



Reprinted
February 15, 2005

HOUSE BILL No. 1729

DIGEST OF HB 1729 (Updated February 14, 2005 4:05 pm - DI 44)

Citations Affected: IC 6-3.5; IC 6-6; IC 8-14; IC 8-14.5; IC 8-14.6; IC 8-23.

Synopsis: Securitization of federal transportation grants. Provides that the gasoline tax applies to gasoline used or sold in Indiana (current law provides that the tax applies to gasoline used in Indiana). Authorizes the transportation finance authority to issue bonds or notes secured by lease rentals relating to highway improvement projects and anticipated to be paid by the department of transportation from federal transportation revenues received in the current federal fiscal year or to be received in a future federal fiscal year. Limits the total amount of the lease rentals securing the bonds or notes during any state fiscal year to 50% of the increase in the amount of federal transportation revenues received by the state since the federal fiscal year ending September 30, 2004. Authorizes the transportation finance authority to issue bonds or notes for local road projects that are secured by lease rentals payable by cities, towns, and counties. Provides that when issuing the bonds or notes, the authority is subject to certain rules concerning minority and women's business participation. Makes conforming changes.

Effective: July 1, 2005.

Friend, Espich

January 19, 2005, read first time and referred to Committee on Ways and Means.
February 8, 2005, amended, reported — Do Pass.
February 14, 2005, read second time, amended, ordered engrossed.

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HB 1729—LS 7332/DI 44+



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1729

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

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

1 SECTION 1. IC 6-3.5-4-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. In the case of a
3 county that contains a consolidated city, the city-county council may
4 appropriate money derived from the surtax to:

5 (1) the department of transportation established by IC 36-3-5-4
6 for use by the department under law; **or**

7 (2) **the Indiana transportation finance authority for the**
8 **payment of lease rentals under IC 8-14.6.**

9 The city-county council may not appropriate money derived from the
10 surtax for any other purpose.

11 SECTION 2. IC 6-3.5-4-13 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) In the case of a
13 county that does not contain a consolidated city of the first class, the
14 county treasurer shall deposit the surtax revenues in a fund to be known
15 as the "_____ County Surtax Fund".

16 (b) Before the twentieth day of each month, the county auditor shall
17 allocate the money deposited in the county surtax fund during that

HB 1729—LS 7332/DI 44+



1 month among the county and the cities and the towns in the county.
2 The county auditor shall allocate the money to counties, cities, and
3 towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

4 (c) Before the twenty-fifth day of each month, the county treasurer
5 shall distribute to the county and the cities and towns in the county the
6 money deposited in the county surtax fund during that month. The
7 county treasurer shall base the distribution on allocations made by the
8 county auditor for that month under subsection (b).

9 (d) A county, city, or town may only use the surtax revenues it
10 receives under this section to:

11 (1) construct, reconstruct, repair, or maintain streets and roads
12 under its jurisdiction; or

13 (2) **provide funds to the Indiana transportation finance**
14 **authority for the payment of lease rentals under IC 8-14.6.**

15 SECTION 3. IC 6-3.5-5-14 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) In the case of a
17 county that contains a consolidated city, the city-county council may
18 appropriate money derived from the wheel tax to:

19 (1) the department of transportation established by IC 36-3-5-4
20 for use by the department under law; or

21 (2) an authority established under IC 36-7-23; or

22 (3) **the Indiana transportation finance authority for the**
23 **payment of lease rentals under IC 8-14.6.**

24 (b) The city-county council may not appropriate money derived
25 from the wheel tax for any other purpose.

26 SECTION 4. IC 6-3.5-5-15 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) In the case of a
28 county that does not contain a consolidated city, the county treasurer
29 shall deposit the wheel tax revenues in a fund to be known as the
30 "County Wheel Tax Fund".

31 (b) Before the twentieth day of each month, the county auditor shall
32 allocate the money deposited in the county wheel tax fund during that
33 month among the county and the cities and the towns in the county.
34 The county auditor shall allocate the money to counties, cities, and
35 towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

36 (c) Before the twenty-fifth day of each month, the county treasurer
37 shall distribute to the county and the cities and towns in the county the
38 money deposited in the county wheel tax fund during that month. The
39 county treasurer shall base the distribution on allocations made by the
40 county auditor for that month under subsection (b).

41 (d) A county, city, or town may only use the wheel tax revenues it
42 receives under this section:

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- 1 (1) to construct, reconstruct, repair, or maintain streets and roads
- 2 under its jurisdiction; ~~or~~
- 3 (2) as a contribution to an authority established under IC 36-7-23;
- 4 **or**
- 5 **(3) to provide funds to the Indiana transportation finance**
- 6 **authority for the payment of lease rentals under IC 8-14.6.**

7 SECTION 5. IC 6-6-1.1-201 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 201. A license tax of
 9 eighteen cents (\$0.18) per gallon is imposed on the use of all gasoline
 10 used **or sold** in Indiana, except as otherwise provided by this chapter.
 11 The distributor shall initially pay the tax on the billed gallonage of all
 12 gasoline the distributor receives in this state, less any deductions
 13 authorized by this chapter. The distributor shall then add the per gallon
 14 amount of tax to the selling price of each gallon of gasoline sold in this
 15 state and ~~collected~~ **collect the tax** from the purchaser so that the
 16 ultimate consumer bears the burden of the tax.

17 SECTION 6. IC 8-14-10-8 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The department may
 19 use the money in the fund only to pay the following costs:

- 20 (1) The cost of construction or reconstruction of a state highway.
- 21 (2) The cost of acquisition of all land, rights-of-way, property,
- 22 rights, easements, and any other legal or equitable interests
- 23 acquired by the department for the construction or reconstruction
- 24 of a state highway, including the cost of any relocations incident
- 25 to the acquisition.
- 26 (3) The cost of demolishing or removing any buildings, structures,
- 27 or improvements on property acquired by the department for the
- 28 construction or reconstruction of a state highway.
- 29 (4) Engineering and legal expenses, and the costs of plans,
- 30 specifications, surveys, estimates, and any necessary feasibility
- 31 studies.
- 32 (5) Payment of rentals and performance of other obligations under
- 33 contracts or leases ~~relating to projects securing bonds issued~~
- 34 ~~under IC 8-14-5.~~ **IC 8-14.5-6.**

35 SECTION 7. IC 8-14-10-9 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The crossroads
 37 2000 fund is established for the purpose of constructing or
 38 reconstructing state highways. The crossroads 2000 fund consists of
 39 distributions received under IC 9-29-1-2, IC 9-29-15-1, IC 9-29-15-3,
 40 and IC 9-29-15-4.

41 (b) The crossroads 2000 fund shall be administered by the
 42 department. The treasurer of state shall invest the money in the

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1 crossroads 2000 fund not currently needed to meet the obligations of
2 the crossroads 2000 fund in the same manner as other public funds may
3 be invested.

4 (c) Money in the crossroads 2000 fund at the end of a state fiscal
5 year does not revert to the state general fund.

6 (d) The department may use the money in the crossroads 2000 fund
7 only to pay the following costs:

8 (1) The cost of construction or reconstruction of a state highway.

9 (2) The cost of acquisition of all land, rights-of-way, property,
10 rights, easements, and any other legal or equitable interests
11 acquired by the department for the construction or reconstruction
12 of a state highway, including the cost of any relocations incident
13 to the acquisition.

14 (3) The cost of demolishing or removing any buildings, structures,
15 or improvements on property acquired by the department for the
16 construction or reconstruction of a state highway.

17 (4) Engineering and legal expenses and the costs of plans,
18 specifications, surveys, estimates, and any necessary feasibility
19 studies.

