

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 460, 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:

- 1 Page 1, delete lines 1 through 15.
2 Delete pages 2 through 4.
3 Page 5, delete lines 1 through 31 begin a new paragraph and insert:
4 "SECTION 1. IC 13-11-2-16, AS AMENDED BY P.L.235-2005,
5 SECTION 126, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) "Authority", for purposes of
7 IC 13-22-10, refers to the Indiana hazardous waste facility site approval
8 authority.
9 (b) "Authority", for purposes of IC 13-18-13, IC 13-18-21, ~~and~~
10 IC 13-19-5, **and IC 13-19-6**, refers to the Indiana finance authority
11 created under IC 4-4-11.
12 SECTION 2. IC 13-11-2-71.2 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2009]: **Sec. 71.2. "Environmental restrictive**
15 **ordinance" means, with respect to land, any ordinance that:**
16 **(1) is adopted by a municipal corporation (as defined in**
17 **IC 36-1-2-10); and**
18 **(2) limits the use of the land or the activities that may be**
19 **performed on or at the land or requires the maintenance of**
20 **any engineering control on the land designed to protect**
21 **human health or the environment.**

1 SECTION 3. IC 13-11-2-71.4 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2009]: **Sec. 71.4. "Environmental trust**
 4 **fund", for purposes of IC 13-19-6, refers to the environmental trust**
 5 **fund established by IC 13-19-6-1.**

6 SECTION 4. IC 13-11-2-110.2 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2009]: **Sec. 110.2. "Institutional control**
 9 **registry", for purposes of IC 13-19-6, refers to the institutional**
 10 **control registry established by IC 13-19-6-1.**

11 SECTION 5. IC 13-11-2-148, AS AMENDED BY P.L.221-2007,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2009]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10,
 14 means the person in direct or responsible charge or control of one (1)
 15 or more confined feeding operations.

16 (b) "Operator", for purposes of IC 13-18-11 and environmental
 17 management laws, means the person in direct or responsible charge and
 18 supervising the operation of:

- 19 (1) a water treatment plant;
- 20 (2) a wastewater treatment plant; or
- 21 (3) a water distribution system.

22 (c) "Operator", for purposes of IC 13-20-6, means a corporation, a
 23 limited liability company, a partnership, a business association, a unit,
 24 or an individual who is a sole proprietor that is one (1) of the following:

- 25 (1) A broker.
- 26 (2) A person who manages the activities of a transfer station that
- 27 receives municipal waste.
- 28 (3) A transporter.

29 (d) "Operator", for purposes of IC 13-23, except as provided in
 30 ~~subsection~~ **subsections (e), (g), and (h)** means a person:

- 31 (1) in control of; or
- 32 (2) having responsibility for;
- 33 the daily operation of an underground storage tank.

34 (e) "Operator", for purposes of IC 13-23-13, does not include the
 35 following:

- 36 (1) A person who:
 - 37 (A) does not participate in the management of an underground
 - 38 storage tank;
 - 39 (B) is otherwise not engaged in the:
 - 40 (i) production;
 - 41 (ii) refining; and
 - 42 (iii) marketing;

- 1 of regulated substances; and
- 2 (C) holds evidence of ownership, primarily to protect the
- 3 owner's security interest in the tank.
- 4 (2) A person who:
- 5 (A) does not own or lease, directly or indirectly, the facility or
- 6 business at which the underground storage tank is located;
- 7 (B) does not participate in the management of the facility or
- 8 business described in clause (A); and
- 9 (C) is engaged only in:
- 10 (i) filling;
- 11 (ii) gauging; or
- 12 (iii) filling and gauging;
- 13 the product level in the course of delivering fuel to an
- 14 underground storage tank.
- 15 (3) A political subdivision (as defined in IC 36-1-2-13) or unit of
- 16 federal or state government that:
- 17 (A) acquires ownership or control of an underground storage
- 18 tank on a brownfield because of:
- 19 (i) bankruptcy;
- 20 (ii) foreclosure;
- 21 (iii) tax delinquency, including an acquisition under
- 22 IC 6-1.1-24 or IC 6-1.1-25;
- 23 (iv) abandonment;
- 24 (v) the exercise of eminent domain, including any purchase
- 25 of property once an offer to purchase has been tendered
- 26 under IC 32-24-1-5;
- 27 (vi) receivership;
- 28 (vii) transfer from another political subdivision or unit of
- 29 federal or state government;
- 30 (viii) acquiring an area needing redevelopment (as defined
- 31 in IC 36-7-1-3) or conducting redevelopment activities,
- 32 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
- 33 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and
- 34 IC 36-7-15.1-15.5;
- 35 (ix) other circumstances in which the political subdivision
- 36 or unit of federal or state government involuntarily acquired
- 37 an interest in the property because of the political
- 38 subdivision's or unit's function as sovereign; or
- 39 (x) any other means to conduct remedial actions on a
- 40 brownfield; and
- 41 (B) is engaged only in activities in conjunction with:
- 42 (i) investigation or remediation of hazardous substances,

