



February 11, 2005

SENATE BILL No. 259

DIGEST OF SB 259 (Updated February 9, 2005 6:09 pm - DI 87)

Citations Affected: IC 4-1.5; IC 4-4; IC 4-13.5; IC 4-22; IC 4-23; IC 5-1; IC 5-1.5; IC 5-10.3; IC 5-13; IC 8-9.5; IC 10-15; IC 14-12; IC 14-13; IC 14-14; IC 15-1.5; IC 20-12; IC 21-6.1; IC 23-6; IC 27-1; noncode.

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. Requires instrumentalities of state government 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 publisher of the Indiana Register and the Indiana Administrative Code for assignment of a document control number. Requires an instrumentality to submit the rule to the secretary of state for filing after the assignment of the document control number. Requires the secretary of state to submit copies of a rule accepted for filing to the attorney general. Allows, rather than requires, the attorney general to review the rule for legality and to disapprove a rule for specified reasons. Provides that if the attorney general does not issue a notice of disapproval before October 2, 2006, the rule: (1) is considered approved; and (2) must be published in the Indiana Register and the Indiana Administrative Code. (The introduced version of this bill was prepared by the code revision commission.)

Effective: Upon passage; July 1, 2005.

Landske

January 6, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
February 10, 2005, amended, reported favorably — Do Pass.

SB 259—LS 6990/DI 101+



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February 11, 2005

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

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- 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;**
20 **(3) is not amended by a rule that takes effect after June 30,**
21 **2005, and before July 1, 2012; and**
22 **(4) is published in the Indiana Register and the Indiana**
23 **Administrative Code before July 1, 2007, under the authority**
24 **of SEA 259-2005 or otherwise;**
25 **expires not later than July 1, 2012.**

26 SECTION 9. IC 4-23-5.5-9 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The board may:
28 (1) on behalf of the state, receive and accept grants, gifts, and
29 contributions from public agencies, including the federal
30 government, and from private agencies and private sources,
31 including the Indiana business modernization and technology
32 corporation, for the purpose of researching and developing energy
33 resources within the state, and may administer such, including
34 contracting with other public and private organizations, to carry
35 out the purposes for which such grants, gifts, and contributions
36 were made;
37 (2) establish application forms and procedures for programs
38 consistent with this chapter;
39 (3) accept applications from private and public sources for
40 funding of programs consistent with this chapter;
41 (4) provide funding for studies, research projects, and other
42 activities required to assess the nature and extent of recycling

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

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

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1 the cost of any health facility property purchased in anticipation
 2 of procuring such financing or refinancing from the authority or
 3 other sources, and to charge and collect interest on such loans for
 4 such loan payments and upon such terms and conditions as the
 5 authority considers advisable and as are not in conflict with this
 6 chapter.
 7 (17) To invest and reinvest its funds and to take and hold property
 8 as security for the investment of such funds as provided in this
 9 chapter.
 10 (18) To purchase, receive, lease (as lessee or lessor), or otherwise
 11 acquire, own, hold, improve, use, or otherwise deal in and with,
 12 health facility property, or any interest therein, wherever situated.
 13 (19) To sell, convey, mortgage, pledge, assign, lease, exchange,
 14 transfer, and otherwise dispose of all or any part of its property
 15 and assets.
 16 (20) To the extent permitted under its contract with the holders of
 17 bonds of the authority, consent to any modification with respect
 18 to the rate of interest, time, and payment of any installment of
 19 principal or interest, or any other term of any contract, loan, loan
 20 note, loan note commitment, contract, lease, or agreement of any
 21 kind to which the authority is a party.
 22 (21) To charge to and apportion among participating providers its
 23 administrative costs and expenses incurred in the exercise of the
 24 powers and duties conferred by this chapter.
 25 (22) Except as otherwise provided in a trust agreement or bond
 26 resolution securing bonds of the authority, to invest any funds not
 27 needed for immediate disbursement, including any funds held in
 28 reserve, in such indebtedness or obligations designated by the
 29 authority for investments of its funds held under this chapter.
 30 (23) To collect fees and charges, as the authority determines to be
 31 reasonable, in connection with its loans, leases, sales, advances,
 32 insurance, commitments, and servicing.
 33 (24) To cooperate with and exchange services, personnel, and
 34 information with any federal, state, or local governmental agency.
 35 (25) To sell, at public or private sale, with or without public
 36 bidding, any loan or other obligation held by the authority.
 37 (26) To assist, coordinate, and participate with other issuers of tax
 38 exempt bonds and public officials in other states in connection
 39 with financings or refinancings on behalf of multiple state health
 40 facilities. Assistance, coordination, and participation provided
 41 under this subdivision may include conducting any hearings
 42 required by state or federal law in order for bonds to be issued by

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1 public officials in other states if part of the proceeds of the bonds
 2 will be used by participating providers in Indiana. Neither the
 3 state of Indiana nor the authority, nor any officers, agents, or
 4 employees of the state or the authority, are subject to any liability
 5 resulting from assistance to or coordination or participation with
 6 other issuers of tax exempt bonds under this subsection. Any
 7 assistance, coordination, or participation provided under this
 8 subsection is given with the understanding that the issuers of tax
 9 exempt bonds or borrowers will agree to indemnify and hold
 10 harmless the state of Indiana and the authority and their officers,
 11 agents, and employees from all claims and liability arising from
 12 any action against the state of Indiana or the authority relating to
 13 the bonds.

