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# SENATE BILL No. 259

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-1.5-5-6; IC 4-4-11; IC 4-13.5-1-3.2; IC 4-22; IC 4-23-5.5-9; IC 5-1-16; IC 5-1.5-3-1; IC 5-10.3-3-8; IC 5-13-12-3; IC 8-9.5-8-2.5; IC 10-15-2-10.5; IC 14-12-1-10.2; IC 14-13; IC 14-14-1-18.5; IC 15-1.5-10.5-3; IC 20-12; IC 21-6.1-3-7; IC 23-6-3-6; IC 27-1-29-7.

**Synopsis:** Rulemaking by instrumentalities of the state. Specifies that an instrumentality of state government (including a body corporate and politic or other corporation exercising essential government functions) is an agency for purposes of the rulemaking procedures set forth in IC 4-22-2. Prohibits certain instrumentalities from adopting rules without complying with IC 4-22-2. Authorizes instrumentalities to adopt rules necessary or appropriate to perform their duties and exercise their powers. Authorizes instrumentalities to adopt emergency rules. Requires instrumentalities to submit rules: (1) in effect before July 1, 2005; and (2) adopted at or after a public meeting of the instrumentality, but not in compliance with IC 4-22-2; to the attorney general for review not later than October 1, 2005. Requires the instrumentality to submit documentation and a sworn statement that the rule was adopted at or after a public meeting. Requires the attorney general to approve or disapprove a submitted rule not later than April 1, 2006. Requires the publication of approved rules in the next volume of the Indiana Register and requires the codification of the rules in the next publication of the Indiana Administrative Code or the next supplement to the Indiana Administrative Code. (The introduced version of this bill was prepared by the code revision commission.)

**Effective:** Upon passage; July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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Introduced

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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## SENATE BILL No. 259



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

- 1 SECTION 1. IC 4-1.5-5-6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 6. The corporation may adopt rules under**
- 4 **IC 4-22-2 necessary or appropriate to perform its duties and**
- 5 **exercise its powers.**
- 6 SECTION 2. IC 4-4-11-15 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The authority is
- 8 granted all powers necessary or appropriate to carry out and effectuate
- 9 its public and corporate purposes under this chapter, IC 4-4-21, and
- 10 IC 15-7-5, including but not limited to the following:
- 11 (1) Have perpetual succession as a body politic and corporate and
- 12 an independent instrumentality exercising essential public
- 13 functions.
- 14 (2) ~~Without complying with IC 4-22-2;~~ Adopt, amend, and repeal
- 15 bylaws ~~rules, and regulations~~ **that are** not inconsistent with this
- 16 chapter, IC 4-4-21, and IC 15-7-5, and **that are** necessary or
- 17 convenient to regulate its affairs, ~~and~~ to carry into effect the



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

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

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

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

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

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

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

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

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- 1 industrial development projects, including land, machinery,
- 2 equipment, or any combination thereof; or
- 3 (B) eligible expenditures for an educational facility project
- 4 described in IC 4-4-10.9-6.2(a)(2);
- 5 with the loans to be secured by the pledge of one (1) or more
- 6 bonds, notes, warrants, or other secured or unsecured debt
- 7 obligations of the users or developers.
- 8 (28) Lend or deposit the proceeds of bonds to or with a lender for
- 9 the purpose of furnishing funds to such lender to be used for
- 10 making a loan to a developer or user for the financing of industrial
- 11 development projects under this chapter.
- 12 (29) Enter into agreements with users or developers to allow the
- 13 users or developers, directly or as agents for the authority, to
- 14 wholly or partially construct industrial development projects to be
- 15 leased from or to be acquired by the authority.
- 16 (30) Establish reserves from the proceeds of the sale of bonds,
- 17 other funds, or both, in the amount determined to be necessary by
- 18 the authority to secure the payment of the principal and interest on
- 19 the bonds.
- 20 (31) Adopt rules governing its activities authorized under
- 21 **IC 4-22-2 necessary or appropriate to perform its duties and**
- 22 **exercise its powers** under this chapter, IC 4-4-21, and IC 15-7-5.
- 23 (32) Use the proceeds of bonds to make guaranteed participating
- 24 loans.
- 25 (33) Purchase, discount, sell, and negotiate, with or without
- 26 guaranty, notes and other evidences of indebtedness.
- 27 (34) Sell and guarantee securities.
- 28 (35) Make guaranteed participating loans under IC 4-4-21-26.
- 29 (36) Procure insurance to guarantee, insure, coinsure, and
- 30 reinsure against political and commercial risk of loss, and any
- 31 other insurance the authority considers necessary, including
- 32 insurance to secure the payment of principal and interest on notes
- 33 or other obligations of the authority.
- 34 (37) Provide performance bond guarantees to support eligible
- 35 export loan transactions, subject to the terms of this chapter or
- 36 IC 4-4-21.
- 37 (38) Provide financial counseling services to Indiana exporters.
- 38 (39) Accept gifts, grants, or loans from, and enter into contracts
- 39 or other transactions with, any federal or state agency,
- 40 municipality, private organization, or other source.
- 41 (40) Sell, convey, lease, exchange, transfer, or otherwise dispose
- 42 of property or any interest in property, wherever the property is

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1 located.

2 (41) Cooperate with other public and private organizations to

3 promote export trade activities in Indiana.

4 (42) Make guarantees and administer the agricultural loan and

5 rural development project guarantee fund established by

6 IC 15-7-5.

7 (43) Take assignments of notes and mortgages and security

8 agreements securing notes and other forms of security, and attach,

9 seize, or take title by foreclosure or conveyance to any

10 agricultural enterprise or rural development project when a

11 guaranteed loan to the enterprise or rural development project is

12 clearly in default and when in the opinion of the authority the

13 acquisition is necessary to safeguard the agricultural loan and

14 rural development project guarantee fund, and sell, or on a

15 temporary basis, lease or rent the agricultural enterprise or rural

16 development project for any use.

17 (44) Expend money, as the authority considers appropriate, from

18 the agricultural loan and rural development project guarantee

19 fund created by IC 15-7-5-19.5.

20 (45) Reimburse from bond proceeds expenditures for industrial

21 development projects under this chapter.

22 (46) Do any act necessary or convenient to the exercise of the

23 powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or

24 reasonably implied from those statutes, including but not limited

25 to compliance with requirements of federal law imposed from

26 time to time for the issuance of bonds.

27 (b) The authority's powers under this chapter shall be interpreted

28 broadly to effectuate the purposes of this chapter and may not be

29 construed as a limitation of powers.

30 (c) This chapter does not authorize the financing of industrial

31 development projects for a developer unless any written agreement that

32 may exist between the developer and the user at the time of the bond

33 resolution is fully disclosed to and approved by the authority.

34 SECTION 3. IC 4-4-11-39 IS AMENDED TO READ AS

35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. The issuance of

36 bonds ~~and the promulgation of rules~~ under this chapter, IC 4-4-21, or

37 IC 15-7-5 need not comply with the requirements of any other state

38 laws, applicable thereto. No proceedings, notice, or approval shall be

39 required for the issuance of any bonds or any instrument, or the

40 security therefor, except as provided in this chapter. All agricultural

41 enterprises, rural development projects, and industrial development

42 projects for which funds are advanced, loaned, or otherwise provided

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1 by the authority under this chapter or IC 15-7-5 must be in compliance  
 2 with any land use, zoning, subdivision, and other laws of this state  
 3 applicable to the land upon which the agricultural enterprise, rural  
 4 development project, or industrial development project is located or is  
 5 to be constructed, but a failure to comply with these laws does not  
 6 invalidate any bonds issued to finance an agricultural enterprise, rural  
 7 development project, or industrial development project.

8 SECTION 4. IC 4-13.5-1-3.2 IS ADDED TO THE INDIANA  
 9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
 10 [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. The commission may**  
 11 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
 12 **its duties and exercise its powers.**

13 SECTION 5. IC 4-22-2-3 IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) "Agency" means any:

15 (1) officer, board, commission, department, division, bureau,  
 16 committee, or other governmental entity exercising any of the  
 17 executive (including the administrative) powers of state  
 18 government; **or**

19 (2) **instrumentality of state government.**

20 The term does not include the judicial or legislative departments of  
 21 state government or a political subdivision as defined in IC 36-1-2-13.

22 (b) "Rule" means the whole or any part of an agency statement of  
 23 general applicability that:

24 (1) has or is designed to have the effect of law; and

25 (2) implements, interprets, or prescribes:

26 (A) law or policy; or

27 (B) the organization, procedure, or practice requirements of an  
 28 agency.

29 (c) "Rulemaking action" means the process of formulating or  
 30 adopting a rule. The term does not include an agency action.

31 (d) "Agency action" has the meaning set forth in IC 4-21.5-1-4.

32 (e) "Person" means an individual, corporation, limited liability  
 33 company, partnership, unincorporated association, or governmental  
 34 entity.

