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# SENATE BILL No. 392

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-10-19-12; IC 4-13-2-17.5; IC 5-28-5-12; IC 6-1.1-19-8; IC 6-3.1-25; IC 8-23-2-18; IC 13-14-2-8; IC 14-8-2-107; IC 14-12-4; IC 15-7-9.

**Synopsis:** Growth related projects and land conservation. Prohibits various state agencies from funding growth related projects in certain areas. Requires the department of local government finance to give priority to school construction projects that: (1) renovate or expand existing school buildings; (2) are located in existing neighborhoods; (3) do not contribute to the conversion of farm lands; and (4) do not require new water or sewer infrastructure. Provides a tax credit for job creation in certain municipal areas. Establishes the Hoosier legacy fund to fund eligible projects under the United States Department of Agriculture's farmland preservation and forest legacy programs. Authorizes the land resources council to identify priority funding areas and perform certain other tasks. Makes a technical correction.

**Effective:** July 1, 2006.

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### Mrvan

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January 11, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 392



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 4-10-19-12 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2006]: **Sec. 12. (a) As used in this section, "growth related  
4 project" has the meaning set forth in IC 15-7-9-3.3.**

5 **(b) As used in this section, "priority funding area" has the  
6 meaning set forth in IC 15-7-9-3.6.**

7 **(c) The budget agency may not loan money from the fund for a  
8 growth related project in an area that is not a priority funding  
9 area.**

10 SECTION 2. IC 4-13-2-17.5 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2006]: **Sec. 17.5. (a) As used in this section, "growth related  
13 project" has the meaning set forth in IC 15-7-9-3.3.**

14 **(b) As used in this section, "priority funding area" has the  
15 meaning set forth in IC 15-7-9-3.6.**

16 **(c) The budget agency may not approve a request for an  
17 allotment under section 18 of this chapter for a growth related**



1 **project in an area that is not a priority funding area.**  
2 SECTION 3. IC 5-28-5-12, AS ADDED BY P.L.4-2005, SECTION  
3 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
4 2006]: Sec. 12. (a) The Indiana promotion fund is established within  
5 the state treasury.  
6 (b) Except as provided in section 13 of this chapter, the corporation  
7 shall deposit the following in the fund:  
8 (1) All funding received from the private sector under  
9 IC 5-28-6-1(6).  
10 (2) All other gifts, donations, bequests, devises, and contributions  
11 received by the corporation.  
12 (c) The corporation shall administer the fund. The treasurer of state  
13 shall invest the money in the fund not currently needed to meet the  
14 obligations of the fund in the same manner as public money may be  
15 invested. Interest that accrues from these investments shall be  
16 deposited in the fund.  
17 (d) Money in the fund at the end of a state fiscal year does not revert  
18 to the state general fund.  
19 (e) Except as provided in the terms of a gift, a donation, a  
20 contribution, a bequest, a devise, or other private sector funding,  
21 money in the fund may be used at the discretion of the board to carry  
22 out in any manner the corporation's purposes under this article.  
23 **However, money in the fund may not be used to fund a growth**  
24 **related project (as defined in IC 15-7-9-3.3) in an area that is not**  
25 **a priority funding area (as defined in IC 15-7-9-3.6).**  
26 (f) Money in the fund may be transferred to any fund administered  
27 by the corporation.  
28 (g) Money in the fund is continuously appropriated to the  
29 corporation for the purposes of this article.  
30 SECTION 4. IC 6-1.1-19-8, AS AMENDED BY P.L.1-2005,  
31 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2006]: Sec. 8. (a) A school corporation must file a petition  
33 requesting approval from the department of local government finance  
34 to incur bond indebtedness, enter into a lease rental agreement, or  
35 repay from the debt service fund loans made for the purchase of school  
36 buses under IC 20-27-4-5 not later than twenty-four (24) months after  
37 the first date of publication of notice of a preliminary determination  
38 under IC 6-1.1-20-3.1(2), unless the school corporation demonstrates  
39 that a longer period is reasonable in light of the school corporation's  
40 facts and circumstances. A school corporation must obtain approval  
41 from the department of local government finance before the school  
42 corporation may:

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- 1 (1) incur the indebtedness;
- 2 (2) enter into the lease agreement; or
- 3 (3) repay the school bus purchase loan.