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

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

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

40 SECTION 12. IC 5-1.5-3-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The bank is granted
 42 all powers necessary, convenient, or appropriate to carry out and

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1 effectuate its public and corporate purposes, including, but not limited
2 to, the following:

3 (1) Have a perpetual existence as a body politic and corporate,
4 and an independent instrumentality, but not a state agency,
5 exercising essential public functions.

6 (2) Sue and be sued.

7 (3) Adopt and alter an official seal.

8 (4) Make and enforce bylaws ~~and rules~~ for the conduct of its
9 business and for the use of its services and facilities. ~~which~~
10 ~~bylaws and rules may be adopted by the bank without complying~~
11 ~~with IC 4-22-2.~~

12 (5) Acquire, hold, use, and dispose of its income, revenues, funds,
13 and money.

14 (6) Acquire, rent, lease, hold, use, and dispose of property for its
15 purposes.

16 (7) Make contracts and incur liabilities, borrow money, issue its
17 negotiable bonds or notes, subject to provisions for registration of
18 negotiable bonds and notes, and provide for and secure their
19 payment and provide for the rights of their holders, and purchase
20 and hold and dispose of any of its bonds or notes.

21 (8) Fix and revise from time to time and charge and collect fees
22 and charges for the use of its services or facilities.

23 (9) Accept gifts or grants of property, funds, money, materials,
24 labor, supplies, or services from the United States, any
25 governmental unit, or any person, carry out the terms or
26 provisions or make agreements with respect to the gifts or grants,
27 and do all things necessary, useful, desirable, or convenient in
28 connection with procuring, accepting, or disposing of the gifts or
29 grants.

30 (10) Do anything authorized by this article, through its officers,
31 agents, or employees or by contracts with a person.

32 (11) Procure insurance against any losses in connection with its
33 property, operations, or assets in amounts and from insurers as it
34 considers desirable.

35 (12) Cooperate with and exchange services, personnel, and
36 information with any federal, state, or local government agency.

37 **(13) Adopt rules under IC 4-22-2 necessary or appropriate to**
38 **perform its duties and exercise its powers.**

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

42 (1) ~~Establish and amend~~ **Adopt** rules: ~~and regulations:~~

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

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1 SECTION 14. IC 5-13-12-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board for
3 depositories exercises essential public functions, and has a perpetual
4 existence. The board has all powers necessary, convenient, or
5 appropriate to carry out and effectuate its public and corporate
6 purposes, including but not limited to the powers to do the following:

7 (1) Adopt, amend, and repeal bylaws ~~and rules~~ consistent with
8 this chapter to regulate its affairs and to effect the powers and
9 purposes of the board. ~~all without the necessity of adopting a rule~~
10 ~~under IC 4-22-2.~~

11 (2) Adopt its budget on a calendar year or fiscal year as it shall
12 determine.

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

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

15 (5) Maintain an office or offices at a place or places within
16 Indiana as it may designate.

17 (6) Make and execute contracts and all other instruments with
18 either public or private entities.

19 (7) Communicate with the employees of the Indiana development
20 finance authority to the extent reasonably desirable in working on
21 a guarantee of an industrial development obligation or credit
22 enhancement obligation.

23 (8) Deposit all uninvested funds of the public deposit insurance
24 fund in a separate account or accounts in financial institutions that
25 are designated as depositories to receive state funds under
26 IC 5-13-9.5. The money in these accounts shall be paid out on
27 checks signed by the chairman or other officers or employees of
28 the board as it shall authorize.

29 (9) Take any other act necessary or convenient for the
30 performance of its duties and the exercise of its powers and
31 functions under this chapter.

32 **(10) Adopt rules under IC 4-22-2 necessary or appropriate to**
33 **perform its duties and exercise its powers.**

34 (b) In enforcing any obligation of the borrower or any other person
35 under the documents evidencing a guarantee, the board may renegotiate
36 the guarantee, modify the rate of interest, term of the industrial
37 development obligation or credit enhancement obligation, payment of
38 any installment of principal or interest, or any other term of any
39 documents, settle any obligation on the security or receipt of property
40 or the other terms as in its discretion it deems advantageous to the
41 public deposit insurance fund, and take any other action necessary or
42 convenient to such enforcement.

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1 (c) The records of the board for depositories relating to negotiations
 2 between it and prospects for industrial development obligation or credit
 3 enhancement obligation guarantees are excepted from the provisions
 4 of IC 5-14-3-3.

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

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

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

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

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

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

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

38 (b) The barn:

- 39 (1) is a body corporate and politic separate from the state; **and**
 40 ~~(2)~~ **is not a state agency; and**
 41 ~~(3)~~ **(2)** performs essential governmental functions.