35 (f) "Publisher" refers to the publisher of the Indiana Register and  
 36 Indiana Administrative Code, which is the legislative council, or the  
 37 legislative services agency operating under the direction of the council.

38 (g) **"Instrumentality" includes a body corporate and politic or**  
 39 **another corporation authorized by law or another agency to carry**  
 40 **out an essential public function.**

41 (~~g~~) (h) The definitions in this section apply throughout this article.

42 SECTION 6. IC 4-22-2-13 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Subject to  
2 subsections (b), (c), and (d), this chapter applies to:

- 3 **(1) an agency with rulemaking authority that is:**
- 4 **(A) expressly granted by statute;**
- 5 **(B) implied through general statutory authority to**
- 6 **implement a particular statutory program or provision; or**
- 7 **(C) derived or implied from a ruling of a court having**
- 8 **jurisdiction over the instrumentality; and**
- 9 **(2) the addition, amendment, or repeal of a rule in every**
- 10 **rulemaking action.**

11 (b) This chapter does not apply to the following agencies:

- 12 (1) Any military officer or board.
- 13 (2) Any state educational institution (as defined in
- 14 IC 20-12-0.5-1).

15 (c) This chapter does not apply to a rulemaking action that results  
16 in any of the following rules:

- 17 (1) A resolution or directive of any agency that relates solely to
- 18 internal policy, internal agency organization, or internal procedure
- 19 and does not have the effect of law.
- 20 (2) A restriction or traffic control determination of a purely local
- 21 nature that:
- 22 (A) is ordered by the commissioner of the Indiana department
- 23 of transportation;
- 24 (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or
- 25 IC 9-20-7; and
- 26 (C) applies only to one (1) or more particularly described
- 27 intersections, highway portions, bridge causeways, or viaduct
- 28 areas.
- 29 (3) A rule adopted by the secretary of state under IC 26-1-9.1-526.
- 30 (4) An executive order or proclamation issued by the governor.

31 (d) Except as specifically set forth in IC 13-14-9, sections 24, 26,  
32 27, and 29 of this chapter do not apply to rulemaking actions under  
33 IC 13-14-9.

34 SECTION 7. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2004,  
35 SECTION 1, AND AS AMENDED BY P.L.23-2004, SECTION 1, IS  
36 CORRECTED AND AMENDED TO READ AS FOLLOWS  
37 [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies  
38 to a rulemaking action resulting in any of the following rules:

- 39 (1) An order adopted by the commissioner of the Indiana
- 40 department of transportation under IC 9-20-1-3(d) or
- 41 IC 9-21-4-7(a) and designated by the commissioner as an
- 42 emergency rule.

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- 1 (2) An action taken by the director of the department of natural
- 2 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 3 (3) An emergency temporary standard adopted by the
- 4 occupational safety standards commission under
- 5 IC 22-8-1.1-16.1.
- 6 (4) An emergency rule adopted by the solid waste management
- 7 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 8 (5) A rule, other than a rule described in subdivision (6), adopted
- 9 by the department of financial institutions under IC 24-4.5-6-107
- 10 and declared necessary to meet an emergency.
- 11 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 12 department of financial institutions and declared necessary to
- 13 meet an emergency under IC 24-4.5-6-107.
- 14 (7) A rule adopted by the Indiana utility regulatory commission to
- 15 address an emergency under IC 8-1-2-113.
- 16 (8) An emergency rule jointly adopted by the water pollution
- 17 control board and the budget agency under IC 13-18-13-18.
- 18 (9) An emergency rule adopted by the state lottery commission
- 19 under IC 4-30-3-9.
- 20 (10) A rule adopted under IC 16-19-3-5 that the executive board
- 21 of the state department of health declares is necessary to meet an
- 22 emergency.
- 23 (11) An emergency rule adopted by the Indiana transportation
- 24 finance authority under IC 8-21-12.
- 25 (12) An emergency rule adopted by the insurance commissioner
- 26 under IC 27-1-23-7.
- 27 (13) An emergency rule adopted by the Indiana horse racing
- 28 commission under IC 4-31-3-9.
- 29 (14) An emergency rule adopted by the air pollution control
- 30 board, the solid waste management board, or the water pollution
- 31 control board under IC 13-15-4-10(4) or to comply with a
- 32 deadline required by federal law, provided:
- 33 (A) the variance procedures are included in the rules; and
- 34 (B) permits or licenses granted during the period the
- 35 emergency rule is in effect are reviewed after the emergency
- 36 rule expires.
- 37 (15) An emergency rule adopted by the Indiana election
- 38 commission under IC 3-6-4.1-14.
- 39 (16) An emergency rule adopted by the department of natural
- 40 resources under IC 14-10-2-5.
- 41 (17) An emergency rule adopted by the Indiana gaming
- 42 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

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- 1 (18) An emergency rule adopted by the alcohol and tobacco
- 2 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
- 3 IC 7.1-3-20-24.4.
- 4 (19) An emergency rule adopted by the department of financial
- 5 institutions under IC 28-15-11.
- 6 (20) An emergency rule adopted by the office of the secretary of
- 7 family and social services under IC 12-8-1-12.
- 8 (21) An emergency rule adopted by the office of the children's
- 9 health insurance program under IC 12-17.6-2-11.
- 10 (22) An emergency rule adopted by the office of Medicaid policy
- 11 and planning under IC 12-15-41-15.
- 12 (23) An emergency rule adopted by the Indiana state board of
- 13 animal health under IC 15-2.1-18-21.
- 14 (24) An emergency rule adopted by the board of directors of the
- 15 Indiana education savings authority under IC 21-9-4-7.
- 16 (25) An emergency rule adopted by the Indiana board of tax
- 17 review under IC 6-1.1-4-34.
- 18 (26) An emergency rule adopted by the department of local
- 19 government finance under IC 6-1.1-4-33.
- 20 (27) An emergency rule adopted by the boiler and pressure vessel
- 21 rules board under IC 22-13-2-8(c).
- 22 (28) An emergency rule adopted by the Indiana board of tax
- 23 review under IC 6-1.1-4-37(l) or an emergency rule adopted by
- 24 the department of local government finance under
- 25 IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.
- 26 **(29) An emergency rule that:**
- 27 **(A) is adopted by an instrumentality of state government;**
- 28 **and**
- 29 **(B) is not described in subdivision (9), (11), (13), (17), or**
- 30 **(24).**
- 31 (b) The following do not apply to rules described in subsection (a):
- 32 (1) Sections 24 through 36 of this chapter.
- 33 (2) IC 13-14-9.
- 34 (c) After a rule described in subsection (a) has been adopted by the
- 35 agency, the agency shall submit the rule to the publisher for the
- 36 assignment of a document control number. The agency shall submit the
- 37 rule in the form required by section 20 of this chapter and with the
- 38 documents required by section 21 of this chapter. The publisher shall
- 39 determine the number of copies of the rule and other documents to be
- 40 submitted under this subsection.
- 41 (d) After the document control number has been assigned, the
- 42 agency shall submit the rule to the secretary of state for filing. The

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1 agency shall submit the rule in the form required by section 20 of this  
 2 chapter and with the documents required by section 21 of this chapter.  
 3 The secretary of state shall determine the number of copies of the rule  
 4 and other documents to be submitted under this subsection.

5 (e) Subject to section 39 of this chapter, the secretary of state shall:

6 (1) accept the rule for filing; and

7 (2) file stamp and indicate the date and time that the rule is  
 8 accepted on every duplicate original copy submitted.

9 (f) A rule described in subsection (a) takes effect on the latest of the  
 10 following dates:

11 (1) The effective date of the statute delegating authority to the  
 12 agency to adopt the rule.

13 (2) The date and time that the rule is accepted for filing under  
 14 subsection (e).

15 (3) The effective date stated by the adopting agency in the rule.

16 (4) The date of compliance with every requirement established by  
 17 law as a prerequisite to the adoption or effectiveness of the rule.

18 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,  
 19 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), *and except as provided in*  
 20 *subsection (j)*, a rule adopted under this section expires not later than  
 21 ninety (90) days after the rule is accepted for filing under subsection  
 22 (e). Except for a rule adopted under subsection (a)(14), (a)(25), (a)(26),  
 23 *or (a)(28)*, the rule may be extended by adopting another rule under  
 24 this section, but only for one (1) extension period. A rule adopted under  
 25 subsection (a)(14) may be extended for two (2) extension periods.  
 26 *Subject to subsection (j), a rule adopted under subsection (a)(25),*  
 27 *(a)(26), or (a)(28) may be extended for an unlimited number of*  
 28 *extension periods.* Except for a rule adopted under subsection (a)(14),  
 29 for a rule adopted under this section to be effective after one (1)  
 30 extension period, the rule must be adopted under:

31 (1) sections 24 through 36 of this chapter; or

32 (2) IC 13-14-9;

33 as applicable.

34 (h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires  
 35 on the earlier of the following dates:

36 (1) The expiration date stated by the adopting agency in the rule.

