or expansion of industrial development projects, **technology**
- 27 **commercialization projects**, rural development projects, mining
- 28 operations, international exports, and agricultural operations that
- 29 involve the processing of agricultural products, thus putting a
- 30 larger portion of the private capital available in Indiana for
- 31 investment to use in ~~the general economic development of the~~
- 32 ~~state.~~ **in Indiana.**
- 33 (9) That the issuance of bonds of the authority to create a
- 34 financing pool for industrial development projects promoting a
- 35 substantial likelihood of opportunities for:
- 36 (A) gainful employment;
- 37 (B) business opportunities;
- 38 (C) educational enrichment (including cultural, intellectual,
- 39 scientific, or artistic opportunities);
- 40 (D) the abatement, reduction, or prevention of pollution;
- 41 (E) the removal or treatment of any substances in materials
- 42 being processed that otherwise would cause pollution when
- 43 used; or
- 44 (F) increased options for and availability of child care;
- 45 will improve the health, safety, morals, and general welfare of the
- 46 people of the state and constitutes a public purpose for which the
- 47 authority shall exist and operate.

1 (10) That the issuance of bonds of the authority to create a
 2 funding source for the making of guaranteed participating loans
 3 will promote and encourage an expanding international exports
 4 market and international exports sales and will promote the
 5 general welfare of all of the people of Indiana by assisting Indiana
 6 businesses through stimulation of the expansion of international
 7 exports sales for Indiana products and services, especially those
 8 of small and medium-sized businesses, by providing financial
 9 assistance through the authority.

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

12 (1) promoting opportunities for gainful employment and business
 13 opportunities by the promotion and development of industrial
 14 development projects, **technology commercialization projects**,
 15 rural development projects, mining operations, international
 16 exports, and agricultural operations that involve the processing of
 17 agricultural products, in any areas of the state;

18 (2) promoting the educational enrichment (including cultural,
 19 intellectual, scientific, or artistic opportunities) of all the people
 20 of the state by the promotion, development, and assistance of
 21 educational facility projects;

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

25 (4) preventing and remediating environmental pollution,
 26 including water pollution, air pollution, sewage and solid waste
 27 disposal, radioactive waste, thermal pollution, radiation
 28 contamination, and noise pollution affecting the health and well
 29 being of the people of the state by the promotion and development
 30 of industrial development projects; ~~and~~

31 (5) promoting affordable and accessible child care for the people
 32 of the state by the promotion and development of child care
 33 facilities; **and**

34 **(6) promoting research, innovation, technology transfer, and**
 35 **technology commercialization by the promotion, development,**
 36 **and assistance of technology commercialization projects.**

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

44 (1) Have perpetual succession as a body politic and corporate and
 45 an independent instrumentality exercising essential public
 46 functions.

47 (2) Without complying with IC 4-22-2, adopt, amend, and repeal

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

1 contracting parties, including borrowers, lenders, developers,
 2 **professional or accredited investors**, or users, for the purpose
 3 of planning, regulating, and providing for the financing and
 4 refinancing of any agricultural enterprise (as defined in
 5 IC 15-7-4.9-2), rural development project (as defined in
 6 IC 15-7-4.9-19.5), industrial development project, **technology**
 7 **commercialization project**, or international exports, and
 8 distribute data and information concerning the encouragement
 9 and improvement of agricultural enterprises and agricultural
 10 employment, rural development projects, industrial development
 11 projects, international exports, and other types of employment in
 12 the state undertaken with the assistance of the authority under this
 13 chapter.

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

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

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

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

38 (17) Invest any funds not needed for immediate disbursement,
 39 including any funds held in reserve, in direct and general
 40 obligations of or obligations fully and unconditionally guaranteed
 41 by the United States, obligations issued by agencies of the United
 42 States, obligations of this state, or any obligations or securities
 43 which may from time to time be legally purchased by
 44 governmental subdivisions of this state pursuant to IC 5-13, or
 45 any obligations or securities which are permitted investments for
 46 bond proceeds or any construction, debt service, or reserve funds
 47 secured under the trust indenture or resolution pursuant to which

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

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

- 1 IC 15-7-5.
 2 (43) Take assignments of notes and mortgages and security
 3 agreements securing notes and other forms of security, and attach,
 4 seize, or take title by foreclosure or conveyance to any
 5 agricultural enterprise or rural development project when a
 6 guaranteed loan to the enterprise or rural development project is
 7 clearly in default and when in the opinion of the authority the
 8 acquisition is necessary to safeguard the agricultural loan and
 9 rural development project guarantee fund, and sell, or on a
 10 temporary basis, lease or rent the agricultural enterprise or rural
 11 development project for any use.
 12 (44) Expend money, as the authority considers appropriate, from
 13 the agricultural loan and rural development project guarantee
 14 fund created by IC 15-7-5-19.5.
 15 (45) Reimburse from bond proceeds expenditures for industrial
 16 development projects under this chapter.
 17 **(46) Make direct loans and co-venture investment loans and**
 18 **loan guarantees to professional and accredited investors to**
 19 **provide seed and venture capital to technology**
 20 **commercialization projects.**
 21 **(47) Through administration of the twenty-first century**
 22 **research and technology fund and the Indiana venture fund,**
 23 **award grants to and enter into contracts with universities and**
 24 **research institutions to:**
 25 **(A) increase the capacity of Indiana institutions of higher**
 26 **education, Indiana businesses, and Indiana nonprofit**
 27 **corporations and organizations to compete successfully for**
 28 **federal and private research and development funds;**
 29 **(B) stimulate the transfer of research and technology into**
 30 **marketable products;**
 31 **(C) assist with diversifying Indiana's economy by focusing**
 32 **investment on biomedical research, biotechnology,**
 33 **information technology, and other high technology**
 34 **industry clusters requiring high skill, high wage**
 35 **employees; and**
 36 **(D) encourage an environment of innovation and**
 37 **cooperation among universities and businesses to promote**
 38 **research.**
 39 **(48) Do any act necessary or convenient to the exercise of the**
 40 **powers granted by this chapter, IC 4-4-11.5, IC 4-4-21,**
 41 **IC 4-4-26, IC 13-19-5, or IC 15-7-5, or reasonably implied from**
 42 **those statutes, including but not limited to compliance with**
 43 **requirements of federal law imposed from time to time for the**
 44 **issuance of bonds.**
 45 (b) The authority's powers under this chapter shall be interpreted
 46 broadly to effectuate the purposes of this chapter and may not be
 47 construed as a limitation of powers.

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

5 SECTION 27. IC 4-4-11-16.3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.3. To further the
 7 purposes of this chapter, and in addition to the authority's other powers
 8 under this chapter, the authority may transfer funds:

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

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

13 SECTION 28. IC 4-4-11-44 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2003]: **Sec. 44. (a) Subject to IC 4-4-31-26(h), the following**
 16 **amounts are appropriated to the authority from the Indiana**
 17 **tobacco master settlement agreement fund in each of the following**
 18 **specified state fiscal years:**

19 (1) **Twenty-five million dollars (\$25,000,000) during each state**
 20 **fiscal year beginning after June 30, 2003, and before July 1,**
 21 **2007.**

22 (2) **Thirty-six million dollars (\$36,000,000) during each state**
 23 **fiscal year beginning after June 30, 2007.**

24 (b) **Money appropriated to the authority under this section:**

25 (1) **must be deposited either in:**

26 (A) **the twenty-first century research and development**
 27 **fund (IC 4-4-5.1-3); or**

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

29 (2) **may be used only for the purposes of the twenty-first**
 30 **century research and development fund or the Indiana**
 31 **venture fund.**

32 (c) **Money that is deposited in the twenty-first century research**
 33 **and development fund or the Indiana venture fund under this**
 34 **section and not currently needed to meet the obligations of the fund**
 35 **may be:**

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

38 (2) **transferred between the funds and used for the purposes**
 39 **of the fund to which the money is transferred in the state**
 40 **fiscal year in which it is transferred or a subsequent state**
 41 **fiscal year.**

42 SECTION 29. IC 4-4-11.7 IS ADDED TO THE INDIANA CODE
 43 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2003]:

45 **Chapter 11.7. Indiana Venture Fund**

46 **Sec. 1. As used in this chapter, "accredited investor" means an**
 47 **investor who meets the most current definition of accredited**

1 investor as defined:

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

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

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

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

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

13 Sec. 6. The expenses of administering the fund shall be paid
 14 from money in the fund.

15 Sec. 7. The authority shall invest the money in the fund not
 16 currently needed to meet the obligations of the fund in conformity
 17 with IC 4-4-11 and the investment policies established by the
 18 authority. Interest that accrues from these investments shall be
 19 deposited in the fund.

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

22 Sec. 9. The authority may accept:

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

38 for deposit in the fund.

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

- 41 (1) To make a direct loan to a technology commercialization
 42 project to provide seed capital or venture capital. A direct
 43 loan under this subdivision may not exceed the lesser of the
 44 following:

- 45 (A) Forty percent (40%) of the estimated cost of the initial
 46 funding for the project (including development, testing,
 47 initial production and marketing, company formation,
 48 intellectual property protection and acquisition, and

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associated working capital for the technology, product, process, or invention).

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

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

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

1 manager shall be obligated to refund any amount received
2 by it from the manager's percentage if necessary to allow
3 the authority to recover its investment; or

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

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

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

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

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

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

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

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

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

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

32 Sec. 16. The advisory board may request that the authority
33 consult with and hire professionals on its behalf as the authority
34 considers necessary to evaluate applications. The professionals
35 may be compensated from the fund or the applicant, or both.

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

37 (b) Subsections (c) through (e) apply to a meeting of the
38 advisory board at which at least four (4) members of the advisory
39 board are physically present at the place where the meeting is
40 conducted.

41 (c) A member of the advisory board may participate in a
42 meeting of the advisory board by using a means of communication
43 that permits:

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

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

47 to simultaneously communicate with each other during the
48 meeting.

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

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

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

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

9 (3) was absent.

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

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

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

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

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

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

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

40 (4) A statement concerning the feasibility of the proposed
41 technology, product, process, or invention, its state of
42 development, and the likelihood of commercial success
43 (including intellectual property protection and licensing
44 arrangements for technologies).

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

48 (6) Financial projections.

- 1 (7) A listing of business and legal advisors engaged.
- 2 (8) Any other information that the authority or the advisory
- 3 board requires.

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

- 8 (1) Whether the business has a reasonable chance of success.
- 9 (2) Whether the technology, product, process, or invention for
- 10 which the loan is being made is feasible and has the potential
- 11 to achieve commercial success.
- 12 (3) Whether the entrepreneur, investors, shareholders, and
- 13 other founders of the business have already made or are
- 14 obligated in writing to make a substantial financial and time
- 15 commitment to the enterprise.

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

- 23 (1) The authority determines that there is a reasonable
- 24 possibility that the authority will recoup its investment
- 25 within:
 - 26 (A) ten (10) years after making the investment; or
 - 27 (B) another period negotiated by the authority;
- 28 through the receipt of principal and interest payments or
- 29 other distribution of profits or royalties on investments made
- 30 by the authority.
- 31 (2) Binding commitments have been made to the authority by
- 32 the enterprise for adequate reporting of financial data to the
- 33 authority and any participating professional investors. The
- 34 report must include an annual audit of the books of the
- 35 enterprise by an independent certified public accountant if
- 36 required by the authority. The report must be prepared in
- 37 accordance with generally accepted accounting principles.
- 38 The authority and any participating professional or
- 39 accredited investors shall secure sufficient contractual rights
- 40 from the business as the authority shall consider prudent to
- 41 protect the investment of the authority, including, at the
- 42 discretion of the authority and without limitation, a right of
- 43 access to financial and other records of the business.
- 44 (3) If the loan is a co-venture investment loan or guarantee, a
- 45 binding commitment has been made to the business from a
- 46 participating professional or an accredited investor in at least
- 47 the amount requested by the authority and the authority has
- 48 a written commitment from the participating professional or

1 accredited investor that the authority is to be repaid on its
 2 co-venture investment loan or guarantee before or
 3 simultaneously with any distribution to participating
 4 professional investors.

5 (4) The authority has:

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

10 (B) determined the report to be adequate.

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

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

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

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

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

29 **Sec. 25.** Applicants that have received:

30 (1) prior funding from the twenty-first century research and
 31 technology fund; or

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

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

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

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

47 (1) the operation of any business conducted by an applicant
 48 for, or recipient of, any form of assistance which the authority

1 is empowered to render; or
2 (2) the competitive position of the business in a particular
3 field of endeavor;
4 are confidential. Any discussion or consideration of the trade
5 secrets or commercial or financial information may be held by the
6 advisory board or the authority in executive sessions under
7 IC 5-14-1.5-6.1 if notice of the executive session is properly posted.
8 **Sec. 28. Proposals for the establishment of pools of funds must:**
9 (1) be submitted on a form; and
10 (2) contain the information;
11 prescribed by the authority.
12 **Sec. 29. The authority may not enter into any agreement or**
13 **contract regarding a pool of funds unless the agreement or**
14 **contract provides that the pool of funds is to be invested in an**
15 **enterprise only if the professional investor or manager finds all the**
16 **following:**
17 (1) The enterprise has a reasonable chance of success.
18 (2) The technology, product, process, or invention for which
19 the investment is being made is feasible and has the potential
20 to achieve commercial success.
21 (3) The entrepreneur, investors, shareholders, or founders of
22 the enterprise have made or are obligated to make a
23 substantial commitment of time and funds to the enterprise.
24 (4) That there is a reasonable opportunity that the enterprise
25 will recoup the investment within ten (10) years after the
26 investment, through the receipt of principal and interest,
27 dividends, capital gains, or other distributions of profit or
28 royalties.
29 (5) The enterprise has made binding commitments for
30 adequate reporting of and access to financing data of the
31 enterprise.
32 **Sec. 30. The fund and all proceeds of the fund are public**
33 **property devoted to an essential public and governmental function**
34 **and purpose and are exempt from all taxes and special**
35 **assessments, direct or indirect, of the state or a political subdivision**
36 **of the state. However, this exemption does not exempt an**
37 **enterprise in which the authority has invested from state taxes or**
38 **other taxes levied in connection with the manufacture, production,**
39 **use, or sale of any technologies, products, processes, or inventions**
40 **that are the subject of an agreement.**
41 SECTION 30. IC 4-4-29.5 IS ADDED TO THE INDIANA CODE
42 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
43 JULY 1, 2003]:
44 **Chapter 29.5. Indiana Tourism Supplemental Revenue Fund**
45 **Sec. 1. (a) The Indiana tourism supplemental revenue fund is**
46 **established for the following purposes:**
47 (1) To provide money for the tourism information and
48 promotion fund established by IC 4-4-3.5-2.

- 1 (2) To provide money for the tourism marketing fund
- 2 established by IC 4-4-3.6-2.
- 3 (3) To provide money for any other activity of the department
- 4 of commerce related to the promotion and development of
- 5 tourist resources and facilities in Indiana.
- 6 (b) The fund consists of the following:
- 7 (1) Amounts transferred to the fund under IC 6-2.5-12-4(f).
- 8 (2) Other amounts appropriated by the general assembly.
- 9 (3) Donations, grants, and money received from any other
- 10 source.
- 11 (c) The department of commerce shall administer the fund. The
- 12 expenses of administering the fund shall be paid from money in the
- 13 fund.
- 14 (d) The treasurer of state shall invest the money in the fund not
- 15 currently needed to meet the obligations of the fund in the same
- 16 manner as other public money may be invested. Interest that
- 17 accrues from these investments shall be deposited in the fund.
- 18 (e) Money in the fund at the end of a state fiscal year does not
- 19 revert to the state general fund.
- 20 (f) Money in the fund is appropriated continuously for the
- 21 purposes stated in subsection (a).
- 22 **Sec. 2. The department of commerce may adopt rules under**
- 23 **IC 4-22-2 to implement this chapter and to identify tourism related**
- 24 **activities and initiatives for which money in the fund may be**
- 25 **expended.**
- 26 SECTION 31. IC 4-4-30-8, AS ADDED BY P.L.159-2002,
- 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2003]: Sec. 8. (a) The coal technology research fund is
- 29 established to provide money for the center for coal technology
- 30 research and for the director to carry out the duties specified under this
- 31 chapter. The budget agency shall administer the fund.
- 32 (b) The fund consists of the following:
- 33 (1) Money appropriated **or otherwise designated** by the general
- 34 assembly.
- 35 (2) Gifts, grants, and bequests.
- 36 (c) The treasurer of state shall invest the money in the fund not
- 37 currently needed to meet the obligations of the fund in the same
- 38 manner as the treasurer may invest other public funds.
- 39 (d) Money in the fund at the end of a state fiscal year does not revert
- 40 to the state general fund.
- 41 SECTION 32. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS
- 42 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 43 1, 2003]:
- 44 **Chapter 31. Tobacco Settlement Authority**
- 45 **Sec. 1. As used in this chapter, "authority" refers to the tobacco**
- 46 **settlement authority created in this chapter.**
- 47 **Sec. 2. As used in this chapter, "board" refers to the governing**

1 board of the authority.

2 **Sec. 3.** As used in this chapter, "bonds" means bonds, notes, and
3 any other obligations and financing arrangements issued or
4 entered into by the authority under this chapter and any such
5 bonds, notes, obligations, or other financing arrangements entered
6 into to refund the foregoing, whether on a current or an advance
7 basis.

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

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

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

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

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

30 **Sec. 9.** As used in this chapter, "sales agreement" means any
31 agreement authorized under this chapter in which the state sells to
32 the authority a portion of the amounts and revenues required to be
33 paid by tobacco product manufacturers to the state and the state's
34 rights to receive the amounts and revenues under the master
35 settlement agreement.

36 **Sec. 10.** As used in this chapter, "state" means the state of
37 Indiana, acting by and through its budget agency, or any other
38 state agency, state office, or state officer required by law or
39 contract to act on behalf of the state of Indiana for a particular
40 purpose.

41 **Sec. 11. (a)** The general assembly declares it to be the public
42 policy of the state and a recognized governmental function to assist
43 in securitizing the revenue stream from the master settlement
44 agreement between the state and tobacco product manufacturers
45 in order to provide a current and reliable source of revenue for the
46 state. The purpose of this chapter is to establish a tobacco
47 settlement authority having the power to purchase certain rights
48 of the state under the master settlement agreement and to issue

1 nonrecourse revenue bonds.

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

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

11 (1) The creation of the authority.

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

13 (3) The sale to the authority of a portion of the amounts and
14 revenues required to be paid by tobacco product
15 manufacturers to the state and the state's right to receive the
16 amounts and revenues under the master settlement
17 agreement.

18 (4) The issuance of bonds.

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

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

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

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

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

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

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

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

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

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

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

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

48 (3) is eligible for reappointment; and

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

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

7 **Sec. 14.** Four (4) members of the board constitute a quorum.
8 Four (4) affirmative votes are required for the board to take
9 action.

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

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

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

18 (1) all other members of the board participating in the
19 meeting; and

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

22 to simultaneously communicate with each other during the
23 meeting.

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

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

29 (1) was physically present at the place where the meeting was
30 conducted;

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

33 (3) was absent.

34 **Sec. 17.** Any member or employee of the authority who has, will
35 have, or later acquires an interest, direct or indirect, in any
36 transaction with the authority shall immediately disclose the
37 nature and extent of the interest in writing to the authority as soon
38 as the member or employee has knowledge of the actual or
39 prospective interest. The disclosure shall be announced in open
40 meeting and entered upon the minutes of the authority. Upon
41 disclosure, the member or employee shall not participate in any
42 action by the authority authorizing the transaction. However, such
43 an interest does not invalidate actions by the authority with the
44 participation of the disclosing member prior to the time when the
45 member became aware of the interest.

46 **Sec. 18.** Subject to section 36 of this chapter, the authority may,
47 without the approval of the attorney general or any other state
48 officer, employ independent counsel, bond counsel, other attorneys,

1 financial advisers, investment bankers, auditors, other technical or
 2 professional assistants, and such other officers, agents and
 3 employees (including an executive director), permanent or
 4 temporary, as the authority considers necessary or convenient to
 5 carry out the efficient operation of the authority and shall
 6 determine the qualifications, duties, compensation, and terms of
 7 service of all such persons. The chairperson may appoint the initial
 8 executive director. The executive director is the chief operating
 9 officer of the authority, and the board shall establish the executive
 10 director's duties and responsibilities, including the powers that the
 11 authority has under this section. The board may delegate to an
 12 officer of the authority, the executive director, or one (1) or more
 13 other employees or agents of the authority such duties and
 14 responsibilities as the board considers necessary or convenient,
 15 including the powers that the authority has set forth in this section.
 16 Employees of the authority are not considered employees of the
 17 state.