1 petroleum, and other pollutants associated with a
 2 brownfield, including complying with land use restrictions
 3 and institutional controls; or

4 (ii) monitoring or closure of an underground storage tank;
 5 unless existing contamination on the brownfield is exacerbated
 6 due to gross negligence or intentional misconduct by the
 7 political subdivision or unit of federal or state government.

8 (f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton
 9 misconduct constitutes gross negligence.

10 **(g) "Operator" does not include a person that after June 30,**
 11 **2009, meets, for purposes of the determination under IC 13-23-13**
 12 **of liability for a release from an underground storage tank, the**
 13 **exemption criteria under Section 107(q) of CERCLA (42 U.S.C.**
 14 **9607(q)) that apply for purposes of the determination of liability**
 15 **for a release of a hazardous substance.**

16 **(h) "Operator" does not include a person that meets, for**
 17 **purposes of the determination under IC 13-23-13 of liability for a**
 18 **release from an underground storage tank, the exemption criteria**
 19 **under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for**
 20 **purposes of the determination of liability for a release of a**
 21 **hazardous substance, except that the person acquires ownership of**
 22 **the facility after June 30, 2009.**

23 SECTION 6. IC 13-11-2-150, AS AMENDED BY P.L.221-2007,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2009]: Sec. 150. (a) "Owner", for purposes of IC 13-23
 26 (except as provided in subsections (b), (c), ~~and (d)~~) **(d), (e), and (f)**
 27 means:

28 (1) for an underground storage tank that:

29 (A) was:

30 (i) in use on November 8, 1984; or

31 (ii) brought into use after November 8, 1984;

32 for the storage, use, or dispensing of regulated substances, a
 33 person who owns the underground storage tank; or

34 (B) is:

35 (i) in use before November 8, 1984; but

36 (ii) no longer in use on November 8, 1984;

37 a person who owned the tank immediately before the
 38 discontinuation of the tank's use; or

39 (2) a person who conveyed ownership or control of the
 40 underground storage tank to a political subdivision (as defined in
 41 IC 36-1-2-13) or unit of federal or state government because of:

42 (A) bankruptcy;

- 1 (B) foreclosure;
- 2 (C) tax delinquency, including a conveyance under
- 3 IC 6-1.1-24 or IC 6-1.1-25;
- 4 (D) abandonment;
- 5 (E) the exercise of eminent domain, including any purchase of
- 6 property once an offer to purchase has been tendered under
- 7 IC 32-24-1-5;
- 8 (F) receivership;
- 9 (G) acquiring an area needing redevelopment (as defined in
- 10 IC 36-7-1-3) or conducting redevelopment activities,
- 11 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
- 12 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 13 (H) other circumstances in which a political subdivision or
- 14 unit of federal or state government involuntarily acquired
- 15 ownership or control because of the political subdivision's or
- 16 unit's function as sovereign; or
- 17 (I) any other means to conduct remedial actions on a
- 18 brownfield;
- 19 if the person was a person described in subdivision (1)
- 20 immediately before the person conveyed ownership or control of
- 21 the underground storage tank.
- 22 (b) "Owner", for purposes of IC 13-23-13, does not include a person
- 23 who:
- 24 (1) does not participate in the management of an underground
- 25 storage tank;
- 26 (2) is otherwise not engaged in the:
- 27 (A) production;
- 28 (B) refining; and
- 29 (C) marketing;
- 30 of regulated substances; and
- 31 (3) holds indicia of ownership primarily to protect the owner's
- 32 security interest in the tank.
- 33 (c) "Owner", for purposes of IC 13-23, does not include a political
- 34 subdivision (as defined in IC 36-1-2-13) or unit of federal or state
- 35 government that acquired ownership or control of an underground
- 36 storage tank because of:
- 37 (1) bankruptcy;
- 38 (2) foreclosure;
- 39 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
- 40 IC 6-1.1-25;
- 41 (4) abandonment;
- 42 (5) the exercise of eminent domain, including any purchase of