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

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

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

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

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1 (3) To make recommendations to the general assembly and the
 2 governor concerning the long range plan, and prepare to submit
 3 drafts and proposed legislation needed to implement the plan. The
 4 commission may also make recommendations to the general
 5 assembly concerning the plan for postsecondary vocational
 6 education under subdivision (2).

7 (4) To review the legislative request budgets of all state
 8 educational institutions preceding each session of the general
 9 assembly and to make recommendations concerning
 10 appropriations and bonding authorizations to state educational
 11 institutions including public funds for financial aid to students by
 12 any state agency. The commission may review all programs of any
 13 state educational institution, regardless of the source of funding,
 14 and may make recommendations to the governing board of the
 15 institution, the governor, and the general assembly concerning the
 16 funding and the disposition of the programs. In making this
 17 review, the commission may request and shall receive, in such
 18 form as may reasonably be required, from all state educational
 19 institutions, complete information concerning all receipts and all
 20 expenditures.

21 (5) To submit to the commission on vocational and technical
 22 education within the department of workforce development for its
 23 review under IC 20-1-18.3-15 the legislative budget requests
 24 prepared by state educational institutions for state and federal
 25 funds for vocational education. These budget requests shall be
 26 prepared upon request of the budget director, shall cover the
 27 period determined by the budget director, and shall be made
 28 available to the commission within the department of workforce
 29 development before review by the budget committee.

30 (6) To make, or cause to be made, studies of the needs for various
 31 types of postsecondary education and to make recommendations
 32 to the general assembly and the governor concerning the
 33 organization of these programs. The commission shall make or
 34 cause to be made studies of the needs for various types of
 35 postsecondary vocational education and shall submit to the
 36 commission on vocational and technical education within the
 37 department of workforce development the commission's findings
 38 in this regard.

39 (7) To approve or disapprove the establishment of any new
 40 branches, regional or other campuses, or extension centers or of
 41 any new college or school, or the offering on any campus of any
 42 additional associate, baccalaureate, or graduate degree, or of any

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1 additional program of two (2) semesters, or their equivalent in
 2 duration, leading to a certificate or other indication of
 3 accomplishment. After March 29, 1971, no state educational
 4 institution shall establish any new branch, regional campus, or
 5 extension center or any new or additional academic college, or
 6 school, or offer any new degree or certificate as defined in this
 7 subdivision without the approval of the commission or without
 8 specific authorization by the general assembly. Any state
 9 educational institution may enter into contractual agreements with
 10 governmental units or with business and industry for specific
 11 programs to be wholly supported by the governmental unit or
 12 business and industry without the approval of the commission.
 13 (8) If so designated by the governor or the general assembly, to
 14 serve as the agency for the purposes of receiving or administering
 15 funds available for postsecondary education programs, projects,
 16 and facilities for any of the acts of the United States Congress
 17 where the acts of Congress require the state to designate such an
 18 agency or commission. However, this subdivision does not
 19 provide for the designation of the commission by the governor as
 20 the recipient of funds which may be provided by acts of the
 21 United States Congress, received by an agency, a board, or a
 22 commission designated by the general assembly.
 23 (9) To designate and employ an executive officer and necessary
 24 employees, to designate the titles of the executive officer and
 25 necessary employees, and to fix the compensation in terms of the
 26 employment.
 27 (10) To appoint appropriate advisory committees composed of
 28 representatives of state educational institutions, representatives of
 29 private colleges and universities, students, faculty, and other
 30 qualified persons.
 31 (11) To employ all powers properly incident to or connected with
 32 any of the foregoing purposes, powers, or duties, including the
 33 power to adopt rules **under IC 4-22-2.**
 34 (12) To develop a definition for and report biennially to the:
 35 (A) general assembly;
 36 (B) governor; and
 37 (C) commission on vocational and technical education within
 38 the department of workforce development;
 39 on attrition and persistence rates by students enrolled in state
 40 vocational education. A report under this subdivision to the
 41 general assembly must be in an electronic format under IC 5-14-6.
 42 (13) To submit a report to the legislative council not later than

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1 August 30 of each year on the status of the transfer of courses and
2 programs between state educational institutions. The report must
3 include any changes made during the immediately preceding
4 academic year.

5 (14) To direct the activities of the committee, including the
6 activities set forth in subdivisions (15) and (16).

7 (15) To develop through the committee statewide transfer of
8 credit agreements for courses that are most frequently taken by
9 undergraduates.

10 (16) To develop through the committee statewide agreements
11 under which associate of arts and associate of science programs
12 articulate fully with related baccalaureate degree programs.

13 (17) To publicize by all appropriate means, including an Internet
14 web site, a master list of course transfer of credit agreements and
15 program articulation agreements.

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

19 (1) The authority may adopt ~~rules and~~ bylaws for the regulation
20 of the authority's business.

21 (2) The authority may adopt an official seal and alter the official
22 seal.