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

19 (1) adopt:

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

21 (B) a policy;

22 establishing a code of ethics for its employees; or

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

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

27 **Sec. 20. The authority has all the general powers necessary to**
 28 **carry out its purposes and duties and to exercise its specific**
 29 **powers. In addition to other powers specified in this chapter, the**
 30 **authority may:**

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

32 (2) make and execute agreements, contracts, and other
 33 instruments, with any public or private person, in accordance
 34 with this chapter;

35 (3) invest monies held by the authority or on its behalf under
 36 any trust agreement of the authority or otherwise in the
 37 manner determined by resolution of the authority or under
 38 the trust agreement (an investment under this subdivision is
 39 not restricted by or subject to any other law);

40 (4) establish any general or special funds, accounts, or
 41 subaccounts, and controls on deposits to and disbursements
 42 from them, as it finds necessary, desirable, or convenient for
 43 the implementation of this chapter;

44 (5) procure insurance, other credit enhancements, and other
 45 financing arrangements for its bonds to fulfill its purposes
 46 under this chapter, including but not limited to municipal
 47 bond insurance and letters of credit;

48 (6) accept appropriations, gifts, grants, loans, or other aid

- 1 from public or private entities;
 2 (7) establish a stable source of revenue to be used for the
 3 purposes designated in this chapter;
 4 (8) enter into one (1) or more sales agreements with the state
 5 for purchase of a portion of the amounts and revenues due to
 6 the state under the master settlement agreement and of the
 7 state's rights to receive those amounts and revenues;
 8 (9) issue bonds in one (1) or more series;
 9 (10) sell, pledge, or assign, as security, all or a portion of the
 10 revenues derived by the authority under any sales agreement
 11 to provide for and secure the issuance of its bonds;
 12 (11) manage its funds, obligations, and investments as
 13 necessary and as consistent with its purpose;
 14 (12) without complying with IC 4-22-2, adopt, amend, and
 15 repeal bylaws, rules, and regulations not inconsistent with this
 16 chapter and necessary or convenient to regulate its affairs and
 17 to carry into effect the powers, duties, and purposes of the
 18 authority and conduct its business; and
 19 (13) exercise any other power reasonably required,
 20 convenient, or desirable to implement the purposes of this
 21 chapter.

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

26 Sec. 21. The authority may not:

- 27 (1) exercise the power of eminent domain; or
 28 (2) levy taxes of any kind.

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

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

42 (b) The net proceeds of the bonds issued by the authority, other
 43 than refunding bonds, shall be deposited in the Indiana growth
 44 endowment fund established by IC 4-4-32-3. The net proceeds of
 45 any refunding bonds issued by the authority shall be deposited in
 46 accordance with a trust agreement of the authority.

47 (c) Before issuing bonds under this chapter, the authority shall
 48 publish a notice of its determination to issue the bonds. The notice

1 shall be published one (1) time in a newspaper published and of
 2 general circulation in each of the four (4) counties having the
 3 greatest population in Indiana. An action to contest the validity of:

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

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

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

21 (e) The authority's bonds shall:

- 22 (1) bear the date or dates;
 23 (2) mature at the time or times;
 24 (3) be in the denominations;
 25 (4) be in the form;
 26 (5) be registered or registrable in the manner;
 27 (6) be made transferable, exchangeable, and interchangeable;
 28 (7) be payable in the medium of payment and at the place or
 29 places;
 30 (8) be subject to the terms of redemption;
 31 (9) bear the fixed or variable rate or rates of interest;
 32 (10) be payable at the time or times; and
 33 (11) be sold at a public or negotiated sale in the manner and
 34 at the price or prices;

35 as the authority determines.

36 (f) The bonds shall be executed by one (1) or more officers of the
 37 authority and by the trustee or paying agent. Execution of the
 38 bonds may be by manual or facsimile signature.

39 (g) The bonds of the authority are subject to the terms,
 40 conditions, covenants, and protective provisions that are found
 41 necessary or desirable by the authority, including, but not limited
 42 to, pledges of the authority's assets, setting aside of reserves, and
 43 other provisions the authority finds are necessary or desirable for
 44 the security of bondholders.

45 (h) Any pledge of revenues to be derived by the authority under
 46 a sales agreement or from any other source, and the right to
 47 receive revenues under a sales agreement or from any other
 48 source, or any pledge of a special fund, account, or subaccount

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

12 (i) A member of the board or a person executing bonds or notes
 13 issued under this article is not liable personally on the bonds or
 14 notes.

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

17 **Sec. 23. (a)** The bonds issued under this chapter by the authority
 18 constitute the special obligations only of the authority and are
 19 payable solely from and secured exclusively by the pledge by the
 20 authority of certain funds and revenues and rights to receive funds
 21 or revenues in accordance with this chapter. The faith and credit
 22 or taxing power of the state or any political subdivision of the state
 23 is not pledged to the payment of principal or interest on the bonds.
 24 Each bond of the authority must plainly state on its face that the
 25 bond does not constitute an indebtedness or lending of the credit of
 26 the state within the meaning or application of any constitutional
 27 provision or limitation but that it is payable solely as to both
 28 principal and interest from the funds, revenues, and rights pledged
 29 under this chapter. The provisions of this chapter and the
 30 covenants and undertakings of the authority as expressed in any
 31 proceedings preliminary to or in connection with the issuance of
 32 the bonds may be enforced by a bondholder by action for
 33 injunction or mandamus against the authority or any officer,
 34 agent, or employee of the authority, but an action for monetary
 35 judgment may not be brought against the state for any violations
 36 of this chapter.

37 (b) All property of the authority is public property devoted to
 38 an essential public and governmental function and purpose and is
 39 exempt from all taxes and special assessments, direct or indirect,
 40 of the state or a political subdivision of the state. All bonds issued
 41 under this chapter are issued by a body corporate and politic of
 42 this state, but not a state agency, and for an essential public and
 43 governmental purpose, and the bonds, the interest thereon, the
 44 proceeds received by the holder from the sale of the bonds to the
 45 extent of the holder's cost of acquisition proceeds received upon
 46 redemption prior to maturity, and proceeds received at maturity
 47 and the receipt of the interest and proceeds are exempt from
 48 taxation in the state for all purposes except the financial

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

3 **Sec. 24.** Contracts entered into by the authority shall be entered
4 into in the name of the authority and not in the name of the state
5 of Indiana. The obligations of the authority under the contracts are
6 obligations only of the authority and are not in any way obligations
7 of the state of Indiana.

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

18 **Sec. 26. (a)** Subject to the approval of the budget agency, after
19 review by the budget committee, the state may, without complying
20 with any other law governing the sale or disposition of property by
21 the state, sell and assign to the authority, and the authority may
22 purchase, all of the state's right to receive a part not to exceed
23 forty percent (40%) of the state's annual share of the amounts and
24 revenues due to the state under the master settlement agreement
25 and of the state's rights to receive those amounts and revenues. The
26 state, including the governor and the attorney general, may take
27 any action necessary or convenient to facilitate and complete a sale
28 approved by the budget agency. The authority may take any action
29 necessary or convenient to facilitate and complete the purchase.

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

45 **(c)** The state hereby covenants and agrees with the holders of
46 any bonds that so long as any bonds of the authority issued under
47 this chapter are outstanding and unpaid, the state will not limit or
48 alter the rights vested in the authority to fulfill the terms of any

1 agreements made with, or make payments to, the holders of the
2 bonds or in any way impair the rights and remedies of the
3 bondholders, until the bonds, together with interest thereon, and
4 all costs and expenses in connection with any action or proceedings
5 by or on behalf of the bondholder are fully paid, satisfied, and
6 discharged.

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

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

11 (2) the property sold and assigned is the property of the
12 authority and not the property of the state;

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

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

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

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

32 (f) The state shall:

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

37 (2) irrevocably instruct the independent auditor and the
38 escrow agent that, after the date of the notice under
39 subdivision (1), the portion of the amounts and revenues due
40 under the master settlement agreement sold and assigned to
41 the authority is to be paid directly to the trustee under the
42 trust agreement of the authority for the benefit of the owners
43 of the bonds secured by a pledge of those amounts and
44 revenues until the bonds are no longer outstanding under the
45 resolution or trust agreement.

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

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

3 (2) may not be deposited in the Indiana tobacco master
4 settlement agreement fund.

5 (h) If another statute provides that an appropriation from the
6 Indiana tobacco master settlement agreement fund is subject to
7 this section, that appropriation terminates on the date that the
8 budget agency approves a sale and assignment under this section.

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

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

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

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

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

44 (1) diligently enforce the authority's right to receive the
45 portion of the amounts and revenues due under the master
46 settlement agreement and sold under the sales agreement, to
47 the full extent permitted by the master settlement agreement;

48 (2) diligently enforce the qualifying statute as contemplated

1 by the master settlement agreement against all tobacco
 2 product manufacturers that are selling tobacco products in
 3 Indiana and are not signatories to the master settlement
 4 agreement;

5 (3) neither amend the master settlement agreement nor take
 6 any other action that would in any way:

7 (A) alter, limit, or impair the authority's right to receive
 8 the portion of the amounts and revenues due under the
 9 master settlement agreement and sold under the sales
 10 agreement;

11 (B) limit or alter the rights vested in the authority by this
 12 chapter or other law to fulfill its agreements with the bond
 13 owners; or

14 (C) impair the rights and remedies of the bond owners or
 15 the security for the bonds;

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

23 (4) not amend, supersede, or repeal the qualifying statute in
 24 any way that would violate section 26(c) of this chapter; or

25 (5) take no action that would adversely affect the tax exempt
 26 status of any tax exempt bonds issued by the authority.

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

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

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

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

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

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

48 (1) the state or an agency of the state is the party to the action

1 receiving the award; and

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

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

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

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

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

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

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

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

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

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

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

47 (c) If the authority determines that a bond service required by
48 the authority cannot be performed by employees of the authority,

1 the authority shall enter into a contract for the bond service with
2 a bond service provider. The authority shall have wide discretion
3 in establishing criteria for entering into contracts under this
4 section and selecting the bond service providers the authority
5 considers to be necessary or appropriate to provide bond services.
6 In the exercise of this discretion, the authority shall consider all
7 proposed fee schedules and the public interest in achieving issuance
8 and sale of bonds on terms and conditions most favorable to the
9 authority. Notwithstanding any other provision of this section to
10 the contrary, the general assembly finds that it is in the public
11 interest to enter into contracts for bond services with Indiana
12 based and minority and women's business enterprises.

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

17 (1) The factors or criteria that will be used in evaluating the
18 responses.

19 (2) A statement concerning the relative importance of price
20 and the other evaluation factors.

21 (3) A statement concerning whether the response must be
22 accompanied by a certified check or other evidence of
23 financial responsibility.

24 (4) A statement concerning whether discussions may be
25 conducted with responsible respondents.

26 (e) The authority shall give public notice of the request for
27 qualifications for bond services by publication in the manner
28 required by IC 4-4-31-22(b) and shall also provide electronic access
29 to the notice through the electronic gateway administered by the
30 intelenet commission.

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

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

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

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

46 (j) The authority shall enter into a contract with the responsible
47 respondent whose response is determined in writing to be the most
48 advantageous to the authority, taking into consideration price and

1 other evaluation factors set forth in the request for qualifications.
 2 The following provisions apply to the authority's determination as
 3 to whether a respondent is responsible:

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

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

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

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

14 (C) The competency and experience of the respondent.

15 (k) A register of responses must be:

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

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

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

21 (1) A copy of the request for qualifications.

22 (2) A list of all persons to whom copies of the request for
 23 qualifications were given.

24 (3) A list of all responses received, which must include all of
 25 the following:

26 (A) The names and addresses of all respondents.

27 (B) The manner in which the amount payable to the
 28 respondent would be determined.

29 (C) The name of the successful respondent and the manner
 30 in which the amount payable to that respondent is to be
 31 determined.

32 (4) The basis on which the contract was entered into.

33 (5) The entire contents of the contract file except for
 34 proprietary information, such as trade secrets and financial
 35 information that was not required to be made available for
 36 public inspection by the terms of the request for
 37 qualifications.

38 SECTION 33. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS
 39 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2003]:

41 **Chapter 32. Indiana Growth Endowment Fund**

42 **Sec. 1.** As used in this chapter, "authority" refers to tobacco
 43 settlement authority established by IC 4-4-31-12.

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

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

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

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

6 (2) Appropriations, if any, made to the fund by the general
 7 assembly.

8 (3) Grants, gifts, and donations intended for deposit in the
 9 fund.

10 (4) Interest that accrues from investment of money in the
 11 fund.

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

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

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

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

21 **Sec. 9. (a) Money in the fund shall be used to make**
 22 **distributions:**

23 (1) to the Indiana development finance authority;

24 (2) to the rural development administration fund;

25 (3) to the rural development council;

26 (4) to the technology development grant fund;

27 (5) to the value added research fund;

28 (6) to the microenterprise partnership program fund;

29 (7) for other economic development purposes as specifically
 30 authorized by statutes enacted by the general assembly; and

31 (8) to pay the operating expenses of the authority related to its
 32 purposes;

33 **during the first state fiscal year in which the net proceeds of bonds**
 34 **described in section 4(1) of this chapter are deposited in the**
 35 **Indiana growth endowment fund and each of the nine (9) ensuing**
 36 **state fiscal years. The amounts distributed for the purposes listed**
 37 **in subdivisions (1) through (6) must be at least equal to the**
 38 **amounts appropriated for those purposes during the state fiscal**
 39 **year immediately preceding the first state fiscal year during which**
 40 **distributions are made under this section. However, if the amount**
 41 **of money in the fund is not sufficient to make distributions in the**
 42 **required amounts for the purposes listed in subdivisions (1)**
 43 **through (6), those distributions shall be reduced on a pro rata**
 44 **basis.**

45 **(b) Money distributed to the Indiana development finance**
 46 **authority under this section:**

47 (1) must be deposited either in:

48 (A) the twenty-first century research and development

1 fund (IC 4-4-5.1-3); or
 2 (B) the Indiana venture fund (IC 4-4-11.7-5); and
 3 (2) may be used only for the purposes of the twenty-first
 4 century research and development fund or the Indiana
 5 venture fund.

6 (c) Money that is deposited in the twenty-first century research
 7 and development fund or the Indiana venture fund under this
 8 section and not currently needed to meet the obligations of the fund
 9 may be:

10 (1) used in a subsequent state fiscal year for the purposes of
 11 the fund in which it is deposited; or
 12 (2) transferred between the funds and used for the purposes
 13 of the fund to which the money is transferred in the state
 14 fiscal year in which it is transferred or a subsequent state
 15 fiscal year."

16 Page 12, line 25, delete "IC 4-4-31" and insert "IC 4-4-33".

17 Page 12, line 28, delete "31." and insert "33."

18 Page 15, line 18, delete "IC 4-4-32" and insert "IC 4-4-34".

19 Page 15, line 21, delete "32." and insert "34."

20 Page 16, delete lines 7 through 42, begin a new paragraph and
 21 insert:

22 "Sec. 8. Subject to IC 4-4-31-26(h), fifty thousand dollars
 23 (\$50,000) is annually appropriated to the department for the
 24 purposes of this chapter from the Indiana tobacco master
 25 settlement agreement fund during each state fiscal year beginning
 26 after June 30, 2003.

27 SECTION 35. IC 4-4-35 IS ADDED TO THE INDIANA CODE AS
 28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2003]:

30 **Chapter 35. Indiana Broadband Development Authority**

31 **Sec. 1. (a) The general assembly finds that:**

32 (1) certain areas of this state are not being adequately served
 33 with broadband services;

34 (2) for the benefit of the people of this state and the
 35 improvement of their health, welfare, and living conditions,
 36 the improvement of the economic and educational welfare of
 37 this state, and the improvement of its public safety and
 38 security, it is essential that broadband infrastructure be
 39 expanded to provide broadband services throughout this
 40 state;

41 (3) the private sector should be encouraged to invest in the
 42 deployment of broadband services and networks and that
 43 financing by this authority will encourage broadband
 44 investment;

45 (4) economic, technological, and logistical integrated
 46 broadband services should be provided throughout this state
 47 on a nondiscriminatory basis;

48 (5) the provision of affordable broadband services and

1 networks will assure the long-term growth of and the
 2 enhancement and delivery of services by the educational,
 3 medical, commercial, and governmental entities within this
 4 state, including municipalities, counties, public safety
 5 facilities, judicial and criminal facilities, telemedical facilities,
 6 schools, colleges, universities, hospitals, libraries, community
 7 centers, businesses, nonprofit organizations, and residential
 8 properties; and

9 (6) the authority created and powers conferred by this
 10 chapter constitute a necessary program and serve a necessary
 11 public purpose.

12 (b) To increase the speed and availability at which affordable
 13 broadband services become available in this state, it is declared to
 14 be a valid public purpose to assist in the financing and refinancing
 15 of the private and public sectors' development of a statewide
 16 broadband infrastructure. It is further declared to be a valid
 17 public purpose for the authority created by this chapter to issue
 18 bonds and notes to provide for financing or refinancing to
 19 broadband developers and broadband operators, to make loans
 20 and provide joint venture and partnership arrangements subject
 21 to section 19(b) and 19(c) of this chapter to broadband developers
 22 and broadband operators, to enter into contracts for the lease or
 23 management of all or portions of the broadband infrastructure,
 24 and to enter into joint venture and partnership arrangements and
 25 partnerships with persons that will acquire, construct, develop,
 26 create, maintain, own, and operate all or portions of the broadband
 27 infrastructure.

28 Sec. 2. As used in this chapter, "authority" refers to the Indiana
 29 broadband development authority established by section 11 of this
 30 chapter.

31 Sec. 3. As used in this chapter, "board" refers to the board of
 32 directors of the authority.

33 Sec. 4. As used in this chapter, "capital reserve fund
 34 requirement" means the fund amount requirement that may be
 35 established in the resolution authorizing notes or bonds for which
 36 a capital reserve fund has been established under section 20 of this
 37 chapter. The required amount shall not exceed the maximum
 38 amount of principal and interest maturing and becoming due in a
 39 succeeding calendar year on the notes or bonds secured in whole or
 40 in part by the fund.

41 Sec. 5. As used in this chapter, "broadband developer" means
 42 a person selected by the authority to acquire, construct, develop,
 43 and create any part of the broadband infrastructure.

44 Sec. 6. As used in this chapter, "broadband infrastructure"
 45 means all facilities, hardware, and software and other intellectual
 46 property necessary to provide broadband services in this state,
 47 including voice, video, and data.

48 Sec. 7. As used in this chapter, "broadband operator" means a

1 person selected by the authority to operate any part of the
2 broadband infrastructure.

3 **Sec. 8.** As used in this chapter, "broadband services" means
4 those services, including voice, video, and data, that provide
5 capacity for transmission in excess of two hundred (200) kilobits
6 per second in at least one (1) direction regardless of the technology
7 or medium used, including wireless, copper wire, fiber optic cable,
8 or coaxial cable. If voice transmission capacity is offered in
9 conjunction with other services utilizing transmission in excess of
10 two hundred (200) kilobits per second, the voice transmission
11 capacity may be less than two hundred (200) kilobits per second.

12 **Sec. 9.** As used in this chapter, "development costs" means the
13 costs associated with the broadband infrastructure that have been
14 approved by the authority and includes all of the following:

15 (1) The costs for the planning, acquiring, leasing,
16 constructing, maintaining, and operating of the broadband
17 infrastructure.

18 (2) Payments for options to purchase, deposits on contracts of
19 purchase, and payments for the purchases of properties for
20 the broadband infrastructure.

21 (3) Financing, refinancing, acquisition, demolition,
22 construction, rehabilitation, and site development of new and
23 existing buildings.

24 (4) Carrying charges during construction.

25 (5) Purchases of hardware, software, facilities, or other
26 expenses related to the broadband infrastructure.

27 (6) Legal, organizational, and marketing expenses, project
28 manager and clerical staff salaries, office rent, and other
29 incidental expenses.

30 (7) Payment of fees for preliminary feasibility studies and
31 advances for planning, engineering, and architectural work.

32 (8) Any other costs and expenses necessary for the acquisition,
33 construction, maintenance, and operation of all or part of the
34 broadband infrastructure.

35 **Sec. 10.** As used in this chapter, "person" means an individual,
36 a corporation, a limited or general partnership, a joint venture, a
37 limited liability company, or a governmental entity, including state
38 authorities, municipalities, counties, and townships, police, fire and
39 other public safety organizations, judicial entities, medical entities,
40 schools, colleges, universities, hospitals, libraries, community
41 centers, and local economic development entities. Except to the
42 extent that state authorities, police, fire, and other public safety
43 organizations, judicial entities, medical entities, schools, colleges,
44 universities, hospitals, and libraries may constitute state entities,
45 the term does not include the state.

46 **Sec. 11.** The Indiana broadband development authority is
47 established and is a public body corporate and politic, separate
48 from the state, and not a state agency. The exercise by the

1 authority of its powers constitutes an essential public and
2 governmental function.

3 **Sec. 12. The authority may do the following:**

4 (1) Assist through financing and refinancing the expansion of
5 broadband infrastructure services to residential, commercial,
6 public, and nonprofit customers in this state.