4 This restriction does not apply to ad valorem property taxes which a  
 5 school corporation levies to pay or fund bond or lease rental  
 6 indebtedness created or incurred before July 1, 1974.

7 (b) The department of local government finance may either approve,  
 8 disapprove, or modify then approve a school corporation's proposed  
 9 lease rental agreement, bond issue or school bus purchase loan. Before  
 10 it approves or disapproves a proposed lease rental agreement, bond  
 11 issue or school bus purchase loan, the department of local government  
 12 finance may seek the recommendation of the tax control board.

13 (c) The department of local government finance shall render a  
 14 decision not more than three (3) months after the date it receives a  
 15 request for approval under subsection (a). However, the department of  
 16 local government finance may extend this three (3) month period by an  
 17 additional three (3) months if, at least ten (10) days before the end of  
 18 the original three (3) month period, the department sends notice of the  
 19 extension to the executive officer of the school corporation. A school  
 20 corporation may petition for judicial review of the final determination  
 21 of the department of local government finance under this section. The  
 22 petition must be filed in the tax court not more than forty-five (45) days  
 23 after the department enters its order under this section.

24 (d) ~~After December 31, 1995,~~ The department of local government  
 25 finance may not approve a school corporation's proposed lease rental  
 26 agreement or bond issue to finance the construction of additional  
 27 classrooms unless the school corporation first:

- 28 (1) establishes that additional classroom space is necessary; and
- 29 (2) conducts a feasibility study, holds public hearings, and hears  
 30 public testimony on using a twelve (12) month school term  
 31 (instead of the nine (9) month school term (as defined in  
 32 IC 20-30-2-7)) rather than expanding classroom space.

33 (e) **Beginning January 1, 2007, the department of local  
 34 government finance, in the department's consideration of a school  
 35 corporation's proposed lease rental agreement or bond issue, shall  
 36 give priority to school construction projects that do the following:**

- 37 (1) **Renovate or expand existing school buildings.**
- 38 (2) **Are located in existing neighborhoods.**
- 39 (3) **Do not convert or contribute to the conversion of**  
 40 **agricultural lands.**
- 41 (4) **Do not require new water or sewer infrastructure.**

42 **The department may not approve a school corporation's proposed**

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1 **lease rental agreement or bond issue for a school construction**  
 2 **project that contributes to the conversion of agricultural lands or**  
 3 **requires new water or sewer infrastructure unless the school**  
 4 **corporation shows that the renovation or expansion of existing**  
 5 **school buildings is impracticable.**

6 ~~(e)~~ **(f)** This section does not apply to school bus purchase loans  
 7 made by a school corporation which will be repaid solely from the  
 8 general fund of the school corporation.

9 ~~(f)~~ **(g)** A taxpayer may petition for judicial review of the final  
 10 determination of the department of local government finance under this  
 11 section. The petition must be filed in the tax court not more than thirty  
 12 (30) days after the department enters its order under this section.

13 SECTION 5. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE  
 14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2006]:

16 **Chapter 25. Smart Growth Job Creation Credit**

17 **Sec. 1. As used in this chapter, "pass through entity" means a:**

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

23 **Sec. 2. As used in this chapter, "priority funding area" has the**  
 24 **meaning set forth in IC 15-7-9-3.6.**

25 **Sec. 3. As used in this chapter, "state tax liability" means a**  
 26 **taxpayer's total tax liability that is incurred under:**

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

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

33 **Sec. 4. As used in this chapter, "taxpayer" means a person,**  
 34 **corporation, or pass through entity that is an employer in a**  
 35 **priority funding area.**

36 **Sec. 5. (a) In a taxable year beginning after December 31, 2006,**  
 37 **a taxpayer is entitled to a credit against the taxpayer's state tax**  
 38 **liability for a taxable year for the establishment or expansion of a**  
 39 **business facility located in a priority funding area that results in**  
 40 **the creation of:**

- 41 **(1) at least sixty (60) new positions;**  
 42 **(2) at least thirty (30) new positions, if the total payroll for the**