37 (2) The date that the rule is amended or repealed by a later rule  
 38 adopted under sections 24 through 36 of this chapter or this  
 39 section.

40 (i) This section may not be used to readopt a rule under IC 4-22-2.5.

41 (j) *A rule described in subsection (a)(25) or (a)(26) expires not later*  
 42 *than January 1, 2006.*

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1 SECTION 8. IC 4-22-2.5-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as  
 3 provided in subsection (b) **or (c)**, or **in** section 1.1 of this chapter, an  
 4 administrative rule adopted under IC 4-22-2 expires January 1 of the  
 5 seventh year after the year in which the rule takes effect, unless the rule  
 6 contains an earlier expiration date. The expiration date of a rule under  
 7 this section is extended each time that a rule amending an unexpired  
 8 rule takes effect. The rule, as amended, expires on January 1 of the  
 9 seventh year after the year in which the amendment takes effect.

10 (b) An administrative rule that:

11 (1) was adopted under IC 4-22-2;

12 (2) is in force on December 31, 1995; and

13 (3) is not amended by a rule that takes effect after December 31,  
 14 1995, and before January 1, 2002;

15 expires not later than January 1, 2002.

16 (c) **A rule that:**

17 **(1) was adopted by an instrumentality of state government**  
 18 **before July 1, 2005, without complying with IC 4-22-2;**

19 **(2) is in force on June 30, 2005; and**

20 **(3) is not amended by a rule that takes effect after June 30,**  
 21 **2005, and before July 1, 2012;**

22 **expires not later than July 1, 2012.**

23 SECTION 9. IC 4-23-5.5-9 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The board may:

25 (1) on behalf of the state, receive and accept grants, gifts, and  
 26 contributions from public agencies, including the federal  
 27 government, and from private agencies and private sources,  
 28 including the Indiana business modernization and technology  
 29 corporation, for the purpose of researching and developing energy  
 30 resources within the state, and may administer such, including  
 31 contracting with other public and private organizations, to carry  
 32 out the purposes for which such grants, gifts, and contributions  
 33 were made;

34 (2) establish application forms and procedures for programs  
 35 consistent with this chapter;

36 (3) accept applications from private and public sources for  
 37 funding of programs consistent with this chapter;

38 (4) provide funding for studies, research projects, and other  
 39 activities required to assess the nature and extent of recycling  
 40 markets in Indiana and the nature and extent of energy resources  
 41 to meet the needs of the state, including but not limited to coal  
 42 and other fossil fuels, alcohol fuels produced from agricultural

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1 and forest products and resources, renewable, and other energy  
 2 resources;  
 3 (5) deposit funds not currently needed to meet the obligations of  
 4 the board with the treasurer of state to the credit of the fund, or  
 5 invest in obligations as provided by IC 5-13-10.5; ~~and~~  
 6 (6) participate in or sponsor programs, conferences, or seminars  
 7 aimed at assisting the state in promoting recycling market  
 8 development and the effective use of all sources of energy in  
 9 Indiana; ~~and~~  
 10 **(7) adopt rules under IC 4-22-2 necessary or appropriate to**  
 11 **perform its duties and exercise its powers.**  
 12 SECTION 10. IC 5-1-16-13 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The authority  
 14 has all powers necessary to carry out and effectuate its public and  
 15 corporate purposes, including but not limited to the following:  
 16 (1) To have perpetual succession as a public body politic and  
 17 corporate and an independent public instrumentality exercising  
 18 essential public functions.  
 19 (2) To adopt, amend, and repeal bylaws ~~and rules~~ consistent with  
 20 this chapter to regulate its affairs, to carry into effect the powers  
 21 and purposes of the authority, and ~~to~~ conduct its business. ~~which~~  
 22 ~~rules and bylaws may be adopted by the authority without~~  
 23 ~~complying with IC 4-22-2.~~  
 24 (3) To sue and be sued in its own name.  
 25 (4) To have an official seal.  
 26 (5) To maintain an office in Indiana.  
 27 (6) To make and execute contracts and all other instruments  
 28 necessary or convenient for the performance of its duties and the  
 29 exercise of its powers and functions under this chapter.  
 30 (7) To employ architects, engineers, independent legal counsel,  
 31 inspectors, accountants, ~~and~~ health care and financial experts, and  
 32 such other advisors, consultants, and agents as may be necessary  
 33 in its judgment without the approval of or consent by any other  
 34 state official, and to fix their compensation.  
 35 (8) To procure insurance against any loss in connection with its  
 36 property and other assets, in such amounts and from such insurers  
 37 as it considers advisable, including the power to pay premiums on  
 38 any such insurance.  
 39 (9) To procure insurance or guarantees from any public or private  
 40 entities, including any department, agency, or instrumentality of  
 41 the United States of America, to secure payment:  
 42 (A) on a loan, lease, or purchase payment owed by a

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1 participating provider to the authority; and  
 2 (B) of any bonds issued by the authority, including the power  
 3 to pay premiums on any such insurance or guarantee.  
 4 (10) To procure letters of credit or other credit facilities or  
 5 agreements from any national or state banking association or  
 6 other entity authorized to issue a letter of credit or other credit  
 7 facilities or agreements to secure the payment of any bonds issued  
 8 by the authority or to secure the payment of any loan, lease, or  
 9 purchase payment owed by a participating provider to the  
 10 authority, including the power to pay the cost of obtaining such  
 11 letter of credit or other credit facilities or agreements.  
 12 (11) To receive and accept from any source any money, property,  
 13 or thing of value to be held, used, and applied to carry out the  
 14 purposes of this chapter subject to the conditions upon which the  
 15 grants or contributions are made, including gifts or grants from  
 16 any department, agency, or instrumentality of the United States of  
 17 America for any purpose consistent with this chapter.  
 18 (12) To provide, or cause to be provided by a participating  
 19 provider, by acquisition, lease, construction, fabrication, repair,  
 20 restoration, reconditioning, refinancing, or installation, health  
 21 facility property to be located within a health facility.  
 22 (13) To lease as lessor any item of health facility property for such  
 23 rentals and upon such terms and conditions as the authority  
 24 considers advisable and are not in conflict with this chapter.  
 25 (14) To sell by installment or otherwise to sell by option or  
 26 contract for sale, and to convey all or any part of any item of  
 27 health facility property for such price and upon such terms and  
 28 conditions as the authority considers advisable and as are not in  
 29 conflict with this chapter.  
 30 (15) To make contracts and incur liabilities, borrow money at  
 31 such rates of interest as the authority determines, issue its bonds  
 32 in accordance with this chapter, and secure any of its bonds or  
 33 obligations by a mortgage or pledge of all or any of its property,  
 34 franchises, and income or as otherwise provided in this chapter.  
 35 (16) To make secured or unsecured loans for the purpose of  
 36 providing temporary or permanent financing or refinancing for the  
 37 cost of any item of health facility property, including the retiring  
 38 of any outstanding obligations issued by a participating provider,  
 39 and the reimbursement to a participating provider of advances, for  
 40 the cost of any health facility property purchased in anticipation  
 41 of procuring such financing or refinancing from the authority or  
 42 other sources, and to charge and collect interest on such loans for

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- 1 such loan payments and upon such terms and conditions as the
- 2 authority considers advisable and as are not in conflict with this
- 3 chapter.
- 4 (17) To invest and reinvest its funds and to take and hold property
- 5 as security for the investment of such funds as provided in this
- 6 chapter.
- 7 (18) To purchase, receive, lease (as lessee or lessor), or otherwise
- 8 acquire, own, hold, improve, use, or otherwise deal in and with,
- 9 health facility property, or any interest therein, wherever situated.
- 10 (19) To sell, convey, mortgage, pledge, assign, lease, exchange,
- 11 transfer, and otherwise dispose of all or any part of its property
- 12 and assets.
- 13 (20) To the extent permitted under its contract with the holders of
- 14 bonds of the authority, consent to any modification with respect
- 15 to the rate of interest, time, and payment of any installment of
- 16 principal or interest, or any other term of any contract, loan, loan
- 17 note, loan note commitment, contract, lease, or agreement of any
- 18 kind to which the authority is a party.
- 19 (21) To charge to and apportion among participating providers its
- 20 administrative costs and expenses incurred in the exercise of the
- 21 powers and duties conferred by this chapter.
- 22 (22) Except as otherwise provided in a trust agreement or bond
- 23 resolution securing bonds of the authority, to invest any funds not
- 24 needed for immediate disbursement, including any funds held in
- 25 reserve, in such indebtedness or obligations designated by the
- 26 authority for investments of its funds held under this chapter.
- 27 (23) To collect fees and charges, as the authority determines to be
- 28 reasonable, in connection with its loans, leases, sales, advances,
- 29 insurance, commitments, and servicing.
- 30 (24) To cooperate with and exchange services, personnel, and
- 31 information with any federal, state, or local governmental agency.
- 32 (25) To sell, at public or private sale, with or without public
- 33 bidding, any loan or other obligation held by the authority.
- 34 (26) To assist, coordinate, and participate with other issuers of tax
- 35 exempt bonds and public officials in other states in connection
- 36 with financings or refinancings on behalf of multiple state health
- 37 facilities. Assistance, coordination, and participation provided
- 38 under this subdivision may include conducting any hearings
- 39 required by state or federal law in order for bonds to be issued by
- 40 public officials in other states if part of the proceeds of the bonds
- 41 will be used by participating providers in Indiana. Neither the
- 42 state of Indiana nor the authority, nor any officers, agents, or

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1 employees of the state or the authority, are subject to any liability  
2 resulting from assistance to or coordination or participation with  
3 other issuers of tax exempt bonds under this subsection. Any  
4 assistance, coordination, or participation provided under this  
5 subsection is given with the understanding that the issuers of tax  
6 exempt bonds or borrowers will agree to indemnify and hold  
7 harmless the state of Indiana and the authority and their officers,  
8 agents, and employees from all claims and liability arising from  
9 any action against the state of Indiana or the authority relating to  
10 the bonds.