- 1 property once an offer to purchase has been tendered under
2 IC 32-24-1-5;
- 3 (6) receivership;
- 4 (7) transfer from another political subdivision or unit of federal or
5 state government;
- 6 (8) acquiring an area needing redevelopment (as defined in
7 IC 36-7-1-3) or conducting redevelopment activities, specifically
8 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
9 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 10 (9) other circumstances in which the political subdivision or unit
11 of federal or state government involuntarily acquired ownership
12 or control because of the political subdivision's or unit's function
13 as sovereign; or
- 14 (10) any other means to conduct remedial actions on a
15 brownfield;

16 unless the political subdivision or unit of federal or state government
17 causes or contributes to the release or threatened release of a regulated
18 substance, in which case the political subdivision or unit of federal or
19 state government is subject to IC 13-23 in the same manner and to the
20 same extent as a nongovernmental entity under IC 13-23.

21 (d) "Owner", for purposes of IC 13-23, does not include a nonprofit
22 corporation that acquired ownership or control of an underground
23 storage tank to assist and support a political subdivision's revitalization
24 and reuse of a brownfield for noncommercial purposes, including
25 conservation, preservation, and recreation, unless the nonprofit
26 corporation causes or contributes to the release or threatened release of
27 a regulated substance, in which case the nonprofit corporation is
28 subject to IC 13-23 in the same manner and to the same extent as any
29 other nongovernmental entity under IC 13-23.

30 **(e) "Owner" does not include a person that after June 30, 2009,**
31 **meets, for purposes of the determination under IC 13-23-13 of**
32 **liability for a release from an underground storage tank, the**
33 **exemption criteria under Section 107(q) of CERCLA (42 U.S.C.**
34 **9607(q)) that apply for purposes of the determination of liability**
35 **for a release of a hazardous substance.**

36 **(f) "Owner" does not include a person that meets, for purposes**
37 **of the determination under IC 13-23-13 of liability for a release**
38 **from an underground storage tank, the exemption criteria under**
39 **Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for**
40 **purposes of the determination of liability for a release of a**
41 **hazardous substance, except that the person acquires ownership of**
42 **the facility after June 30, 2009.**

1 SECTION 7. IC 13-11-2-151, AS AMENDED BY P.L.221-2007,
 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2009]: Sec. 151. (a) "Owner or operator", for purposes of
 4 IC 13-24-1, means the following:

5 (1) For a petroleum facility, a person who owns or operates the
 6 facility.

7 (2) For a petroleum facility where title or control has been
 8 conveyed because of:

9 (A) bankruptcy;

10 (B) foreclosure;

11 (C) tax delinquency, including a conveyance under
 12 IC 6-1.1-24 or IC 6-1.1-25;

13 (D) abandonment;

14 (E) the exercise of eminent domain, including any purchase of
 15 property once an offer to purchase has been tendered under
 16 IC 32-24-1-5;

17 (F) receivership;

18 (G) acquiring an area needing redevelopment (as defined in
 19 IC 36-7-1-3) or conducting redevelopment activities,
 20 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
 21 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

22 (H) other circumstances in which a political subdivision (as
 23 defined in IC 36-1-2-13) or unit of federal or state government
 24 involuntarily acquired title or control because of the political
 25 subdivision's or unit's function as sovereign; or

26 (I) any other means to conduct remedial actions on a
 27 brownfield;

28 to a political subdivision or unit of federal or state government, a
 29 person who owned, operated, or otherwise controlled the
 30 petroleum facility immediately before title or control was
 31 conveyed.