7 (2) Authorize the issuance of bonds and notes to finance or
8 refinance the private and public sectors' development of the
9 broadband infrastructure.

10 (3) Authorize the making of loans and joint venture and
11 partnership arrangements subject to section 19(b) and 19(c)
12 of this chapter to broadband developers and broadband
13 operators.

14 (4) Authorize the imposition and collection of rents, charges,
15 and fees for the services furnished by the broadband
16 infrastructure in conjunction with financing entered into by
17 the authority.

18 (5) Enter into joint venture and partnership arrangements
19 and partnerships subject to section 19(b) and 19(c) of this
20 chapter to acquire, construct, maintain, and operate the
21 broadband infrastructure.

22 (6) Assist broadband developers and operators with all other
23 matters necessary for the acquisition, construction,
24 maintenance, and operation of the broadband infrastructure.

25 (7) Continuously evaluate all types of technologies in order to
26 encourage the widest deployment of broadband services and
27 broadband infrastructure in this state.

28 (8) Make broadband services to schools and libraries a
29 priority under authority financing programs.

30 (9) Insure that the financing and refinancing of the
31 development of broadband services under this chapter
32 includes provisions ensuring that small businesses and each
33 region of this state will have an equal opportunity to receive
34 financing and refinancing.

35 **Sec. 13. (a) The authority shall exercise its duties through its**
36 **board of directors.**

37 **(b) The board consists of the following eleven (11) members:**

38 (1) The lieutenant governor, or the lieutenant governor's
39 designee, who serves as chairperson.

40 (2) The treasurer of state, or the treasurer of state's designee.

41 (3) The budget director, or the budget director's designee.

42 (4) Eight (8) members with knowledge, skill, or experience in
43 the academic, business, technology, or financial fields
44 appointed by the governor. Not more than four (4) of the
45 members appointed under this subdivision may be members
46 of the same political party.

47 **(c) The board shall elect from among the board's members the**
48 **other officers the board considers necessary or convenient.**

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

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

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

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

11 (3) is eligible for reappointment; and

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

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

18 Sec. 14. Six (6) members of the board constitute a quorum. Six
 19 (6) affirmative votes are required for the board to take action.

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

23 Sec. 16. (a) This section applies to a meeting of the board at
 24 which at least six (6) members of the board are physically present
 25 at the place where the meeting is conducted.

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

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

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

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

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

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

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

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

43 (3) was absent.

44 Sec. 17. The authority may employ or contract for legal,
 45 financial, and technical experts, and officers, agents, and
 46 employees, permanent and temporary, as the authority requires,
 47 and shall determine their qualifications, duties, and compensation.
 48 The board may delegate to one (1) or more agents or employees

1 those powers or duties with any limitations that the board
2 considers proper.

3 **Sec. 18.** A member of the board or an officer, employee, or agent
4 of the authority shall discharge the duties of the member's position
5 in a nonpartisan manner, with good faith, and with that degree of
6 diligence, care, and skill that an ordinarily prudent person would
7 exercise under similar circumstances in a like position. In
8 discharging duties under this chapter, a member of the board or an
9 officer, employee, or agent of the authority, when acting in good
10 faith, may rely upon:

- 11 (1) the opinion of counsel for the authority;
- 12 (2) the report of an independent appraiser selected with
13 reasonable care by the board; or
- 14 (3) financial statements of the authority:
 - 15 (A) represented to the member of the board or officer,
16 employee, or agent of the authority to be correct by the
17 president or the officer of the authority having charge of
18 its books or account; or
 - 19 (B) stated in a written report by a certified public
20 accountant or firm of certified public accountants to fairly
21 reflect the financial condition of the authority.

22 **Sec. 19. (a)** The powers of the authority include all those
23 necessary to carry out and effectuate the purposes of this chapter,
24 including the following:

- 25 (1) To borrow money and issue bonds and notes to fund
26 operations of the authority, to finance or refinance part or all
27 of the development costs of the broadband infrastructure, to
28 refinance existing debt for technology that constitutes a part
29 of or is related to the broadband infrastructure, and to secure
30 bonds and notes by mortgage, assignment, or pledge of any of
31 its revenues and assets.
- 32 (2) To invest any money of the authority at the authority's
33 discretion, in any obligations determined proper by the
34 authority, and name and use depositories for its money.
- 35 (3) To enter into joint venture and partnership arrangements
36 subject to subsections (b) and (c) with persons that will
37 acquire, construct, develop, maintain, and operate all or part
38 of the broadband infrastructure.
- 39 (4) To receive and distribute state or local funding, including
40 grants, loans, and appropriations.
- 41 (5) To make loans and to enter into any joint venture and
42 partnership arrangements subject to subsections (b) and (c)
43 with broadband developers and broadband operators that
44 will acquire, construct, maintain, and operate all or portions
45 of the broadband infrastructure.
- 46 (6) To provide operating assistance to make broadband
47 services more affordable to broadband developers, broadband
48 operators, and broadband customers, in conjunction with

- 1 broadband infrastructure financed by the authority.
 2 (7) To impose and collect charges, fees, or rentals for the
 3 services furnished by those parts of the broadband
 4 infrastructure financed by the authority under this chapter.
 5 (8) To set construction, operation, and financing standards for
 6 the broadband infrastructure in connection with authority
 7 financing and to provide for inspections to determine
 8 compliance with those standards.
 9 (9) To acquire from any person interests in real or personal
 10 property necessary for the operation of the authority.
 11 (10) To procure insurance against any loss in connection with
 12 the broadband infrastructure and any other property, assets,
 13 or activities of the authority.
 14 (11) To sue and be sued, to have a seal, and to make, execute,
 15 and deliver contracts, conveyances, and other instruments
 16 necessary to the exercise of the authority's powers.
 17 (12) To enforce financial, operational, warranty, security,
 18 lease, and guaranty terms and conditions established under
 19 financings by the authority. The authority may under this
 20 subdivision acquire, construct, develop, lease, create, and
 21 maintain all or portions of the broadband infrastructure and
 22 acquire from any person interests in real and personal
 23 property.
 24 (13) To make and amend bylaws.
 25 (14) To indemnify and procure insurance indemnifying any
 26 members of the board of the authority from personal liability
 27 by reason of their service as a board member.
 28 (15) To investigate, evaluate, and assess the current
 29 broadband infrastructure and the future broadband
 30 infrastructure needs of this state and to encourage and
 31 participate in aggregation strategies for the broadband
 32 services of all public entities and nonprofit corporations in
 33 this state to maximize the interconnectivity and efficiencies of
 34 the broadband infrastructure.
- 35 (b) Notwithstanding any other provision of this chapter, the
 36 authority may not make loans to, or enter into any joint venture
 37 and partnership arrangements or participation with, any
 38 governmental entity or nonprofit organization except in connection
 39 with the financing or refinancing of development costs for that
 40 allocable portion of the broadband infrastructure used or to be
 41 used exclusively by governmental entities or nonprofit
 42 organizations, including universities, colleges, hospitals, school
 43 districts, public safety agencies, judicial organizations, libraries,
 44 municipalities, townships, and counties. No allocable part of the
 45 broadband infrastructure financed by a loan to a governmental
 46 entity or a nonprofit organization shall be used to serve residential,
 47 business, or other commercial customers.
- 48 (c) Notwithstanding any other provision of this chapter, except

1 in connection with financing or refinancing under subsection (b) or
 2 enforcement procedures authorized under subsection (a)(12), the
 3 authority shall acquire real or personal property constituting parts
 4 of the broadband infrastructure only in connection with the
 5 participation of persons other than governmental entities or
 6 nonprofit organizations through joint ventures and partnership
 7 arrangements, or other co-ownership arrangements and only if the
 8 participation is necessary to assure availability of financing or
 9 refinancing derived from the issuance by the authority of bonds or
 10 notes, the interest on which is exempt from taxation under the
 11 United States internal revenue code, and the financing derived
 12 from the tax-exempt bonds or notes is allocated only to those
 13 development costs relating to that part of the broadband
 14 infrastructure that is to be used by governmental bodies or
 15 nonprofit organizations.

16 (d) The authority shall establish a seed capital loan program to
 17 make capital loans to persons planning to apply to the authority for
 18 financing of broadband infrastructure. Priority for the seed capital
 19 loan program shall be given for developments targeted to
 20 underserved areas. During the initial two (2) years of operations,
 21 the authority shall designate a minimum of five hundred thousand
 22 dollars (\$500,000) to be targeted to rural underserved areas and a
 23 minimum of five hundred thousand dollars (\$500,000) to be
 24 targeted to urban underserved areas. Community economic
 25 development programs and small providers shall be given a
 26 preference to receive loans under this subsection. The terms and
 27 conditions for the seed capital loans shall be established by the
 28 authority. As used in this subsection, "underserved areas" means
 29 geographical areas of this state identified by the authority as
 30 having the greatest need for broadband development. In
 31 identifying underserved areas, the authority shall consider the
 32 area's economic conditions, including family income, affordability
 33 of access, lack of options available, low percentage of residents
 34 subscribing, and any other criteria considered important by the
 35 authority in determining whether an area is underserved.

36 (e) As part of an application for financing under this chapter,
 37 the broadband developer and broadband operator shall file with
 38 the authority a participation plan for small and minority owned
 39 businesses and a communitywide outreach plan to educate the
 40 public with respect to the availability of broadband services. The
 41 authority shall not approve an application unless a plan is
 42 submitted under this subsection.

43 Sec. 20. (a) A reserve capital account is created under the
 44 jurisdiction and control of the authority and shall be administered
 45 by the authority to secure notes and bonds of the authority. The
 46 authority shall credit to the reserve capital account the proceeds of
 47 the sale of notes or bonds to the extent provided for in the
 48 authorizing resolution of the authority and any other money that

1 is made available to the authority for the purpose of the reserve
2 capital account.

3 (b) In the resolution authorizing the issuance of notes or bonds,
4 the authority may establish a capital reserve fund for the payment
5 of the principal and interest of notes or bonds, for the purchase or
6 redemption of the notes or bonds, or for the payment of a
7 redemption premium required to be paid when the notes or bonds
8 are redeemed before maturity. The authority shall not use a capital
9 reserve fund for an optional purchase or optional redemption of
10 notes or bonds if the use would reduce the total of the money in the
11 capital reserve fund to less than the capital reserve fund
12 requirement established for the fund.

13 (c) In addition to, or instead of, depositing money in the reserve
14 capital account or in a capital reserve fund, the authority may
15 obtain or pledge letters of credit, insurance policies, surety bonds,
16 guarantees, or other security arrangements if the security
17 arrangements are approved by the treasurer of state. The amount
18 available under letters of credit, insurance policies, surety bonds,
19 guarantees, or other security arrangements pledged to the capital
20 reserve fund shall be credited toward the capital reserve fund
21 requirement for the fund.

22 (d) Income or interest earned by the reserve capital account
23 may be transferred by the authority to other funds or accounts of
24 the authority.

25 (e) Income or interest earned by a capital reserve fund may be
26 transferred by the authority to other funds or accounts of the
27 authority to the extent that the transfer does not reduce the total
28 of the amount of money and security arrangements authorized
29 under subsection (c) in the fund below the capital reserve fund
30 requirement for that fund.

31 **Sec. 21. (a)** The authority shall accumulate in a capital reserve
32 fund an amount equal to the capital reserve fund requirement for
33 that fund. If at any time the amount of a capital reserve fund falls
34 below the capital reserve fund requirement for that fund, the
35 authority shall transfer from the reserve capital account to the
36 capital reserve fund an amount equal to the capital reserve fund
37 requirement. If a deficiency exists in more than one (1) capital
38 reserve fund and the amount in the reserve capital account is not
39 sufficient to fully restore the capital reserve funds, the money in
40 the reserve capital account shall be allocated between the deficient
41 capital reserve funds pro rata according to the amounts of the
42 deficiencies.

43 (b) The bonds issued under this chapter by the authority
44 constitute the special obligations only of the authority and are
45 payable solely from and secured exclusively by the pledge by the
46 authority of certain funds and revenues in accordance with this
47 chapter. Neither the faith and credit nor taxing power of the state
48 or any political subdivision of the state is pledged to the payment

1 of principal or interest on the bonds. Each bond of the authority
2 must plainly state on its face that the bond does not constitute an
3 indebtedness or lending of the credit of the state within the
4 meaning or application of any constitutional provision or limitation
5 but that it is payable solely as to both principal and interest from
6 the funds and revenues pledged under this chapter. The provisions
7 of this chapter and the covenants and undertakings of the authority
8 as expressed in any proceedings preliminary to or in connection
9 with the issuance of the bonds may be enforced by a bondholder by
10 action for injunction or mandamus against the authority or any
11 officer, agent, or employee of the authority, but no action for
12 monetary judgment may be brought against the state for any
13 violations of this chapter.

14 **Sec. 22. (a) The authority may issue notes and bonds as provided**
15 **under this chapter to do all the following:**

16 (1) Pay the development costs associated with acquiring,
17 leasing, constructing, maintaining, and operating the
18 broadband infrastructure.

19 (2) Make loans to persons for development costs.

20 (3) Make loans to persons to make purchases related to the
21 broadband infrastructure.

22 (4) Make loans to persons to refinance existing debt of the
23 authority or other persons incurred in connection with the
24 acquisition or development of technology that constitutes a
25 part of or is related to the broadband infrastructure.

26 (5) Pay the interest on bonds and notes of the authority.

27 (6) Establish reserves to secure the bonds and notes of the
28 authority.

29 (7) Make other expenditures necessary to carry out the
30 authority's duties under this chapter, including the payment
31 of the authority's operating expenses.

32 (b) The authority may issue renewal notes, issue bonds to pay
33 notes, and refund bonds by the issuance of new bonds, whether or
34 not the bonds to be refunded have matured. The refunding bonds
35 shall be sold and the proceeds applied to the purchase, redemption,
36 or payment of the bonds to be refunded. The authority may issue
37 instruments separate from the obligations described in this
38 subsection that establish a contractual right in the holder of the
39 instrument to require mandatory tender for purchase of the
40 obligations to which the instrument applies for a time and subject
41 to provisions as the authority may determine.

42 (c) Except as otherwise provided by the authority or this
43 chapter, every note or bond issue of the authority is a general
44 obligation of the authority payable out of revenues or money of the
45 authority, subject only to agreements with the holders of particular
46 notes or bonds pledging any particular receipts or revenues.

47 (d) The notes or bonds, when issued, shall have all the qualities
48 of negotiable instruments, subject to provisions for registration,

1 under IC 26-1 and are incontestable in the hands of a bona fide
 2 purchaser or owner of the bond for value. Notes or bonds issued
 3 under this chapter are exempt from the registration requirements
 4 of IC 23-2-1 and any other state securities registration statutes.

5 Sec. 23. (a) The notes and bonds shall be authorized by
 6 resolution of the authority and mature at the time provided in the
 7 resolution. The notes and bonds shall be in a form, bear interest at
 8 a rate or rates, be in the denominations, carry registration
 9 privileges, be payable, and be subject to the terms of redemption
 10 as provided in the resolution.

11 (b) The notes and bonds of the authority may be sold by the
 12 authority at public or private sales at prices as the authority
 13 determines.

14 Sec. 24. A resolution relating to authorizing notes or bonds may
 15 contain any of the following provisions, which must be a part of the
 16 contract with the holders of the notes or bonds:

17 (1) Pledging all or any part of the revenues of the authority,
 18 and all or any part of the money received in payment of loans
 19 and interest on loans, and other money received or to be
 20 received to secure the payment of the notes or bonds.

21 (2) Pledging all or any part of the assets of the authority,
 22 including mortgages and obligations obtained by the authority
 23 in connection with its programs, to secure the payment of the
 24 notes or bonds.

25 (3) Pledging any loan, grant, or contribution from a
 26 government entity.

27 (4) The use and disposition of the gross income from contracts
 28 and leases of the authority.

29 (5) The setting aside of reserves or sinking funds and the
 30 regulation and disposition of reserves or sinking funds.

31 (6) Limitations on the purpose to which the proceeds of sale
 32 of notes or bonds may be applied and pledging proceeds to
 33 secure the payment of the notes or bonds.

34 (7) Limitations on the issuance of additional notes or bonds,
 35 the terms upon which additional notes or bonds may be issued
 36 and secured, and the refunding of outstanding or other notes
 37 or bonds.

38 (8) The procedure, if any, by which the terms of any contract
 39 with noteholders or bondholders may be amended or
 40 abrogated, the amount of notes or bonds the holders of which
 41 shall consent to the amendment or abrogation, and the
 42 manner in which the consent is to be given.

43 (9) Vesting in a trustee or trustees property, rights, powers,
 44 and duties in trust as the authority may determine, which may
 45 include any of the rights, powers, and duties of the trustee
 46 appointed by the bondholders under this chapter and limiting
 47 or abrogating the right of the bondholders to appoint a
 48 trustee under this section or limiting the rights, powers, and

- 1 **duties of the trustee.**
- 2 **(10) Establishing a contractual right to require mandatory**
- 3 **tender for purchase of the notes or bonds in an instrument**
- 4 **separate from the notes or bonds. The instrument may be**
- 5 **issued or sold by the authority to investors.**
- 6 **(11) Except as otherwise prohibited by this chapter, any other**
- 7 **provision that may affect the security or protection of the**
- 8 **notes or bonds.**
- 9 **(12) Delegating to an officer or other employee of the**
- 10 **authority, or an agent designated by the authority, for a**
- 11 **period as the authority determines, the power to cause the**
- 12 **issue, sale, and delivery of the notes or bonds within limits on**
- 13 **those notes or bonds established by the authority as to any of**
- 14 **the following:**
- 15 **(A) The form.**
- 16 **(B) The maximum interest rate or rates.**
- 17 **(C) The maturity date or dates.**
- 18 **(D) The purchase price.**
- 19 **(E) The denominations.**
- 20 **(F) The redemption premiums.**
- 21 **(G) The nature of the security.**
- 22 **(H) The selection of the applicable interest rate index.**
- 23 **(I) Other terms and conditions with respect to issuance of**
- 24 **the notes or bonds as the authority shall prescribe.**
- 25 **Sec. 25. (a) Any pledge made by the authority is valid and**
- 26 **binding from the date that the pledge is made.**
- 27 **(b) The money or property pledged and received by the**
- 28 **authority is immediately subject to the lien of the pledge without**
- 29 **any physical delivery or further act, and the lien of the pledge is**
- 30 **valid and binding against all parties having claims in tort, contract,**
- 31 **or otherwise against the authority, irrespective of whether the**
- 32 **parties have notice of the lien.**
- 33 **(c) The resolution or any other instrument by which a pledge is**
- 34 **created need not be recorded.**
- 35 **Sec. 26. The members of the board or any person executing the**
- 36 **notes or bonds under this chapter are not liable personally on the**
- 37 **notes or bonds or subject to any personal liability or accountability**
- 38 **by reason of the issuance of the notes or bonds.**
- 39 **Sec. 27. Subject to any agreements with noteholders or**
- 40 **bondholders, the authority may use any funds available to**
- 41 **purchase notes or bonds of the authority at a price determined by**
- 42 **the authority.**
- 43 **Sec. 28. The state covenants and agrees with the holders of any**
- 44 **notes or bonds issued under this chapter that the state will not limit**
- 45 **or alter the rights vested in the authority to fulfill the terms of any**
- 46 **agreements made with the holders, or in any way impair the rights**
- 47 **and remedies of the holders until the notes or bonds, together with**
- 48 **earned interest, with interest on any unpaid installments of**

1 interest, and all costs and expenses in connection with any action
 2 or proceeding by or on behalf of the holders, are fully met and
 3 discharged. The authority may include this covenant and
 4 agreement of the state in any agreement with the holders of notes
 5 or bonds under this chapter.

6 **Sec. 29. (a)** The authority may issue notes or bonds that are
 7 expressly stated not to be general obligations of the authority but
 8 that constitute limited obligations of the authority payable solely
 9 from and secured solely by the revenues, money, and property as
 10 the authority may specify.

11 (b) The notes or bonds designated as limited obligations under
 12 this section are not payable from or secured by the reserve capital
 13 account, and any reserve fund established for the limited obligation
 14 notes or bonds does not constitute a capital reserve fund under this
 15 chapter.

16 **Sec. 30. (a)** If the authority defaults in the payment of principal
 17 or interest of any notes or bonds when due, whether at maturity or
 18 upon call for redemption, and the default continues for a period of
 19 thirty (30) days, or if the authority fails or refuses to comply with
 20 this chapter, or defaults in any agreement made with the holders
 21 of any notes or bonds, the holders of twenty-five percent (25%) in
 22 total principal amount of the notes or bonds then outstanding may
 23 apply to the circuit court or superior court of the county in which
 24 the authority's office is located for the appointment of a trustee to
 25 represent the holders of the notes or bonds.