20 (5) Payment of rentals and performance of other obligations under
21 contracts or leases relating to projects securing bonds issued
22 under ~~IC 8-14.5~~ IC 8-14.5-6.

23 SECTION 8. IC 8-14-10-10 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2005]: **Sec. 10. (a) The grant anticipation fund is established to
26 construct and reconstruct state highways. The grant anticipation
27 fund consists of distributions of federal transportation revenues (as
28 defined in IC 8-14.5-7-1) made under IC 8-23-3-11.**

29 (b) **The grant anticipation fund shall be administered by the
30 department. The treasurer of state shall invest the money in the
31 grant anticipation fund not currently needed to meet the
32 obligations of the grant anticipation fund in the same manner as
33 other public funds may be invested. Interest that accrues from
34 these investments shall be deposited in the grant anticipation fund.**

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

37 (d) **The department may use the money in the grant anticipation
38 fund only to pay the following costs:**

39 (1) **The cost of construction or reconstruction of a highway
40 improvement project.**

41 (2) **The cost of acquisition of all land, rights-of-way, property,
42 rights, easements, and any other legal or equitable interests**

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acquired by the department for the construction or reconstruction of a highway improvement project, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a highway improvement project.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases relating to highway improvement projects securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7. However, amounts in the grant anticipation fund may not be pledged to such payments.

(e) A holder of grant anticipation revenue bonds or notes issued under IC 8-14.5-7 may not compel the payment of federal transportation revenues to the department.

SECTION 9. IC 8-14.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.5-6 or IC 8-14.5-7.

SECTION 10. IC 8-14.5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. "Notes" refers to notes of the authority issued under IC 8-14.5-6 or IC 8-14.5-7 and includes any evidences of indebtedness of the authority except bonds.

SECTION 11. IC 8-14.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The department shall pay lease rentals for leases entered into under this chapter and **securing bonds issued under IC 8-14.5-6** from revenues transferred to the state highway road construction and improvement fund or the crossroads 2000 fund before making any other disbursements from those ~~revenues~~ **funds. The department shall pay lease rentals for leases entered into under this chapter and for securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7 from federal transportation revenues (as defined in IC 8-14.5-7-1) transferred to the grant anticipation fund before making any other disbursements from the grant anticipation fund.**

SECTION 12. IC 8-14.5-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 7. Grant Anticipation Revenue Bonds and Notes

Sec. 1. As used in this chapter, "federal transportation

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revenues" means:

- (1) money and obligation authority apportioned or allocated, or anticipated to be apportioned or allocated in the current federal fiscal year or a future federal fiscal year, to Indiana by the United States Department of Transportation under 23 U.S.C., as amended, for use on a project; or
- (2) other federal money that may be used for a project and is available or anticipated to be available in the current federal fiscal year or a future federal fiscal year.

Sec. 2. As used in this chapter, "grant anticipation revenue bond" or "grant anticipation revenue note" means a bond or note, respectively, secured by lease rentals relating to highway improvement projects and anticipated to be paid from federal transportation revenues deposited in the grant anticipation fund.

Sec. 3. As used in this chapter, "highway improvement project" means a project for which the department may use federal transportation revenues.

Sec. 4. The authority may, by resolution, issue grant anticipation revenue bonds or notes for any purpose that is authorized by IC 8-14.5-6 and for which the department may use federal transportation revenues. When issuing grant anticipation revenue bonds or notes, the authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes.

Sec. 5. (a) Before grant anticipation revenue bonds or notes may be issued under this chapter, the department shall prepare a revenue declaration providing a specified amount or percentage of federal transportation revenues received by the state during a state fiscal year to be deposited in the grant anticipation fund and the number of years the deposits shall be made. A revenue declaration prepared under this section is subject to approval of the budget agency and the authority.

(b) The total amount of lease rentals securing grant anticipation revenue bonds or notes issued under this chapter and scheduled to be paid during any state fiscal year, determined as of the date of issuance of each series of grant anticipation revenue bonds or notes, may not exceed an amount equal to fifty percent (50%) of the remainder of:

- (1) the total amount of federal transportation revenues apportioned or allocated to the department during the federal fiscal year immediately preceding the state fiscal year in

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1 which the series of bonds or notes is issued; minus
2 (2) seven hundred thirty-four million eight hundred fifty
3 thousand three hundred ninety dollars (\$734,850,390), which
4 is the total amount of federal transportation revenues
5 apportioned or allocated to the department during the federal
6 fiscal year beginning October 1, 2003, and ending September
7 30, 2004.

8 (c) All other provisions of IC 8-14.5-6 apply to the issuance of
9 grant anticipation revenue bonds or notes under this chapter.

10 **Sec. 6. Grant anticipation revenue bonds or notes:**

- 11 (1) constitute the corporate obligations of the authority;
- 12 (2) do not constitute an indebtedness of the state within the
13 meaning or application of any constitutional provision or
14 limitation; and
- 15 (3) are payable solely as to both principal and interest from:
 - 16 (A) the revenues from a lease to the department, if any;
 - 17 (B) proceeds of bonds or notes, if any; or
 - 18 (C) investment earnings on proceeds of bonds or notes, if
19 any.

20 SECTION 13. IC 8-14.6 IS ADDED TO THE INDIANA CODE AS
21 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
22 2005]:

23 **ARTICLE 14.6. LEASE FINANCING FOR LOCAL ROAD
24 PROJECTS**

25 **Chapter 1. Legislative Findings of Fact**

26 **Sec. 1. The general assembly makes the following findings of
27 fact:**

- 28 (1) That there exists in cities, towns, and counties in Indiana
29 a need for construction, acquisition, reconstruction,
30 improvement, and extension of local roads in order to provide
31 for the public welfare and safety by providing safe,
32 dependable, and reliable local roads for vehicular traffic.
- 33 (2) That the development and maintenance of the economy of
34 Indiana's cities, towns, and counties requires an adequate
35 system of local roads in order to provide for the public
36 welfare and to facilitate the creation and maintenance of jobs,
37 the increase and stabilization of the tax base, and the general
38 economic welfare of cities, towns, and counties and their
39 citizens.
- 40 (3) That it is necessary to serve the public interest and to
41 provide for the public welfare by adopting this article for the
42 purposes described in this article.

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1 **Sec. 2. This article provides an additional and alternative**
2 **method for doing the things authorized by this article, and is**
3 **supplemental and additional to powers conferred by other laws**
4 **and not in derogation of any other powers.**

5 **Sec. 3. This article is necessary for the welfare of the cities,**
6 **towns, and counties of Indiana and their inhabitants, and shall be**
7 **liberally construed to effect the purposes of this article.**

8 **Chapter 2. Definitions**

9 **Sec. 1. The definitions in this chapter apply throughout this**
10 **article.**

11 **Sec. 2. "Authority" refers to the Indiana transportation finance**
12 **authority established under IC 8-9.5-8-2.**

13 **Sec. 3. "Bonds" refers to bonds of the authority issued under**
14 **IC 8-14.6-6.**

15 **Sec. 4. "Capitalized interest" means interest cost on bonds or**
16 **notes before and during the period of construction of the local road**
17 **project for which the bonds or notes were issued, and for a period**
18 **not to exceed one (1) year after completion of construction.**

19 **Sec. 5. "Construction" means the construction, acquisition,**
20 **reconstruction, improvement, and extension of a local road project.**

21 **Sec. 6. "Costs" as applied to any local road project includes any**
22 **item or cost of a capital nature incurred in the construction of a**
23 **local road project, including:**