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1 new positions is greater than the state average salary  
 2 multiplied by sixty (60); or  
 3 (3) at least twenty-five (25) new positions, if the taxpayer is  
 4 engaged in one (1) or more of the following:  
 5 (A) Manufacturing or mining.  
 6 (B) Transportation or communications.  
 7 (C) Agriculture, forestry, or fishing.  
 8 (D) Research, development, or testing.  
 9 (E) Biotechnology.  
 10 (F) Computer programming, data processing, or other  
 11 computer related services.  
 12 (G) Financial, real estate, or insurance services.  
 13 (H) The operation of central administrative offices or a  
 14 company headquarters.  
 15 (b) The amount of the credit is equal to the lesser of:  
 16 (1) the number of new positions created in the priority  
 17 funding area multiplied by one thousand dollars (\$1,000); or  
 18 (2) the total of wages paid by the taxpayer to the new  
 19 employees in the priority funding area in the taxable year  
 20 multiplied by two and one-half percent (2.5%).  
 21 Sec. 6. (a) If the amount determined under section 5(b) of this  
 22 chapter for a taxpayer in a taxable year exceeds the taxpayer's  
 23 state tax liability for that taxable year and the taxpayer does not  
 24 elect to receive a refund under subsection (b), the taxpayer may  
 25 carry the excess over to the following taxable years. The amount of  
 26 the credit carryover from a taxable year shall be reduced to the  
 27 extent that the carryover is used by the taxpayer to obtain a credit  
 28 under this chapter for any subsequent taxable year. A taxpayer is  
 29 not entitled to a carryback.  
 30 (b) A taxpayer is entitled to a refund of any unused credit.  
 31 Sec. 7. If a pass through entity does not have state income tax  
 32 liability against which the tax credit may be applied, a shareholder  
 33 or partner of the pass through entity is entitled to a tax credit equal  
 34 to:  
 35 (1) the tax credit determined for the pass through entity for  
 36 the taxable year; multiplied by  
 37 (2) the percentage of the pass through entity's distributive  
 38 income to which the shareholder or partner is entitled.  
 39 Sec. 8. To receive the credit provided by this chapter, a taxpayer  
 40 must claim the credit on the taxpayer's state tax return in the  
 41 manner prescribed by the department. The taxpayer must submit  
 42 to the department proof of payment of the wages of the new

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1 employees in the priority funding area and all information that the  
2 department determines is necessary for the calculation of the credit  
3 provided by this chapter.

4 SECTION 6. IC 8-23-2-18 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2006]: Sec. 18. (a) As used in this section, "growth related  
7 project" has the meaning set forth in IC 15-7-9-3.3.

8 (b) As used in this section, "priority funding area" has the  
9 meaning set forth in IC 15-7-9-3.6.

10 (c) The Indiana department of transportation may not fund a  
11 growth related project in an area that is not a priority funding  
12 area.

13 SECTION 7. IC 13-14-2-8 IS ADDED TO THE INDIANA CODE  
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2006]: Sec. 8. (a) As used in this section, "growth related  
16 project" has the meaning set forth in IC 15-7-9-3.3.

17 (b) As used in this section, "priority funding area" has the  
18 meaning set forth in IC 15-7-9-3.6.

19 (c) The department of environmental management may not fund  
20 a growth related project in an area that is not a priority funding  
21 area.

22 SECTION 8. IC 14-8-2-107, AS AMENDED BY P.L.225-2005,  
23 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2006]: Sec. 107. "Fund" has the following meaning:

25 (1) For purposes of IC 14-9-5, the meaning set forth in  
26 IC 14-9-5-1.

27 (2) For purposes of IC 14-9-8-21, the meaning set forth in  
28 IC 14-9-8-21.

29 (3) For purposes of IC 14-9-8-21.5, the meaning set forth in  
30 IC 14-9-8-21.5.

31 (4) For purposes of IC 14-9-9, the meaning set forth in  
32 IC 14-9-9-3.

33 (5) For purposes of IC 14-12-1, the meaning set forth in  
34 IC 14-12-1-1.

35 (6) For purposes of IC 14-12-2, the meaning set forth in  
36 IC 14-12-2-2.