32 (b) Subject to subsection (c), the term does not include a political
 33 subdivision or unit of federal or state government that acquired
 34 ownership or control of the facility through:

35 (1) bankruptcy;

36 (2) foreclosure;

37 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
 38 IC 6-1.1-25;

39 (4) abandonment;

40 (5) the exercise of eminent domain, including any purchase of
 41 property once an offer to purchase has been tendered under
 42 IC 32-24-1-5;

- 1 (6) receivership;
- 2 (7) transfer from another political subdivision or unit of federal or
- 3 state government;
- 4 (8) acquiring an area needing redevelopment (as defined in
- 5 IC 36-7-1-3) or conducting redevelopment activities, specifically
- 6 under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,
- 7 IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- 8 (9) other circumstances in which the political subdivision or unit
- 9 of federal or state government involuntarily acquired ownership
- 10 or control because of the political subdivision's or unit's function
- 11 as sovereign; or
- 12 (10) any other means to conduct remedial actions on a brownfield.

13 (c) The term includes a political subdivision or unit of federal or

14 state government that causes or contributes to the release or threatened

15 release of a regulated substance, in which case the political subdivision

16 or unit of federal or state government is subject to IC 13-24-1:

- 17 (1) in the same manner; and
- 18 (2) to the same extent;
- 19 as a nongovernmental entity under IC 13-24-1.

20 (d) The term does not include a person who:

21 (1) does not participate in the management of a petroleum facility;

22 (2) is otherwise not engaged in the:

23 (A) production;

24 (B) refining; and

25 (C) marketing;

26 of petroleum; and

27 (3) holds evidence of ownership in a petroleum facility, primarily

28 to protect the owner's security interest in the petroleum facility.

29 (e) The term does not include a nonprofit corporation that acquired

30 ownership or control of a facility to assist and support a political

31 subdivision's revitalization and reuse of a brownfield for

32 noncommercial purposes, including conservation, preservation, and

33 recreation, unless the nonprofit corporation causes or contributes to the

34 release or threatened release of a regulated substance, in which case the

35 nonprofit corporation is subject to IC 13-24-1 in the same manner and

36 to the same extent as any other nongovernmental entity under

37 IC 13-24-1.

38 **(f) The term does not include a person that after June 30, 2009,**

39 **meets, for purposes of the determination under IC 13-24-1 of**

40 **liability for a release of petroleum, the exemption criteria under**

41 **Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for**

42 **purposes of the determination of liability for a release of a**

1 **hazardous substance.**

2 **(g) The term does not include a person that meets, for purposes**
 3 **of the determination under IC 13-24-1 of liability for a release of**
 4 **petroleum, the exemption criteria under Section 107(r) of**
 5 **CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the**
 6 **determination of liability for a release of a hazardous substance,**
 7 **except that the person acquires ownership of the facility after June**
 8 **30, 2009.**

9 SECTION 8. IC 13-11-2-233.5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 233.5. "Tract", for
 11 purposes of this chapter **and IC 13-19-6**, means any area of land that
 12 is under common ownership and is contained within a continuous
 13 border."

14 Page 5, delete lines 41 through 42, begin a new paragraph and
 15 insert:

16 "SECTION 10. IC 13-14-2-6 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. Except as provided
 18 in IC 13-14-6, the commissioner may proceed in court, by appropriate
 19 action, to:

- 20 (1) enforce any final order of the commissioner or of one (1) of
 21 the boards;
 22 (2) collect any penalties or fees;
 23 (3) procure or secure compliance with this title or any other law
 24 that the department has the duty or power to enforce;
 25 (4) procure compliance with any standard or rule of one (1) of the
 26 boards; **or**
 27 (5) enforce a restrictive covenant (as defined in IC 13-11-2-193.5)
 28 **in accordance with the terms of the covenant if the covenant**
 29 **is:**