26 (b) A trustee appointed under this chapter may, and upon the
 27 written request of the holders of twenty-five percent (25%) in
 28 aggregate principal amount of the notes or bonds shall, do any of
 29 the following:

- 30 (1) Enforce all rights of the noteholders or bondholders,
 31 including the right to require the authority to perform its
 32 duties under this chapter.
- 33 (2) Bring suit upon the notes or bonds.
- 34 (3) Require the authority to account as if it were the trustee of
 35 an express trust for the holders of the notes or bonds.
- 36 (4) Enjoin any acts or things that may be unlawful or in
 37 violation of the rights of the holders of the notes or bonds.
- 38 (5) Declare all the notes or bonds due and payable.

39 (c) Before declaring the principal of notes or bonds due and
 40 payable, the trustee shall first give thirty (30) days notice in writing
 41 to the governor, to the authority, and to the attorney general.

42 (d) The trustee has all the powers necessary or appropriate for
 43 the general representation of bondholders or noteholders in the
 44 enforcement and protection of their rights.

45 **Sec. 31. (a)** Money of the authority shall be held by the authority
 46 and deposited in a financial institution approved by the treasurer
 47 of state, which financial institution may give security for the
 48 deposits.

1 (b) The authority may, subject to the approval of the state
2 treasurer, contract with the holders of any of its notes or bonds as
3 to the custody, collection, securing, investment, and payment of
4 money of the authority, of any money held in trust or otherwise for
5 the payment of notes or bonds and to carry out the contract.
6 Money held in trust or otherwise for the payment of notes or bonds
7 or in any way to secure notes or bonds and deposits of money may
8 be secured in the same manner as money of the authority.

9 (c) The authority may enter into an interest rate exchange or
10 swap, hedge, or similar agreement or agreements in connection
11 with the issuance of its notes or bonds or in connection with its then
12 outstanding notes or bonds.

13 Sec. 32. The notes and bonds of the authority are securities in
14 which all public officers and agencies of the state, all insurance
15 companies, banking associations, investment companies, executors,
16 administrators, trustees, and other fiduciaries may properly and
17 legally invest funds, including capital in their control or belonging
18 to them. These notes and bonds are securities that may properly
19 and legally be deposited with and received by any officer or agency
20 of the state for any purpose for which the deposit of bonds or
21 obligations of the state is now or may hereafter be authorized by
22 law.

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

37 Sec. 34. The authority shall submit an annual report not later
38 than November 1 of each year relating to its activities for the
39 preceding calendar year to the governor, the speaker of the house
40 of representatives, the president pro tempore of the senate, and to
41 each member of the house and senate committees with oversight
42 over utility and energy issues.

43 Sec. 35. Except to the extent necessary to maintain, improve,
44 complete, or expand within the defined service area, an element of
45 the broadband infrastructure already acquired or financed under
46 this chapter, the authority shall not enter into new partnerships or
47 other joint ventures arrangements or provide new loans or joint
48 venture and partnership arrangements after December 31, 2008.

1 SECTION 36. IC 4-4-36 IS ADDED TO THE INDIANA CODE AS
 2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2003]:

4 **Chapter 36. Microenterprise Partnership Program**

5 **Sec. 1. As used in this chapter, "department" means the**
 6 **department of commerce.**

7 **Sec. 2. As used in this chapter, "microenterprise" means a**
 8 **business with fewer than five (5) employees, including startup,**
 9 **home based, and self employed businesses.**

10 **Sec. 3. As used in this chapter, "microloan" means a business**
 11 **loan of not more than twenty-five thousand dollars (\$25,000).**

12 **Sec. 4. As used in this chapter, "microloan delivery**
 13 **organization" means a community based or nonprofit program**
 14 **that has:**

- 15 (1) developed a viable plan for providing training, access to
 16 financing, and technical assistance to microenterprises; and
 17 (2) meets the criteria and qualifications set forth in this
 18 chapter.

19 **Sec. 5. As used in this chapter, "operating costs" means the**
 20 **costs associated with administering a loan or a loan guaranty,**
 21 **administering a revolving loan program, or providing for business**
 22 **training and technical assistance to a microloan recipient.**

23 **Sec. 6. As used in this chapter, "program" means the**
 24 **microenterprise partnership program established under section 7**
 25 **of this chapter.**

26 **Sec. 7. (a) The department shall establish the microenterprise**
 27 **partnership program to provide grants to microloan delivery**
 28 **organizations.**

29 (b) A grant provided under subsection (a) may not exceed
 30 twenty-five thousand dollars (\$25,000).

31 (c) A microloan delivery organization receiving a grant under
 32 this section must use the grant for the purposes set forth in this
 33 chapter.

34 **Sec. 8. To establish the criteria for making a grant to a**
 35 **microloan delivery organization, the department shall consider the**
 36 **following:**

- 37 (1) The microloan delivery organization's plan for providing
 38 business development services and microloans to
 39 microenterprises.
 40 (2) The scope of services provided by the microloan delivery
 41 organization.
 42 (3) The microloan delivery organization's plan for
 43 coordinating the services and loans provided under this
 44 chapter with commercial lending institutions.
 45 (4) The geographic representation of all regions of the state,
 46 including both urban and rural communities and
 47 neighborhoods.
 48 (5) The microloan organization's emphasis on supporting

1 female and minority entrepreneurs.

2 (6) The ability of the microloan delivery organization to
3 provide business training and technical assistance to
4 microenterprise clients.

5 (7) The ability of the microloan delivery organization to
6 monitor and provide financial oversight of recipients of
7 microloans.

8 (8) The sources and sufficiency of the microloan delivery
9 organization's operating funds.

10 **Sec. 9. A grant received by a microloan delivery organization**
11 **may be used for the following purposes:**

12 (1) To satisfy matching fund requirements for federal or
13 private grants.

14 (2) To establish a revolving loan fund from which the
15 microloan delivery organization may make loans to
16 microenterprises.

17 (3) To establish a guaranty fund from which the microloan
18 delivery organization may guarantee loans made by
19 commercial lending institutions to microenterprises.

20 (4) To pay the operating costs of a microloan delivery
21 organization. However, not more than ten percent (10%) of
22 a grant may be used for this purpose.

23 **Sec. 10. Money appropriated to the program must be matched**
24 **by an equal amount of money derived from any of the following**
25 **nonstate sources:**

26 (1) Private foundations.

27 (2) Federal sources.

28 (3) Local government sources.

29 (4) Quasi-governmental entities.

30 (5) Commercial lending institutions.

31 (6) Any other source whose funds do not include money
32 appropriated by the general assembly.

33 **Sec. 11. At least fifty percent (50%) of the microloan money**
34 **disbursed by a microloan delivery organization must be disbursed**
35 **in microloans that do not exceed ten thousand dollars (\$10,000).**

36 **Sec. 12. The department may adopt rules under IC 4-22-2 to**
37 **implement this chapter.**

38 **Sec. 13. (a) The microenterprise partnership program fund is**
39 **established to provide money for the department to carry out the**
40 **duties specified under this chapter. The fund shall be administered**
41 **by the department.**

42 (b) The fund consists of money appropriated by the general
43 assembly.

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

47 (d) Money in the fund at the end of a state fiscal year does not
48 revert to the state general fund or any other fund.

1 (e) Subject to IC 4-4-31-26(h), five hundred thousand dollars
 2 (\$500,000) is annually appropriated to the fund from the Indiana
 3 tobacco master settlement agreement fund to carry out the
 4 purposes of this chapter during each state fiscal year beginning
 5 after June 30, 2003.

6 SECTION 37. IC 4-12-1-14.3, AS AMENDED BY P.L.291-2001,
 7 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2003]: Sec. 14.3. (a) As used in this section, "master
 9 settlement agreement" has the meaning set forth in IC 24-3-3-6.

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

13 (1) all money received by the state under the master settlement
 14 agreement;

15 (2) appropriations made to the fund by the general assembly; and

16 (3) grants, gifts, and donations intended for deposit in the fund.

17 (c) Money may be expended; transferred; or distributed from the
 18 fund during a state fiscal year only in amounts permitted by subsections
 19 (d) through (e); and only if the expenditures; transfers; or distributions
 20 are specifically authorized by another statute:

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

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

28 STEP TWO: Subtract from the STEP ONE sum the amount
 29 appropriated by P.L.273-1999, SECTION 8; to the children's
 30 health insurance program from funds accruing to the state from
 31 the tobacco settlement for the state fiscal years beginning July 1,
 32 1999; and July 1, 2000:

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

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

39 STEP ONE: Determine the amount of money received or to be
 40 received by the state under the master settlement agreement
 41 during that state fiscal year:

42 STEP TWO: Multiply the STEP ONE amount by sixty percent
 43 (60%):

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

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

3 (1) All of the money that is received by the state under the master
4 settlement agreement and remains in the fund after the
5 expenditures; transfers; or distributions permitted under
6 subsections (c) through (e):

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

12 ~~(g)~~ (c) The fund shall be administered by the budget agency.
13 Notwithstanding IC 5-13, the treasurer of state shall invest the money
14 in the fund not currently needed to meet the obligations of the fund in
15 the same manner as money is invested by the public employees
16 retirement fund under IC 5-10.3-5. The treasurer of state may contract
17 with investment management professionals, investment advisors, and
18 legal counsel to assist in the investment of the fund and may pay the
19 state expenses incurred under those contracts from the fund. Interest
20 that accrues from these investments shall be deposited in the fund.
21 Money in the fund at the end of the state fiscal year does not revert to
22 the state general fund.

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

33 (e) The budget agency shall annually transfer the following
34 amounts from the fund to the state general fund:

35 (1) **Five million two hundred thousand dollars (\$5,200,000)**
36 **during the state fiscal year beginning July 1, 2003, and ending**
37 **June 30, 2004.**

38 (2) **Seven million one hundred thousand dollars (\$7,100,000)**
39 **during the state fiscal year beginning July 1, 2004, and ending**
40 **June 30, 2005.**

41 (3) **Eight million six hundred thousand dollars (\$8,600,000)**
42 **during each state fiscal year beginning after June 30, 2005.**

43 SECTION 38. IC 4-12-10-3, AS ADDED BY P.L.26-2001,
44 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2003]: Sec. 3. (a) The Indiana economic development
46 partnership fund is established to provide grants for economic
47 development initiatives that support the following:

- 1 (1) The establishment of regional technology **and**
- 2 **entrepreneurship** centers for the creation of high technology
- 3 companies **to support access to technology for existing**
- 4 **businesses** and for the support of workforce development.
- 5 (2) The providing of leadership and technical support necessary
- 6 for the centers' start-up operations and long term success.
- 7 (3) The expansion of the Purdue Technical Assistance Program
- 8 **to other higher education institutions** in ten (10) geographic
- 9 regions of Indiana.
- 10 (4) The creation of a rural/community economic development
- 11 regional outreach program by Purdue University.
- 12 (5) The expansion of workforce development for high technology
- 13 business development through the centers.
- 14 (b) The fund shall be administered by the budget agency. The fund
- 15 consists of appropriations from the general assembly and gifts and
- 16 grants to the fund.
- 17 (c) **In addition to other appropriations, the fund shall receive**
- 18 **twenty-five percent (25%) of the balance in the state technology**
- 19 **advancement and retention account established by IC 4-12-12-1.**
- 20 (d) The treasurer of state shall invest the money in the fund not
- 21 currently needed to meet the obligations of the fund in the same
- 22 manner as other public funds may be invested.
- 23 ~~(d)~~ (e) The money in the fund at the end of a state fiscal year does
- 24 not revert to the state general fund but remains in the fund to be used
- 25 exclusively for the purposes of this chapter.
- 26 (f) **Money deposited in the fund under subsection (c) shall be**
- 27 **distributed as follows:**
- 28 (1) **Fifty percent (50%) for grants under subsection (a)(1).**
- 29 (2) **Ten percent (10%) for grants under subsection (a)(2).**
- 30 (3) **Twenty percent (20%) for grants under subsection (a)(3).**
- 31 (4) **Ten percent (10%) for grants under subsection (a)(4).**
- 32 (5) **Ten percent (10%) for grants under subsection (a)(5).**
- 33 SECTION 39. IC 4-12-10-4, AS ADDED BY P.L.26-2001,
- 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2003]: Sec. 4. (a) The budget agency, after review by the
- 36 budget committee, shall **enter into an agreement with the**
- 37 **department of commerce to** do the following:
- 38 (1) Review, prioritize, and approve or disapprove proposals for
- 39 centers.
- 40 (2) Create detailed application procedures and selection criteria
- 41 for center proposals. These criteria may include the following:
- 42 (A) Geographical proximity to and partnership agreement with
- 43 an Indiana public or private university.
- 44 (B) Proposed local contributions to the center.
- 45 (C) Minimum standards and features for the physical facilities
- 46 of a center, including telecommunications infrastructure.
- 47 (D) The minimum support services, both technical and

- 1 financial, that must be provided by the centers.
 2 (E) Guidelines for selecting entities that may participate in the
 3 center.
 4 (3) Develop performance measures and reporting requirements
 5 for the centers.
 6 (4) Monitor the effectiveness of each center and report its findings
 7 to the governor, **the budget agency**, and the budget committee
 8 before October 1 of each even-numbered year.
 9 ~~(5) Contract with Purdue University for any staff support~~
 10 ~~necessary for the budget agency to carry out this chapter.~~
 11 ~~(6)~~ **(5)** Approve a regional technology center only if the center
 12 agrees to do all of the following:
 13 (A) Nurture the development and expansion of high
 14 technology ventures that have the potential to become high
 15 growth businesses.
 16 (B) Increase high technology employment in Indiana.
 17 (C) Stimulate the flow of new venture capital necessary to
 18 support the growth of high technology businesses in Indiana.
 19 (D) Expand workforce education and training for highly
 20 skilled, high technology jobs.
 21 (E) Affiliate with an Indiana public or private university and
 22 be located in close proximity to a university campus.
 23 (F) Be a party to a written agreement among:
 24 (i) the affiliated university;
 25 (ii) the city or town in which the proposed center is located,
 26 or the county in which the proposed center is located if the
 27 center is not located in a city or town;
 28 (iii) Purdue University, for technical and personnel training
 29 support; and
 30 (iv) any other affiliated entities;
 31 that outlines the responsibilities of each party.
 32 (G) Establish a debt free physical structure designed to
 33 accommodate research and technology ventures.
 34 (H) Provide support services, including business planning,
 35 management recruitment, legal services, securing of seed
 36 capital marketing, and mentor identification.
 37 (I) Establish a commitment of local resources that is at least
 38 equal to the money provided from the fund for the physical
 39 facilities of the center.
 40 (b) The ~~budget agency~~ **department of commerce** may not approve
 41 more than five (5) regional technology centers in any biennium.
 42 **(c) The budget agency shall contract with Purdue University:**
 43 **(1) for any support staff necessary for the budget agency to**
 44 **provide grants under section 3(a)(3) and 3(a)(4) of this**
 45 **chapter; and**
 46 **(2) to provide services under section 7 of this chapter.**
 47 SECTION 40. IC 4-12-10-6, AS ADDED BY P.L.26-2001,

1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2003]: Sec. 6. (a) If a center is approved by the ~~budget agency;~~
3 **department of commerce**, the budget agency shall allocate from
4 available appropriations the money authorized to:

5 (1) subsidize construction or rehabilitation of the physical
6 facilities; and

7 (2) cover operating costs, not to exceed two hundred fifty
8 thousand dollars (\$250,000) each year, until the center is
9 self-sustaining or has identified another source of operating
10 money or the amount appropriated for this purpose is exhausted.

11 (b) Operating costs may not be supported by the fund for any center
12 for more than four (4) years.

13 SECTION 41. IC 4-12-11 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]:

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

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

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

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

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

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

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

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

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

33 (B) **Aerospace technology.**

34 (C) **Robotics.**

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

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

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

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

39 (C) **Pharmaceutical manufacturing.**

40 (D) **Agribusiness.**

41 (E) **Nanotechnology or molecular manufacturing.**

42 (3) **Information technology, including the following:**

43 (A) **Informatics.**

44 (B) **Certified network administration.**

45 (C) **Software development.**

46 (D) **Fiber optics.**

47 (4) **Twenty-first century logistics, including the following:**

- 1 **(A) High technology distribution.**
 2 **(B) Efficient and effective flow and storage of goods,**
 3 **services, or information.**
 4 **(C) Intermodal ports.**
- 5 **Sec. 7. As used in this chapter, "technology product" means a**
 6 **product that involves high technology activity or otherwise**
 7 **involves targeted employment.**
- 8 **Sec. 8. The technology development grant fund is established to**
 9 **provide the necessary money for grants to redevelopment**
 10 **commissions under this chapter and the administration of this**
 11 **program.**
- 12 **Sec. 9. The fund shall be administered by the department.**
- 13 **Sec. 10. The expenses of administering the fund shall be paid**
 14 **from money in the fund. Interest that accrues from these**
 15 **investments shall be deposited in the fund.**
- 16 **Sec. 11. The treasurer of state shall invest the money in the fund**
 17 **not currently needed to meet the obligations of the fund in the same**
 18 **manner as other public funds are invested.**
- 19 **Sec. 12. Money in the fund at the end of a state fiscal year does**
 20 **not revert to the state general fund or any other fund.**
- 21 **Sec. 13. The department shall establish a grant application**
 22 **procedure for redevelopment commissions.**
- 23 **Sec. 14. To qualify for a grant under this chapter, a**
 24 **redevelopment commission must:**
- 25 **(1) submit an application in the form prescribed by the**
 26 **department;**
 27 **(2) demonstrate that:**
 28 **(A) the redevelopment commission has established a**
 29 **technology park; and**
 30 **(B) the grant being applied for under this chapter will**
 31 **assist the redevelopment commission in accomplishing the**
 32 **goals of the technology park under IC 36-7-32; and**
 33 **(3) provide the other information required by the department.**
- 34 **Sec. 15. The department shall provide grants on a competitive**
 35 **basis from the fund to businesses that apply for a grant under this**
 36 **chapter. The department may select and fund part or all of an**
 37 **application request that:**
- 38 **(1) is submitted during an application period; or**
 39 **(2) was submitted in a prior application period but not fully**
 40 **funded in that application period.**
- 41 **Sec. 16. (a) For purposes of this section, "operating**
 42 **expenditures" includes the following:**
- 43 **(1) Business plans.**
 44 **(2) Marketing studies.**
 45 **(3) Mentor identification.**
 46 **(4) Securitization of capital.**
 47 **(5) Legal services.**
 48 **(6) Other necessary services.**

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

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

5 (2) Two million dollars (\$2,000,000) for operating
6 expenditures and, subject to subsection (d), with not more
7 than five hundred thousand dollars (\$500,000) being
8 distributed in any one (1) fiscal year.

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

12 (1) the fiscal year; or

13 (2) each of the three (3) fiscal years immediately following the
14 fiscal year;

15 in which the grant is provided.

16 (d) The annual distribution of a grant under subsection (b)(2)
17 may not exceed the following:

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

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

22 (3) Forty percent (40%) of total operating expenditures in the
23 second fiscal year after the fiscal year in which the grant is
24 provided.

25 (4) Twenty percent (20%) of total operating expenditures in
26 the third fiscal year after the fiscal year in which the grant is
27 provided.

28 Sec. 17. A capital expenditure grant under this chapter shall
29 require that the lesser of:

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

31 (2) fifty percent (50%) of the total capital costs;

32 of the project being funded by the grant be matched from other
33 sources.

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

41 Sec. 19. Subject to IC 4-4-31-26(h), four million dollars
42 (\$4,000,000) is annually appropriated to the technology
43 development grant fund from the Indiana tobacco master
44 settlement agreement fund during each state fiscal year beginning
45 after June 30, 2003.

46 SECTION 42. IC 4-12-12 IS ADDED TO THE INDIANA CODE
47 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
48 JULY 1, 2003]:

1 **Chapter 12. State Technology Advancement and Retention**
 2 **(STAR) Account**

3 **Sec. 1. The state technology advancement and retention (STAR)**
 4 **account is established within the state general fund. The purpose**
 5 **of the account is to provide funding for programs within Indiana**
 6 **that:**

7 (1) are designed to advance and retain technology related
 8 enterprises within Indiana; and

9 (2) are designed to train and retain students with an emphasis
 10 on technology.

11 **Sec. 2. The STAR account shall be administered by the budget**
 12 **agency.**

13 **Sec. 3. The account consists of the money designated under**
 14 **IC 6-2.5-7.5-11.**

15 **Sec. 4. The treasurer of state shall invest the money in the**
 16 **account not currently needed to meet the obligations of the account**
 17 **in the same manner as other public funds may be invested.**

18 **Sec. 5. Money in the account at the end of a state fiscal year does**
 19 **not revert to the state general fund but remains in the account to**
 20 **be used for the purposes of this chapter.**

21 **Sec. 6. Money in the account is annually dedicated in the**
 22 **following percentages:**

23 (1) Twenty percent (20%) to fund the certified school to
 24 career program payroll credit under IC 6-3.1-30 and
 25 IC 22-4.1-9.