11 **(27) To adopt rules under IC 4-22-2 necessary or appropriate**  
12 **to perform its duties and exercise its powers.**

13 (b) No part of the revenues or assets of the authority may inure to  
14 the benefit of or be distributable to its members or officers or other  
15 private persons. Any net earnings of the authority beyond that  
16 necessary for retirement of authority indebtedness or to implement the  
17 public purposes of this chapter inure to the benefit of the state. Upon  
18 termination or dissolution, all rights and properties of the authority pass  
19 to and are vested in the state, subject to the rights of lienholders and  
20 other creditors.

21 SECTION 11. IC 5-1-16-36 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. Nothing in this  
23 chapter may be construed as a restriction or limitation upon any powers  
24 which the authority might otherwise have under any other law of this  
25 state, and this chapter is cumulative to such powers. This chapter shall  
26 be construed to provide a complete, additional, and alternative method  
27 for the doing of the things authorized, and shall be construed as  
28 supplemental to powers conferred by any other laws. The adoption by  
29 the authority of bylaws ~~and rules~~; and the issuance of bonds by the  
30 authority under this chapter need not comply with the requirements of  
31 any other state laws applicable to the adoption of bylaws ~~and rules~~ and  
32 the issuance of bonds, notes, and other obligations. No proceedings,  
33 notice, or approval is required for the issuance of any bonds or any  
34 instrument, or the security therefor, or for the proper conduct of the  
35 authority's business, affairs, or operations, except as provided in this  
36 chapter.

37 SECTION 12. IC 5-1.5-3-1 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The bank is granted  
39 all powers necessary, convenient, or appropriate to carry out and  
40 effectuate its public and corporate purposes, including, but not limited  
41 to, the following:

- 42 (1) Have a perpetual existence as a body politic and corporate,

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- 1 and an independent instrumentality, but not a state agency,
- 2 exercising essential public functions.
- 3 (2) Sue and be sued.
- 4 (3) Adopt and alter an official seal.
- 5 (4) Make and enforce bylaws ~~and rules~~ for the conduct of its
- 6 business and for the use of its services and facilities. ~~which~~
- 7 ~~bylaws and rules may be adopted by the bank without complying~~
- 8 ~~with IC 4-22-2.~~
- 9 (5) Acquire, hold, use, and dispose of its income, revenues, funds,
- 10 and money.
- 11 (6) Acquire, rent, lease, hold, use, and dispose of property for its
- 12 purposes.
- 13 (7) Make contracts and incur liabilities, borrow money, issue its
- 14 negotiable bonds or notes, subject to provisions for registration of
- 15 negotiable bonds and notes, and provide for and secure their
- 16 payment and provide for the rights of their holders, and purchase
- 17 and hold and dispose of any of its bonds or notes.
- 18 (8) Fix and revise from time to time and charge and collect fees
- 19 and charges for the use of its services or facilities.
- 20 (9) Accept gifts or grants of property, funds, money, materials,
- 21 labor, supplies, or services from the United States, any
- 22 governmental unit, or any person, carry out the terms or
- 23 provisions or make agreements with respect to the gifts or grants,
- 24 and do all things necessary, useful, desirable, or convenient in
- 25 connection with procuring, accepting, or disposing of the gifts or
- 26 grants.
- 27 (10) Do anything authorized by this article, through its officers,
- 28 agents, or employees or by contracts with a person.
- 29 (11) Procure insurance against any losses in connection with its
- 30 property, operations, or assets in amounts and from insurers as it
- 31 considers desirable.
- 32 (12) Cooperate with and exchange services, personnel, and
- 33 information with any federal, state, or local government agency.
- 34 **(13) Adopt rules under IC 4-22-2 necessary or appropriate to**
- 35 **perform its duties and exercise its powers.**

36 SECTION 13. IC 5-10.3-3-8 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board may  
 38 do any of the following:

- 39 (1) ~~Establish and amend~~ **Adopt** rules: ~~and regulations:~~
- 40 (A) for the administration and regulation of the fund and the
- 41 board's affairs; and
- 42 (B) to effectuate the powers and purposes of the board.

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- 1 ~~without adopting a rule under IC 4-22-2.~~
- 2 (2) Make contracts and sue and be sued as the board of trustees of
- 3 the public employees' retirement fund of Indiana.
- 4 (3) Delegate duties to its employees.
- 5 (4) Enter into agreements with one (1) or more insurance
- 6 companies to provide life, hospitalization, surgical, medical,
- 7 dental, vision, long term care, or supplemental Medicare
- 8 insurance, utilizing individual or group insurance policies for
- 9 retired members of the fund, and, upon authorization of the
- 10 respective member, deduct premium payments for such policies
- 11 from the members' retirement benefits and remit the payments to
- 12 the insurance companies.
- 13 (5) Enter into agreements with one (1) or more insurance
- 14 companies to provide annuities for retired members of the fund,
- 15 and, upon a member's authorization, transfer the amount credited
- 16 to the member in the annuity savings account to the insurance
- 17 companies.
- 18 (6) For the 1977 police officers' and firefighters' pension and
- 19 disability fund, deduct from benefits paid and remit to the
- 20 appropriate entities amounts authorized by IC 36-8-8-17.2.
- 21 (7) Whenever the fund's membership is sufficiently large for
- 22 actuarial valuation, establish an employer's contribution rate for
- 23 all employers, including employers with special benefit provisions
- 24 for certain employees.
- 25 (8) Amortize prior service liability over a period of forty (40)
- 26 years or less.
- 27 (9) Recover payments made under false or fraudulent
- 28 representation.
- 29 (10) Exercise all powers necessary, convenient, or appropriate to
- 30 carry out and effectuate its public and corporate purposes and to
- 31 conduct its business.
- 32 (b) An agreement under subsection (a)(4) may be for a duration of
- 33 three (3) years.
- 34 (c) This subsection does not apply to investments of the board. A
- 35 contract under subsection (a)(2) may be for a term of not more than
- 36 five (5) years, with an ability to renew thereafter.
- 37 (d) The board's powers and the fund's powers specified in this
- 38 chapter shall be interpreted broadly to effectuate the purposes of this
- 39 chapter and may not be construed as a limitation of powers.
- 40 SECTION 14. IC 5-13-12-3 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board for
- 42 depositories exercises essential public functions, and has a perpetual

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1 existence. The board has all powers necessary, convenient, or  
 2 appropriate to carry out and effectuate its public and corporate  
 3 purposes, including but not limited to the powers to do the following:  
 4 (1) Adopt, amend, and repeal bylaws ~~and rules~~ consistent with  
 5 this chapter to regulate its affairs and to effect the powers and  
 6 purposes of the board. ~~all without the necessity of adopting a rule~~  
 7 ~~under IC 4-22-2.~~  
 8 (2) Adopt its budget on a calendar year or fiscal year as it shall  
 9 determine.  
 10 (3) Sue and be sued in its own name.  
 11 (4) Have an official seal and alter it at will.  
 12 (5) Maintain an office or offices at a place or places within  
 13 Indiana as it may designate.  
 14 (6) Make and execute contracts and all other instruments with  
 15 either public or private entities.  
 16 (7) Communicate with the employees of the Indiana development  
 17 finance authority to the extent reasonably desirable in working on  
 18 a guarantee of an industrial development obligation or credit  
 19 enhancement obligation.  
 20 (8) Deposit all uninvested funds of the public deposit insurance  
 21 fund in a separate account or accounts in financial institutions that  
 22 are designated as depositories to receive state funds under  
 23 IC 5-13-9.5. The money in these accounts shall be paid out on  
 24 checks signed by the chairman or other officers or employees of  
 25 the board as it shall authorize.  
 26 (9) Take any other act necessary or convenient for the  
 27 performance of its duties and the exercise of its powers and  
 28 functions under this chapter.  
 29 **(10) Adopt rules under IC 4-22-2 necessary or appropriate to**  
 30 **perform its duties and exercise its powers.**  
 31 (b) In enforcing any obligation of the borrower or any other person  
 32 under the documents evidencing a guarantee, the board may renegotiate  
 33 the guarantee, modify the rate of interest, term of the industrial  
 34 development obligation or credit enhancement obligation, payment of  
 35 any installment of principal or interest, or any other term of any  
 36 documents, settle any obligation on the security or receipt of property  
 37 or the other terms as in its discretion it deems advantageous to the  
 38 public deposit insurance fund, and take any other action necessary or  
 39 convenient to such enforcement.  
 40 (c) The records of the board for depositories relating to negotiations  
 41 between it and prospects for industrial development obligation or credit  
 42 enhancement obligation guarantees are excepted from the provisions

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1 of IC 5-14-3-3.