- 24 **(1) the cost of construction;**
- 25 **(2) the cost of acquisition of all land, rights-of-way, property,**
26 **rights, easements, and any other legal or equitable interests**
27 **acquired by the authority for the construction, including the**
28 **cost of any relocations incident to the acquisition;**
- 29 **(3) the cost of demolishing or removing any buildings,**
30 **structures, or improvements on property acquired by the**
31 **authority, including the cost of:**
 - 32 **(A) acquiring any property to which the buildings,**
33 **structures, or improvements may be moved; or**
 - 34 **(B) acquiring any property that may be exchanged for**
35 **property acquired by the authority;**
- 36 **(4) financing charges;**
- 37 **(5) costs of issuance of bonds or notes, including costs of credit**
38 **enhancement, such as bond or note insurance;**
- 39 **(6) remarketing or conversion fees;**
- 40 **(7) bond or note discount;**
- 41 **(8) capitalized interest;**
- 42 **(9) the cost of funding any reserves to secure the payment of**

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1 **bonds or notes;**
2 **(10) engineering and legal expenses, costs of plans,**
3 **specifications, surveys, estimates, and any necessary**
4 **feasibility studies;**
5 **(11) other expenses necessary or incident to determining the**
6 **feasibility or practicability of constructing any local road**
7 **project;**
8 **(12) administrative expenses of the authority or one (1) or**
9 **more local units relating to any local road project financed by**
10 **bonds or notes;**
11 **(13) reimbursement of one (1) or more local units for:**
12 **(A) any cost, obligation, or expense incurred by the local**
13 **unit or units relating to a local road project;**
14 **(B) advances relating to a local road project from the local**
15 **unit or units to the authority for surveys, borings,**
16 **preparation of plans and specifications, or engineering**
17 **services; or**
18 **(C) any other cost of construction incurred by the local**
19 **unit or units or paid from advances; and**
20 **(14) other expenses the authority finds necessary or incident**
21 **to the construction of the local road project, the financing of**
22 **the construction, and the placing of the local road project in**
23 **operation.**
24 **Sec. 7. "Local road project" means any:**
25 **(1) road;**
26 **(2) street;**
27 **(3) motorway;**
28 **(4) bridge;**
29 **(5) tunnel;**
30 **(6) overpass;**
31 **(7) underpass;**
32 **(8) interchange;**
33 **(9) entrance;**
34 **(10) approach; or**
35 **(11) other public way;**
36 **that is part of the arterial road system, local county roads, arterial**
37 **street system, or local streets for a local unit for purposes of**
38 **IC 8-14-2. The term includes all land, rights-of-way, property,**
39 **rights, easements, materials, and legal or equitable interests**
40 **necessary for the construction of the local road project.**
41 **Sec. 8. "Local unit" means a city, town, or county acting**
42 **through its fiscal body (as defined in IC 36-1-2-6).**

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1 **Sec. 9. "Notes"** refers to notes of the authority issued under
2 **IC 8-14.6-6** and includes any evidences of indebtedness of the
3 **authority except bonds.**

4 **Sec. 10. "Property owner"** means all individuals,
5 **copartnerships, associations, governmental units or entities,**
6 **corporations, limited liability companies, or other legal entities**
7 **having any title or interest in any land, rights-of-way, property,**
8 **rights, easements, or legal or equitable interests that may be**
9 **acquired by the authority.**

10 **Sec. 11. "Weighted average life"** of an issue of bonds or notes
11 **means:**

12 (1) the sum of the products of the face amount of each
13 **maturity and the number of years to maturity (determined**
14 **separately for each maturity and by taking into account**
15 **mandatory sinking fund redemptions); divided by**

16 (2) the face amount of the entire issue of bonds or notes.

17 **Sec. 12. "Weighted average useful life"** of a local road project
18 **or local road projects means:**

19 (1) the sum of the products of the cost of each asset
20 **comprising the local road project or local road projects and**
21 **the useful life of the respective asset; divided by**

22 (2) the total cost of all the assets comprising the local road
23 **project or local road projects.**

24 **For purposes of this computation, the useful life of land is fifty (50)**
25 **years. The useful life of all other assets comprising the local road**
26 **project shall be conclusively evidenced by a certificate of the local**
27 **unit, supported by a statement from the local unit's consulting**
28 **engineer. The weighted average useful life of any local road project**
29 **shall be determined as of the later of the date on which the local**
30 **road project is expected to be placed in service and the date on**
31 **which the bonds or notes are issued.**

32 **Chapter 3. General Provisions**

33 **Sec. 1. The authority shall contract with one (1) or more local**
34 **units for construction, ownership, maintenance, and operation of**
35 **local road projects.**

36 **Sec. 2. The authority shall finance local road projects in**
37 **accordance with this article.**

38 **Sec. 3. The authority may exercise any powers provided under**
39 **this article in participation or cooperation with any governmental**
40 **entity and enter into any contracts to facilitate that participation**
41 **or cooperation without compliance with any other statute. This**
42 **article constitutes complete authority for the authority to carry out**

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1 its powers and duties under this article. No law, procedure,
2 proceedings, publications, notices, consents, approvals, orders, or
3 acts by the authority or any other officer, department, agency, or
4 instrumentality of the state or any political subdivision are
5 required for the authority to carry out its powers and duties,
6 except as prescribed in this article.

7 Sec. 4. The authority may pay the cost of construction of a local
8 road project from any funds available to the authority under this
9 article or any other law.

10 Sec. 5. The authority may sell, transfer, lease, or otherwise
11 convey any land, rights-of-way, property, rights, easements, or
12 legal or equitable interest it considers necessary or convenient for
13 carrying out this article, including disposal of unused or surplus
14 property.

15 Sec. 6. The authority may acquire by purchase, whenever it
16 considers a purchase expedient, any land, rights-of-way, property,
17 rights, easements, or other legal or equitable interests as it
18 considers necessary or convenient for the construction and
19 operation of any local road project. A purchase under this section
20 shall be made upon the terms and at the price agreed upon between
21 the authority and the property owner.

22 Sec. 7. The authority may make and enter into all contracts and
23 agreements necessary or incidental to the performance of its duties
24 and the execution of its powers under this article or any other law.
25 These contracts or agreements are not subject to any approvals
26 other than the approval of the authority and may be for any term
27 of years and contain any terms that are considered reasonable by
28 the authority.

29 Sec. 8. The authority may employ and fix the compensation of
30 financial advisors and underwriters, bond counsel, other attorneys
31 with the approval of the attorney general, and other employees,
32 independent contractors, and agents as necessary in its judgment
33 to carry out this article. The authority is subject to the provisions
34 of 25 IAC 5 concerning equal opportunities for minority business
35 enterprises and women's business enterprises to participate in
36 procurement and contracting processes.

37 Sec. 9. The authority may accept gifts, devises, bequests, grants,
38 appropriations, revenue sharing, other financing and assistance,
39 and any other aid from any source and agree to and comply with
40 conditions attached to the aid.