26 (2) Seven percent (7%) to fund the certified internship
 27 program payroll credit under 6-3.1-25 and IC 22-4.1-7.

28 (3) Twenty-five percent (25%) to fund the Indiana economic
 29 development partnership fund under IC 4-12-10.

30 (4) Seven percent (7%) for minority training program grants
 31 under IC 22-4-18.1-11.

32 (5) Six percent (6%) for technology apprenticeship grants
 33 under IC 20-1-18.7.

34 (6) Ten percent (10%) for the back home in Indiana program
 35 under IC 22-4-18.1-12.

36 (7) Five percent (5%) for the Indiana schools smart
 37 partnership under IC 22-4.1-10.

38 (8) Five percent (5%) to fund the scientific instrument project
 39 within the department of education.

40 (9) Three percent (3%) to fund the clean manufacturing
 41 income tax credit under IC 6-3.1-31.

42 (10) Two percent (2%) to fund the coal technology research
 43 fund under IC 4-4-30-8.

44 (11) Ten percent (10%) to fund the operational expenses of
 45 the minority epidemiology resource center within the Indiana
 46 minority health coalition. Money dedicated under this
 47 subdivision must be used to do the following:

48 (A) Research and provide health data concerning minority

1 **populations in Indiana.**
2 **(B) Provide technical assistance to the state department of**
3 **health and the office of the secretary of family and social**
4 **services to:**
5 **(i) address the elimination of health disparities among**
6 **minorities; and**
7 **(ii) evaluate health programs focused on minorities.**
8 **Sec. 7. Expenses for:**
9 **(1) administering the account; and**
10 **(2) administering any of the programs funded from the**
11 **account;**
12 **may be taken from the account but may not exceed two percent**
13 **(2%). Administrative expenses taken from the account must be**
14 **approved by the budget agency."**
15 Delete page 17.
16 Page 18, delete lines 1 through 22.
17 Page 18, between lines 31 and 32, begin a new paragraph and insert:
18 "SECTION 44. IC 6-1.1-3-8 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The owner of a
20 vending machine shall place on the face of the machine an
21 ~~identification~~ **identification** device ~~which that:~~
22 **(1) is at least two (2) inches by three (3) inches; and**
23 **(2) accurately reveals the following information:**
24 **(A) The owner's name and address. and he**
25 **(B) The following information about the retail merchant**
26 **who is liable for collecting state gross retail tax on the sale**
27 **of tangible personal property through the vending**
28 **machine:**
29 **(i) Name.**
30 **(ii) An identifier designated by the department that is**
31 **unique to the retail merchant. An identifier under this**
32 **item includes a universal product code (UPC).**
33 **(iii) Telephone number.**
34 **(iv) All the retail merchant's certificate numbers.**
35 **(b) The owner shall include the vending machine in his the**
36 **owner's annual personal property return.**
37 ~~(b)~~ **(c) If an owner intentionally fails to display an identification**
38 **device on a vending machine under this section, the department of**
39 **state revenue may do either or both of the following:**
40 **(1) Seize and confiscate the vending machine.**
41 **(2) Impose a civil penalty of not less than one thousand dollars**
42 **(\$1,000) and not more than two thousand dollars (\$2,000).**
43 **Each vending machine on which an owner intentionally fails to**
44 **display an identification device constitutes a separate offense for**
45 **purposes of this subsection.**
46 **(d) For purposes of this section, the term "vending machine" means**
47 **a machine which dispenses goods, wares, or merchandise when a coin**

1 is deposited in it and which by automatic action can physically deliver
 2 goods, wares, or merchandise to the depositor of the coin: **has the**
 3 **meaning set forth in IC 6-2.5-7.5-4."**

4 Page 22, delete lines 4 through 20, begin a new paragraph and
 5 insert:

6 "SECTION 47. IC 6-2.5-6-7, AS AMENDED BY P.L.192-2002(ss),
 7 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JANUARY 1, 2003 (RETROACTIVE)]: Sec. 7. Except as otherwise
 9 provided in IC 6-2.5-7, **IC 6-2.5-7.5**, or ~~in~~ this chapter, a retail
 10 merchant shall pay to the department, for a particular reporting period,
 11 an amount equal to the product of:

12 (1) six percent (6%); multiplied by

13 (2) the retail merchant's total gross retail income from taxable
 14 transactions made during the reporting period.

15 The amount determined under this section is the retail merchant's state
 16 gross retail and use tax liability regardless of the amount of tax he
 17 actually collects.

18 SECTION 48. IC 6-2.5-6-10, AS AMENDED BY P.L.192-2002(ss),
 19 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2003]: Sec. 10. (a) In order to compensate retail merchants for
 21 collecting and timely remitting the state gross retail tax and the state
 22 use tax, every retail merchant, except a retail merchant referred to in
 23 subsection (c), is entitled to deduct and retain from the amount of those
 24 taxes otherwise required to be remitted under IC 6-2.5-7-5,
 25 **IC 6-2.5-7.5-7**, or ~~under~~ this chapter, if timely remitted, a retail
 26 merchant's collection allowance.

27 (b) The allowance equals eighty-three hundredths percent (0.83%)
 28 of the retail merchant's state gross retail and use tax liability accrued
 29 during a reporting period.

30 (c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not
 31 entitled to the allowance provided by this section.

32 SECTION 49. IC 6-2.5-7.5 IS ADDED TO THE INDIANA CODE
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2003]:

35 **Chapter 7.5. Collection and Remittance of State Gross Retail**
 36 **Tax on Vending Machine Items**

37 **Sec. 1. This chapter applies only to retail transactions involving**
 38 **tangible personal property, other than:**

39 (1) **cigarettes (as defined in IC 6-7-1-2); or**

40 (2) **cigars and other tobacco products (as defined in**
 41 **IC 6-7-2-5);**

42 **acquired for resale from a vending machine or sold from a vending**
 43 **machine.**

44 **Sec. 2. As used in this chapter, "gross receipts" means the**
 45 **product of:**

46 (1) **the net invoice price paid during a reporting period by a**
 47 **vending machine operator; multiplied by**

- 1 (2) one hundred fifty percent (150%).
- 2 **Sec. 3.** As used in this chapter, "net invoice price" means the
3 difference between:
- 4 (1) the cost, including freight, of tangible personal property
5 acquired for resale from a vending machine or sold from a
6 vending machine; minus
- 7 (2) any timely payment discount.
- 8 **Sec. 4.** As used in this chapter, "vending machine" means a
9 mechanical or an electronic device or a receptacle designed to:
- 10 (1) receive a coin or currency; and
- 11 (2) dispense tangible personal property in return for the
12 insertion or deposit of the coin or currency.
- 13 **Sec. 5.** As used in this chapter, "vending machine operator"
14 means a retail merchant who is liable for collecting state gross
15 retail tax on the sale of tangible personal property through a
16 vending machine.
- 17 **Sec. 6.** This chapter applies to taxable years beginning after
18 December 31, 2003.
- 19 **Sec. 7.** A vending machine operator shall pay to the department
20 the state gross retail tax collectible from retail transactions
21 involving the sale of tangible personal property through a vending
22 machine.
- 23 **Sec. 8.** The amount that a vending machine operator shall pay
24 to the department for a particular reporting period is the amount
25 equal to the product of:
- 26 (1) six percent (6%); multiplied by
- 27 (2) the gross receipts of the vending machine operator for the
28 reporting period.
- 29 **Sec. 9.** The amount determined under section 8 of this chapter
30 is a vending machine operator's state gross retail tax liability
31 regardless of the amount of state gross retail tax the vending
32 machine operator actually collects.
- 33 **Sec. 10.** No allowance for spoiled, damaged, or otherwise unsold
34 tangible personal property shall be allowed against a vending
35 machine operator's state gross retail tax liability, other than for
36 returns by the vending machine operator to the distributor that are
37 evidenced by an invoice credit or other written indication that the
38 distributor has received the tangible personal property and
39 credited or refunded the amount of the gross receipts paid or
40 payable for the tangible personal property.
- 41 **Sec. 11.** The department shall account for all state gross retail
42 taxes that are prepaid under this chapter as follows:
- 43 (1) Beginning July 1, 2004, the department shall designate an
44 amount equal to the lesser of twenty million dollars
45 (\$20,000,000) or the difference between:
- 46 (A) the amount paid during a reporting period under this
47 chapter; minus
- 48 (B) the product of:

1 (i) the gross retail income received by a vending machine
 2 operator from retail transactions involving the sale of
 3 tangible personal property through a vending machine
 4 during the same reporting period in the calendar year
 5 beginning January 1, 2002, and ending December 31,
 6 2002, multiplied by six percent (6%); multiplied by
 7 (ii) the most current inflation adjustment factor, as
 8 determined by the Consumer Price Index for all Urban
 9 Consumers, as published by the United States Bureau of
 10 Labor Statistics;
 11 to the state technology advancement and retention account
 12 under IC 4-12-12-1.

13 (2) The department shall deposit the remainder according to
 14 IC 6-2.5-10-1.

15 **Sec. 12.** A vending machine operator shall file a return for each
 16 reporting period and pay the state gross retail tax liability for that
 17 reporting period in the manner and on a form prescribed by the
 18 department.

19 **Sec. 13.** A distributor that knowingly sells or otherwise
 20 distributes tangible personal property to one (1) or more vending
 21 machine operators during a reporting period shall submit a report
 22 concerning the transactions for the period to the department in the
 23 manner and on a form prescribed by the department. A report
 24 under this section must include the following:

- 25 (1) The total gross retail income received from each vending
 26 machine operator during the reporting period.
- 27 (2) The retail merchant certificate number of each vending
 28 machine operator to whom the distributor sold or otherwise
 29 distributed tangible person property during the reporting
 30 period.
- 31 (3) Any other information the department reasonably
 32 requires.

33 **Sec. 14.** The department may adopt rules under IC 4-22-2 to
 34 implement this chapter."

35 Page 23, between lines 17 and 18, begin a new paragraph and insert:
 36 "SECTION 51. IC 6-2.5-8-12 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE UPON PASSAGE]: **Sec. 12.** (a) This section applies to
 39 a person that owns or operates a vending machine (as defined in
 40 IC 6-2.5-7.5-4).

41 (b) Not later than August 15 of each year, each person shall
 42 submit the following information to the department on a form
 43 prescribed by the department:

- 44 (1) The person's name.
- 45 (2) The person's business address.
- 46 (3) The person's business telephone number.
- 47 (4) All Indiana addresses at which the person maintains
 48 business offices.

- 1 (5) If the person is a corporation or other business entity, the
2 name of an officer or director on whom legal process may be
3 served.
4 (6) An approximate number of the person's vending machines
5 that are owned or operated in Indiana.
6 (7) The name of all retail merchants who are liable for
7 collecting state gross retail tax on the sale of tangible personal
8 property through the person's vending machines.
9 (8) Any other information the department determines is
10 necessary.

11 SECTION 52. IC 6-2.5-12 IS ADDED TO THE INDIANA CODE
12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2003]:

14 **Chapter 12. Tourism Related Retail Transactions**

15 **Sec. 1.** As used in this chapter, "base period amount" means the
16 amount of state gross retail and use tax revenues certified by the
17 department to the auditor of state under section 4(d) of this
18 chapter.

19 **Sec. 2.** As used in this chapter, "NAICS code" refers to the code
20 used to classify a particular industry in the current edition of the
21 North American Industry Classification System Manual - United
22 States, published by the National Technical Information Service of
23 the United States Department of Commerce.

24 **Sec. 3.** As used in this chapter, "tourism related merchant"
25 means a retail merchant that is classified as a tourism related
26 merchant by the department under section 4(c) of this chapter.

27 **Sec. 4. (a)** This section applies to all retail merchants required
28 to file periodic returns with the department under IC 6-2.5-6.

29 **(b)** The department shall require a retail merchant to report on
30 each state gross retail and use tax return filed after June 30, 2003:

31 (1) the NAICS code that most accurately describes the retail
32 merchant's business; and

33 (2) whether the code reported under subdivision (1) is a
34 different code from the code listed on the retail merchant's
35 previous return.

36 **(c)** This subsection applies to all calendar years beginning after
37 December 31, 2003. Before January 15 of a calendar year, the
38 department shall use the NAICS codes reported by retail
39 merchants under subsection (b) during the immediately preceding
40 calendar year to compile and update a list or data base of those
41 retail merchants that qualified as tourism related merchants
42 during the immediately preceding calendar year. The department
43 shall classify a retail merchant as a tourism related merchant if the
44 retail merchant reported one (1) of the following NAICS codes or
45 a more specific NAICS code that includes within it one (1) of the
46 following NAICS codes on the retail merchant's periodic returns
47 for the immediately preceding calendar year:

48 (1) 44512.

- 1 (2) 447.
- 2 (3) 45111.
- 3 (4) 45322.
- 4 (5) 4542.
- 5 (6) 481211.
- 6 (7) 4853.
- 7 (8) 4855.
- 8 (9) 53211.
- 9 (10) 53212.
- 10 (11) 532292.
- 11 (12) 7111.
- 12 (13) 711211.
- 13 (14) 711212.
- 14 (15) 7113.
- 15 (16) 71211.
- 16 (17) 71212.
- 17 (18) 71213.
- 18 (19) 71219.
- 19 (20) 71311.
- 20 (21) 7132.
- 21 (22) 7139.
- 22 (23) 71391.
- 23 (24) 71393.
- 24 (25) 71399.
- 25 (26) 7139904.
- 26 (27) 72111.
- 27 (28) 72112.
- 28 (29) 72119.
- 29 (30) 721211.
- 30 (31) 721214.
- 31 (32) 72131.
- 32 (33) 72211.
- 33 (34) 72221.
- 34 (35) 7223.
- 35 (36) 72241.

36 **(d) Before February 1, 2005, the department shall:**

- 37 (1) determine the total amount of state gross retail and use
- 38 taxes remitted to the department by tourism related
- 39 merchants during the calendar year ending December 31,
- 40 2004; and
- 41 (2) certify to the auditor of state the amount determined
- 42 under subdivision (1) as the base period amount.

43 **The department shall make the determination required under**
 44 **subdivision (1) on the basis of the returns filed by those retail**
 45 **merchants that comprise the list or database compiled under**
 46 **subsection (c).**

47 **(e) This subsection applies to all calendar years beginning after**
 48 **December 31, 2005. Before February 1 of a calendar year, the**

1 department shall determine and certify to the auditor of state an
2 amount equal to the lesser of:

3 (1) the amount equal to ten percent (10%) of the difference
4 between:

5 (A) the total amount of state gross retail and use taxes
6 remitted to the department by tourism related merchants
7 during the immediately preceding calendar year; minus

8 (B) the base period amount; or

9 (2) three million dollars (\$3,000,000).

10 (f) This subsection applies to all calendar years beginning after
11 December 31, 2005. Before February 15 of a calendar year, the
12 auditor of state shall transfer to and deposit in the Indiana tourism
13 supplemental revenue fund established by IC 4-4-29.5-1 the
14 amount certified by the department under subsection (e). The
15 auditor of state shall make the transfer required under this
16 subsection from the funds that receive state gross retail and use tax
17 collections under IC 6-2.5-10-1, in the same proportion from each
18 fund as the proportion in which state gross retail and use taxes are
19 deposited into that fund.

20 **Sec. 5. The department may adopt rules under IC 4-22-2 to
21 implement this chapter."**

22 Page 23, line 20, strike "Notwithstanding the other provisions of
23 this".

24 Page 23, strike line 21.

25 Page 23, line 22, strike "research expense incurred after December
26 31,".

27 Page 23 line 22, delete "2010.".

28 Page 27, between lines 20 and 21, begin a new paragraph and insert:

29 "SECTION 61. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
31 JANUARY 1, 2003 (RETROACTIVE)]:

32 **Chapter 25. Internship Payroll Credit**

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

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

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

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

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

42 (2) a partnership;

43 (3) a limited liability company; or

44 (4) a limited liability partnership.

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

48 **Sec. 6. As used in this chapter, "state tax liability" means the**

1 total tax liability incurred under:

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

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

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

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

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

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

- 15 (1) employs in targeted employment at least one (1) student or
 16 graduate; and
 17 (2) complies with the terms of the internship or postgraduate
 18 component of a certified degree program through which the
 19 student was placed with the taxpayer;

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

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

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

- 27 (1) five hundred dollars (\$500) for each targeted employment
 28 position:
 29 (A) filled by a student in or a graduate of a certified degree
 30 program certified by the state student assistance
 31 commission, in consultation with the department of
 32 workforce development and the commission for higher
 33 education under IC 22-4.1-7; and
 34 (B) approved by the sponsoring institution of higher
 35 learning; plus
 36 (2) the lesser of:
 37 (A) the payroll expenditures incurred by the taxpayer in
 38 the taxable year to employ the student or graduate in
 39 targeted employment; or
 40 (B) five hundred dollars (\$500).

41 Sec. 12. If the credit for which a taxpayer is eligible in a taxable
 42 year under this chapter exceeds the taxpayer's state tax liability for
 43 the taxable year, the taxpayer may carry over the excess to the
 44 immediately following taxable years. The amount of the credit
 45 carryover from a taxable year shall be reduced to the extent that
 46 the carryover is used by the taxpayer to obtain a credit under this
 47 chapter for any subsequent taxable year. A taxpayer is not entitled
 48 to any carryback or refund.

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

- 5 (1) **the credit determined under this chapter for the pass**
- 6 **through entity for the taxable year; multiplied by**
- 7 (2) **the percentage of the pass through entity's distributive**
- 8 **income to which the shareholder, partner, or member is**
- 9 **entitled.**

10 **Sec. 14. To receive a credit under this chapter, a taxpayer must**
11 **claim the credit on the taxpayer's state tax return in the manner**
12 **prescribed by the department. The taxpayer must submit to the**
13 **department proof of payment of the payroll expenditures and all**
14 **information that the department determines is necessary to**
15 **determine the taxpayer's eligibility for the credit.**

16 **Sec. 15. A taxpayer is not eligible to receive both a credit for an**
17 **employee under this chapter and a credit or deduction for the same**
18 **employee under either of the following:**

- 19 (1) **IC 6-3-3-10 (enterprise zone employment credit).**
- 20 (2) **IC 6-3.1-6 (prison investment credit)."**

21 Page 30, between lines 22 and 23, begin a new paragraph and insert:
22 "SECTION 63. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2003]:

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

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

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

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

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

46 Taxable year following	Academic year in the
47 graduation	program
48 1st	1st

1	2nd	2nd
2	3rd	3rd
3	4th	4th

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

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

Page 31, line 20, delete "during 2004 and 2005".

Page 32, delete lines 35 through 42.

Page 34, between lines 32 and 33, begin a new paragraph and insert: "SECTION 67. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 29. Certified Internship Program Payroll Credit

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

Sec. 2. As used in this chapter, "department" has the meaning set forth in IC 6-3-1-4.

Sec. 3. As used in this chapter, "employer" means any individual or type of organization, including the state and all its political subdivisions, that has in its employ at least one (1) individual, not including any students employed through a certified internship program under IC 22-4.1-8.

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

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

Sec. 5. As used in this chapter, "payroll expenditures" means the wages actually paid by an employer to a student participating in a certified internship program under IC 22-4.1-8.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

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

Sec. 7. As used in this chapter, "student" has the meaning set forth in IC 22-4.1-8-4.

Sec. 8. As used in this chapter, "taxpayer" means an employer that employs at least one (1) student through a certified internship

1 program under IC 22-4.1-7.

2 **Sec. 9. (a) This chapter applies to taxable years beginning after**
3 **December 31, 2004.**

4 (b) A taxpayer is entitled to a credit against the taxpayer's state
5 tax liability for the payroll expenditures paid by the taxpayer in the
6 taxable year. To be eligible for the credit provided by this section,
7 a taxpayer's payroll expenditures must have been made to a
8 student participating in an internship program that was certified
9 under IC 22-4.1-8 not later than the last day of the year
10 immediately preceding the taxable year for which the taxpayer
11 claims the credit.

12 (c) Subject to the limitations under section 13 of this chapter,
13 the amount of the credit is equal to the total of the taxpayer's
14 payroll expenditures that are eligible for the credit under
15 subsection (b) in the taxable year multiplied by twenty percent
16 (20%).

17 **Sec. 10. (a) If the amount determined under section 9(c) of this**
18 **chapter for a taxpayer in a taxable year exceeds the taxpayer's**
19 **state tax liability for that taxable year, the taxpayer may carry the**
20 **excess over to the following taxable years. The amount of the credit**
21 **carryover from a taxable year shall be reduced to the extent that**
22 **the carryover is used by the taxpayer to obtain a credit under this**
23 **chapter for any subsequent taxable year. A taxpayer is not entitled**
24 **to a carryback.**

25 (b) A taxpayer is entitled to a refund of any unused credit.