23 (3) The authority may maintain an office **or offices** at a place or
24 places designated by the authority.

25 (4) The authority may sue, ~~and~~ be sued, plead, and be impleaded
26 in the authority's own name.

27 (5) The authority may determine the location and character of any
28 project to be financed under this chapter. The authority may
29 construct, reconstruct, remodel, maintain, manage, enlarge, alter,
30 add to, repair, operate, lease as lessee or lessor, regulate any
31 project, or enter into contracts for any purpose stated in this
32 subdivision. The authority may designate a private institution of
33 higher education as the authority's agent to carry out the authority
34 of this subsection.

35 (6) The authority may issue bonds or fund and refund bonds as
36 provided in this chapter.

37 (7) The authority may require that the rates, rents, fees, or charges
38 established by a private institution of higher education are
39 sufficient to discharge the institution's obligations to the authority
40 but shall have no other jurisdiction over such rates, rents, fees, or
41 charges.

42 (8) The authority may ~~establish~~ **adopt** rules **under IC 4-22-2** for

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

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amortization terms.

(13) The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

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

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

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

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

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

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

(17) The authority may do all things necessary to carry out the

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purposes of this chapter.

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

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

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

- (1) ~~Adopt and enforce rules and regulations regarding the fund's administration and the control and investment of the fund: under~~ **IC 4-22-2 necessary or appropriate to perform its duties and exercise its powers.**
- (2) Bond employees for the fund's protection.
- (3) Receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence to work in a federally supported educational project.
- (4) Sue and be sued as the board of trustees of the Indiana state teachers' retirement fund.
- (5) Summon and examine witnesses when adjusting claims.
- (6) Require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board. However, not more than two (2) examinations may be conducted in one (1) year.
- (7) Conduct investigations to help determine the merit of a claim.
- (8) Meet any emergency which may arise in the administration of its trust.
- (9) Determine other matters regarding its trust which are not specified.
- (10) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical,

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1 dental, vision, long term care, or supplemental Medicare
2 insurance, utilizing individual or group insurance policies for
3 retired teachers, and, upon authorization of the respective retired
4 teacher, deduct premium payments for such policies from the
5 teachers' retirement benefits and remit the payments to the
6 insurance companies.

7 (11) Enter into agreements with one (1) or more insurance
8 companies to provide annuities for retired teachers and upon a
9 member's authorization transfer the amount credited to the
10 member in the annuity savings account to the insurance
11 companies.

12 (12) Exercise all powers necessary, convenient, or appropriate to
13 carry out and effectuate its public and corporate purposes and to
14 conduct its business.

15 ~~(13) Establish and amend rules and regulations:~~

16 ~~(A) for the administration and regulation of the fund and the~~
17 ~~board's affairs; and~~

18 ~~(B) to effectuate the powers and purposes of the board;~~
19 ~~without adopting a rule under IC 4-22-2.~~

20 (b) An agreement under subsection (a)(10) may be for a duration of
21 three (3) years.

22 (c) This subsection does not apply to:

23 (1) an agreement under subsection (a)(10); or

24 (2) investments of the board.

25 A contract that the board enters into under section 9(b) of this chapter
26 or any other provision may be for a term of not more than five (5)
27 years, with an ability to renew thereafter.

28 (d) The board's powers and the fund's powers specified in this
29 chapter shall be interpreted broadly to effectuate the purposes of this
30 chapter and may not be construed as a limitation of powers.

31 SECTION 26. IC 23-6-3-6 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: **Sec. 6. The society may adopt rules under
34 IC 4-22-2 necessary or appropriate to perform its duties and
35 exercise its powers.**

36 SECTION 27. IC 27-1-29-7 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) The commission**
38 **is granted all powers necessary, convenient, or appropriate to carry out**
39 **and effectuate its public and corporate purposes under this chapter and**
40 **IC 27-1-29.1 including, but not limited to, and except as otherwise**
41 **restricted in this chapter or IC 27-1-29.1:**

42 (1) The power to have perpetual existence as a body corporate and

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- 1 politic, and an independent instrumentality, but not a state agency,
 2 exercising essential public functions.
 3 (2) The power to sue and be sued.
 4 (3) The power to adopt and alter an official seal.
 5 (4) The power to make and enforce bylaws ~~and rules~~ for the
 6 conduct of its business. ~~which bylaws and rules may be adopted~~
 7 ~~by the commission without complying with IC 4-22-2.~~
 8 (5) The power to make contracts and incur liabilities, borrow
 9 money, issue its negotiable bonds or notes in accordance with this
 10 chapter, subject to provisions for registration of negotiable bonds
 11 and notes, and provide for and secure their payment and provide
 12 for the rights of their holders, and purchase and hold and dispose
 13 of any of its bonds or notes.
 14 (6) The power to acquire, hold, use, and dispose of its income,
 15 revenues, funds, and money.
 16 (7) The power to acquire, rent, lease, hold, use, and dispose of
 17 property for its purposes.
 18 (8) The power to fix and revise from time to time and charge and
 19 collect fees and charges for the use of its services or facilities.
 20 (9) The power to accept gifts or grants of property, funds, money,
 21 materials, 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) The power to do anything authorized by this article, through
 28 its officers, agents, or employees or by contracts with a person.
 29 (11) The power to procure insurance against any losses in
 30 connection with its property, operations, or assets in amounts and
 31 from insurers as it considers desirable.
 32 (12) The power to cooperate with and exchange services,
 33 personnel, and information with any federal, state, or local
 34 government agency.
 35 (b) The commission may:
 36 (1) implement a statewide program of loss control and risk
 37 management to minimize the liabilities of members of the fund;
 38 (2) contract with any persons or entities to obtain or provide the
 39 services of risk managers, actuaries, loss control specialists,
 40 attorneys, and other professionals in carrying out its powers and
 41 duties under this chapter and to pay for those services from the
 42 fund;