41 Sec. 10. The authority may accept the transfer of any local road
42 project to the authority.

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1 **Sec. 11. (a) Except as provided in subsection (b), the authority**
2 **may, in the manner provided by IC 8-23-7, acquire by**
3 **appropriation any land, rights-of-way, property, rights, easements,**
4 **or other legal or equitable interests necessary or convenient for the**
5 **construction or the efficient operation of any local road project.**
6 **However, compensation for the property taken shall first be made**
7 **in money as provided by law.**

8 **(b) The authority may take or disturb property or facilities that:**
9 **(1) belong to any public utility or to a common carrier**
10 **engaged in interstate commerce;**
11 **(2) are required for the proper and convenient operation of**
12 **the public utility or common carrier; and**
13 **(3) are not located within the limits of local road projects**
14 **being constructed under this article;**
15 **only if provision is made for the restoration, relocation, or**
16 **duplication of the property or facilities elsewhere at the cost of the**
17 **authority.**

18 **Sec. 12. The authority may do all things necessary or proper to**
19 **carry out this article.**

20 **Sec. 13. A local unit may convey, transfer, lease, or sell, with or**
21 **without consideration, real property of any nature (including**
22 **buildings, structures, improvements, land, rights-of-way,**
23 **easements, and legal or equitable interests), title to which is held in**
24 **the name of the local unit, to the authority, without being required**
25 **to advertise or solicit bids or proposals, in order to accomplish the**
26 **governmental purposes of this article.**

27 **Sec. 14. All property of the authority is public property devoted**
28 **to an essential public and governmental function and purpose and**
29 **is exempt from all taxes and special assessments of the state or any**
30 **political subdivision of the state.**

31 **Chapter 4. Contracts With Local Units**

32 **Sec. 1. The authority is responsible for the construction, leasing,**
33 **and ownership of local road projects. With respect to each local**
34 **road project, the authority and one (1) or more local units may**
35 **enter into a contract for the purposes set forth in this chapter. If**
36 **the authority and the local unit or units decide to enter into a**
37 **contract under this chapter, the authority and the local unit or**
38 **units may enter into a separate contract for each local road project**
39 **or a master contract for several local road projects.**

40 **Sec. 2. A contract under this chapter must:**

41 **(1) provide for the construction and ownership of the local**
42 **road project; and**

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1 (2) describe the local road project or local road projects,
2 setting forth in general terms principal features such as
3 geographic location, widths of rights-of-way, number of lanes
4 in each direction, width of traffic lanes, widths of shoulders,
5 location and nature of tunnels, overpasses, underpasses,
6 interchanges, bridges, approaches, and connecting roads,
7 streets, and highways.

8 **Sec. 3. The contract may include the following:**

9 (1) Provisions for payment by the authority to the local unit
10 or units of all costs incurred by the local unit or units in the
11 performance of the contracts, including all costs of
12 construction, salaries, wages, and associated costs of
13 personnel attributable to performance of the contract.

14 (2) Other terms and conditions that the authority and the
15 local unit or units consider appropriate.

16 **Sec. 4. Notwithstanding any other law, a local unit may enter**
17 **into a contract with the authority by negotiating the contract with**
18 **the authority and without complying with the requirements of any**
19 **other law. A local unit shall observe any existing contractual**
20 **commitments to the holders of bonds or notes or other persons**
21 **when entering into a contract.**

22 **Chapter 5. Leases With Local Units**

23 **Sec. 1. (a) In addition to its other powers, one (1) or more local**
24 **units may enter into a lease or leases with the authority under**
25 **section 2 or 3 of this chapter for any or all of the purposes set forth**
26 **in this article. Notwithstanding any other law, a local unit may**
27 **enter into a lease with the authority by negotiating the lease with**
28 **the authority and without complying with the requirements of any**
29 **other law. A local unit shall observe any existing contractual**
30 **commitments to the holders of bonds or notes or other persons**
31 **when entering into a lease.**

32 (b) The authority has all the powers necessary and incidental to
33 carry out the terms and conditions of leases under this chapter.

34 (c) If the authority and one (1) or more local units decide to
35 enter into a lease under this chapter, the authority and the local
36 unit or units may enter into a separate lease for each local road
37 project or may enter into one (1) or more master leases for several
38 local road projects.

39 **Sec. 2. (a) A lease entered into under this section must include**
40 **the following:**

41 (1) A statement that the term of the lease is for a period
42 coextensive with the biennium used for state budgetary and

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appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the local unit or units give notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely from the sources described in section 6 of this chapter, for the actual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(4) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease; subject to the appropriation of money by the local unit or units to pay lease rentals.

(5) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(6) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units

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consider appropriate.

(c) The fiscal officer (as defined in IC 36-1-2-7) of the local unit shall request an appropriation from the local unit for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal budgetary process of the local unit.

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed the weighted average useful life of the local road project or local road projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely for the annual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(3) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority.

(B) Additional rent as provided by the lease.

(4) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(5) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units

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consider appropriate.

Sec. 4. If a local unit fails at any time to pay to the authority when due any lease rentals on any lease under this chapter, the chairman of the authority shall immediately report the unpaid amount in writing to the general assembly and the governor.

Sec. 5. A local unit or units may lease any property under its control to the authority for construction of a local road project, which local road project may be leased to the local unit or units.

Sec. 6. (a) A local unit shall pay lease rentals for leases entered into under this chapter from revenues from any combination of the following sources:

- (1) Money payable to the local unit from the motor vehicle highway account.**
- (2) Money payable to the local unit from the local road and street account.**
- (3) Revenues from the county motor vehicle excise surtax.**
- (4) Revenues from the county wheel tax.**
- (5) Federal transportation revenues apportioned or allocated to the state and distributed to the local unit by the Indiana department of transportation.**
- (6) Any other source of revenues (other than property taxes) that is legally available to the local unit.**

(b) A local unit may, in the manner provided by IC 5-1-14-4, pledge the revenues described in this section for the payment of lease rentals. However, in making a pledge the local unit shall not commit money required to provide adequate funding for other local road needs.

Sec. 7. If a local unit pledges money from the motor vehicle highway account or the local road and street account, or both, for the payment of lease rentals for leases entered into under this chapter, the local unit shall immediately provide the auditor of state with a written notice setting forth the terms of the pledge and directing the auditor of state to:

- (1) withhold the amounts pledged from the distributions that are otherwise payable to the local unit under IC 8-14-1-3 or IC 8-14-2-4, or both; and**
- (2) pay the amounts withheld to the authority.**

Notwithstanding IC 8-14-1-3 and IC 8-14-2-4, the auditor of state shall withhold and pay to the authority the amounts specified in the notice.

Sec. 8. Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer

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1 of state, is the custodian of money payable to a local unit (other
2 than for goods or services provided by the local unit), at any time
3 after written notice to the department or agency head from the
4 authority that the local unit is in default on the payment of lease
5 rentals for a lease entered into under this chapter, the department
6 or agency shall withhold the payment of that money from the local
7 unit and pay over the money to the authority for the purpose of
8 paying the lease rentals.

9 Sec. 9. The requirements of sections 7 and 8 of this chapter to
10 withhold amounts due under a lease do not create a debt of the
11 state or a local unit for purposes of the Constitution of the State of
12 Indiana.

13 Chapter 6. Issuance of Bonds and Notes

14 Sec. 1. Subject to sections 2 and 5 of this chapter, and before
15 July 1, 2008, the authority shall, by resolution, issue and sell bonds
16 or notes of the authority to provide funds to carry out this article
17 with respect to the construction of a local road project or local
18 road projects or the refunding of any bonds or notes, together with
19 any reasonable costs associated with a refunding.

20 Sec. 2. Before the issuance of bonds or notes, the authority must
21 receive the approval of the budget agency.

22 Sec. 3. (a) The construction of a local road project may not be
23 financed under this article, if at the time the lease with respect to
24 the local road project is initially entered into, the weighted average
25 useful life of the local road project is less than five (5) years.

26 (b) For purposes of this section and section 5 of this chapter, a
27 certificate of the local unit, supported by a statement from the local
28 unit's consulting engineer, as to the weighted average useful life of
29 the local road project is conclusive with respect to the matters
30 contained in the certificate.

31 (c) If any bonds or notes bear interest at a variable or
32 adjustable rate, lease rentals under any lease or leases attributable
33 to debt service shall be fixed over the term of the lease or leases
34 based on the fair and reasonable value of the local road project or
35 local road projects leased.