26 **Sec. 11. If a pass through entity does not have state income tax**
27 **liability against which the tax credit may be applied, a shareholder,**
28 **partner, or member of the pass through entity is entitled to a tax**
29 **credit equal to:**

30 (1) the tax credit determined for the pass through entity for
31 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. 12. To receive the credit provided by this chapter, a**
36 **taxpayer must claim the credit on the taxpayer's state tax return**
37 **in the manner prescribed by the department. The taxpayer must**
38 **submit to the department proof of payment of the payroll**
39 **expenditures and all information that the department determines**
40 **is necessary for the calculation of the credit provided by this**
41 **chapter.**

42 **Sec. 13. The department shall record the time of filing of each**
43 **application for allowance of a credit under section 12 of this**
44 **chapter and shall approve the applications if the applicant**
45 **otherwise qualifies for a tax credit under this chapter in the**
46 **chronological order in which the applications are filed. However,**
47 **the department may not approve any application in a state fiscal**
48 **year if the total amount of allowable credits approved in the fiscal**

1 year exceeds seven percent (7%) of the amount in the state
 2 technology advancement and retention account established in
 3 IC 4-12-12-1. However, if an applicant for whom a credit has been
 4 approved fails to file the statement of proof of payment required
 5 under section 12 of this chapter, an amount equal to the credit
 6 previously allowed or set aside for the applicant may be allowed to
 7 any subsequent applicant in the year. In addition, the department
 8 may, if the applicant requests, approve a credit application, in
 9 whole or in part, with respect to the next succeeding state fiscal
 10 year.

11 SECTION 68. IC 6-3.1-30 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]:

14 **Chapter 30. Certified School to Career Program Payroll Credit**

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

17 **Sec. 2.** As used in this chapter, "participant" has the meaning
 18 set forth in IC 22-4.1-9-3.

19 **Sec. 3.** As used in this chapter, "pass through entity" means:

- 20 (1) a corporation that is exempt from the adjusted gross
- 21 income tax under IC 6-3-2-2.8(2);
- 22 (2) a partnership;
- 23 (3) a limited liability company; or
- 24 (4) a limited liability partnership.

25 **Sec. 4.** As used in this chapter, "payroll expenditures" means
 26 the base wages actually paid by an employer to a participant in a
 27 certified program plus the amount held in trust to be applied
 28 toward the participant's postsecondary education.

29 **Sec. 5.** As used in this chapter, "state tax liability" means a
 30 taxpayer's total tax liability that is incurred under:

- 31 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- 32 (2) IC 6-5.5 (financial institutions tax); and
- 33 (3) IC 27-1-18-2 (insurance premiums tax);

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

37 **Sec. 6. (a)** A taxpayer is entitled to a credit against the
 38 taxpayer's state tax liability for the payroll expenditures (as
 39 defined in section 4 of this chapter) made by the taxpayer in a state
 40 fiscal year.

41 **(b)** Subject to the limitations under subsection (c) and section 10
 42 of this chapter, the amount of the credit is equal to the taxpayer's
 43 payroll expenditures in the state fiscal year for a participant
 44 multiplied by twenty percent (20%).

45 **(c)** The credit is limited to the first four hundred (400) hours of
 46 payroll expenditures per participant for each state fiscal year the
 47 participant is in the certified program, not to exceed three (3) years
 48 per participant.

1 **Sec. 7. (a) If the amount determined under section 6(b) of this**
2 **chapter for a taxpayer in a state fiscal year exceeds the taxpayer's**
3 **state tax liability for the taxable year for which the taxpayer files**
4 **a return claiming the credit allowed under this chapter, the**
5 **taxpayer may carry the excess over to the following taxable years.**
6 **The amount of the credit carryover from a taxable year shall be**
7 **reduced to the extent that the carryover is used by the taxpayer to**
8 **obtain a credit under this chapter for any subsequent taxable year.**
9 **A taxpayer is not entitled to a carryback.**

10 **(b) A taxpayer is not entitled to a refund of any unused credit.**

11 **Sec. 8. If a pass through entity does not have state income tax**
12 **liability against which the tax credit may be applied, a shareholder,**
13 **member, or partner of the pass through entity is entitled to a tax**
14 **credit equal to:**

15 **(1) the tax credit determined for the pass through entity for**
16 **the taxable year; multiplied by**

17 **(2) the percentage of the pass through entity's distributive**
18 **income to which the shareholder, member, or partner is**
19 **entitled.**

20 **Sec. 9. To receive a credit under this chapter, a taxpayer must**
21 **submit an application to the department before September 1. The**
22 **application must contain proof of payment of the payroll**
23 **expenditures in the preceding state fiscal year and all information**
24 **that the department determines is necessary for the calculation of**
25 **the credit provided by this chapter.**

26 **Sec. 10. (a) The department shall record the time of filing of**
27 **each application for allowance of a credit under section 9 of this**
28 **chapter and shall approve the applications if the applicant**
29 **otherwise qualifies for a tax credit under this chapter in the**
30 **chronological order in which the applications are filed. The**
31 **department shall notify each applicant before December 1 of the**
32 **department's approval or disapproval of the applicant's**
33 **application.**

34 **(b) When the total credits approved under this section equal the**
35 **maximum amount allowable in a state fiscal year, no application**
36 **filed later for that same fiscal year shall be approved. However, if**
37 **an applicant for whom a credit has been approved fails to claim a**
38 **credit on the taxpayer's tax return as required under section 11 of**
39 **this chapter, an amount equal to the credit previously allowed or**
40 **set aside for the applicant may be allowed to any subsequent**
41 **applicant in the year.**

42 **Sec. 11. A taxpayer whose application is approved under section**
43 **10 of this chapter must claim the credit on the taxpayer's annual**
44 **state tax return in the manner prescribed by the department.**

45 **Sec. 12. The credit provided by this chapter applies to payroll**
46 **expenditures made in a state fiscal year beginning after June 30,**
47 **2004.**

48 **Sec. 13. The total amount of tax credits approved under this**

1 chapter in a state fiscal year may not exceed twenty percent (20%)
 2 of the amount in the state technology advancement and retention
 3 account established by IC 4-12-12-1.

4 SECTION 69. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]:

7 **Chapter 31. Clean Manufacturing Income Tax Credit**

8 **Sec. 1.** As used in this chapter, "board" refers to the clean
 9 manufacturing income tax credit board established by section 13
 10 of this chapter.

11 **Sec. 2.** As used in this chapter, "clean manufacturing" has the
 12 meaning set forth in IC 13-11-2-27.6.

13 **Sec. 3.** As used in this chapter, "clean manufacturing
 14 investment" means an expenditure for either of the following:

15 (1) Production process redesign (as defined in
 16 IC 13-27.5-3-2(C)).

17 (2) Operational improvement (as defined in
 18 IC 13-27.5-3-2(D)).

19 **Sec. 4.** As used in this chapter, "environmental waste" has the
 20 meaning set forth in IC 13-11-2-72.

21 **Sec. 5.** As used in this chapter, "institute" refers to the Indiana
 22 clean manufacturing technology and safe materials institute
 23 established under IC 13-27.5-2.

24 **Sec. 6.** As used in this chapter, "manufacturing facility" means
 25 a facility of a manufacturer (as defined in IC 13-11-2-126(b)).

26 **Sec. 7.** As used in this chapter, "material substitution" means:

27 (1) an input change (as defined in IC 13-27.5-3-2(A)); or

28 (2) a product reformulation (as defined in
 29 IC 13-27.5-3-2(B)).

30 **Sec. 8.** As used in this chapter, "pass through entity" means:

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

33 (2) a partnership;

34 (3) a limited liability company; or

35 (4) a limited liability partnership.

36 **Sec. 9.** As used in this chapter, "SIC manual" has the meaning
 37 set forth in IC 6-3.1-10-2.5.

38 **Sec. 10.** As used in this chapter, "state tax liability" means the
 39 taxpayer's total tax liability that is incurred under IC 6-3-1
 40 through IC 6-3-7 (the adjusted gross income tax) as computed after
 41 the application of the credits that under IC 6-3.1-1-2 are to be
 42 applied before the credit provided by this chapter.

43 **Sec. 11.** As used in this chapter, "taxpayer" means any
 44 individual, corporation, limited liability company, partnership, or
 45 other entity that:

46 (1) has any state tax liability; and

47 (2) operates at least one (1) manufacturing facility in Indiana
 48 under standard industrial classification codes 20 through 39

1 in the SIC manual.

2 **Sec. 12. (a)** As used in this chapter, "toxic material" has the
3 meaning set forth in IC 13-11-2-233.

4 **(b)** For purposes of this chapter, the list of toxic materials may
5 be updated periodically by the institute in consultation with the
6 commissioner of the department of environmental management
7 based on information provided by:

- 8 (1) the United States Environmental Protection Agency;
9 (2) a professional industrial hygiene association; or
10 (3) the United States Occupational Safety and Health
11 Administration.

12 **Sec. 13. (a)** The clean manufacturing income tax credit board is
13 established. The board consists of the following six (6) members:

- 14 (1) The director of the institute or the director's designee.
15 (2) The commissioner of the department of environmental
16 management or the commissioner's designee.
17 (3) The director of the department of commerce or the
18 director's designee.
19 (4) The director of the budget agency or the director's
20 designee.
21 (5) The commissioner of the department of state revenue or
22 the commissioner's designee.
23 (6) The chairperson of the clean manufacturing technology
24 board or the chairperson's designee.

25 **(b)** The director of the department of commerce or the
26 director's designee shall serve as chairperson of the board. Four (4)
27 members of the board constitute a quorum to transact and vote on
28 the business of the board. The board may take official action upon
29 the affirmative vote of a majority of the members present and
30 voting.

31 **(c)** The institute shall assist the board in carrying out the
32 board's duties under this chapter.

33 **(d)** Each member of the board is entitled to reimbursement for
34 traveling expenses as provided in IC 4-13-1-4 and other expenses
35 actually incurred in connection with the member's duties as
36 provided in the state policies and procedures established by the
37 Indiana department of administration and approved by the budget
38 agency.

39 **Sec. 14.** The board may make credit awards under this chapter
40 to foster clean manufacturing at manufacturing facilities in
41 Indiana.

42 **Sec. 15. (a)** Subject to the conditions set forth in this chapter, a
43 taxpayer is entitled to a credit against the taxpayer's state tax
44 liability in a taxable year beginning after December 31, 2004, if the
45 taxpayer is awarded a credit by the board under this chapter for
46 the taxable year in which the institute verifies either or both of the
47 following:

- 48 (1) A qualified material substitution expense.

- 1 **(2) A qualified clean manufacturing investment.**
- 2 **(b) Subject to sections 20(5) and 21(8) of this chapter, a credit**
 3 **awarded to a taxpayer under subsection (a) is limited to one (1)**
 4 **qualified material substitution expense and one (1) qualified clean**
 5 **manufacturing investment for each taxable year.**
- 6 **(c) The taxpayer must certify that a material substitution**
 7 **expense or a clean manufacturing investment for which a credit is**
 8 **awarded to a taxpayer under subsection (a) is:**
- 9 **(1) initiated voluntarily by the taxpayer; and**
- 10 **(2) not the result of an enforcement action, a negotiated**
 11 **settlement, or an order of a federal or state agency or court.**
- 12 **Sec. 16. (a) The maximum amount of the material substitution**
 13 **expense credit to which a taxpayer is entitled in a taxable year is**
 14 **equal to:**
- 15 **(1) the certified additional cost of purchasing a qualified**
 16 **material that is substituted for a toxic material; multiplied by**
 17 **(2) thirty percent (30%).**
- 18 **(b) The maximum amount of the clean manufacturing**
 19 **investment credit to which a taxpayer is entitled in a taxable year**
 20 **is equal to the amount determined under STEP THREE of the**
 21 **following formula:**
- 22 **STEP ONE: Determine the certified cost of the qualified clean**
 23 **manufacturing investment.**
- 24 **STEP TWO: Multiply the STEP ONE amount by thirty**
 25 **percent (30%).**
- 26 **STEP THREE: Multiply the STEP TWO result by one (1) of**
 27 **the following, as specified by the taxpayer:**
- 28 **(A) The certified percentage by which the use of a toxic**
 29 **material is reduced by means of the clean manufacturing**
 30 **investment.**
- 31 **(B) The certified percentage by which the generation of an**
 32 **environmental waste is reduced by means of the clean**
 33 **manufacturing investment.**
- 34 **The taxpayer is eligible for the credit in the taxable year in which**
 35 **the production process redesign or operational improvement that**
 36 **forms the basis of the clean manufacturing investment first**
 37 **produces verifiable reductions in the use of toxic materials or the**
 38 **generation of environmental waste.**
- 39 **Sec. 17. (a) Except as provided in subsection (b), a taxpayer is**
 40 **not entitled to carry forward, carry back, or a refund of an unused**
 41 **credit.**
- 42 **(b) If the amount of a clean manufacturing investment credit or**
 43 **a material substitution expense credit for a taxpayer in a taxable**
 44 **year exceeds the taxpayer's state tax liability for that taxable year,**
 45 **the taxpayer may carry the excess over to not more than two (2)**
 46 **taxable years. The amount of the credit carryover from a taxable**
 47 **year shall be reduced to the extent that the carryover is used by the**
 48 **taxpayer to obtain a credit under this chapter for a subsequent**

1 taxable year.

2 **Sec. 18. If a pass through entity does not have state income tax**
 3 **liability against which the tax credit may be applied, a shareholder**
 4 **or partner of the pass through entity is entitled to a tax credit equal**
 5 **to:**

- 6 (1) the tax credit determined for the pass through entity for
 7 the taxable year; multiplied by
 8 (2) the percentage of the pass through entity's distributive
 9 income to which the shareholder or partner is entitled.

10 **Sec. 19. To be entitled to a credit under this chapter, a taxpayer**
 11 **must do the following:**

- 12 (1) Make an expenditure for a qualifying activity.
 13 (2) Request that the board certify:
 14 (A) the eligibility of the taxpayer for the credit;
 15 (B) a description of the activity or expense that is eligible
 16 for the credit;
 17 (C) the amount of the expenditure that is eligible for the
 18 credit; and
 19 (D) for a clean manufacturing investment credit, the
 20 percentage of:
 21 (i) environmental waste; or
 22 (ii) a toxic material;
 23 reduced by means of the clean manufacturing investment;
 24 on forms and in the manner provided by this chapter.
 25 (3) Claim the credit under section 22 of this chapter.
 26 (4) Be allotted a share of the maximum statewide credit under
 27 section 24 of this chapter.
 28 (5) Pay the institute an administrative fee established by the
 29 institute.

30 **Sec. 20. The board shall certify that a taxpayer's expenditure is**
 31 **a qualified material substitution expense if the board determines**
 32 **that:**

- 33 (1) before making the material substitution, the taxpayer
 34 obtained a verification from the institute that:
 35 (A) the material substitution is nontoxic or less toxic than
 36 the toxic material;
 37 (B) the expenditure will reduce the use of the toxic material
 38 based on a measurement of the toxicity and amount of the
 39 toxic material reduced per unit of production under
 40 IC 13-27.5-2-5(c)(4) and IC 13-27.5-2-7 and in conformity
 41 with the guidelines established by the institute; and
 42 (C) estimates the additional cost the taxpayer will incur to
 43 use a substitute material for the toxic material;
 44 (2) the taxpayer made expenditures for the material
 45 substitution;
 46 (3) the expenditures directly result from the additional costs
 47 of substituting a material for a toxic material in a specific
 48 production process at a manufacturing facility;

- 1 (4) the taxpayer applies to the board for the credit
 2 certification on a form prescribed by the board in
 3 consultation with the institute;
 4 (5) the taxpayer has not received a certification under this
 5 section for the same material substitution project;
 6 (6) the taxpayer pays the institute the administrative fee
 7 specified under section 19 of this chapter; and
 8 (7) the taxpayer provides all information that the board, in
 9 consultation with the institute, determines is necessary for:
 10 (A) the calculation of the qualified material substitution
 11 expense credit provided by this chapter; and
 12 (B) the determination of whether an expenditure is a
 13 qualified material substitution expense.

14 **Sec. 21.** The board shall certify that a taxpayer's expenditure is
 15 a qualified clean manufacturing investment if the board determines
 16 that:

- 17 (1) before the taxpayer implements a production process
 18 redesign or an operational improvement, the taxpayer obtains
 19 a verification from the institute that:
 20 (A) the expenditure will reduce the use of a toxic material
 21 or reduce an environmental waste;
 22 (B) estimates the percentage of reduction in the use of a
 23 toxic material or generation of environmental waste by
 24 means of clean manufacturing that will result; and
 25 (C) estimates the cost the taxpayer will incur to implement
 26 production process redesign or operational improvement
 27 that will reduce:
 28 (i) the use of a toxic material; or
 29 (ii) the generation of an environmental waste;
 30 based on a measurement of the toxicity and amount of toxic
 31 material or environmental waste reduced per unit of
 32 production under IC 13-27.5-2-5(c)(4) and IC 13-27.5-2-7 and
 33 in conformity with the guidelines set by the institute;
 34 (2) the taxpayer makes expenditures for the clean
 35 manufacturing investment;
 36 (3) the expenditures result directly from the production
 37 process redesign or operational improvement that:
 38 (A) is directly used in a specific production process at a
 39 manufacturing facility; and
 40 (B) reduces by means of a clean manufacturing
 41 investment:
 42 (i) the use of a toxic material; or
 43 (ii) the generation of an environmental waste;
 44 as determined under the guidelines developed by the institute,
 45 which shall be based on a measurement of the toxicity and
 46 amount of toxic material or environmental waste reduced per
 47 unit of production under IC 13-27.5-2-5(c)(4) and
 48 IC 13-27.5-2-7;

- 1 (4) the taxpayer applies to the board for the credit
2 certification on a form prescribed by the board in
3 consultation with the institute after equipment related to the
4 production process redesign or operational improvement at
5 a manufacturing facility has become operational;
6 (5) the institute verifies the qualified percentage by which the
7 use of a toxic material or by which the generation of an
8 environmental waste has been reduced at an industrial facility
9 by means of a clean manufacturing investment;
10 (6) the taxpayer pays the institute the administrative fee
11 specified under section 19 of this chapter;
12 (7) the taxpayer provides all information that the board, in
13 consultation with the institute, determines is necessary for:
14 (A) the calculation of the clean manufacturing investment
15 credit expense provided by this chapter; and
16 (B) the determination of whether an expenditure is a
17 qualified clean manufacturing investment; and
18 (8) the taxpayer has not received a certification under this
19 section for the same clean manufacturing investment.

20 **Sec. 22.** A taxpayer claiming a credit under this chapter shall
21 submit to the department of state revenue a copy of the
22 certification of credit by the board under this chapter for the
23 taxable year. However, failure to submit a copy of the certification
24 does not invalidate a claim for credit.

25 **Sec. 23.** The board may audit any of the information required
26 under this chapter to claim a credit.

27 **Sec. 24. (a)** The amount of a tax credit for a single taxpayer
28 allowed under this chapter may not exceed twelve thousand dollars
29 (\$12,000) in a taxable year.

30 (b) The total amount of tax credits approved under this chapter
31 in a state fiscal year may not exceed three percent (3%) of the
32 amount in the state technology advancement and retention account
33 established by IC 4-12-12-1.

34 (c) The board shall record the time of filing of each application
35 for allowance of a credit under this chapter and shall approve the
36 applications, if the applications otherwise qualify for a tax credit
37 under this chapter, in the chronological order in which the
38 applications are filed in the state fiscal year.

39 (d) When the total credits approved under this section equal the
40 maximum amount allowable in a state fiscal year, an application
41 thereafter filed for that same fiscal year may not be approved.
42 However, if an application is received by the board after the
43 maximum allowable credits have been awarded for the state fiscal
44 year, the board may review the application for credit in a
45 subsequent state fiscal year up to the total maximum amount of the
46 credit allowable. The review of applications for credit in a
47 subsequent state fiscal year shall be made in the order in which the
48 applications are received by the institute."

1 Page 36, between lines 3 and 4, begin a new paragraph and insert:
 2 "SECTION 71. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999,
 3 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

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

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

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

10 **or**

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

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

14 SECTION 72. IC 8-9.5-9-8, AS AMENDED BY P.L.273-1999,
 15 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 8. (a) With respect to all leases and contracts
 17 entered into by the authority with the Indiana department of
 18 transportation, the Indiana department of administration, a fund or
 19 program established under IC 13-18-13 or IC 13-18-21, or any other
 20 entity to support obligations, the lease or contract may provide that
 21 payments under a swap agreement are treated as a debt service on the
 22 obligations or as additional rental or other payment due under the lease
 23 or contract as the authority may determine.