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- 1 (3) exercise control over the defense of members of the fund
- 2 against tort claims, including the selection and retention of legal
- 3 counsel, the direction of counsel in the conduct of cases, and the
- 4 negotiation and acceptance or rejection of any settlement;
- 5 (4) establish procedures by which political subdivisions can gain
- 6 or regain membership and relinquish membership in the fund;
- 7 (5) establish procedures and criteria for the imposition of
- 8 assessments to be paid by members of the fund, and the payment
- 9 of members' liabilities;
- 10 (6) establish programs for the payment of money from the fund to
- 11 compensate members for damage to or loss of real or personal
- 12 property;
- 13 (7) establish programs for the payment of:
- 14 (A) liabilities covered under IC 34-13-3 (or IC 34-4-16.5
- 15 before its repeal); and
- 16 (B) liabilities that are not covered under IC 34-13-3 (or
- 17 IC 34-4-16.5 before its repeal), including, but not limited to,
- 18 liability due to alleged violations of the Constitution of the
- 19 United States or federal civil rights statutes by law
- 20 enforcement officers;
- 21 (8) establish programs by which members can protect their
- 22 elected officers and employees against liability arising from their
- 23 alleged errors or omissions;
- 24 (9) establish procedures by which a member of the fund can settle
- 25 small claims that are within the deductible provision of coverage
- 26 under the fund;
- 27 (10) capitalize the fund by levying against each member of the
- 28 fund an annual surcharge over and above the assessment imposed
- 29 against the member under section 12 of this chapter; ~~and~~
- 30 (11) establish any other programs or procedures the commission
- 31 considers necessary for the implementation of this chapter; **and**
- 32 **(12) adopt rules under IC 4-22-2 necessary or appropriate to**
- 33 **perform its duties and exercise its powers.**
- 34 The amount of the surcharge levied against a member of the fund for
- 35 a particular year under subdivision (10) may not exceed twenty-five
- 36 percent (25%) of the member's assessment for the same year.
- 37 (c) The commission shall file a report in an electronic format under
- 38 IC 5-14-6 with the general assembly each year concerning the
- 39 operations of the commission and the condition of the fund.
- 40 SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) This**
- 41 **SECTION applies to the following instrumentalities of state**
- 42 **government:**

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- 1 (1) Indiana economic development corporation (IC 4-1.5-3).
 2 (2) Indiana development finance authority (IC 4-4-11).
 3 (3) State office building commission (IC 4-13.5).
 4 (4) Indiana recycling and energy development board
 5 (IC 4-23-5.5).
 6 (5) State lottery commission (IC 4-30-3).
 7 (6) Indiana health facility financing authority (IC 5-1-16).
 8 (7) Indiana bond bank (IC 5-1.5).
 9 (8) Law enforcement academy building commission
 10 (IC 5-2-2).
 11 (9) Board of trustees of the public employees' retirement fund
 12 (IC 5-10.3-3).
 13 (10) Board for depositories (IC 5-13-12).
 14 (11) Indiana housing finance authority (IC 5-20-1).
 15 (12) Intelenet commission (IC 5-21).
 16 (13) Indiana transportation finance authority (IC 8-9.5-8).
 17 (14) Indiana port commission (IC 8-10-1).
 18 (15) Bureau of motor vehicles commission (IC 9-15).
 19 (16) Indiana emergency management, fire and building
 20 services, and public safety training foundation (IC 10-15).
 21 (17) Indiana natural resources foundation (IC 14-12-1).
 22 (18) Indiana White River state park development commission
 23 (IC 14-13-1).
 24 (19) Little Calumet River basin development commission
 25 (IC 14-13-2).
 26 (20) Recreational development commission (IC 14-14-1).
 27 (21) State fair commission (IC 15-1.5-2).
 28 (22) Center for agricultural science and heritage
 29 (IC 15-1.5-10.5).
 30 (23) Commission for higher education (IC 20-12-0.5).
 31 (24) State student assistance commission (IC 20-12-21).
 32 (25) Indiana educational facilities authority (IC 20-12-63).
 33 (26) Board of trustees of the Indiana state teachers'
 34 retirement fund (IC 21-6.1-3).
 35 (27) Indiana education savings authority (IC 21-9-3).
 36 (28) Indiana grain indemnity corporation (IC 26-4-3).
 37 (29) Indiana political subdivision risk management
 38 commission (IC 27-1-29).
 39 (30) Wireless enhanced 911 advisory board (IC 36-8-16.5).
 40 (b) Except as otherwise provided in this SECTION, the
 41 definitions in IC 4-22-2-3, as amended by this act, apply
 42 throughout this SECTION.