36 Sec. 4. (a) Before issuing a series of bonds or notes, the authority
37 shall publish a notice of its determination to issue the bonds or
38 notes. The notice shall be published:

- 39 (1) one (1) time in two (2) newspapers published and of
40 general circulation in the city of Indianapolis; and
- 41 (2) one (1) time in one (1) newspaper published and of general
42 circulation in each local unit that proposes to enter into a

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1 lease of the local road projects to be financed by the bonds or
2 notes.

- 3 (b) No action to contest the validity of:
- 4 (1) any contract entered into by one (1) or more local units
- 5 and the authority before the bonds or notes are issued;
- 6 (2) any lease entered into by one (1) or more local units and
- 7 the authority before the bonds or notes are issued to secure a
- 8 series of bonds or notes; or
- 9 (3) a series of bonds or notes issued by the authority;

10 may be brought against the authority after the fifteenth day
11 following publication of the notice required by subsection (a)(1) or
12 against a local unit after the fifteenth day following publication of
13 the notice under subsection (a)(2).

14 (c) If a lease or contract is entered into under this chapter after
15 bonds or notes relating to the lease or contract are issued, the
16 authority may publish notice of execution of the lease or contract
17 as set forth in subsection (a). No action against the authority to
18 contest the validity of such a lease or contract may be brought after
19 the fifteenth day following publication of the notice under
20 subsection (a)(1) or against a local unit after the fifteenth day
21 following publication of the notice under subsection (a)(2).

22 (d) If an action against the authority or a local unit challenging
23 a lease, a contract, bonds, or notes is not brought within the time
24 prescribed by this section, the lease, contract, bonds, or notes shall
25 be conclusively presumed to be fully authorized and valid under
26 the laws of the state and any person or entity is estopped from
27 further questioning the authorization, validity, execution, delivery,
28 or issuance of the contract, lease, bonds, or notes.

29 **Sec. 5. (a) The bonds or notes must indicate on their face:**

- 30 (1) the maturity date or dates, as determined under subsection
- 31 (b);
- 32 (2) the interest rate or rates (whether fixed, variable, or a
- 33 combination of fixed and variable) or the manner in which the
- 34 interest rate or rates will be determined if variable or
- 35 adjustable rates are used;
- 36 (3) registration privileges and place of payment, including
- 37 provisions for book entry obligations as set forth in IC 5-1-15;
- 38 (4) the conditions and terms under which the bonds or notes
- 39 may be redeemed or prepaid before maturity; and
- 40 (5) the source of payment as set forth in section 10 of this
- 41 chapter.

42 (b) The weighted average life of the bonds or notes may not

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exceed the sum of:

- (1) the weighted average useful life of the local road project or local road projects to be financed from the proceeds of the bonds or notes; plus
- (2) the period of construction of the local road project or local road projects.

Sec. 6. The bonds or notes:

- (1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;
- (2) shall be attested by the manual or facsimile signature of the secretary-treasurer or assistant secretary-treasurer of the authority;
- (3) shall be imprinted or impressed with the seal of the authority by any means;
- (4) may be authenticated by a trustee, registrar, or paying agent; and
- (5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, secretary-treasurer, or assistant secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

Sec. 7. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

Sec. 8. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the local road project, a refunding, or the issuance of the bonds or notes.

Sec. 9. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust

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agreement.

Sec. 10. The bonds or notes:

- (1) constitute the corporate obligations of the authority;**
- (2) do not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation; and**
- (3) are payable solely as to both principal and interest from:**
 - (A) the revenues from a lease to one (1) or more local units, if any;**
 - (B) proceeds of bonds or notes, if any; or**
 - (C) investment earnings on proceeds of bonds or notes.**

Sec. 11. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.

Sec. 12. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 13. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

Sec. 14. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

Sec. 15. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by

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1 the authority is binding from the time the pledge is made. Lease
 2 rentals, proceeds of bonds or notes, investment earnings on those
 3 proceeds, or other money pledged by the authority and thereafter
 4 received by the authority or its trustee or fiduciary is immediately
 5 subject to the lien of the pledge without any further act, and the
 6 lien of the pledge is binding against all parties having claims of any
 7 kind in tort, contract, or otherwise against the authority,
 8 regardless of whether the parties have notice of the lien. A
 9 resolution, trust agreement, or any other instrument by which a
 10 pledge is created is required to be filed or recorded only in the
 11 records of the authority.

12 Sec. 16. The authority may obtain from a department or an
 13 agency of the state or of the United States, or from a
 14 nongovernmental insurer, available insurance or guaranty for the
 15 payment or repayment of interest or principal, or both, or any part
 16 of interest or principal, or any debt service reserve funds, on bonds
 17 or notes issued by the authority, or on securities purchased or held
 18 by the authority.

19 Sec. 17. The authority may enter into agreements with an entity
 20 to provide credit enhancement or liquidity support for any bonds
 21 or notes issued by the authority, or for any debt service reserves
 22 securing any bonds or notes, with terms that are reasonable and
 23 proper, in the discretion of the authority, and not in violation of
 24 law. The authority may execute and deliver notes to evidence its
 25 obligation to make payments under such an agreement, but these
 26 notes must conform to this article in all respects.

27 Sec. 18. The authority may enter into agreements or contracts
 28 with any financial institution as may be necessary, desirable, or
 29 convenient in the opinion of the authority for rendering services in
 30 connection with:

- 31 (1) the care, custody, or safekeeping of securities or other
- 32 investments held or owned by the authority;
- 33 (2) the payment or collection of amounts payable as to
- 34 principal or interest; and
- 35 (3) the delivery to the authority of securities or other
- 36 investments purchased or sold by it.

37 The authority may also, in connection with any of the services
 38 rendered by a financial institution as to custody and safekeeping of
 39 its securities or investments, require security in the form of
 40 collateral bonds, surety agreements, or security agreements as, in
 41 the opinion of the authority, is necessary or desirable.

42 Sec. 19. (a) In the discretion of the authority, any bonds and

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1 notes issued under this chapter may be secured by a trust
2 agreement by and between the authority and a corporate trustee,
3 which may be any trust company or bank having the powers of a
4 trust company in Indiana. Such a trust agreement may also
5 provide for a cotrustee, which may be any trust company or bank
6 in Indiana or another state.

7 (b) The trust agreement or the resolution providing for the
8 issuance of the bonds or notes may contain provisions for
9 protecting and enforcing the rights and remedies of the owners of
10 bonds or notes as may be reasonable and proper, in the discretion
11 of the authority, and not in violation of law.

12 (c) The trust agreement or resolution may set forth the rights
13 and remedies of the owners of any bonds or notes of the trustee and
14 may restrict the individual right of action by the owners.

15 (d) Any trust agreement or resolution may contain other
16 provisions that the authority considers reasonable and proper for
17 the security of the owners of bonds or notes.

18 (e) All expenses incurred in carrying out the provisions of the
19 trust agreement or resolution may be paid from money pledged or
20 assigned to the payment of the principal of and interest on bonds
21 or notes or from any other funds available to the authority.

22 **Sec. 20.** The authority may purchase bonds or notes of the
23 authority out of its funds or money available for the purchase of its
24 own bonds or notes. The authority may hold, cancel, or resell the
25 bonds or notes subject to, and in accordance with, agreements with
26 owners of its bonds or notes. Unless canceled, bonds or notes so
27 held shall be considered to be held for resale or transfer and the
28 obligation evidenced by the bonds or notes shall not be considered
29 to be extinguished.