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

31 Page 57, between lines 40 and 41, begin a new paragraph and insert:
 32 "SECTION 103. IC 20-1-18.7 IS ADDED TO THE INDIANA
 33 CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2003]: **Chapter 18.7. Technology
 35 Apprenticeship Grants**

36 **Sec. 1. As used in this chapter, "department" refers to the
 37 department of education established by IC 20-1-1.1-2.**

38 **Sec. 2. As used in this chapter, "program" refers to the
 39 technology apprenticeship grant program established by section 3
 40 of this chapter.**

41 **Sec. 3. The technology apprenticeship grant program is
 42 established. The department, with the advice of the department of
 43 labor established by IC 22-1-1-1, shall administer the program.**

44 **Sec. 4. The department, working with the department of labor,
 45 shall develop a grant program to provide grants for
 46 apprenticeships that are designed to develop the skills of
 47 apprentices in the area of technology.**

1 **Sec. 5.** The department, with the department of labor, shall
 2 develop standards for the issuance of grants to businesses and
 3 unions that are working to enhance the technology skills of
 4 apprentices.

5 **Sec. 6.** The program shall be funded with six percent (6%) of the
 6 balance in the state technology advancement and retention account
 7 established by IC 4-12-12-1.

8 SECTION 104. IC 20-12-20.3 IS ADDED TO THE INDIANA
 9 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2003]:

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

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

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

16 **Sec. 3.** As used in this chapter, "eligible employer" means an
 17 employer that provides employment to an eligible student in
 18 targeted employment (as defined in IC 22-4.1-7-8) through the
 19 internship component of a certified degree program under
 20 IC 22-4.1-7. The term includes the following:

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

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

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

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

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

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

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

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

48 **Sec. 8. (a)** The commission shall award a provisional tax credit

1 to an eligible student who:
 2 (1) is enrolled in good standing in a certified degree program;
 3 (2) enters into an agreement with the commission under this
 4 chapter; and
 5 (3) complies with the requirements established under the rules
 6 of the commission.

7 (b) An eligible student may not claim a tax credit against the
 8 student's Indiana adjusted gross income tax under this chapter.
 9 However, proof of the provisional tax credit awarded under this
 10 chapter may be used to obtain a tax credit under IC 6-3.1-26 in a
 11 taxable year that begins after the eligible student graduates from
 12 a certified degree program and remains eligible for a tax credit
 13 under the requirements of IC 6-3.1-26.

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

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

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

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

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

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

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

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

46 Sec. 12. The commission may adopt rules under IC 4-22-2 that
 47 are necessary or appropriate to implement this chapter. The rules
 48 that are adopted under this chapter may include rules establishing

1 **different standards or procedures for resident and nonresident**
2 **students.**

3 SECTION 105. IC 22-4-18.1-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The state human
5 resource investment council is established pursuant to 29 U.S.C. 1501
6 et seq. to do the following:

7 (1) Review the services and use of funds and resources under
8 applicable federal programs and advise the governor on methods
9 of coordinating the services and use of funds and resources
10 consistent with the laws and regulations governing the particular
11 applicable federal programs.

12 (2) Advise the governor on:

13 (A) the development and implementation of state and local
14 standards and measures; and

15 (B) the coordination of the standards and measures;
16 concerning the applicable federal programs.

17 (3) Perform the duties as set forth in federal law of the particular
18 advisory bodies for applicable federal programs described in
19 section 4 of this chapter.

20 (4) Identify the human investment needs in Indiana and
21 recommend to the governor goals to meet the investment needs.

22 (5) Recommend to the governor goals for the development and
23 coordination of the human resource system in Indiana.

24 (6) Prepare and recommend to the governor a strategic plan to
25 accomplish the goals developed under subdivisions (4) and (5).

26 (7) Monitor the implementation of and evaluate the effectiveness
27 of the strategic plan described in subdivision (6).

28 (8) Advise the governor on the coordination of federal, state, and
29 local education and training programs and on the allocation of
30 state and federal funds in Indiana to promote effective services,
31 service delivery, and innovative programs.

32 (9) **Administer the minority training grant program**
33 **established by section 11 of this chapter.**

34 (10) **Administer the back home in Indiana program**
35 **established by section 12 of this chapter.**

36 (11) Any other function assigned to the council by the governor
37 with regard to the study and evaluation of Indiana's human service
38 delivery system.

39 SECTION 106. IC 22-4-18.1-4 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The council shall
41 serve as the state advisory body required under the following federal
42 laws:

43 (1) The Job Training Partnership Act under 29 U.S.C. 1501 et
44 seq.

45 (2) The Wagner-Peyser Act under 29 U.S.C. 49 et seq.

46 (3) The Carl D. Perkins Vocational and Applied Technology Act
47 under 20 U.S.C. 2301 et seq.

- 1 (4) The Adult Education Act under 20 U.S.C. 1201 et seq.
- 2 (b) In addition, the council may be designated to serve as the state
- 3 advisory body required under any of the following federal laws upon
- 4 approval of the particular state agency directed to administer the
- 5 particular federal law:
- 6 (1) The National and Community Service Act of 1990 under 42
- 7 U.S.C. 12501 et seq.
- 8 (2) Part F of Title IV of the Social Security Act under 42 U.S.C.
- 9 681 et seq.
- 10 (3) The employment and training program established under the
- 11 Food Stamp Act of 1977 under 7 U.S.C. 2015(d)(4).

12 **(c) The council shall administer the minority training grant**
 13 **program established by section 11 of this chapter and the back**
 14 **home in Indiana program established by section 12 of this chapter.**

15 SECTION 107. IC 22-4-18.1-7 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as
 17 provided in subsections (b) and (c) and subject to the approval of the
 18 commissioner of workforce development, the state personnel
 19 department, and the budget agency, the council may employ
 20 professional, technical, and clerical personnel necessary to carry out
 21 the duties imposed by this chapter from funds available under
 22 applicable federal and state programs, appropriations by the general
 23 assembly for this purpose, **funds in the state technology**
 24 **advancement and retention account established by IC 4-12-12-1,**
 25 and any other funds (other than federal funds) available to the council
 26 for this purpose.

27 (b) Subject to the approval of the commissioner of workforce
 28 development and the budget agency, the council may contract for
 29 services necessary to implement this chapter.

30 (c) The budget agency shall serve as the fiscal agent for the
 31 distribution of all funds of the council.

32 SECTION 108. IC 22-4-18.1-11 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2003]: **Sec. 11. (a) For purposes of this**
 35 **section, "minority student" means a student who is a member of**
 36 **one (1) or more of the following groups:**

- 37 (1) blacks;
- 38 (2) American Indians;
- 39 (3) Hispanics;
- 40 (4) Asian Americans; or
- 41 (5) other similar racial groups.

42 **(b) The council shall develop a program to provide grants for**
 43 **minority training programs for minority students. The grants must**
 44 **be used as follows:**

- 45 (1) **Thirty-five percent (35%) for programs designed to**
 46 **enhance training in technology advancement for minority**
 47 **students.**

1 **(2) Sixty-five percent (65%) for generalized training**
 2 **programs for minority students.**

3 **(c) The council shall adopt policies under which recipients may**
 4 **apply for and receive the grants.**

5 **(d) The total amount of grants awarded under this section in a**
 6 **state fiscal year may not exceed seven percent (7%) of the amount**
 7 **in the state technology advancement and retention account**
 8 **established by IC 4-12-12-1.**

9 SECTION 109. IC 22-4-18.1-12 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) The council shall develop**
 12 **a program to provide for grants or contracts to develop a back**
 13 **home in Indiana program. The program must provide a system to**
 14 **track students who have graduated from private and public**
 15 **colleges and universities in Indiana. The program must include a**
 16 **means of periodically contacting these graduates to inform them of**
 17 **job opportunities in Indiana.**

18 **(b) The council shall work with the colleges and universities in**
 19 **Indiana to develop the tracking system.**

20 **(c) The total amount of grants and contracts awarded under this**
 21 **section in a state fiscal year may not exceed ten percent (10%) of**
 22 **the amount in the state technology advancement and retention**
 23 **account established by IC 4-12-12-1.**

24 SECTION 110. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]:

27 **Chapter 7. Certified Degree Programs**

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

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

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

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

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

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

- 43 **(1) participated in a certified degree program; and**
 44 **(2) remains and is employed in Indiana in targeted**
 45 **employment after the student graduates from the certified**
 46 **degree program to complete a postgraduate component of a**
 47 **certified degree program.**

48 **Sec. 6. As used in this chapter, "institution of higher learning"**

1 means:

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

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

- 8 (1) is enrolled on a full-time basis as an undergraduate or
9 graduate student at an institution of higher learning that
10 conducts a certified degree program; and
11 (2) participates in the internship component of a certified
12 degree program conducted by the institution of higher
13 learning.

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

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

37 Sec. 9. (a) The energize Indiana growth scholars fund is
38 established for the following purposes:

- 39 (1) To pay the total operating expenses of the commission,
40 including grants and administrative expenses, for the certified
41 degree program.
42 (2) To reimburse the state general fund for the amount by
43 which internship payroll credits (IC 6-3.1-25) taken by
44 taxpayers reduce tax revenue deposits into the state general
45 fund.
46 (b) The fund shall be administered by the budget agency.
47 (c) The expenses of administering the fund shall be paid from
48 money in the fund. Interest that accrues from these investments

1 shall be deposited in the fund.

2 (d) The treasurer of state shall invest the money in the fund not
3 currently needed to meet the obligations of the fund in the same
4 manner as other public money may be invested.

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

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

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

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

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

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

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

25 (A) supervision; and

26 (B) payroll and personnel services;

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

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

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

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

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

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

45 (2) a graduate of the institution of higher learning to
46 participate in a graduate position with an employer in
47 targeted employment at any time during the year, including
48 the summer, as long as the graduate is engaged in a

1 postgraduate component of a certified degree program that is
2 approved under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

46 the commission may award to a student a grant from the fund. If
47 the commission awards a grant under this section, the commission
48 shall award the grant in an amount determined by the commission

1 for academic credit to fulfill the internship component of a
 2 certified degree program. A grant awarded under this section is in
 3 addition to any other grants awarded to a student.

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

7 **Sec. 20.** Subject to IC 4-4-31-26(h) and in addition to any other
 8 appropriation made for the purposes of the fund, the following
 9 amounts are appropriated from the Indiana tobacco master
 10 settlement agreement fund to the fund for the purposes of the fund
 11 in each of the following specified state fiscal years:

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

15 (2) Five million one hundred thousand dollars (\$5,100,000) in
 16 the state fiscal year beginning July 1, 2004, and ending June
 17 30, 2005.

18 (3) Five million six hundred thousand dollars (\$5,600,000) in
 19 the state fiscal year beginning July 1, 2005, and ending June
 20 30, 2006.

21 (4) Six million one hundred thousand dollars (\$6,100,000) in
 22 the state fiscal year beginning July 1, 2006, and ending June
 23 30, 2007.

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

25 SECTION 111. IC 22-4.1-8 IS ADDED TO THE INDIANA CODE
 26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]:

28 **Chapter 8. Certified Internship Programs**

29 **Sec. 1.** As used in this chapter, "certified internship program"
 30 refers to an internship program that is certified by the department,
 31 in consultation with the department of education, under section 5
 32 of this chapter.

33 **Sec. 2.** As used in this chapter, "employer" has the meaning set
 34 forth in IC 22-8-1.1-1.

35 **Sec. 3.** As used in this chapter, "institution of higher learning"
 36 has the meaning set forth in IC 20-12-70-4.

37 **Sec. 4.** As used in this chapter, "student" means an individual
 38 who is enrolled at an institution of higher learning on at least a
 39 part-time basis.

40 **Sec. 5. (a)** An institution of higher learning that seeks
 41 certification for an internship program under this chapter shall
 42 submit an application for certification to the department on a form
 43 prescribed by the department.

44 **(b)** The department, in consultation with the department of
 45 education, shall certify an internship program under this chapter
 46 if the program:

47 (1) is operated or administered by an institution of higher
 48 learning or a department, school, or program within an

- 1 institution of higher learning;
 2 (2) integrates a particular curriculum or course of study
 3 offered at the institution of higher learning with career
 4 internships provided by employers;
 5 (3) places students in career internships provided by
 6 employers;
 7 (4) requires participating students to meet certain academic
 8 standards established by rule by the department in
 9 consultation with the department of education;
 10 (5) requires employers to provide to participating students
 11 the:
 12 (A) supervision; and
 13 (B) payroll and personnel services;
 14 that the employers provide to their regular part-time
 15 employees, if any;
 16 (6) is designed to provide an internship experience that
 17 enriches and enhances the classroom experience of
 18 participating students;
 19 (7) requires employers to comply with all state and federal
 20 laws pertaining to the workplace; and
 21 (8) complies with any other requirement adopted by rule by
 22 the department after consultation with the department of
 23 education.

24 **Sec. 6.** A certified internship program may allow a student to
 25 participate in an internship at any time during the year, including
 26 the summer, as long as the student remains enrolled at the
 27 institution of higher learning that operates or administers the
 28 certified internship program.

29 **Sec. 7.** The department, in consultation with the department of
 30 education, may adopt rules under IC 4-22-2 to implement this
 31 chapter.

32 SECTION 112. IC 22-4.1-9 IS ADDED TO THE INDIANA CODE
 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2003]:

35 **Chapter 9. Certified School to Career Programs**

36 **Sec. 1.** As used in this chapter, "certified program" means a
 37 school to career program approved by the department in
 38 conjunction with the department of education that is conducted
 39 under an agreement under this chapter and that:

- 40 (1) integrates a secondary school curriculum with private
 41 sector job training;
 42 (2) places students in job internships; and
 43 (3) is designed to continue into postsecondary education and
 44 results in teaching new skills and adding value to the wage
 45 earning potential of participants and increasing their long
 46 term employability in Indiana.

47 **Sec. 2.** As used in this chapter, "institution of higher learning"
 48 has the meaning set forth under IC 20-12-70-4.

1 **Sec. 3.** As used in this chapter, "participant" means an
2 individual who:

3 (1) is at least sixteen (16) years of age and less than
4 twenty-four (24) years of age;

5 (2) is enrolled in a public or private secondary or
6 postsecondary school; and

7 (3) participates in a certified program as part of the
8 individual's secondary or postsecondary school education.

9 **Sec. 4.** As used in this chapter, "sponsor" means an individual,
10 a person, an association, a committee, an organization, or other
11 entity operating a certified program and in whose name the
12 certified program is registered or approved.

13 **Sec. 5. (a)** The department shall do the following:

14 (1) Accept applications from entities interested in sponsoring
15 certified programs on forms prescribed by the department.

16 (2) Investigate each applicant to determine the suitability of
17 the applicant to sponsor a certified program.

18 (3) Impose an application fee in an amount sufficient to pay
19 the costs incurred in processing the application and
20 investigating the applicant.

21 (b) The department may adopt rules under IC 4-22-2 to
22 administer this chapter.

23 **Sec. 6. (a)** The department of education shall review the
24 secondary school curriculum component of each proposed certified
25 program. The department may not approve a proposed certified
26 program unless the department of education approves the
27 applicant's proposed secondary school curriculum.

28 (b) Upon the request of the department, the department of
29 education shall:

30 (1) consult with the department before the adoption of rules
31 under section 5 of this chapter; and

32 (2) provide any other assistance to the department.

33 **Sec. 7.** The department may not approve a certified program
34 unless the following requirements are met:

35 (1) The program must be conducted under an organized,
36 written plan embodying the terms and conditions of
37 employment, job training, classroom instruction, and
38 supervision of one (1) or more participants, subscribed to by
39 a sponsor who has undertaken to carry out the certified
40 program.

41 (2) The program must comply with all state and federal laws
42 pertaining to the workplace.

43 (3) The certified program agreement must provide that the
44 sponsor or an employer participating in the program in
45 cooperation with the sponsor agrees to assign an employee to
46 serve as a mentor for a participant. The mentor's occupation
47 must be in the same career pathway as the career interests of
48 the participant.

1 (4) The program must comply with any other requirement
2 adopted by rule by the department.

3 **Sec. 8. (a)** A certified program must comply with the terms of a
4 written agreement among the sponsor, each participant, and each
5 cooperating employer. Except as provided in sections 9 and 10 of
6 this chapter, each agreement must contain the following:

7 (1) The names and signatures of:

8 (A) the sponsor;

9 (B) the employer (if the employer is an entity other than
10 the sponsor); and

11 (C) the participant and the participant's parent or
12 guardian if the participant is a minor.

13 (2) A description of the career field in which the participant
14 is to be trained and the beginning date and duration of the
15 training.

16 (3) The employer's agreement to provide paid employment for
17 the participant at a base wage which may not be less than the
18 minimum wage prescribed by the federal Fair Labor
19 Standards Act during the participant's junior and senior
20 years in high school.

21 (4) The employer's agreement to assign an employee to serve
22 as a mentor for a participant. The mentor's occupation must
23 be in the same career pathway as the career interests of the
24 participant.

25 (5) An agreement between the participant and employer
26 concerning specified minimum academic standards that must
27 be maintained throughout the participant's secondary
28 education.

29 (6) The participant's agreement to work for the employer for
30 at least two (2) years following the completion of the
31 participant's secondary education.

32 (b) An agreement described in subsection (a)(6) may be
33 modified to defer the participant's employment with the employer
34 until after the participant completes an appropriate amount of
35 postsecondary education as agreed to by the participant and the
36 employer.

37 **Sec. 9. (a)** If a participant's desired career pathway requires
38 postsecondary education, an agreement required under section 8
39 of this chapter may be modified to include the following:

40 (1) The employer's agreement to provide paid employment for
41 the participant at a base wage which may not be less than the
42 minimum wage prescribed by the federal Fair Labor
43 Standards Act during the participant's postsecondary
44 education.

45 (2) An agreement that in addition to the base wage paid to the
46 participant, the employer shall pay an additional sum to be
47 held in trust to be applied toward the participant's
48 postsecondary education.

1 **(3) The participant's agreement to work for the employer for**
2 **at least two (2) years following the completion of the**
3 **participant's postsecondary education.**

4 **(b) The additional amount described in subsection (a)(2) must**
5 **not be less than an amount determined by the department to be**
6 **sufficient to provide payment of tuition expenses toward**
7 **completion of not more than two (2) academic years at an**
8 **institution of higher learning. The amount shall be held in trust for**
9 **the benefit of the participant under rules adopted by the**
10 **department. Payment into a fund approved under the federal**
11 **Employee Retirement Income Security Act of 1974 for the benefit**
12 **of the participant satisfies this requirement. The approved fund**
13 **must be specified in the agreement.**

14 **Sec. 10. (a) If a participant enters a certified program following**
15 **the completion of the participant's secondary education, the**
16 **agreement required under section 8 of this chapter must be**
17 **modified to include the following:**

18 **(1) The employer's agreement to provide paid employment for**
19 **the participant at a base wage which may not be less than the**
20 **minimum wage prescribed by the federal Fair Labor**
21 **Standards Act during the participant's postsecondary**
22 **education.**

23 **(2) An agreement that in addition to the base wage paid to the**
24 **participant, the employer shall pay an additional sum to be**
25 **applied toward the participant's postsecondary education.**
26 **This amount may be paid directly to the participant's**
27 **institution of higher learning on behalf of the participant.**

28 **(3) The participant's agreement to work for the employer for**
29 **at least two (2) years following the completion of the**
30 **participant's postsecondary education.**

31 **(b) The additional amount described in subsection (a)(2) must**
32 **not be less than an amount determined by the department to be**
33 **sufficient to provide payment of tuition expenses toward**
34 **completion of not more than two (2) academic years at an**
35 **institution of higher learning.**

36 **Sec. 11. If a participant does not complete the certified program**
37 **contemplated by the agreement before entering a postsecondary**
38 **education program, the money being held in trust for the**
39 **participant's postsecondary education shall be paid back to the**
40 **employer.**

41 **Sec. 12. If a participant does not complete the certified program**
42 **contemplated by an agreement described in section 8, 9, or 10 of**
43 **this chapter after entering a postsecondary education program,**
44 **any unexpended funds being held in trust for the participant's**
45 **postsecondary education shall be paid back to the employer. In**
46 **addition, the participant must repay to the employer amounts paid**
47 **from the trust that were expended on the participant's behalf for**
48 **the participant's postsecondary education.**

1 **Sec. 13. If a participant does not complete the two (2) year**
 2 **employment obligation required under an agreement described in**
 3 **section 8, 9, or 10 of this chapter, the participant shall repay to the**
 4 **employer the amount paid by the employer toward the**
 5 **participant's postsecondary education expenses under this chapter.**

6 SECTION 113. IC 22-4.1-10 IS ADDED TO THE INDIANA
 7 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2003]:

9 **Chapter 10. Smart Partnership Grants**

10 **Sec. 1. The department shall establish guidelines for making**
 11 **grants to the Indiana schools smart partnership, which is**
 12 **established to create partnerships between schools and local**
 13 **businesses to make the curriculum of math and science relevant to**
 14 **the students.**

15 **Sec. 2. The total amount of grants awarded under this chapter**
 16 **in a state fiscal year may not exceed five percent (5%) of the**
 17 **amount in the state technology advancement and retention account**
 18 **established by IC 4-12-12-1.**

19 **Sec. 3. The department may make grants to coordinating**
 20 **organizations and participating schools.**

21 SECTION 114. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss),
 22 SECTION 187, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2003]: Sec. 11.(a) After receipt of an
 24 application under section 10 of this chapter, and subject to subsection
 25 (b), the department of commerce may designate a certified technology
 26 park if the department determines that the application demonstrates a
 27 firm commitment from at least one (1) business engaged in a high
 28 technology activity creating a significant number of jobs and satisfies
 29 one (1) or more of the following ~~additional~~ criteria:

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

34 (A) Grants of preferences for access to and commercialization
 35 of intellectual property.