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1 (c) Not later than October 1, 2005, an instrumentality of state
 2 government shall submit a written copy of a rule that:
 3 (1) was adopted by the instrumentality of state government
 4 before July 1, 2005, without complying with IC 4-22-2;
 5 (2) was adopted by the instrumentality of state government at
 6 or after a public meeting or hearing at which the rule was
 7 presented by the instrumentality of state government and
 8 open for discussion by:
 9 (A) members, directors, trustees, officers, or other
 10 representatives of the instrumentality; and
 11 (B) members of the public in attendance at the meeting, if
 12 applicable;
 13 (3) is in force on June 30, 2005; and
 14 (4) has not been published:
 15 (A) as a final rule in the Indiana Register; or
 16 (B) in the Indiana Administrative Code or a supplement to
 17 the Indiana Administrative Code;
 18 before July 1, 2005;
 19 to the publisher for the assignment of a document control number.
 20 A rule submitted under this subsection is exempt from the
 21 requirements established by the publisher under IC 4-22-2-42. The
 22 publisher shall determine the number of copies of the rule to be
 23 submitted to the publisher under this subsection. If a rule
 24 submitted under this subsection incorporates matters described in
 25 IC 4-22-2-21(a), the instrumentality may incorporate the matters
 26 into the rule by reference, as allowed under IC 4-22-2-21.
 27 (d) After a document control number has been assigned to the
 28 rule under subsection (c), the instrumentality of state government
 29 shall submit the rule to the secretary of state for filing. A rule
 30 submitted under this subsection is exempt from the requirements
 31 established by the publisher under IC 4-22-2-42. The secretary of
 32 state shall determine the number of copies of the rule to be
 33 submitted to the secretary of state under this subsection. If a rule
 34 submitted under this subsection incorporates matters described in
 35 IC 4-22-2-21(a), the instrumentality may incorporate the matters
 36 into the rule by reference, as allowed under IC 4-22-2-21. The
 37 secretary of state shall accept a rule for filing under subsection (e)
 38 if the instrumentality of state government submits the number of
 39 copies required by the secretary of state under this subsection and
 40 each copy of the rule includes:
 41 (1) a reference to the document control number assigned to
 42 the rule by the publisher under subsection (c); and

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1 (2) a statement that the instrumentality of state government
2 submits the rule under the authority of SEA 259-2005.
3 (e) Notwithstanding IC 4-22-2-39(a)(3), the secretary of state
4 shall:
5 (1) accept a rule submitted under subsection (d) for filing if
6 the rule complies with subsection (d)(1) through (d)(2); and
7 (2) file stamp and indicate the date and time the rule is
8 accepted on every duplicate copy submitted.
9 The secretary of state shall comply with IC 4-22-7-5 upon
10 accepting a rule for filing under this subsection. However,
11 notwithstanding IC 4-22-2-7(d)(2), the secretary of state shall
12 distribute two (2) duplicate copies of the rule to the attorney
13 general not later than one (1) business day after the date the
14 secretary of state accepts a rule for filing under this subsection.
15 (f) Upon receipt of a rule from the secretary of state under
16 subsection (e), the attorney general may review the rule for
17 legality. Not later than April 1, 2006, the attorney general may
18 disapprove a rule reviewed under this subsection and shall send
19 notice, by certified mail, of the attorney general's determination to
20 the secretary of state, the publisher, and the instrumentality of
21 state government. Subject to subsection (g), the attorney general
22 may disapprove a rule under this subsection only if the attorney
23 general determines that:
24 (1) the rule was not adopted by the instrumentality of state
25 government at or after a public meeting or hearing described
26 in subsection (c)(2);
27 (2) the instrumentality of state government did not have
28 rulemaking authority under IC 4-22-2-13(a), as amended by
29 this act;
30 (3) the rule violates another law; or
31 (4) the rule may constitute the taking of property without just
32 compensation to an owner.
33 (g) If, in the course of a review conducted under subsection (f),
34 the attorney general determines that a rule may constitute a taking
35 of property under subsection (f)(4), the attorney general shall
36 advise the instrumentality of state government of the attorney
37 general's determination. Advice given to the instrumentality under
38 this subsection shall be regarded as confidential attorney-client
39 communication.
40 (h) A rule disapproved by the attorney general under subsection
41 (f) is invalid and does not have the effect of law until:
42 (1) the rule is adopted in conformity with IC 4-22-2; and