- 30 **(A) executed before July 1, 2009;**
 31 **(B) approved by the commissioner; and**
 32 **(C) created in connection with any:**
 33 **(i) remediation;**
 34 **(ii) closure;**
 35 **(iii) cleanup; or**
 36 **(iv) corrective action; or**
 37 **(v) determination exercising enforcement discretion or**
 38 **of no further action being required;**
 39 **approved by the department under this title; in accordance**
 40 **with the terms of the covenant; or**
 41 **(6) enforce a restrictive covenant (as defined in**
 42 **IC 13-11-2-193.5) in accordance with the terms of the**

- 1 **covenant if the covenant is:**
 2 **(A) executed after June 30, 2009; and**
 3 **(B) created in connection with any of the following**
 4 **approved by the department under this title:**
 5 **(i) A remediation.**
 6 **(ii) A closure.**
 7 **(iii) A cleanup.**
 8 **(iv) A corrective action.**
 9 **(v) A determination exercising enforcement discretion or**
 10 **of no further action being required."**

11 Page 6, delete lines 1 through 27.

12 Page 6, line 33, delete "may:" and insert "**shall:**".

13 Page 6, line 38, delete "or".

14 Page 6, line 39, after "action" insert "**, or determination exercising**
 15 **enforcement discretion or of no further action being required"**.

16 Page 6, line 41, delete "IC 4-4-11-46(d) or IC 4-4-11-46(e)" and
 17 insert "**IC 13-19-6-2(b) or IC 13-19-6-2(c)**".

18 Page 7, between lines 3 and 4, begin a new paragraph and insert:

19 "SECTION 12. IC 13-19-6-1 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2009]: **Sec. 1. (a) The following are established:**

22 **(1) The institutional control registry.**

23 **(2) The environmental trust fund.**

24 **(b) The operations of the institutional control registry are**
 25 **funded solely from the environmental trust fund.**

26 **(c) The environmental trust fund:**

27 **(1) shall be administered, held, and managed by the authority;**

28 **(2) may not be used for any purpose other than funding the**
 29 **operations of the authority related to the management of the**
 30 **institutional control registry; and**

31 **(3) consists of:**

32 **(A) fees deposited in the environmental trust fund under**
 33 **section 2 of this chapter;**

34 **(B) appropriations to the environmental trust fund from**
 35 **the general assembly;**

36 **(C) grants, gifts, and donations intended for deposit in the**
 37 **environmental trust fund; and**

38 **(D) interest, premiums, gains, or other earnings that**
 39 **accrue from money in the environmental trust fund.**

40 **(d) The expenses of administering the institutional control**
 41 **registry and the environmental trust fund shall be paid from**
 42 **money in the environmental trust fund. Subject to subsection (e),**

1 the authority shall invest the money in the environmental trust
 2 fund not needed to meet the current obligations related to the
 3 management of the institutional control registry in accordance
 4 with an investment policy adopted by the authority. Interest,
 5 premiums, gains, and other earnings from the investments shall be
 6 credited to the environmental trust fund. Money in the
 7 environmental trust fund at the end of a state fiscal year does not
 8 revert to the state general fund.

9 (e) As an alternative to subsection (d), the authority may invest
 10 or cause to be invested all or a part of the environmental trust fund
 11 in a fiduciary account with a trustee that is a financial institution.

12 SECTION 13. IC 13-19-6-2 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2009]: Sec. 2. (a) The authority shall administer the institutional
 15 control registry by doing the following:

16 (1) Inventory by tract restrictive covenants throughout
 17 Indiana that are:

18 (A) recorded as described in IC 13-11-2-193.5(3) after
 19 2009; and

20 (B) established as a part of a plan approved, determination
 21 exercising enforcement discretion made, or determination
 22 of no further action being required made by either or both
 23 of the following:

24 (i) The department.

25 (ii) The United States Environmental Protection Agency.

26 (2) Create a computerized registry by tract of restrictive
 27 covenants referred to in subdivision (1) that is accessible to
 28 the public.

29 (3) Create a computerized registry of environmental
 30 restrictive ordinances throughout Indiana.

31 (4) Give notice reasonably calculated to inform the public of
 32 the registries referred to in subdivisions (2) and (3).

33 (5) Monitor compliance throughout Indiana with restrictive
 34 covenants referred to in subdivision (1).