30 **Sec. 21.** Funds or money held by the authority under any trust
31 agreement or resolution may be invested pending disbursement as
32 provided in the trust agreement or the resolution. Such an
33 investment is not restricted by or subject to the provisions of any
34 other law.

35 **Chapter 7. Reserve Fund for Bonds and Notes**

36 **Sec. 1. (a)** The authority may establish and maintain a reserve
37 fund for each issue of bonds or notes in which there shall be
38 deposited or transferred:

- 39 (1) all money appropriated by the general assembly for the
40 purpose of the fund in accordance with section 3(a) of this
41 chapter;
42 (2) all proceeds of bonds or notes required to be deposited in

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- the fund under the terms of:
 - (A) a contract between the authority and the holders of the bonds or notes; or
 - (B) a resolution of the authority with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the authority that it decides to deposit in the fund.

(b) Subject to section 3(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the authority as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the authority.

(c) Money in any reserve fund that exceeds the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds or notes.

Sec. 2. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

Sec. 3. (a) In order to assure the maintenance of the required debt service reserve in any reserve fund, the general assembly may annually appropriate to the authority for deposit in one (1) or more of the funds the sum, certified by the authority to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve. Before December 1 of each year, the authority shall make and deliver to the general assembly a certificate stating the sum required to

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1 restore the funds to that amount. Nothing in this subsection creates
2 a debt or liability of the state to make any appropriation.

3 (b) All amounts received on account of money appropriated by
4 the state to any reserve fund shall be held and applied in
5 accordance with section 1(b) of this chapter. However, at the end
6 of each fiscal year, if the amount in any reserve fund exceeds the
7 required debt service reserve, any amount representing earnings
8 or income received on account of any money appropriated to the
9 reserve fund that exceeds the expenses of the authority for that
10 fiscal year may be transferred to the state general fund.

11 Sec. 4. Subject to the provisions of any agreement with its
12 holders, the bank may combine a reserve fund established for an
13 issue of bonds or notes into one (1) or more reserve funds.

14 SECTION 14. IC 8-23-3-11 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2005]: Sec. 11. Notwithstanding any other provision of this
17 chapter, if grant anticipation revenue bonds or notes have been
18 issued under IC 8-14.5-7, the department shall collect or cause to
19 be collected federal transportation revenues (as defined in
20 IC 8-14.5-7-1) and shall, as provided by the department in the
21 revenue declaration relating to the issuance of the grant
22 anticipation revenue bonds or notes, deposit or cause to be
23 deposited the specified part of the federal transportation revenues
24 in the grant anticipation fund.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1729, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, reset in roman "used".

Page 1, line 4, after "used" insert "**or**".

Page 1, line 9, strike "collected" and insert "**collect the tax**".

and when so amended that said bill do pass.

(Reference is to HB 1729 as introduced.)

ESPICH, Chair

Committee Vote: yeas 20, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1729 be amended to read as follows:

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

"SECTION 1. IC 6-3.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the surtax to:

- (1) the department of transportation established by IC 36-3-5-4 for use by the department under law; **or**
- (2) the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.**

The city-county council may not appropriate money derived from the surtax for any other purpose.

SECTION 2. IC 6-3.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) In the case of a county that does not contain a consolidated city of the first class, the county treasurer shall deposit the surtax revenues in a fund to be known as the "_____ County Surtax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county surtax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county surtax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the surtax revenues it receives under this section to:

- (1) construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; **or**
- (2) provide funds to the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.**

SECTION 3. IC 6-3.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) In the case of a county that contains a consolidated city, the city-county council may appropriate money derived from the wheel tax to:

- (1) the department of transportation established by IC 36-3-5-4 for use by the department under law; **or**

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- (2) an authority established under IC 36-7-23; or
- (3) the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6.**

(b) The city-county council may not appropriate money derived from the wheel tax for any other purpose.

SECTION 4. IC 6-3.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) In the case of a county that does not contain a consolidated city, the county treasurer shall deposit the wheel tax revenues in a fund to be known as the "County Wheel Tax Fund".

(b) Before the twentieth day of each month, the county auditor shall allocate the money deposited in the county wheel tax fund during that month among the county and the cities and the towns in the county. The county auditor shall allocate the money to counties, cities, and towns under IC 8-14-2-4(c)(1) through IC 8-14-2-4(c)(3).

(c) Before the twenty-fifth day of each month, the county treasurer shall distribute to the county and the cities and towns in the county the money deposited in the county wheel tax fund during that month. The county treasurer shall base the distribution on allocations made by the county auditor for that month under subsection (b).

(d) A county, city, or town may only use the wheel tax revenues it receives under this section:

- (1) to construct, reconstruct, repair, or maintain streets and roads under its jurisdiction; or
- (2) as a contribution to an authority established under IC 36-7-23;
- or
- (3) to provide funds to the Indiana transportation finance authority for the payment of lease rentals under IC 8-14.6."**

Page 4, line 40, after "revenues." insert "**When issuing grant anticipation revenue bonds or notes, the authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes.**".

Page 5, between lines 34 and 35, begin a new paragraph and insert:
 "SECTION 13. IC 8-14.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 14.6. LEASE FINANCING FOR LOCAL ROAD PROJECTS

Chapter 1. Legislative Findings of Fact

Sec. 1. The general assembly makes the following findings of fact:

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(1) That there exists in cities, towns, and counties in Indiana a need for construction, acquisition, reconstruction, improvement, and extension of local roads in order to provide for the public welfare and safety by providing safe, dependable, and reliable local roads for vehicular traffic.

(2) That the development and maintenance of the economy of Indiana's cities, towns, and counties requires an adequate system of local roads in order to provide for the public welfare and to facilitate the creation and maintenance of jobs, the increase and stabilization of the tax base, and the general economic welfare of cities, towns, and counties and their citizens.

(3) That it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

Sec. 2. This article provides an additional and alternative method for doing the things authorized by this article, and is supplemental and additional to powers conferred by other laws and not in derogation of any other powers.

Sec. 3. This article is necessary for the welfare of the cities, towns, and counties of Indiana and their inhabitants, and shall be liberally construed to effect the purposes of this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Authority" refers to the Indiana transportation finance authority established under IC 8-9.5-8-2.

Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.6-6.

Sec. 4. "Capitalized interest" means interest cost on bonds or notes before and during the period of construction of the local road project for which the bonds or notes were issued, and for a period not to exceed one (1) year after completion of construction.

Sec. 5. "Construction" means the construction, acquisition, reconstruction, improvement, and extension of a local road project.

Sec. 6. "Costs" as applied to any local road project includes any item or cost of a capital nature incurred in the construction of a local road project, including:

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the authority for the construction, including the

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- cost of any relocations incident to the acquisition;
- (3) the cost of demolishing or removing any buildings, structures, or improvements on property acquired by the authority, including the cost of:
 - (A) acquiring any property to which the buildings, structures, or improvements may be moved; or
 - (B) acquiring any property that may be exchanged for property acquired by the authority;
- (4) financing charges;
- (5) costs of issuance of bonds or notes, including costs of credit enhancement, such as bond or note insurance;
- (6) remarketing or conversion fees;
- (7) bond or note discount;
- (8) capitalized interest;
- (9) the cost of funding any reserves to secure the payment of bonds or notes;
- (10) engineering and legal expenses, costs of plans, specifications, surveys, estimates, and any necessary feasibility studies;
- (11) other expenses necessary or incident to determining the feasibility or practicability of constructing any local road project;
- (12) administrative expenses of the authority or one (1) or more local units relating to any local road project financed by bonds or notes;
- (13) reimbursement of one (1) or more local units for:
 - (A) any cost, obligation, or expense incurred by the local unit or units relating to a local road project;
 - (B) advances relating to a local road project from the local unit or units to the authority for surveys, borings, preparation of plans and specifications, or engineering services; or
 - (C) any other cost of construction incurred by the local unit or units or paid from advances; and
- (14) other expenses the authority finds necessary or incident to the construction of the local road project, the financing of the construction, and the placing of the local road project in operation.