2 SECTION 15. IC 8-9.5-8-2.5 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The authority may adopt**  
5 **rules under IC 4-22-2 necessary or appropriate to perform its**  
6 **duties and exercise its powers.**

7 SECTION 16. IC 10-15-2-10.5 IS ADDED TO THE INDIANA  
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. The foundation may**  
10 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
11 **its duties and exercise its powers.**

12 SECTION 17. IC 14-12-1-10.2 IS ADDED TO THE INDIANA  
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE UPON PASSAGE]: **Sec. 10.2. The foundation may**  
15 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
16 **its duties and exercise its powers.**

17 SECTION 18. IC 14-13-1-28.5 IS ADDED TO THE INDIANA  
18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. The commission may**  
20 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
21 **its duties and exercise its powers.**

22 SECTION 19. IC 14-13-2-18.5 IS ADDED TO THE INDIANA  
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
24 [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. The commission may**  
25 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
26 **its duties and exercise its powers.**

27 SECTION 20. IC 14-14-1-18.5 IS ADDED TO THE INDIANA  
28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
29 [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. The commission may**  
30 **adopt rules under IC 4-22-2 necessary or appropriate to perform**  
31 **its duties and exercise its powers.**

32 SECTION 21. IC 15-1.5-10.5-3 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The center for  
34 agricultural science and heritage (the barn) is established.

35 (b) The barn:

- 36 (1) is a body corporate and politic separate from the state; **and**  
37 ~~(2)~~ **is not a state agency; and**  
38 ~~(3)~~ **(2)** performs essential governmental functions.

39 (c) The following are the purposes for which the barn is established:

- 40 (1) To educate the public concerning the past, present, and future  
41 of American agriculture and rural life.  
42 (2) To educate youth and the general public about American

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- 1 agriculture and food systems.
- 2 (3) To provide educational programming for youth that
- 3 complements school curricula, both onsite and in the classroom.
- 4 (4) To create a synergy between Indiana's institutions of education
- 5 and agriculture related industries.
- 6 (5) To generate economic vitality, convention activity, and
- 7 tourism activity for Indiana.
- 8 (6) To become a center for agricultural business and thinking, a
- 9 clearinghouse of agricultural information, a resource center for
- 10 educators and the public, and a repository for agricultural artifacts
- 11 and history.
- 12 (7) To create a central, prominent partner with whom agricultural
- 13 organizations can launch, collaborate on, and coordinate
- 14 programs.
- 15 (8) To position Indiana as the recognized agricultural center of the
- 16 nation.

17 SECTION 22. IC 20-12-0.5-8 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The commission  
 19 shall have the following powers and duties:

- 20 (1) To develop, continually keep current, and implement a long
- 21 range plan for postsecondary education. In developing this plan,
- 22 the commission shall take into account the plans and interests of
- 23 the state private institutions, anticipated enrollments in state
- 24 postsecondary institutions, financial needs of students, and other
- 25 factors pertinent to the quality of educational opportunity
- 26 available to the citizens of Indiana. The plan shall define the
- 27 educational missions and the projected enrollments of the various
- 28 state educational institutions.
- 29 (2) To consult with and make recommendations to the
- 30 commission on vocational and technical education within the
- 31 department of workforce development on all postsecondary
- 32 vocational education programs. The commission shall biennially
- 33 prepare a plan for implementing postsecondary vocational
- 34 education programming after considering the long range state
- 35 plan developed under IC 20-1-18.3-10. The commission shall
- 36 submit this plan to the commission on vocational and technical
- 37 education within the department of workforce development for its
- 38 review and recommendations, and shall specifically report on how
- 39 the plan addresses preparation for employment.
- 40 (3) To make recommendations to the general assembly and the
- 41 governor concerning the long range plan, and prepare to submit
- 42 drafts and proposed legislation needed to implement the plan. The

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1 commission may also make recommendations to the general  
 2 assembly concerning the plan for postsecondary vocational  
 3 education under subdivision (2).  
 4 (4) To review the legislative request budgets of all state  
 5 educational institutions preceding each session of the general  
 6 assembly and to make recommendations concerning  
 7 appropriations and bonding authorizations to state educational  
 8 institutions including public funds for financial aid to students by  
 9 any state agency. The commission may review all programs of any  
 10 state educational institution, regardless of the source of funding,  
 11 and may make recommendations to the governing board of the  
 12 institution, the governor, and the general assembly concerning the  
 13 funding and the disposition of the programs. In making this  
 14 review, the commission may request and shall receive, in such  
 15 form as may reasonably be required, from all state educational  
 16 institutions, complete information concerning all receipts and all  
 17 expenditures.  
 18 (5) To submit to the commission on vocational and technical  
 19 education within the department of workforce development for its  
 20 review under IC 20-1-18.3-15 the legislative budget requests  
 21 prepared by state educational institutions for state and federal  
 22 funds for vocational education. These budget requests shall be  
 23 prepared upon request of the budget director, shall cover the  
 24 period determined by the budget director, and shall be made  
 25 available to the commission within the department of workforce  
 26 development before review by the budget committee.  
 27 (6) To make, or cause to be made, studies of the needs for various  
 28 types of postsecondary education and to make recommendations  
 29 to the general assembly and the governor concerning the  
 30 organization of these programs. The commission shall make or  
 31 cause to be made studies of the needs for various types of  
 32 postsecondary vocational education and shall submit to the  
 33 commission on vocational and technical education within the  
 34 department of workforce development the commission's findings  
 35 in this regard.  
 36 (7) To approve or disapprove the establishment of any new  
 37 branches, regional or other campuses, or extension centers or of  
 38 any new college or school, or the offering on any campus of any  
 39 additional associate, baccalaureate, or graduate degree, or of any  
 40 additional program of two (2) semesters, or their equivalent in  
 41 duration, leading to a certificate or other indication of  
 42 accomplishment. After March 29, 1971, no state educational

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- 1 institution shall establish any new branch, regional campus, or  
 2 extension center or any new or additional academic college, or  
 3 school, or offer any new degree or certificate as defined in this  
 4 subdivision without the approval of the commission or without  
 5 specific authorization by the general assembly. Any state  
 6 educational institution may enter into contractual agreements with  
 7 governmental units or with business and industry for specific  
 8 programs to be wholly supported by the governmental unit or  
 9 business and industry without the approval of the commission.
- 10 (8) If so designated by the governor or the general assembly, to  
 11 serve as the agency for the purposes of receiving or administering  
 12 funds available for postsecondary education programs, projects,  
 13 and facilities for any of the acts of the United States Congress  
 14 where the acts of Congress require the state to designate such an  
 15 agency or commission. However, this subdivision does not  
 16 provide for the designation of the commission by the governor as  
 17 the recipient of funds which may be provided by acts of the  
 18 United States Congress, received by an agency, a board, or a  
 19 commission designated by the general assembly.
- 20 (9) To designate and employ an executive officer and necessary  
 21 employees, to designate the titles of the executive officer and  
 22 necessary employees, and to fix the compensation in terms of the  
 23 employment.
- 24 (10) To appoint appropriate advisory committees composed of  
 25 representatives of state educational institutions, representatives of  
 26 private colleges and universities, students, faculty, and other  
 27 qualified persons.
- 28 (11) To employ all powers properly incident to or connected with  
 29 any of the foregoing purposes, powers, or duties, including the  
 30 power to adopt rules **under IC 4-22-2**.
- 31 (12) To develop a definition for and report biennially to the:
- 32 (A) general assembly;
- 33 (B) governor; and
- 34 (C) commission on vocational and technical education within  
 35 the department of workforce development;
- 36 on attrition and persistence rates by students enrolled in state  
 37 vocational education. A report under this subdivision to the  
 38 general assembly must be in an electronic format under IC 5-14-6.
- 39 (13) To submit a report to the legislative council not later than  
 40 August 30 of each year on the status of the transfer of courses and  
 41 programs between state educational institutions. The report must  
 42 include any changes made during the immediately preceding

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- 1 academic year.
- 2 (14) To direct the activities of the committee, including the
- 3 activities set forth in subdivisions (15) and (16).
- 4 (15) To develop through the committee statewide transfer of
- 5 credit agreements for courses that are most frequently taken by
- 6 undergraduates.
- 7 (16) To develop through the committee statewide agreements
- 8 under which associate of arts and associate of science programs
- 9 articulate fully with related baccalaureate degree programs.
- 10 (17) To publicize by all appropriate means, including an Internet
- 11 web site, a master list of course transfer of credit agreements and
- 12 program articulation agreements.