35 (6) Report to the department and the attorney general
 36 noncompliance with restrictive covenants referred to in
 37 subdivision (1).

38 (7) Collect fees under subsection (d).

39 (8) Deposit fees collected under subdivision (7) in the
 40 environmental trust fund.

41 (b) Except as provided in subsection (d), the owner of a tract
 42 subject to one (1) or more restrictive covenants referred to in

1 subsection (a)(1) is liable for a fee in the amount of five thousand
2 dollars (\$5,000).

3 (c) The authority shall establish a schedule of graduated fees
4 based on the relative costs of monitoring compliance under
5 subsection (a)(5) among various tracts of real property subject to
6 restrictive covenants. The schedule of graduated fees under this
7 subsection applies in lieu of the fee under subsection (b) to owners
8 of real property subject to restrictive covenants throughout
9 Indiana that are recorded as described in IC 13-11-2-193.5(3) after
10 the effective date of the schedule of graduated fees established by
11 the authority.

12 (d) A fee imposed under subsection (b) or (c) is payable to the
13 authority for deposit into the environmental trust fund not later
14 than thirty (30) days after the recording of the restrictive covenant.
15 If the fee is not paid by that deadline:

16 (1) the authority shall provide to the attorney general the
17 information necessary for commencement of a collection
18 action; and

19 (2) the department may void its approval of the:

20 (A) remediation;

21 (B) closure;

22 (C) cleanup;

23 (D) corrective action; or

24 (E) determination exercising enforcement discretion or of
25 no further action being required;

26 under which the restrictive covenant was executed.

27 (e) The following are immune from civil or criminal liability for
28 any act or omission related to the performance of duties under
29 subsection (a)(1) through (a)(3):

30 (1) The state and the authority.

31 (2) Officers, agents, and employees of the state and the
32 authority, either personally or in their official capacities.

33 (f) No person, including the state, the authority, the institutional
34 control registry, a political subdivision (as defined in IC 36-1-2-13),
35 or a private person, may rely on the accuracy and completeness of
36 information in the following:

37 (1) An inventory under subsection (a)(1).

38 (2) A registry under subsection (a)(2) or (a)(3).

39 SECTION 14. IC 13-19-6-3 IS ADDED TO THE INDIANA CODE
40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
41 1, 2009]: **Sec. 3. (a) The authority may do the following:**

42 (1) **Employ:**

- 1 **(A) fiscal consultants;**
 2 **(B) engineers;**
 3 **(C) special counsel;**
 4 **(D) accountants; and**
 5 **(E) any other consultants, employees, and agents;**
 6 **that the authority considers necessary to carry out the**
 7 **purposes of this chapter.**
 8 **(2) Fix and pay the compensation of persons employed under**
 9 **subdivision (1) from money available in the environmental**
 10 **trust fund.**

11 **(b) Notwithstanding any other law, no direction given by the**
 12 **authority to a political subdivision under this chapter, service**
 13 **provided by the authority to a political subdivision under this**
 14 **chapter, or other action allowed or taken by the authority under**
 15 **this chapter is a defense for or otherwise excuses:**

- 16 **(1) any act of a political subdivision that violates the law; or**
 17 **(2) any failure by a political subdivision to act as required by**
 18 **law."**

19 Page 7, line 23, delete "IC 4-4-11-46(d) or" and insert "**IC**
 20 **13-19-6-2(b) or IC 13-19-6-2(c);"**

21 Page 7, line 24, delete "IC 4-4-11-46(e);".

22 Page 7, line 39, delete "environmental trust" and insert "**authority**".

23 Page 8, line 39, delete "[EFFECTIVE UPON PASSAGE]" and
 24 insert "[EFFECTIVE JULY 1, 2009]".

25 Page 10, delete lines 24 through 42 begin a new paragraph and
 26 insert:

27 "SECTION 20. IC 34-30-2-51.5 IS ADDED TO THE INDIANA
 28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2009]: **Sec. 51.5. IC 13-19-6-2(e) (Concerning**
 30 **actions relating to the institutional control registry)."**

31 Page 11, delete lines 1 through 6.

32 Page 11, line 7, delete "IC 36-1-2-15.7" and insert "**IC 36-1-2-4.7**".

33 Page 11, line 9, delete "Sec. 15.7. "Restrictive" and insert "**Sec. 4.7.**
 34 **"Environmental restrictive"**.

35 Page 11, line 22, delete "a" and insert "**an environmental**".

36 Page 11, line 23, delete "environmental trust" and insert "**Indiana**
 37 **finance authority and the department of environmental**
 38 **management"**.