37 (7) For purposes of IC 14-12-3, the meaning set forth in  
38 IC 14-12-3-2.

39 (8) For purposes of IC 14-12-4, the meaning set forth in  
40 IC 14-12-4-1.

41 (9) For purposes of IC 14-13-1, the meaning set forth in  
42 IC 14-13-1-2.

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- 1           ~~(9)~~ **(10)** For purposes of IC 14-13-2, the meaning set forth in  
 2           IC 14-13-2-3.  
 3           ~~(10)~~ **(11)** For purposes of IC 14-16-1, the meaning set forth in  
 4           IC 14-16-1-30.  
 5           ~~(11)~~ **(12)** For purposes of IC 14-19-8, the meaning set forth in  
 6           IC 14-19-8-1.  
 7           ~~(12)~~ **(13)** For purposes of IC 14-20-1, the meaning set forth in  
 8           IC 14-20-1-3.  
 9           ~~(13)~~ **(14)** For purposes of IC 14-20-11, the meaning set forth in  
 10          IC 14-20-11-2.  
 11          ~~(14)~~ **(15)** For purposes of IC 14-22-3, the meaning set forth in  
 12          IC 14-22-3-1.  
 13          ~~(15)~~ **(16)** For purposes of IC 14-22-4, the meaning set forth in  
 14          IC 14-22-4-1.  
 15          ~~(16)~~ **(17)** For purposes of IC 14-22-5, the meaning set forth in  
 16          IC 14-22-5-1.  
 17          ~~(17)~~ **(18)** For purposes of IC 14-22-8, the meaning set forth in  
 18          IC 14-22-8-1.  
 19          ~~(18)~~ **(19)** For purposes of IC 14-22-34, the meaning set forth in  
 20          IC 14-22-34-2.  
 21          ~~(19)~~ **(20)** For purposes of IC 14-23-3, the meaning set forth in  
 22          IC 14-23-3-1.  
 23          ~~(20)~~ **(21)** For purposes of IC 14-24-4.5, the meaning set forth in  
 24          IC 14-24-4.5-2(5).  
 25          ~~(21)~~ **(22)** For purposes of IC 14-25-2-4, the meaning set forth in  
 26          IC 14-25-2-4.  
 27          ~~(22)~~ **(23)** For purposes of IC 14-25-10, the meaning set forth in  
 28          IC 14-25-10-1.  
 29          ~~(23)~~ **(24)** For purposes of IC 14-25-11-19, the meaning set forth  
 30          in IC 14-25-11-19.  
 31          ~~(24)~~ **(25)** For purposes of IC 14-25.5, the meaning set forth in  
 32          IC 14-25.5-1-3.  
 33          ~~(25)~~ **(26)** For purposes of IC 14-28-5, the meaning set forth in  
 34          IC 14-28-5-2.  
 35          ~~(26)~~ **(27)** For purposes of IC 14-31-2, the meaning set forth in  
 36          IC 14-31-2-5.  
 37          ~~(27)~~ **(28)** For purposes of IC 14-25-12, the meaning set forth in  
 38          IC 14-25-12-1.  
 39          **(29) For purposes of IC 14-32-8, the meaning set forth in**  
 40          **IC 14-32-8-1.**  
 41          ~~(28)~~ **(30)** For purposes of IC 14-33-14, the meaning set forth in  
 42          IC 14-33-14-3.

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- 1           ~~(29)~~ **(31)** For purposes of IC 14-33-21, the meaning set forth in
- 2           IC 14-33-21-1.
- 3           ~~(30)~~ **(32)** For purposes of IC 14-34-6-15, the meaning set forth in
- 4           IC 14-34-6-15.
- 5           ~~(31)~~ **(33)** For purposes of IC 14-34-14, the meaning set forth in
- 6           IC 14-34-14-1.
- 7           ~~(32)~~ **(34)** For purposes of IC 14-37-10, the meaning set forth in
- 8           IC 14-37-10-1.