Sec. 7. "Local road project" means any:

- (1) road;
- (2) street;
- (3) motorway;

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- (4) bridge;
- (5) tunnel;
- (6) overpass;
- (7) underpass;
- (8) interchange;
- (9) entrance;
- (10) approach; or
- (11) other public way;

that is part of the arterial road system, local county roads, arterial street system, or local streets for a local unit for purposes of IC 8-14-2. The term includes all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests necessary for the construction of the local road project.

Sec. 8. "Local unit" means a city, town, or county acting through its fiscal body (as defined in IC 36-1-2-6).

Sec. 9. "Notes" refers to notes of the authority issued under IC 8-14.6-6 and includes any evidences of indebtedness of the authority except bonds.

Sec. 10. "Property owner" means all individuals, copartnerships, associations, governmental units or entities, corporations, limited liability companies, or other legal entities having any title or interest in any land, rights-of-way, property, rights, easements, or legal or equitable interests that may be acquired by the authority.

Sec. 11. "Weighted average life" of an issue of bonds or notes means:

- (1) the sum of the products of the face amount of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory sinking fund redemptions); divided by
- (2) the face amount of the entire issue of bonds or notes.

Sec. 12. "Weighted average useful life" of a local road project or local road projects means:

- (1) the sum of the products of the cost of each asset comprising the local road project or local road projects and the useful life of the respective asset; divided by
- (2) the total cost of all the assets comprising the local road project or local road projects.

For purposes of this computation, the useful life of land is fifty (50) years. The useful life of all other assets comprising the local road project shall be conclusively evidenced by a certificate of the local unit, supported by a statement from the local unit's consulting

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engineer. The weighted average useful life of any local road project shall be determined as of the later of the date on which the local road project is expected to be placed in service and the date on which the bonds or notes are issued.

Chapter 3. General Provisions

Sec. 1. The authority shall contract with one (1) or more local units for construction, ownership, maintenance, and operation of local road projects.

Sec. 2. The authority shall finance local road projects in accordance with this article.

Sec. 3. The authority may exercise any powers provided under this article in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute. This article constitutes complete authority for the authority to carry out its powers and duties under this article. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision are required for the authority to carry out its powers and duties, except as prescribed in this article.

Sec. 4. The authority may pay the cost of construction of a local road project from any funds available to the authority under this article or any other law.

Sec. 5. The authority may sell, transfer, lease, or otherwise convey any land, rights-of-way, property, rights, easements, or legal or equitable interest it considers necessary or convenient for carrying out this article, including disposal of unused or surplus property.

Sec. 6. The authority may acquire by purchase, whenever it considers a purchase expedient, any land, rights-of-way, property, rights, easements, or other legal or equitable interests as it considers necessary or convenient for the construction and operation of any local road project. A purchase under this section shall be made upon the terms and at the price agreed upon between the authority and the property owner.

Sec. 7. The authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article or any other law. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by

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the authority.

Sec. 8. The authority may employ and fix the compensation of financial advisors and underwriters, bond counsel, other attorneys with the approval of the attorney general, and other employees, independent contractors, and agents as necessary in its judgment to carry out this article. The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes.

Sec. 9. The authority may accept gifts, devises, bequests, grants, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

Sec. 10. The authority may accept the transfer of any local road project to the authority.

Sec. 11. (a) Except as provided in subsection (b), the authority may, in the manner provided by IC 8-23-7, acquire by appropriation any land, rights-of-way, property, rights, easements, or other legal or equitable interests necessary or convenient for the construction or the efficient operation of any local road project. However, compensation for the property taken shall first be made in money as provided by law.

- (b) The authority may take or disturb property or facilities that:**
 - (1) belong to any public utility or to a common carrier engaged in interstate commerce;**
 - (2) are required for the proper and convenient operation of the public utility or common carrier; and**
 - (3) are not located within the limits of local road projects being constructed under this article;**

only if provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the cost of the authority.

Sec. 12. The authority may do all things necessary or proper to carry out this article.

Sec. 13. A local unit may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests), title to which is held in the name of the local unit, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this article.

Sec. 14. All property of the authority is public property devoted

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to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or any political subdivision of the state.

Chapter 4. Contracts With Local Units

Sec. 1. The authority is responsible for the construction, leasing, and ownership of local road projects. With respect to each local road project, the authority and one (1) or more local units may enter into a contract for the purposes set forth in this chapter. If the authority and the local unit or units decide to enter into a contract under this chapter, the authority and the local unit or units may enter into a separate contract for each local road project or a master contract for several local road projects.

Sec. 2. A contract under this chapter must:

- (1) provide for the construction and ownership of the local road project; and
- (2) describe the local road project or local road projects, setting forth in general terms principal features such as geographic location, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of tunnels, overpasses, underpasses, interchanges, bridges, approaches, and connecting roads, streets, and highways.

Sec. 3. The contract may include the following:

- (1) Provisions for payment by the authority to the local unit or units of all costs incurred by the local unit or units in the performance of the contracts, including all costs of construction, salaries, wages, and associated costs of personnel attributable to performance of the contract.
- (2) Other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. Notwithstanding any other law, a local unit may enter into a contract with the authority by negotiating the contract with the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a contract.

Chapter 5. Leases With Local Units

Sec. 1. (a) In addition to its other powers, one (1) or more local units may enter into a lease or leases with the authority under section 2 or 3 of this chapter for any or all of the purposes set forth in this article. Notwithstanding any other law, a local unit may enter into a lease with the authority by negotiating the lease with

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the authority and without complying with the requirements of any other law. A local unit shall observe any existing contractual commitments to the holders of bonds or notes or other persons when entering into a lease.

(b) The authority has all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the authority and one (1) or more local units decide to enter into a lease under this chapter, the authority and the local unit or units may enter into a separate lease for each local road project or may enter into one (1) or more master leases for several local road projects.

Sec. 2. (a) A lease entered into under this section must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the local unit or units give notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely from the sources described in section 6 of this chapter, for the actual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(4) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease; subject to the appropriation of money by the local unit or

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units to pay lease rentals.

(5) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(6) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

(c) The fiscal officer (as defined in IC 36-1-2-7) of the local unit shall request an appropriation from the local unit for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal budgetary process of the local unit.

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed the weighted average useful life of the local road project or local road projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the local unit or units solely for the annual use or availability for use of local road projects provided by the authority, with payment commencing not earlier than the time the use or availability commences.

(3) Provisions requiring the local unit or units to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any local road project, including any required additions to reserves for the bonds or notes maintained by the authority.

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(B) Additional rent as provided by the lease.

(4) Provisions requiring the local unit or units to operate and maintain the local road project or local road projects during the term of the lease.

(5) A provision in each master lease for two (2) or more local road projects requiring that each local road project added to the master lease shall be covered by a supplemental lease describing the particular local road project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all local road projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the local unit or units consider appropriate.

Sec. 4. If a local unit fails at any time to pay to the authority when due any lease rentals on any lease under this chapter, the chairman of the authority shall immediately report the unpaid amount in writing to the general assembly and the governor.

Sec. 5. A local unit or units may lease any property under its control to the authority for construction of a local road project, which local road project may be leased to the local unit or units.