39 Page 11, line 25, delete "a" and insert "**an environmental**".

40 Page 11, line 26, delete "A" and insert "**An environmental**".

41 Page 12, line 19, delete "a" and insert "**an environmental**".

42 Page 12, line 20, delete "environmental trust" and insert "**Indiana**

- 1 **finance authority and the department of environmental**
 2 **management".**
- 3 Page 12, line 22, delete "a" and insert "**an environmental**".
- 4 Page 12, line 23, delete "A" and insert "**An environmental**".
- 5 Page 14, line 22, delete "a" and insert "**an environmental**".
- 6 Page 14, line 23, delete "environmental trust" and insert "**Indiana**
 7 **finance authority and the department of environmental**
 8 **management".**
- 9 Page 14, line 25, delete "a" and insert "**an environmental**".
- 10 Page 14, line 26, delete "A" and insert "**An environmental**".
- 11 Page 15, line 35, delete "a" and insert "**an environmental**".
- 12 Page 15, line 36, delete "environmental trust" and insert "**Indiana**
 13 **finance authority and the department of environmental**
 14 **management".**
- 15 Page 15, line 38, delete "a" and insert "**an environmental**".
- 16 Page 15, line 39, delete "A" and insert "**An environmental**".
- 17 Page 16, line 34, delete "a" and insert "**an environmental**".
- 18 Page 16, line 35, delete "environmental trust" and insert "**Indiana**
 19 **finance authority and the department of environmental**
 20 **management".**
- 21 Page 16, line 37, delete "a" and insert "**an environmental**".
- 22 Page 16, line 38, delete "A" and insert "**An environmental**".
- 23 Delete page 17.
- 24 Page 18, delete lines 1 through 38, begin a new paragraph and
 25 insert:
- 26 "SECTION 27. [EFFECTIVE JULY 1, 2009] (a) **The Indiana**
 27 **finance authority shall do the following:**
- 28 **(1) Conduct a study to develop recommendations for policies**
 29 **and legislation necessary to implement the institutional**
 30 **control registry established by IC 13-19-6-1, as added by this**
 31 **act, to inventory, monitor compliance, report noncompliance,**
 32 **and impose fees as described in IC 13-19-6-2, as added by this**
 33 **act, with respect to:**
- 34 **(A) real property covenants that meet the description of a**
 35 **restrictive covenant under IC 13-11-2-193.5, except that**
 36 **they were recorded before 2010; and**
- 37 **(B) real property covenants that meet the description of a**
 38 **restrictive covenant under IC 13-11-2-193.5, except that**
 39 **they are not imposed as a part of a plan, or a**
 40 **determination exercising enforcement discretion or of no**
 41 **further action being required, approved by either or both**
 42 **of the following:**

- 1 **(i) The department of environmental management.**
 2 **(ii) The United States Environmental Protection Agency.**
 3 **(2) Conduct a study and develop recommendations**
 4 **concerning the feasibility of incorporating notice of:**
 5 **(A) restrictive covenants (as defined in IC 13-11-2-193.5);**
 6 **and**
 7 **(B) environmental restrictive ordinances (as defined in**
 8 **IC 36-1-2-4.7, as added by this act);**
 9 **into the "One Call" system managed by the Indiana**
 10 **Underground Plant Protection Service under IC 8-1-26.**
 11 **(3) Before September 1, 2010, report the results of the studies**
 12 **under subdivisions (1) and (2) to the environmental quality**
 13 **service council.**
 14 **(b) This SECTION expires January 1, 2011."**
 15 Renumber all SECTIONS consecutively.
 (Reference is to SB 460 as introduced.)

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

Committee Vote: Yeas 8, Nays 0.

Senator Gard, Chairperson