9           SECTION 9. IC 14-12-4 IS ADDED TO THE INDIANA CODE AS  
 10          A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 11          1, 2006]:

12           **Chapter 4. Hoosier Legacy Fund**

13           **Sec. 1. As used in this chapter, "fund" refers to the Hoosier**  
 14           **legacy fund established by section 2 of this chapter.**

15           **Sec. 2. (a) The Hoosier legacy fund is established to provide**  
 16           **matching funds for eligible projects under the United States**  
 17           **Department of Agriculture (USDA) farmland preservation**  
 18           **program and the USDA forest legacy program. The fund shall be**  
 19           **administered by the department.**

20           **(b) The fund consists of the following:**

- 21                   **(1) Appropriations made by the general assembly.**
- 22                   **(2) Gifts and donations intended for deposit in the fund.**
- 23                   **(3) Federal grants or money available for deposit into the**  
 24                   **fund.**
- 25                   **(4) Money from any other source.**

26           **(c) The expenses of administering the fund shall be paid from**  
 27           **money in the fund.**

28           **(d) The treasurer of state shall invest the money in the fund not**  
 29           **currently needed to meet the obligations of the fund in the same**  
 30           **manner as other public money may be invested.**

31           **(e) Money in the fund at the end of a state fiscal year does not**  
 32           **revert to the state general fund.**

33           SECTION 10. IC 15-7-9-3.3 IS ADDED TO THE INDIANA CODE  
 34          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 35          1, 2006]: **Sec. 3.3. (a) As used in this chapter, "growth related**  
 36           **project" means a public or private construction or development**  
 37           **project that encourages, contributes to, or supports growth or**  
 38           **development.**

39           **(b) The term includes highway projects, sewer and water**  
 40           **construction projects, state office facility construction projects, and**  
 41           **all types of infrastructure projects.**

42           **(c) The term does not include a highway construction project if**

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1 the project does not encourage growth or development and one (1)  
2 of the following purposes is the sole purpose of the project:

- 3 (1) Repair or maintenance.
- 4 (2) Safety improvements.
- 5 (3) Meeting a demonstrated existing traffic demand.

6 SECTION 11. IC 15-7-9-3.6 IS ADDED TO THE INDIANA CODE  
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2006]: **Sec. 3.6. As used in this chapter, "priority funding area"**  
9 **means a specific area:**

- 10 (1) defined by the boundaries of a municipality that exist on  
11 July 1, 2006; or
- 12 (2) zoned industrial and served by a public or community  
13 water and sewer system and contiguous to the boundary of a  
14 municipality.

15 SECTION 12. IC 15-7-9-7 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7.** The council may do  
17 the following:

- 18 (1) Provide technical assistance and information about land use  
19 strategies.
- 20 (2) Facilitate collaboration among commonly affected state,  
21 county, and local government units.
- 22 (3) Compile and maintain a land planning information library,  
23 both hard copy and electronic, that includes current data on land  
24 resources in Indiana, **land use facts and trends, urban and rural  
25 planning, and economic development policies.**
- 26 (4) Establish or coordinate educational programs for  
27 governmental units, nongovernmental units, and the public with  
28 special consideration for local planning commission members and  
29 county commissioners.
- 30 (5) Provide counties and local communities conducting land use  
31 planning with access to technical and legal assistance through a  
32 referral service.
- 33 (6) Provide information to local authorities on model ordinances  
34 for programs and techniques on land use.
- 35 (7) Obtain grants and assist counties and local communities in  
36 locating additional funding sources for planning projects.
- 37 (8) Make recommendations to the general assembly and other  
38 governmental bodies concerning land resources.
- 39 (9) When requested, advise the general assembly on proposals  
40 relating to land resources.
- 41 (10) **Identify priority funding areas in cooperation with  
42 municipalities.**

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- 1           **(11) Develop a rating system for funding eligible projects that**
- 2           **gives a priority to growth related projects that are based on**
- 3           **local growth plans that focus on the following:**
- 4               **(A) Urban redevelopment.**
- 5               **(B) Expansion of mass transit.**
- 6               **(C) Environmental quality improvement.**
- 7           **(12) Review all the growth related projects of the following**
- 8           **agencies:**
- 9               **(A) The Indiana department of transportation.**
- 10              **(B) The Indiana economic development corporation.**
- 11              **(C) The department of environmental management.**
- 12              **(D) Any other state agency that distributes state or federal**
- 13              **money for growth related projects.**

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