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

39 (C) Donations of services.

40 (D) Access to telecommunications facilities and other
 41 infrastructure.

42 (E) Financial commitments.

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

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

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

47 (2) A demonstration of a significant commitment by the

1 institution of higher education or private research based institute
 2 to the commercialization of research produced at the certified
 3 technology park, as evidenced by the intellectual property and, if
 4 applicable, tenure policies that reward faculty and staff for
 5 commercialization and collaboration with private businesses.

6 (3) A demonstration that the proposed certified technology park
 7 will be developed to take advantage of the unique characteristics
 8 and specialties offered by the public and private resources
 9 available in the area in which the proposed certified technology
 10 park will be located.

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

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

17 (B) A business plan exhibiting the economic utilization and
 18 availability of resources and a likelihood of successful
 19 development of technologies and research into viable business
 20 enterprises.

21 (C) A commitment to the employment of a qualified full-time
 22 manager to supervise the development and operation of the
 23 business incubator.

24 (5) The existence of a business plan for the proposed certified
 25 technology park that identifies its objectives in a clearly focused
 26 and measurable fashion and that addresses the following matters:

27 (A) A commitment to new business formation.

28 (B) The clustering of businesses, technology, and research.

29 (C) The opportunity for and costs of development of properties
 30 under common ownership or control.

31 (D) The availability of and method proposed for development
 32 of infrastructure and other improvements, including
 33 telecommunications technology, necessary for the
 34 development of the proposed certified technology park.

35 (E) Assumptions of costs and revenues related to the
 36 development of the proposed certified technology park.

37 (6) A demonstrable and satisfactory assurance that the proposed
 38 certified technology park can be developed to principally contain
 39 property that is primarily used for, or will be primarily used for,
 40 a high technology activity or a business incubator.

41 (b) The department of commerce may not approve an application
 42 that would result in a substantial reduction or cessation of operations
 43 in another location in Indiana in order to relocate them within the
 44 certified technology park.

45 SECTION 115. IC 36-7-32-22, AS ADDED BY P.L.192-2002(ss),
 46 SECTION 187, IS AMENDED TO READ AS FOLLOWS
 47 [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The treasurer of state shall

1 establish an incremental tax financing fund for each certified
 2 technology park designated under this chapter. The fund shall be
 3 administered by the treasurer of state. Money in the fund does not
 4 revert to the state general fund at the end of a state fiscal year.

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

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

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

17 (A) The adjusted gross income tax.

18 (B) The county adjusted gross income tax.

19 (C) The county option income tax.

20 (D) The county economic development income tax.

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

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

29 Page 58, between lines 37 and 38, begin a new paragraph and insert:

30 "SECTION 117. [EFFECTIVE JANUARY 1, 2003
 31 (RETROACTIVE)]: (a) **As used in this SECTION, "department"**
 32 **refers to the department of workforce development.**

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

36 (c) **Notwithstanding IC 22-4.1-7-19, as added by this act, the**
 37 **state student assistance commission, in consultation with the**
 38 **department and the commission for higher education, may adopt**
 39 **temporary rules to implement IC 22-4.1-7, as added by this act, in**
 40 **the same manner as emergency rules are adopted under**
 41 **IC 4-22-2-37.1."**

42 Page 58, line 41, delete "IC 4-4-31," and insert "IC 4-4-33,".

43 Page 59, delete lines 23 through 42.

44 Page 60, delete lines 1 through 26.

45 Page 60, line 40, delete "Subject to carryovers authorized by
 46 IC 6-3.1-27-14, as added".

47 Page 60, line 41, before "IC 6-3.1-27" delete "by this act,".

1 Page 60, line 42, delete "2003, and ending before" and insert
2 "2003."

3 Page 61, delete line 1.

4 Page 62, delete lines 34 through 42, begin a new paragraph and
5 insert:

6 "SECTION 126. [EFFECTIVE JULY 1, 2003] **The trustees of**
7 **Indiana University and Purdue University may issue and sell bonds**
8 **under IC 20-12-6, subject to the approvals required by**
9 **IC 20-12-5.5, for the following projects if for each institution the**
10 **sum of principal costs of any bond issued, excluding amounts**
11 **necessary to provide money for debt service reserves, credit**
12 **enhancement, or other costs incidental to the issuance of the bonds,**
13 **does not exceed the total authority listed below for that institution:**

14 **INDIANA UNIVERSITY - Bloomington Campus**

15 **Multidisciplinary Science Building Phase II**

16 **31,872,000**

17 **INDIANA UNIVERSITY PURDUE UNIVERSITY**
18 **INDIANAPOLIS**

19 **I n f o r m a t i o n S c i e n c e s B u i l d i n g**

20 **15,000,000**

21 **PURDUE UNIVERSITY - West Lafayette Campus**

22 **B i o m e d i c a l E n g i n e e r i n g B u i l d i n g**

23 **13,000,000**

24 SECTION 127. [EFFECTIVE JULY 1, 2003] **The trustees of**
25 **Indiana University may issue and sell bonds under IC 20-12-6,**
26 **subject to the approvals required by IC 20-12-5.5, for the following**
27 **project if the sum of principal costs of any bond issued, excluding**
28 **amounts necessary to provide money for debt service reserves,**
29 **credit enhancement, or other costs incidental to the issuance of the**
30 **bonds, does not exceed the total authority listed below for the**
31 **Indiana University South Bend Campus:**

32 **INDIANA UNIVERSITY-South Bend Campus**

33 **Land Acquisition**

34 **2,000,000**

35 SECTION 128. [EFFECTIVE JULY 1, 2003] **The trustees of**
36 **Vincennes University may issue and sell bonds under IC 20-12-6,**
37 **subject to the approvals required by IC 20-12-5.5, for the following**
38 **project if the sum of principal costs of any bond issued, excluding**
39 **amounts necessary to provide money for debt service reserves,**
40 **credit enhancement, or other costs incidental to the issuance of the**
41 **bonds, does not exceed the total authority listed below for the**
42 **Vincennes University Jasper Campus:**

43 **VINCENNES UNIVERSITY-Jasper Campus**

44 **J a s p e r C e n t e r N e w A c a d e m i c B u i l d i n g**

45 **4,320,000**

46 SECTION 129. [EFFECTIVE JULY 1, 2003] **The trustees of Ivy**
47 **Tech State College may issue and sell bonds under IC 20-12-6,**
48 **subject to the approvals required by IC 20-12-5.5, for the following**

1 project if the sum of principal costs of any bond issued, excluding
 2 amounts necessary to provide money for debt service reserves,
 3 credit enhancement, or other costs incidental to the issuance of the
 4 bonds, does not exceed the total authority listed below for the
 5 following:

6 Valparaiso New Campus, Phase I
 7 15,843,000
 8 Portage Facility A&E
 9 297,500

10 SECTION 130. [EFFECTIVE JULY 1, 2003] (a) The trustees of
 11 Indiana University-Purdue University at Fort Wayne may issue
 12 and sell bonds under IC 20-12-6, subject to the approvals required
 13 by IC 20-12-5.5, for the purpose of constructing, remodeling,
 14 renovating, furnishing, and equipping a music building, if the sum
 15 of the principal costs of the bonds issued is not more than nineteen
 16 million dollars (\$19,000,000).

17 (b) Bonding authority granted by this SECTION is not eligible
 18 for fee replacement appropriations until July 1, 2005.

19 SECTION 131. [EFFECTIVE JULY 1, 2003] (a) There is
 20 appropriated to the department of transportation two million
 21 dollars (\$2,000,000) from the Indiana tobacco master settlement
 22 agreement fund for use for infrastructure upgrades around the
 23 Gary/Chicago Airport for the biennium beginning July 1, 2003,
 24 and ending June 30, 2005.

25 (b) There is appropriated to the department of transportation
 26 two hundred thousand dollars (\$200,000) from the build Indiana
 27 fund for airport development for the biennium beginning July 1,
 28 2003, and ending June 30, 2005. The appropriation made in this
 29 subsection is made in addition to any other appropriations made
 30 to the department of transportation for airport development.

31 (c) There is appropriated to the budget agency one hundred
 32 thousand dollars (\$100,000) from the build Indiana fund for the
 33 operation and purposes of the Indiana infrastructure needs
 34 assessment commission for the biennium beginning July 1, 2003,
 35 and ending June 30, 2005.

36 (d) There is appropriated to the budget agency one hundred
 37 thousand dollars (\$100,000) from the build Indiana fund for the
 38 operation and purposes of the government efficiency commission
 39 established by this act for the biennium beginning July 1, 2003, and
 40 ending June 30, 2005.

41 (e) There is appropriated to the department of commerce one
 42 million dollars (\$1,000,000) from the build Indiana fund for its use
 43 in publicizing the corporate tax restructuring in Indiana to
 44 businesses and industries in other states for the biennium
 45 beginning July 1, 2003, and ending June 30, 2005.

46 (f) There is appropriated to the governor two hundred fifty
 47 thousand dollars (\$250,000) from the build Indiana fund for the
 48 governor's use to create and operate a nonprofit corporation to

1 establish a public-private partnership to assist in guiding the
 2 economic development mission of the state for the biennium
 3 beginning July 1, 2003, and ending June 30, 2005.

4 (g) This SECTION expires July 1, 2005.

5 SECTION 132. [EFFECTIVE UPON PASSAGE] (a) There is
 6 appropriated to the budget agency from the Indiana tobacco
 7 master settlement agreement fund ten million dollars (\$10,000,000)
 8 for the purpose of improving high speed data access and
 9 communications capability statewide by linking fiber optic
 10 infrastructure to eleven (11) areas around the state (I-Light Fiber
 11 Optic System) beginning July 1, 2003, and ending June 30, 2004.

12 (b) There is appropriated to the budget agency from the Indiana
 13 tobacco master settlement agreement fund five million dollars
 14 (\$5,000,000) for the purpose of improving high speed data access
 15 and communications capability statewide by linking fiber optic
 16 infrastructure to eleven (11) areas around the state (I-Light Fiber
 17 Optic System) beginning July 1, 2004, and ending June 30, 2005.

18 (c) All money appropriated from the Indiana tobacco master
 19 settlement agreement fund under this SECTION is nonreverting
 20 and does not revert to the state general fund or the Indiana tobacco
 21 master settlement agreement fund but remains available for the
 22 purposes described in this SECTION in subsequent state fiscal
 23 years.

24 SECTION 133. [EFFECTIVE UPON PASSAGE] (a) As used in
 25 this SECTION, "grant anticipation revenue vehicles (GARVEE
 26 bonds)" means tax exempt anticipation notes backed by annual
 27 federal appropriations for highway projects.

28 (b) The budget agency, Indiana department of transportation,
 29 and Indiana transportation finance authority shall jointly:

- 30 (1) conduct a review of federal law authorizing the issuance of
 31 grant anticipation revenue vehicles (GARVEE bonds); and
- 32 (2) before December 1, 2003, submit a written report to the
 33 governor and the budget committee concerning the feasibility
 34 and desirability of adopting legislation to authorize the
 35 issuance of grant anticipation revenue vehicles (GARVEE
 36 bonds) to accelerate the construction of highway projects in
 37 Indiana.

38 (c) This SECTION expires July 1, 2004.

39 SECTION 134. [EFFECTIVE UPON PASSAGE] (a) As used in
 40 this SECTION, "department" refers to the department of state
 41 revenue.

42 (b) Notwithstanding IC 6-2.5-12-5, as added by this act, the
 43 department shall adopt any rules to implement IC 6-2.5-12, as
 44 added by this act, in the same manner as emergency rules are
 45 adopted under IC 4-22-2-37.1. Any rules adopted under this
 46 SECTION must be adopted not later than June 30, 2003. A rule
 47 adopted under this SECTION expires on the earlier of:

- 48 (1) the date a rule is adopted by the department under

1 **IC 4-22-2-24 through IC 4-22-2-36 to implement IC 6-2.5-12,**
 2 **as added by this act; or**

3 **(2) January 1, 2005.**

4 **(c) This SECTION expires January 1, 2005.**

5 **SECTION 135. [EFFECTIVE JULY 1, 2003] (a) As used in this**
 6 **SECTION, "commission" refers to the Indiana infrastructure**
 7 **needs assessment commission.**

8 **(b) The Indiana infrastructure commission is established.**

9 **(c) The commission consists of the following members:**

10 **(1) One (1) member appointed by the speaker of the house of**
 11 **representatives from the membership of that body.**

12 **(2) One (1) member appointed by the minority leader of the**
 13 **house of representatives from the membership of that body.**

14 **(3) One (1) member appointed by the president pro tempore**
 15 **of the senate from the membership of that body.**

16 **(4) One (1) member appointed by the minority leader of the**
 17 **senate from the membership of that body.**

18 **(5) A representative of the Indiana economic development**
 19 **council established under IC 4-3-14.**

20 **(6) A representative of the state department of commerce**
 21 **created under IC 4-4-3-2.**

22 **(7) A representative of the Indiana development finance**
 23 **authority created under IC 4-4-11-4.**

24 **(8) A representative of the Indiana broadband authority**
 25 **established under IC 4-4-35.**

26 **(9) A representative of the Indiana utility regulatory**
 27 **commission created under IC 8-1-1-2.**

28 **(10) A representative of the Indiana department of**
 29 **transportation established under IC 8-23-2-1.**

30 **(11) A representative of the state department of**
 31 **environmental management established under IC 13-13-1-1.**

32 **(12) Ten (10) members appointed by the governor to**
 33 **represent the private sector and organized labor. Not more**
 34 **than five (5) of the members appointed under this subdivision**
 35 **may be of the same political party.**

36 **The budget agency shall provide staff support for the commission.**

37 **(d) The governor may designate a member of the commission to**
 38 **serve as chairperson. However, if the governor does not designate**
 39 **a chairperson, the members shall elect a chairperson from among**
 40 **the members.**

41 **(e) The commission shall do the following:**

42 **(1) Establish strategic economic development objectives for**
 43 **public and private sector infrastructure planning.**

44 **(2) Identify and develop infrastructure plans to promote and**
 45 **sustain economic development.**

46 **(3) Promote the optimal use of existing infrastructure.**

47 **(4) Recommend economic infrastructure priorities for the**
 48 **state budget.**

- 1 **(5) Develop a mechanism for identifying private sector**
2 **investment opportunities in infrastructure provision.**
- 3 **(f) The commission shall periodically report its findings to the**
4 **legislative council created under IC 2-5-1.1-1.**
- 5 **(g) The expenses of the commission shall be paid from**
6 **appropriations made by the general assembly.**
- 7 **(h) Each member of the commission who is a member of the**
8 **general assembly is entitled to receive the same per diem, mileage,**
9 **and travel allowances paid to legislative members of interim study**
10 **committees established by the legislative council. Per diem,**
11 **mileage, and travel allowances paid under this subsection shall be**
12 **paid from appropriations made to the legislative council or the**
13 **legislative services agency.**
- 14 **(i) Each member of the commission who is a state employee but**
15 **who is not a member of the general assembly is entitled to**
16 **reimbursement for travel expenses as provided under IC 4-13-1-4**
17 **and other expenses actually incurred in connection with the**
18 **member's duties as provided in the state policies and procedures**
19 **established by the Indiana department of administration and**
20 **approved by the budget agency.**
- 21 **(j) Each member of the commission who is not a state employee**
22 **is not entitled to the minimum salary per diem provided by**
23 **IC 4-10-11-2.1(b). The member is, however, entitled to**
24 **reimbursement for travel expenses as provided in IC 4-13-1-4 and**
25 **other expenses actually incurred in connection with the member's**
26 **duties as provided in the state policies and procedures established**
27 **by the Indiana department of administration and approved by the**
28 **budget agency.**
- 29 **(k) If a member of the commission ceases to be a member of the**
30 **body or agency from which the member was appointed, the**
31 **individual's position on the commission becomes vacant. However,**
32 **a commission member may be removed at any time by the**
33 **authority that appointed the member.**
- 34 **(l) If a vacancy exists on the commission, the authority that**
35 **appointed the former member whose position became vacant shall**
36 **appoint an individual to fill the vacancy. However, the new**
37 **member must be a member of the same body or agency from which**
38 **the former member was appointed.**
- 39 **(m) Fourteen (14) members constitute a quorum for the**
40 **transaction of business. The affirmative vote of at least eleven (11)**
41 **members is necessary for any action to be taken by the**
42 **commission.**
- 43 **(n) Meetings of the commission shall be held at the call of the**
44 **chairperson or whenever any five (5) members request a meeting.**
45 **The members shall meet at least once every three (3) months to**
46 **attend to the business of the commission.**
- 47 **(o) Not later than November 1, 2004, the commission shall**
48 **provide a comprehensive and long-term infrastructure plan for**

1 **Indiana to:**

- 2 (1) the state budget committee; and
 3 (2) the legislative council.

4 **(p) This SECTION expires July 1, 2005.**

5 SECTION 136. [EFFECTIVE UPON PASSAGE] (a)
 6 Notwithstanding IC 4-12-10, for the period beginning July 1, 2003,
 7 and ending June 30, 2005, grants of two hundred thousand dollars
 8 (\$200,000) shall be made to:

- 9 (1) East Central Indiana technology transfer program
 10 administered by Ball State University; and
 11 (2) Southwestern Indiana technology transfer program
 12 administered by the University of Southern Indiana;

13 for their use in establishing and operating technology talent
 14 programs.

15 **(b) This SECTION expires December 31, 2005.**

16 SECTION 137. [EFFECTIVE JULY 1, 2003] The credit against a
 17 taxpayer's state tax liability provided under IC 6-3.1-29, as added
 18 by this act, applies to taxable years beginning after December 31,
 19 2004.

20 SECTION 138. [EFFECTIVE UPON PASSAGE] (a) As used in
 21 this SECTION, "department" refers to the department of
 22 workforce development.

23 (b) Notwithstanding IC 22-4.1-8-7, as added by this act, the
 24 department, in consultation with the department of education, shall
 25 adopt rules to implement IC 22-4.1-8, as added by this act, in the
 26 same manner as emergency rules are adopted under
 27 IC 4-22-2-37.1. Any rules adopted under this SECTION must be
 28 adopted not later than September 1, 2003. A rule adopted under
 29 this SECTION expires on the earlier of:

- 30 (1) the date a rule is adopted by the department, in
 31 consultation with the department of education, under
 32 IC 4-22-2-24 through IC 4-22-2-36 to implement IC 22-4.1-8,
 33 as added by this act; or
 34 (2) January 1, 2006.

35 (c) Notwithstanding IC 6-3.1-29-9, as added by this act, the
 36 department may:

- 37 (1) certify an internship program under IC 22-4.1-8, as added
 38 by this act, with respect to which a taxpayer wishes to claim
 39 a credit under IC 6-3.1-29-9, as added by this act, for payroll
 40 expenditures made during a taxable year beginning before
 41 January 1, 2005, to a student participating in the internship
 42 program; and
 43 (2) make the certification of the internship program under
 44 IC 22-4.1-8, as added by this act, effective as of a date before
 45 January 1, 2005.

46 **(d) This SECTION expires December 31, 2006.**

47 SECTION 139. [EFFECTIVE JULY 1, 2003] (a) The legislative
 48 council shall assign the clean manufacturing tax credit established

1 under IC 6-3.1-31, as added by this act, for audit and evaluation
2 under IC 2-5-21 during 2007.
3 (b) This SECTION expires July 1, 2008.
4 SECTION 140. [EFFECTIVE JULY 1, 2003] (a) The clean
5 manufacturing income tax credit board established by
6 IC 6-3.1-31-13, as added by this act, may not take action under
7 IC 6-3.1-31, as added by this act, before January 1, 2005.
8 (b) A taxpayer is entitled to a tax credit under IC 6-3.1-31, as
9 added by this act, for either:
10 (1) a qualified material substitution expense; or
11 (2) a qualified clean manufacturing investment;
12 or both, only to the extent that the qualified material substitution
13 expense is incurred after December 31, 2004, or the qualified clean
14 manufacturing investment is made after December 31, 2004."
15 Delete pages 63 through 64.
16 Page 65, delete lines 1 through 15.
17 Renumber all SECTIONS consecutively.
(Reference is to EHB 2008 as printed April 8, 2003.)

Senator SIMPSON