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- 1 (2) any defect described in subsection (f)(1) through (f)(4) is
- 2 remedied.
- 3 (i) If the attorney general does not issue a notice of disapproval
- 4 under subsection (f) before April 2, 2006, a rule submitted by an
- 5 instrumentality of state government under subsection (c) is
- 6 considered approved, and the publisher may proceed to publish the
- 7 rule under subsection (j).
- 8 (j) After April 1, 2006, and in any case not later than June 30,
- 9 2007, the publisher shall publish in the Indiana Register a rule:
- 10 (1) that is distributed to the publisher by the secretary of state
- 11 under IC 4-22-7-5(b);
- 12 (2) that contains a statement described in subsection (d)(2);
- 13 and
- 14 (3) for which the publisher has not received a notice of
- 15 disapproval from the attorney general under subsection (f);
- 16 subject to the publisher's then existing deadline for the submission
- 17 of a rule for publication.
- 18 (k) In publishing a rule under subsection (j), the publisher may:
- 19 (1) reformat, renumber, or revise the rule to conform to:
- 20 (A) the typographical style and layout standards
- 21 established under IC 4-22-8-10; and
- 22 (B) the format, numbering system, standards, and
- 23 techniques established under IC 4-22-2-42; or
- 24 (2) subject to subsection (l), publish the rule in the form
- 25 submitted by the instrumentality of state government, along
- 26 with a publisher's notice that the rule was exempt from
- 27 IC 4-22-2-42 at the time of the rule's adoption.
- 28 (l) If the publisher elects under subsection (k)(2) to publish a
- 29 rule in the form submitted by the instrumentality of state
- 30 government, the publisher shall ensure that the publisher's notice
- 31 under subsection (k)(2), or the manner in which the rule is indexed
- 32 in the Indiana Register, does the following:
- 33 (1) Identifies the rule by:
- 34 (A) Indiana Register document control number and
- 35 volume and page number;
- 36 (B) year of adoption, as indicated by the instrumentality of
- 37 state government in its submission under subsection (c);
- 38 and
- 39 (C) general subject matter.
- 40 (2) Enables the secretary of state, an agency, or the
- 41 commission on public records to comply with a request under
- 42 IC 5-14-3 to inspect or copy the rule.

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- 1 **(m) After publishing a rule in the Indiana Register under**
- 2 **subsection (j), the publisher shall codify the rule in the next**
- 3 **publication of the Indiana Administrative Code, or in the next**
- 4 **supplement to the Indiana Administrative Code, under the**
- 5 **procedures set forth in IC 4-22-8.**
- 6 **(n) Notwithstanding IC 4-22-2-3, as amended by this act, and**
- 7 **IC 4-22-2-44, a rule described in subsection (c) remains in effect on**
- 8 **July 1, 2005. However, the rule is voided:**
- 9 **(1) on October 2, 2005, if the rule is not submitted to the**
- 10 **publisher before October 2, 2005, as required under**
- 11 **subsection (c); or**
- 12 **(2) on the date specified in the notice issued by the attorney**
- 13 **general under subsection (f), if the rule is submitted to the**
- 14 **publisher before October 2, 2005, as required under**
- 15 **subsection (c), but is disapproved by the attorney general**
- 16 **under subsection (f).**
- 17 **(o) After June 30, 2005, IC 4-22-7-7 applies to all statements**
- 18 **described in IC 4-22-7-7(a) that:**
- 19 **(1) are adopted by an instrumentality of state government**
- 20 **after June 30, 2005; or**
- 21 **(2) were adopted by an instrumentality of state government**
- 22 **before July 1, 2005, and specify policies on which the**
- 23 **instrumentality still relies on July 1, 2005.**
- 24 **(p) This SECTION expires July 1, 2007.**
- 25 **SECTION 29. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 259, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 10, line 29, delete "13)" and insert "**(13)**".

Page 12, line 19, delete "and".

Page 12, line 21, after ";" insert "**and**".

Page 12, between lines 21 and 22, begin a new line block indented and insert:

"(4) is published in the Indiana Register and the Indiana Administrative Code before July 1, 2007, under the authority of SEA 259-2005 or otherwise;".

Page 31, line 40, delete "Subject to subsection (d) and not" and insert "**Not**".

Page 32, line 10, delete "and".

Page 32, line 11, after ";" insert "**and**".

Page 32, between lines 11 and 12, begin a new line block indented and insert:

"(4) has not been published:

(A) as a final rule in the Indiana Register; or

(B) in the Indiana Administrative Code or a supplement to the Indiana Administrative Code;

before July 1, 2005;".

Page 32, line 12, delete "attorney general for review under subsection (e)." and insert "**publisher for the assignment of a document control number.**".

Page 32, line 14, delete "attorney".

Page 32, line 15, delete "general" and insert "**publisher**".

Page 32, line 16, delete "attorney general" and insert "**publisher**".