13 SECTION 23. IC 20-12-63-11 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The authority shall  
 15 have the **following** functions and powers: ~~set forth in this section.~~

- 16 (1) The authority may adopt ~~rules and~~ bylaws for the regulation
- 17 of the authority's business.
- 18 (2) The authority may adopt an official seal and alter the official
- 19 seal.
- 20 (3) The authority may maintain an office **or offices** at a place or
- 21 places designated by the authority.
- 22 (4) The authority may sue, ~~and~~ be sued, plead, and be impleaded
- 23 in the authority's own name.
- 24 (5) The authority may determine the location and character of any
- 25 project to be financed under this chapter. The authority may
- 26 construct, reconstruct, remodel, maintain, manage, enlarge, alter,
- 27 add to, repair, operate, lease as lessee or lessor, regulate any
- 28 project, or enter into contracts for any purpose stated in this
- 29 subdivision. The authority may designate a private institution of
- 30 higher education as the authority's agent to carry out the authority
- 31 of this subsection.
- 32 (6) The authority may issue bonds or fund and refund bonds as
- 33 provided in this chapter.
- 34 (7) The authority may require that the rates, rents, fees, or charges
- 35 established by a private institution of higher education are
- 36 sufficient to discharge the institution's obligations to the authority
- 37 but shall have no other jurisdiction over such rates, rents, fees, or
- 38 charges.
- 39 (8) The authority may ~~establish~~ **adopt** rules **under IC 4-22-2** for
- 40 the use of a project or any portion thereof ~~and~~ **or** designate a
- 41 private institution of higher education as the authority's agent to
- 42 ~~establish~~ **adopt** rules for the use of a project undertaken for that

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- 1 institution.
- 2 (9) The authority may employ consulting engineers, architects,  
3 attorneys, accountants, trustees, construction and financial  
4 experts, superintendents, managers, and such other employees  
5 and agents as may be necessary in the authority's judgment, and  
6 fix their compensation.
- 7 (10) The authority may receive and accept from any source loans,  
8 contributions, or grants for or in aid of the construction or funding  
9 of a project or any portion thereof in either money, property,  
10 labor, or other things of value and, when required, use such funds,  
11 property, or labor only for the purposes for which the money,  
12 property, or labor was loaned, contributed, or granted.
- 13 (11) The authority may make loans to any private institution of  
14 higher education for the cost of a project, including the  
15 establishment of liability or other loss insurance reserves or the  
16 contribution of those reserves to a risk retention group for the  
17 purpose of providing insurance coverage against liability claims  
18 or other losses in accordance with an agreement between the  
19 authority and the private institution of higher education. No such  
20 loan may exceed the total cost of the project as determined by  
21 such institution and approved by the authority.
- 22 (12) The authority may make loans to a private institution of  
23 higher education to refund outstanding obligations or advances  
24 issued, made, or given by such institution for the cost of a project,  
25 including the establishment of liability or other loss insurance  
26 reserves or the contribution of those reserves to a risk retention  
27 group for the purpose of providing insurance coverage against  
28 liability claims or other losses. In addition, the authority may  
29 issue bonds and make loans to a private institution of higher  
30 education to refinance indebtedness incurred or to reimburse  
31 advances made for projects undertaken prior to the date of the  
32 bond issue whenever the authority finds that such financing is in  
33 the public interest and either:
- 34 (A) alleviates a financial hardship upon the private institution  
35 of higher education;
- 36 (B) results in a lesser cost of education; or
- 37 (C) enables the private institution of higher education to offer  
38 greater security for a loan or loans to finance a new project or  
39 projects or to effect savings in interest costs or more favorable  
40 amortization terms.
- 41 (13) The authority may charge to and apportion among private  
42 institutions of higher education the authority's administrative

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1 costs and expenses incurred in the exercise of the powers and  
2 duties conferred by this chapter.

3 (14) The authority may, for financing purposes, combine a project  
4 or projects and some or all future projects of any private  
5 institution or institutions of higher education provided that:

6 (A) the authority obtains the consent of all of the private  
7 institutions of higher education which are involved, or when  
8 financing loans for the funding of liability or other loss  
9 insurance reserves or for the providing of those reserves or  
10 other capital to be contributed to a risk retention group, the  
11 authority obtains the consent of all of the eligible members  
12 that are involved; and

13 (B) the money set aside in any fund or funds pledged for any  
14 series of bonds or issue of bonds are held for the sole benefit  
15 of such series or issue separate and apart from the money  
16 pledged for any other series or issue of bonds of the authority.

17 To facilitate the combining of projects, bonds may be issued in  
18 series under one (1) or more resolutions or trust agreements and  
19 be fully open end, thus providing for unlimited issuance of  
20 additional series, or partially open end, limited as to additional  
21 series, all in the discretion of the authority. Notwithstanding any  
22 provision of this chapter to the contrary, the authority may permit  
23 a private institution of higher education to substitute one (1) or  
24 more educational facilities of similar value (as determined by an  
25 independent appraiser satisfactory to the authority) as security for  
26 any educational facility financed under this chapter on such terms  
27 and conditions as the authority may prescribe.

28 (15) The authority may mortgage all or any portion of any project  
29 and any other educational facilities conveyed to the authority for  
30 such purpose and the site or sites thereof, whether presently  
31 owned or subsequently acquired, for the benefit of the holders of  
32 the bonds of the authority issued to finance such project or any  
33 portion thereof or issued to refund or refinance outstanding  
34 indebtedness of a private institution of higher education as  
35 permitted by this chapter.

36 (16) The authority may join in a risk retention group with  
37 corporations (as defined in IC 20-12-6-1) or any private  
38 institution of higher education.

39 (17) The authority may do all things necessary to carry out the  
40 purposes of this chapter.

41 **(18) The authority may adopt rules under IC 4-22-2 necessary**  
42 **or appropriate to perform its duties and exercise its powers.**

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1 SECTION 24. IC 20-12-63-28 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. ~~Supplemental~~  
 3 ~~Effect.~~ The provisions of this chapter provide a complete, additional,  
 4 and alternative method for the doing of the things authorized thereby  
 5 and shall be regarded as supplemental and additional to powers  
 6 conferred by other laws. ~~provided that the adoption of rules and~~  
 7 **However**, the issuance of bonds under this chapter need not comply  
 8 with the requirements of any other law applicable thereto. Except as  
 9 otherwise expressly provided in this chapter, none of the powers  
 10 granted to the authority under this chapter shall be subject to the  
 11 supervision or regulation or require the approval or consent of any  
 12 municipality or political subdivision or any department, division,  
 13 commission, board, body, bureau, official, or agency thereof or of the  
 14 state.

15 SECTION 25. IC 21-6.1-3-7 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board may  
 17 do any of the following:

- 18 (1) ~~Adopt and enforce rules and regulations regarding the fund's~~  
 19 ~~administration and the control and investment of the fund: under~~  
 20 **IC 4-22-2 necessary or appropriate to perform its duties and**  
 21 **exercise its powers.**
- 22 (2) Bond employees for the fund's protection.
- 23 (3) Receive from the federal government the state's share of the  
 24 cost of the pension contribution for a member on leave of absence  
 25 to work in a federally supported educational project.
- 26 (4) Sue and be sued as the board of trustees of the Indiana state  
 27 teachers' retirement fund.
- 28 (5) Summon and examine witnesses when adjusting claims.
- 29 (6) Require, when adjusting disability claims, medical  
 30 examinations by doctors approved or appointed by the board.  
 31 However, not more than two (2) examinations may be conducted  
 32 in one (1) year.
- 33 (7) Conduct investigations to help determine the merit of a claim.
- 34 (8) Meet any emergency which may arise in the administration of  
 35 its trust.
- 36 (9) Determine other matters regarding its trust which are not  
 37 specified.
- 38 (10) Enter into agreements with one (1) or more insurance  
 39 companies to provide life, hospitalization, surgical, medical,  
 40 dental, vision, long term care, or supplemental Medicare  
 41 insurance, utilizing individual or group insurance policies for  
 42 retired teachers, and, upon authorization of the respective retired