Sec. 6. (a) A local unit shall pay lease rentals for leases entered into under this chapter from revenues from any combination of the following sources:

- (1) Money payable to the local unit from the motor vehicle highway account.**
- (2) Money payable to the local unit from the local road and street account.**
- (3) Revenues from the county motor vehicle excise surtax.**
- (4) Revenues from the county wheel tax.**
- (5) Federal transportation revenues apportioned or allocated to the state and distributed to the local unit by the Indiana department of transportation.**
- (6) Any other source of revenues (other than property taxes) that is legally available to the local unit.**

(b) A local unit may, in the manner provided by IC 5-1-14-4, pledge the revenues described in this section for the payment of lease rentals. However, in making a pledge the local unit shall not commit money required to provide adequate funding for other local road needs.

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Sec. 7. If a local unit pledges money from the motor vehicle highway account or the local road and street account, or both, for the payment of lease rentals for leases entered into under this chapter, the local unit shall immediately provide the auditor of state with a written notice setting forth the terms of the pledge and directing the auditor of state to:

- (1) withhold the amounts pledged from the distributions that are otherwise payable to the local unit under IC 8-14-1-3 or IC 8-14-2-4, or both; and**
- (2) pay the amounts withheld to the authority.**

Notwithstanding IC 8-14-1-3 and IC 8-14-2-4, the auditor of state shall withhold and pay to the authority the amounts specified in the notice.

Sec. 8. Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to a local unit (other than for goods or services provided by the local unit), at any time after written notice to the department or agency head from the authority that the local unit is in default on the payment of lease rentals for a lease entered into under this chapter, the department or agency shall withhold the payment of that money from the local unit and pay over the money to the authority for the purpose of paying the lease rentals.

Sec. 9. The requirements of sections 7 and 8 of this chapter to withhold amounts due under a lease do not create a debt of the state or a local unit for purposes of the Constitution of the State of Indiana.

Chapter 6. Issuance of Bonds and Notes

Sec. 1. Subject to sections 2 and 5 of this chapter, and before July 1, 2008, the authority shall, by resolution, issue and sell bonds or notes of the authority to provide funds to carry out this article with respect to the construction of a local road project or local road projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding.

Sec. 2. Before the issuance of bonds or notes, the authority must receive the approval of the budget agency.

Sec. 3. (a) The construction of a local road project may not be financed under this article, if at the time the lease with respect to the local road project is initially entered into, the weighted average useful life of the local road project is less than five (5) years.

(b) For purposes of this section and section 5 of this chapter, a certificate of the local unit, supported by a statement from the local

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unit's consulting engineer, as to the weighted average useful life of the local road project is conclusive with respect to the matters contained in the certificate.

(c) If any bonds or notes bear interest at a variable or adjustable rate, lease rentals under any lease or leases attributable to debt service shall be fixed over the term of the lease or leases based on the fair and reasonable value of the local road project or local road projects leased.

Sec. 4. (a) Before issuing a series of bonds or notes, the authority shall publish a notice of its determination to issue the bonds or notes. The notice shall be published:

- (1) one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis; and
- (2) one (1) time in one (1) newspaper published and of general circulation in each local unit that proposes to enter into a lease of the local road projects to be financed by the bonds or notes.

(b) No action to contest the validity of:

- (1) any contract entered into by one (1) or more local units and the authority before the bonds or notes are issued;
- (2) any lease entered into by one (1) or more local units and the authority before the bonds or notes are issued to secure a series of bonds or notes; or
- (3) a series of bonds or notes issued by the authority;

may be brought against the authority after the fifteenth day following publication of the notice required by subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the authority may publish notice of execution of the lease or contract as set forth in subsection (a). No action against the authority to contest the validity of such a lease or contract may be brought after the fifteenth day following publication of the notice under subsection (a)(1) or against a local unit after the fifteenth day following publication of the notice under subsection (a)(2).

(d) If an action against the authority or a local unit challenging a lease, a contract, bonds, or notes is not brought within the time prescribed by this section, the lease, contract, bonds, or notes shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery,

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or issuance of the contract, lease, bonds, or notes.

Sec. 5. (a) The bonds or notes must indicate on their face:

- (1) the maturity date or dates, as determined under subsection (b);**
- (2) the interest rate or rates (whether fixed, variable, or a combination of fixed and variable) or the manner in which the interest rate or rates will be determined if variable or adjustable rates are used;**
- (3) registration privileges and place of payment, including provisions for book entry obligations as set forth in IC 5-1-15;**
- (4) the conditions and terms under which the bonds or notes may be redeemed or prepaid before maturity; and**
- (5) the source of payment as set forth in section 10 of this chapter.**

(b) The weighted average life of the bonds or notes may not exceed the sum of:

- (1) the weighted average useful life of the local road project or local road projects to be financed from the proceeds of the bonds or notes; plus**
- (2) the period of construction of the local road project or local road projects.**

Sec. 6. The bonds or notes:

- (1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;**
- (2) shall be attested by the manual or facsimile signature of the secretary-treasurer or assistant secretary-treasurer of the authority;**
- (3) shall be imprinted or impressed with the seal of the authority by any means;**
- (4) may be authenticated by a trustee, registrar, or paying agent; and**
- (5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, secretary-treasurer, or assistant secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.**

Sec. 7. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

Sec. 8. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the

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authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the local road project, a refunding, or the issuance of the bonds or notes.

Sec. 9. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust agreement.

Sec. 10. The bonds or notes:

- (1) constitute the corporate obligations of the authority;
- (2) do not constitute an indebtedness of the state or any local unit within the meaning or application of any constitutional provision or limitation; and
- (3) are payable solely as to both principal and interest from:
 - (A) the revenues from a lease to one (1) or more local units, if any;
 - (B) proceeds of bonds or notes, if any; or
 - (C) investment earnings on proceeds of bonds or notes.

Sec. 11. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.

Sec. 12. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon

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redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 13. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

Sec. 14. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

Sec. 15. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority and thereafter received by the authority or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the authority.

Sec. 16. The authority may obtain from a department or an agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the authority, or on securities purchased or held by the authority.

Sec. 17. The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the authority, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law. The authority may execute and deliver notes to evidence its obligation to make payments under such an agreement, but these notes must conform to this article in all respects.

Sec. 18. The authority may enter into agreements or contracts

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with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;
- (2) the payment or collection of amounts payable as to principal or interest; and
- (3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.

Sec. 19. (a) In the discretion of the authority, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.

(d) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from any other funds available to the authority.

Sec. 20. The authority may purchase bonds or notes of the authority out of its funds or money available for the purchase of its own bonds or notes. The authority may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless canceled, bonds or notes so held shall be considered to be held for resale or transfer and the

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obligation evidenced by the bonds or notes shall not be considered to be extinguished.

Sec. 21. Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

Chapter 7. Reserve Fund for Bonds and Notes

Sec. 1. (a) The authority may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 3(a) of this chapter;
- (2) all proceeds of bonds or notes required to be deposited in the fund under the terms of:
 - (A) a contract between the authority and the holders of the bonds or notes; or
 - (B) a resolution of the authority with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the authority that it decides to deposit in the fund.

(b) Subject to section 3(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the authority as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the authority.

(c) Money in any reserve fund that exceeds the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions

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of any agreement with the holders of any bonds or notes.

Sec. 2. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

Sec. 3. (a) In order to assure the maintenance of the required debt service reserve in any reserve fund, the general assembly may annually appropriate to the authority for deposit in one (1) or more of the funds the sum, certified by the authority to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve. Before December 1 of each year, the authority shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the authority for that fiscal year may be transferred to the state general fund.

Sec. 4. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds."

Renumber all SECTIONS consecutively.

(Reference is to HB 1729 as printed February 9, 2005.)

VAN HAAFTEN

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