Page 32, between lines 19 and 20, begin a new paragraph and insert:

"(d) After a document control number has been assigned to the rule under subsection (c), the instrumentality of state government shall submit the rule to the secretary of state for filing. A rule submitted under this subsection is exempt from the requirements established by the publisher under IC 4-22-2-42. The secretary of state shall determine the number of copies of the rule to be submitted to the secretary of state under this subsection. If a rule submitted under this subsection incorporates matters described in IC 4-22-2-21(a), the instrumentality may incorporate the matters into the rule by reference, as allowed under IC 4-22-2-21. The

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secretary of state shall accept a rule for filing under subsection (e) if the instrumentality of state government submits the number of copies required by the secretary of state under this subsection and each copy of the rule includes:

- (1) a reference to the document control number assigned to the rule by the publisher under subsection (c); and
- (2) a statement that the instrumentality of state government submits the rule under the authority of SEA 259-2005.

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

- (1) accept a rule submitted under subsection (d) for filing if the rule complies with subsection (d)(1) through (d)(2); and
- (2) file stamp and indicate the date and time the rule is accepted on every duplicate copy submitted.

The secretary of state shall comply with IC 4-22-7-5 upon accepting a rule for filing under this subsection. However, notwithstanding IC 4-22-2-7(d)(2), the secretary of state shall distribute two (2) duplicate copies of the rule to the attorney general not later than one (1) business day after the date the secretary of state accepts a rule for filing under this subsection."

Page 32, delete lines 20 through 35.

Page 32, line 36, delete "(e)" and insert "(f)".

Page 32, line 36, delete "under subsection (c) and the".

Page 32, line 37, delete "accompanying documentation required under subsection (d)," and insert "**from the secretary of state under subsection (e),**".

Page 32, line 38, delete "shall" and insert "**may**".

Page 32, line 39, delete "shall approve or" and insert "**may**".

Page 32, line 40, delete "that is timely submitted under subsection (c)" and insert "**reviewed under this subsection**".

Page 32, line 40, delete "notify" and insert "**send notice, by certified mail, of the attorney general's determination to the secretary of state, the publisher, and the instrumentality of state government.**".

Page 32, delete lines 41 through 42.

Page 33, line 1, before "the" insert "**Subject to subsection (g),**".

Page 33, line 1, delete "shall" and insert "**may**".

Page 33, line 12, delete "(f)" and insert "(g)".

Page 33, line 12, after "of" delete "the" and insert "**a**".

Page 33, line 12, delete "(e)," and insert "(f),".

Page 33, line 14, delete "(e)(4)," and insert "(f)(4),".

Page 33, between lines 18 and 19, begin a new paragraph and insert:

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"(h) A rule disapproved by the attorney general under subsection (f) is invalid and does not have the effect of law until:

- (1) the rule is adopted in conformity with IC 4-22-2; and
- (2) any defect described in subsection (f)(1) through (f)(4) is remedied.

(i) If the attorney general does not issue a notice of disapproval under subsection (f) before April 2, 2006, a rule submitted by an instrumentality of state government under subsection (c) is considered approved, and the publisher may proceed to publish the rule under subsection (j).

(j) After April 1, 2006, and in any case not later than June 30, 2007, the publisher shall publish in the Indiana Register a rule:

- (1) that is distributed to the publisher by the secretary of state under IC 4-22-7-5(b);
- (2) that contains a statement described in subsection (d)(2); and
- (3) for which the publisher has not received a notice of disapproval from the attorney general under subsection (f); subject to the publisher's then existing deadline for the submission of a rule for publication."

Page 33, delete lines 19 through 42.

Page 34, delete lines 1 through 28.

Page 34, line 29, before "publishing" begin a new paragraph and insert:

"(k) In".

Page 34, line 29, delete "this subsection," and insert "**subsection (j)**,".

Page 34, line 35, delete "(k)," and insert "**(l)**,".

Page 34, line 38, delete "its" and insert "**the rule's**".

Page 34, line 39, delete "(k)" and insert "**(l)**".

Page 34, line 39, delete "(j)(2)" and insert "**(k)(2)**".

Page 34, line 42, delete "(j)(2)," and insert "**(k)(2)**,".

Page 35, line 6, delete "(c) or" and insert "**(c); and**".

Page 35, delete line 7.

Page 35, line 12, delete "(l)" and insert "**(m)**".

Page 35, line 17, delete "(m)" and insert "**(n)**".

Page 35, line 20, delete "filed with the attorney".

Page 35, line 21, delete "general" and insert "**submitted to the publisher**".

Page 34, line 23, delete "sent to the" and insert "**issued by the attorney general**".

Page 34, line 24, delete "instrumentality of state government".

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Page 34, line 24, delete "(e) or" and insert "**(f), if the rule is submitted to the publisher**".

Page 34, line 25, delete "(g), if the rule is sent to the attorney general".

Page 34, line 27, delete "(e) or (g)." and insert "**(f).**".

Page 34, line 28, delete "(n)" and insert "**(o)**".

Page 34, line 35, delete "(o)" and insert "**(p)**".

Page 34, line 35, delete "December 31, 2006." and insert "**July 1, 2007.**"

and when so amended that said bill do pass.

(Reference is to SB 259 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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