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1 teacher, deduct premium payments for such policies from the  
 2 teachers' retirement benefits and remit the payments to the  
 3 insurance companies.  
 4 (11) Enter into agreements with one (1) or more insurance  
 5 companies to provide annuities for retired teachers and upon a  
 6 member's authorization transfer the amount credited to the  
 7 member in the annuity savings account to the insurance  
 8 companies.  
 9 (12) Exercise all powers necessary, convenient, or appropriate to  
 10 carry out and effectuate its public and corporate purposes and to  
 11 conduct its business.  
 12 ~~(13) Establish and amend rules and regulations:~~  
 13 ~~(A) for the administration and regulation of the fund and the~~  
 14 ~~board's affairs; and~~  
 15 ~~(B) to effectuate the powers and purposes of the board;~~  
 16 ~~without adopting a rule under IC 4-22-2.~~  
 17 (b) An agreement under subsection (a)(10) may be for a duration of  
 18 three (3) years.  
 19 (c) This subsection does not apply to:  
 20 (1) an agreement under subsection (a)(10); or  
 21 (2) investments of the board.  
 22 A contract that the board enters into under section 9(b) of this chapter  
 23 or any other provision may be for a term of not more than five (5)  
 24 years, with an ability to renew thereafter.  
 25 (d) The board's powers and the fund's powers specified in this  
 26 chapter shall be interpreted broadly to effectuate the purposes of this  
 27 chapter and may not be construed as a limitation of powers.  
 28 SECTION 26. IC 23-6-3-6 IS ADDED TO THE INDIANA CODE  
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 30 UPON PASSAGE]: **Sec. 6. The society may adopt rules under**  
 31 **IC 4-22-2 necessary or appropriate to perform its duties and**  
 32 **exercise its powers.**  
 33 SECTION 27. IC 27-1-29-7 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The commission  
 35 is granted all powers necessary, convenient, or appropriate to carry out  
 36 and effectuate its public and corporate purposes under this chapter and  
 37 IC 27-1-29.1 including, but not limited to, and except as otherwise  
 38 restricted in this chapter or IC 27-1-29.1:  
 39 (1) The power to have perpetual existence as a body corporate and  
 40 politic, and an independent instrumentality, but not a state agency,  
 41 exercising essential public functions.  
 42 (2) The power to sue and be sued.

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- 1 (3) The power to adopt and alter an official seal.
- 2 (4) The power to make and enforce bylaws ~~and rules~~ for the
- 3 conduct of its business. ~~which bylaws and rules may be adopted~~
- 4 ~~by the commission without complying with IC 4-22-2.~~
- 5 (5) The power to make contracts and incur liabilities, borrow
- 6 money, issue its negotiable bonds or notes in accordance with this
- 7 chapter, subject to provisions for registration of negotiable bonds
- 8 and notes, and provide for and secure their payment and provide
- 9 for the rights of their holders, and purchase and hold and dispose
- 10 of any of its bonds or notes.
- 11 (6) The power to acquire, hold, use, and dispose of its income,
- 12 revenues, funds, and money.
- 13 (7) The power to acquire, rent, lease, hold, use, and dispose of
- 14 property for its purposes.
- 15 (8) The power to fix and revise from time to time and charge and
- 16 collect fees and charges for the use of its services or facilities.
- 17 (9) The power to accept gifts or grants of property, funds, money,
- 18 materials, labor, supplies, or services from the United States, any
- 19 governmental unit, or any person, carry out the terms or
- 20 provisions or make agreements with respect to the gifts or grants,
- 21 and do all things necessary, useful, desirable, or convenient in
- 22 connection with procuring, accepting, or disposing of the gifts or
- 23 grants.
- 24 (10) The power to do anything authorized by this article, through
- 25 its officers, agents, or employees or by contracts with a person.
- 26 (11) The power to procure insurance against any losses in
- 27 connection with its property, operations, or assets in amounts and
- 28 from insurers as it considers desirable.
- 29 (12) The power to cooperate with and exchange services,
- 30 personnel, and information with any federal, state, or local
- 31 government agency.
- 32 (b) The commission may:
- 33 (1) implement a statewide program of loss control and risk
- 34 management to minimize the liabilities of members of the fund;
- 35 (2) contract with any persons or entities to obtain or provide the
- 36 services of risk managers, actuaries, loss control specialists,
- 37 attorneys, and other professionals in carrying out its powers and
- 38 duties under this chapter and to pay for those services from the
- 39 fund;
- 40 (3) exercise control over the defense of members of the fund
- 41 against tort claims, including the selection and retention of legal
- 42 counsel, the direction of counsel in the conduct of cases, and the

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- 1 negotiation and acceptance or rejection of any settlement;  
 2 (4) establish procedures by which political subdivisions can gain  
 3 or regain membership and relinquish membership in the fund;  
 4 (5) establish procedures and criteria for the imposition of  
 5 assessments to be paid by members of the fund, and the payment  
 6 of members' liabilities;  
 7 (6) establish programs for the payment of money from the fund to  
 8 compensate members for damage to or loss of real or personal  
 9 property;  
 10 (7) establish programs for the payment of:  
 11 (A) liabilities covered under IC 34-13-3 (or IC 34-4-16.5  
 12 before its repeal); and  
 13 (B) liabilities that are not covered under IC 34-13-3 (or  
 14 IC 34-4-16.5 before its repeal), including, but not limited to,  
 15 liability due to alleged violations of the Constitution of the  
 16 United States or federal civil rights statutes by law  
 17 enforcement officers;  
 18 (8) establish programs by which members can protect their  
 19 elected officers and employees against liability arising from their  
 20 alleged errors or omissions;  
 21 (9) establish procedures by which a member of the fund can settle  
 22 small claims that are within the deductible provision of coverage  
 23 under the fund;  
 24 (10) capitalize the fund by levying against each member of the  
 25 fund an annual surcharge over and above the assessment imposed  
 26 against the member under section 12 of this chapter; **and**  
 27 (11) establish any other programs or procedures the commission  
 28 considers necessary for the implementation of this chapter; **and**  
 29 **(12) adopt rules under IC 4-22-2 necessary or appropriate to**  
 30 **perform its duties and exercise its powers.**

31 The amount of the surcharge levied against a member of the fund for  
 32 a particular year under subdivision (10) may not exceed twenty-five  
 33 percent (25%) of the member's assessment for the same year.

34 (c) The commission shall file a report in an electronic format under  
 35 IC 5-14-6 with the general assembly each year concerning the  
 36 operations of the commission and the condition of the fund.

37 SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) This**  
 38 **SECTION applies to the following instrumentalities of state**  
 39 **government:**

- 40 **(1) Indiana economic development corporation (IC 4-1.5-3).**  
 41 **(2) Indiana development finance authority (IC 4-4-11).**  
 42 **(3) State office building commission (IC 4-13.5).**

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- 1           **(4) Indiana recycling and energy development board**
- 2           **(IC 4-23-5.5).**
- 3           **(5) State lottery commission (IC 4-30-3).**
- 4           **(6) Indiana health facility financing authority (IC 5-1-16).**
- 5           **(7) Indiana bond bank (IC 5-1.5).**
- 6           **(8) Law enforcement academy building commission**
- 7           **(IC 5-2-2).**
- 8           **(9) Board of trustees of the public employees' retirement fund**
- 9           **(IC 5-10.3-3).**
- 10          **(10) Board for depositories (IC 5-13-12).**
- 11          **(11) Indiana housing finance authority (IC 5-20-1).**
- 12          **(12) Intelenet commission (IC 5-21).**
- 13          **(13) Indiana transportation finance authority (IC 8-9.5-8).**
- 14          **(14) Indiana port commission (IC 8-10-1).**
- 15          **(15) Bureau of motor vehicles commission (IC 9-15).**
- 16          **(16) Indiana emergency management, fire and building**
- 17          **services, and public safety training foundation (IC 10-15).**
- 18          **(17) Indiana natural resources foundation (IC 14-12-1).**
- 19          **(18) Indiana White River state park development commission**
- 20          **(IC 14-13-1).**
- 21          **(19) Little Calumet River basin development commission**
- 22          **(IC 14-13-2).**
- 23          **(20) Recreational development commission (IC 14-14-1).**
- 24          **(21) State fair commission (IC 15-1.5-2).**
- 25          **(22) Center for agricultural science and heritage**
- 26          **(IC 15-1.5-10.5).**
- 27          **(23) Commission for higher education (IC 20-12-0.5).**
- 28          **(24) State student assistance commission (IC 20-12-21).**
- 29          **(25) Indiana educational facilities authority (IC 20-12-63).**
- 30          **(26) Board of trustees of the Indiana state teachers'**
- 31          **retirement fund (IC 21-6.1-3).**
- 32          **(27) Indiana education savings authority (IC 21-9-3).**
- 33          **(28) Indiana grain indemnity corporation (IC 26-4-3).**
- 34          **(29) Indiana political subdivision risk management**
- 35          **commission (IC 27-1-29).**
- 36          **(30) Wireless enhanced 911 advisory board (IC 36-8-16.5).**

37           **(b) Except as otherwise provided in this SECTION, the**  
 38           **definitions in IC 4-22-2-3, as amended by this act, apply**  
 39           **throughout this SECTION.**

40           **(c) Subject to subsection (d) and not later than October 1, 2005,**  
 41           **an instrumentality of state government shall submit a written copy**  
 42           **of a rule that:**

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1 (1) was adopted by the instrumentality of state government  
2 before July 1, 2005, without complying with IC 4-22-2;

3 (2) was adopted by the instrumentality of state government at  
4 or after a public meeting or hearing at which the rule was  
5 presented by the instrumentality of state government and  
6 open for discussion by:

7 (A) members, directors, trustees, officers, or other  
8 representatives of the instrumentality; and

9 (B) members of the public in attendance at the meeting, if  
10 applicable; and

11 (3) is in force on June 30, 2005;

12 to the attorney general for review under subsection (e). A rule  
13 submitted under this subsection is exempt from the requirements  
14 established by the publisher under IC 4-22-2-42. The attorney  
15 general shall determine the number of copies of the rule to be  
16 submitted to the attorney general under this subsection. If a rule  
17 submitted under this subsection incorporates matters described in  
18 IC 4-22-2-21(a), the instrumentality may incorporate the matters  
19 into the rule by reference, as allowed under IC 4-22-2-21.

20 (d) Along with the number of copies of the rule required to be  
21 submitted to the attorney general under subsection (c), the  
22 instrumentality of state government shall submit the following:

23 (1) Documentation of the public meeting or hearing described  
24 in subsection (c)(2). The documentation required under this  
25 subsection may include meeting minutes, calendar or journal  
26 entries, transcripts, or other evidence that the rule was  
27 presented and open for discussion at a public meeting or  
28 hearing.

29 (2) A statement that:

30 (A) is signed under penalty of perjury by a member, a  
31 director, a trustee, an officer, or another representative  
32 authorized to bind the instrumentality; and

33 (B) attests to the authenticity of the documentation  
34 required under subdivision (1), including the authenticity  
35 of any dates or times reflected in the documentation.

36 (e) Upon receipt of a rule under subsection (c) and the  
37 accompanying documentation required under subsection (d), the  
38 attorney general shall review the rule for legality. Not later than  
39 April 1, 2006, the attorney general shall approve or disapprove a  
40 rule that is timely submitted under subsection (c) and shall notify  
41 the instrumentality of state government, by certified mail, of the  
42 attorney general's determination. Subject to subsections (f) and (g),

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1 the attorney general shall disapprove a rule under this subsection  
2 only if the attorney general determines that:

- 3 (1) the rule was not adopted by the instrumentality of state
- 4 government at or after a public meeting or hearing described
- 5 in subsection (c)(2);
- 6 (2) the instrumentality of state government did not have
- 7 rulemaking authority under IC 4-22-2-13(a), as amended by
- 8 this act;
- 9 (3) the rule violates another law; or
- 10 (4) the rule may constitute the taking of property without just
- 11 compensation to an owner.

12 (f) If, in the course of the review conducted under subsection (e),  
13 the attorney general determines that a rule may constitute a taking  
14 of property under subsection (e)(4), the attorney general shall  
15 advise the instrumentality of state government of the attorney  
16 general's determination. Advice given to the instrumentality under  
17 this subsection shall be regarded as confidential attorney-client  
18 communication.

19 (g) If, in the course of the review conducted under subsection  
20 (e), the attorney general determines that the instrumentality of  
21 state government has failed to submit sufficient or properly  
22 authenticated documentation under subsection (d) to establish that  
23 the rule was adopted at or after a public meeting or hearing, the  
24 attorney general may return the rule to the instrumentality  
25 without disapproving the rule. If the attorney general returns the  
26 rule to the instrumentality, the instrumentality has ten (10) days to  
27 resubmit the rule with additional or properly authenticated  
28 documentation under subsection (d). If the instrumentality  
29 resubmits the rule and required documentation within the ten (10)  
30 day period, and the attorney general determines that:

- 31 (1) the resubmitted rule and documentation are sufficient to
- 32 establish that the rule was adopted at a public meeting or
- 33 hearing; and
- 34 (2) no other grounds exist for disapproving the rule under
- 35 subsection (e);

36 the attorney general shall approve the rule. However, if the  
37 instrumentality fails to resubmit the rule and required  
38 documentation within the ten (10) day period, or if the attorney  
39 general determines that a resubmitted rule and documentation are  
40 still insufficient to establish that the rule was adopted at a public  
41 meeting or hearing, the attorney general shall disapprove the rule.  
42 Not later than fourteen (14) days after receipt of a rule resubmitted

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1 under this subsection, the attorney general shall notify the  
 2 instrumentality, by certified mail, of the attorney general's  
 3 determination to approve or disapprove the rule.

4 (h) If an instrumentality of state government receives notice  
 5 from the attorney general under subsection (e) or (g) that the  
 6 attorney general has disapproved a rule submitted by the  
 7 instrumentality under subsection (c) or (g), the rule is invalid and  
 8 does not have the effect of law until it is adopted in conformity with  
 9 IC 4-22-2. If an instrumentality receives a notice from the attorney  
 10 general under subsection (e) or (g) that the attorney general has  
 11 approved a rule submitted by the instrumentality under subsection  
 12 (c) or (g), the instrumentality shall submit, not later than seven (7)  
 13 days after receipt of the attorney general's notice, a copy of the  
 14 rule, along with the documentation required under subsection (d)  
 15 or (g), to the secretary of state for filing. The secretary of state  
 16 shall determine the number of copies of the rule to be submitted to  
 17 the secretary of state under this subsection.

18 (i) Notwithstanding IC 4-22-2-39(a)(3), the secretary of state  
 19 shall:

- 20 (1) accept a rule submitted under subsection (h) for filing; and
- 21 (2) file stamp and indicate the date and time the rule is
- 22 accepted on every duplicate copy submitted.

23 The secretary of state shall comply with IC 4-22-7-5 upon receipt  
 24 of a rule under subsection (h).

25 (j) Upon receipt of a rule described in subsection (c) from the  
 26 secretary of state under IC 4-22-7-5(b), the publisher shall publish  
 27 the rule in the Indiana Register, subject to the publisher's then  
 28 existing deadline for the submission of a rule for publication. In  
 29 publishing a rule under this subsection, the publisher may:

- 30 (1) reformat, renumber, or revise the rule to conform to:
  - 31 (A) the typographical style and layout standards
  - 32 established under IC 4-22-8-10; and
  - 33 (B) the format, numbering system, standards, and
  - 34 techniques established under IC 4-22-2-42; or
- 35 (2) subject to subsection (k), publish the rule in the form
- 36 submitted by the instrumentality of state government, along
- 37 with a publisher's notice that the rule was exempt from
- 38 IC 4-22-2-42 at the time of its adoption.

39 (k) If the publisher elects under subsection (j)(2) to publish a  
 40 rule in the form submitted by the instrumentality of state  
 41 government, the publisher shall ensure that the publisher's notice  
 42 under subsection (j)(2), or the manner in which the rule is indexed

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- 1 in the Indiana Register, does the following:
- 2 (1) Identifies the rule by:
- 3 (A) Indiana Register document control number and
- 4 volume and page number;
- 5 (B) year of adoption, as indicated by the instrumentality of
- 6 state government in its submission under subsection (c) or
- 7 (g); and
- 8 (C) general subject matter.
- 9 (2) Enables the secretary of state, an agency, or the
- 10 commission on public records to comply with a request under
- 11 IC 5-14-3 to inspect or copy the rule.
- 12 (l) After publishing a rule in the Indiana Register under
- 13 subsection (j), the publisher shall codify the rule in the next
- 14 publication of the Indiana Administrative Code, or in the next
- 15 supplement to the Indiana Administrative Code, under the
- 16 procedures set forth in IC 4-22-8.
- 17 (m) Notwithstanding IC 4-22-2-3, as amended by this act, and
- 18 IC 4-22-2-44, a rule described in subsection (c) remains in effect on
- 19 July 1, 2005. However, the rule is voided:
- 20 (1) on October 2, 2005, if the rule is not filed with the attorney
- 21 general before October 2, 2005, as required under subsection
- 22 (c); or
- 23 (2) on the date specified in the notice sent to the
- 24 instrumentality of state government under subsection (e) or
- 25 (g), if the rule is sent to the attorney general before October
- 26 2, 2005, as required under subsection (c), but is disapproved
- 27 by the attorney general under subsection (e) or (g).
- 28 (n) After June 30, 2005, IC 4-22-7-7 applies to all statements
- 29 described in IC 4-22-7-7(a) that:
- 30 (1) are adopted by an instrumentality of state government
- 31 after June 30, 2005; or
- 32 (2) were adopted by an instrumentality of state government
- 33 before July 1, 2005, and specify policies on which the
- 34 instrumentality still relies on July 1, 2005.
- 35 (o) This SECTION expires December 31, 2006.
- 36 SECTION 29. An emergency is declared for this act.

**C**  
**O**  
**P**  
**Y**

