

Hot Legal Topics: Indiana Agriculture & Land Use

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Agenda

Competition for Resources

New Land Uses

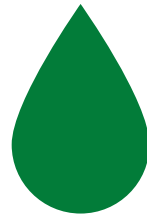
Ag Land Uses

Case Law Update

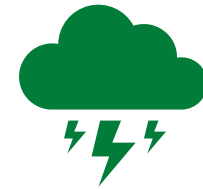
Competition for Resources



Land

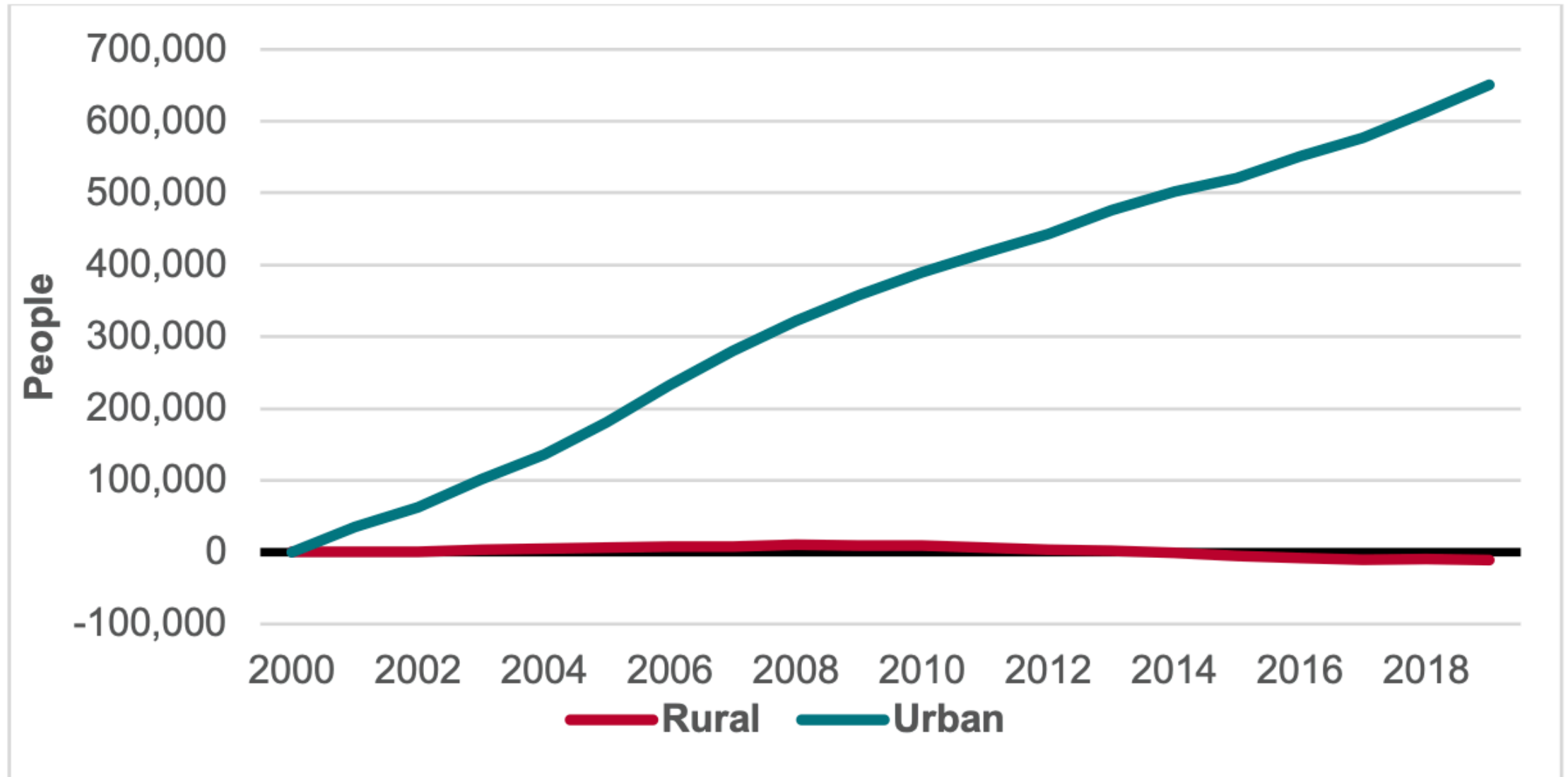


Water



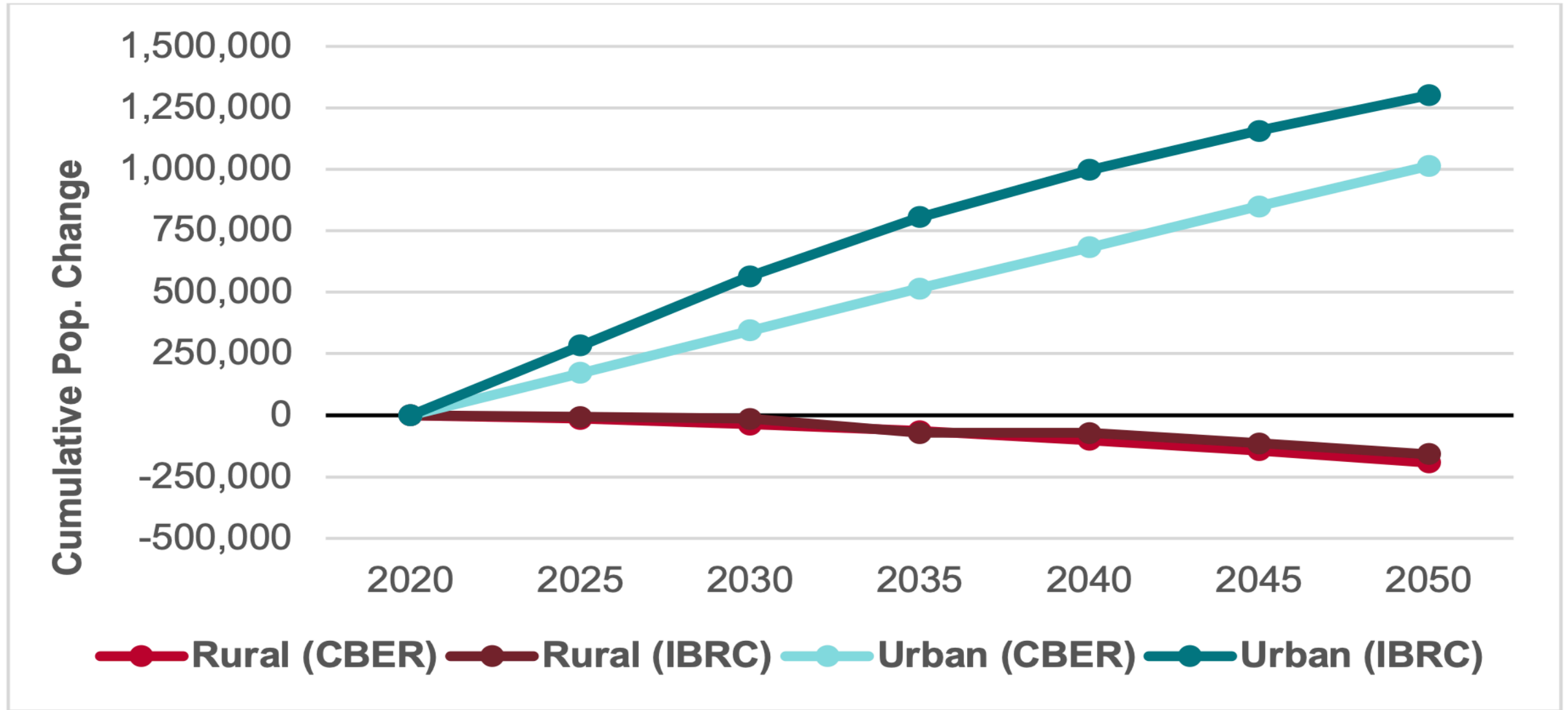
Electricity

Figure 6.1, Cumulative Population Change in Indiana, 2000-2019



Source: U.S. Census, and author's calculations

Figure 6.2, Rural and Urban Cumulative Population Projections, 2020-2050




Source: Indiana Business Research Center and Ball State CBER calculations

1. The Secretary of Energy and Natural Resources shall lead a thorough inventory of Indiana's water resources to identify current usage, availability of groundwater and surface water, and future demand, with an emphasis on regional disparities. The inventory shall be completed by October 31, 2026, with a written report provided to the Governor and the Legislative Council by December 31, 2026. State agencies shall provide any necessary support to the Secretary of Energy and Natural Resources in fulfilling the goals of this Executive Order, including technical assistance and data-sharing.
2. This inventory shall include the development of a statewide water planning framework. This framework shall promote alignment and cooperation among Indiana utilities, industries, municipalities, and other water users and shall focus on regional water planning for economic development projects, while preserving environmental sustainability. The Secretary of Energy and Natural Resources shall establish a planning framework that allows for a transparent process for gathering input and integrating the needs and priorities of water use sectors within each planning region and include information on how to provide such input on the Indiana Department of Natural Resources ("DNR") webpage.
3. This inventory shall include recommendations for the enhancement and optimization of Indiana's water monitoring and assessment networks in order to effectively measure and manage Indiana's water resources and to provide critical data where gaps currently exist.
4. The Secretary of Energy and Natural Resources shall create a centralized, publicly accessible online platform to consolidate and share real-time data on water resources. This platform shall include information on water availability, usage trends, infrastructure status, and regional disparities. Key features of the platform shall include insights into future water needs based on growth projections, educational resources to raise public awareness about water conservation best practices, and visual representations of groundwater and surface water data across the state.



IN TESTIMONY WHEREOF, I,
Mike Braun, have hereunto set my hand
and caused to be affixed the Great Seal
of the State of Indiana on this 21st day
of April, 2025.


Mike Braun
Governor of Indiana

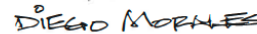
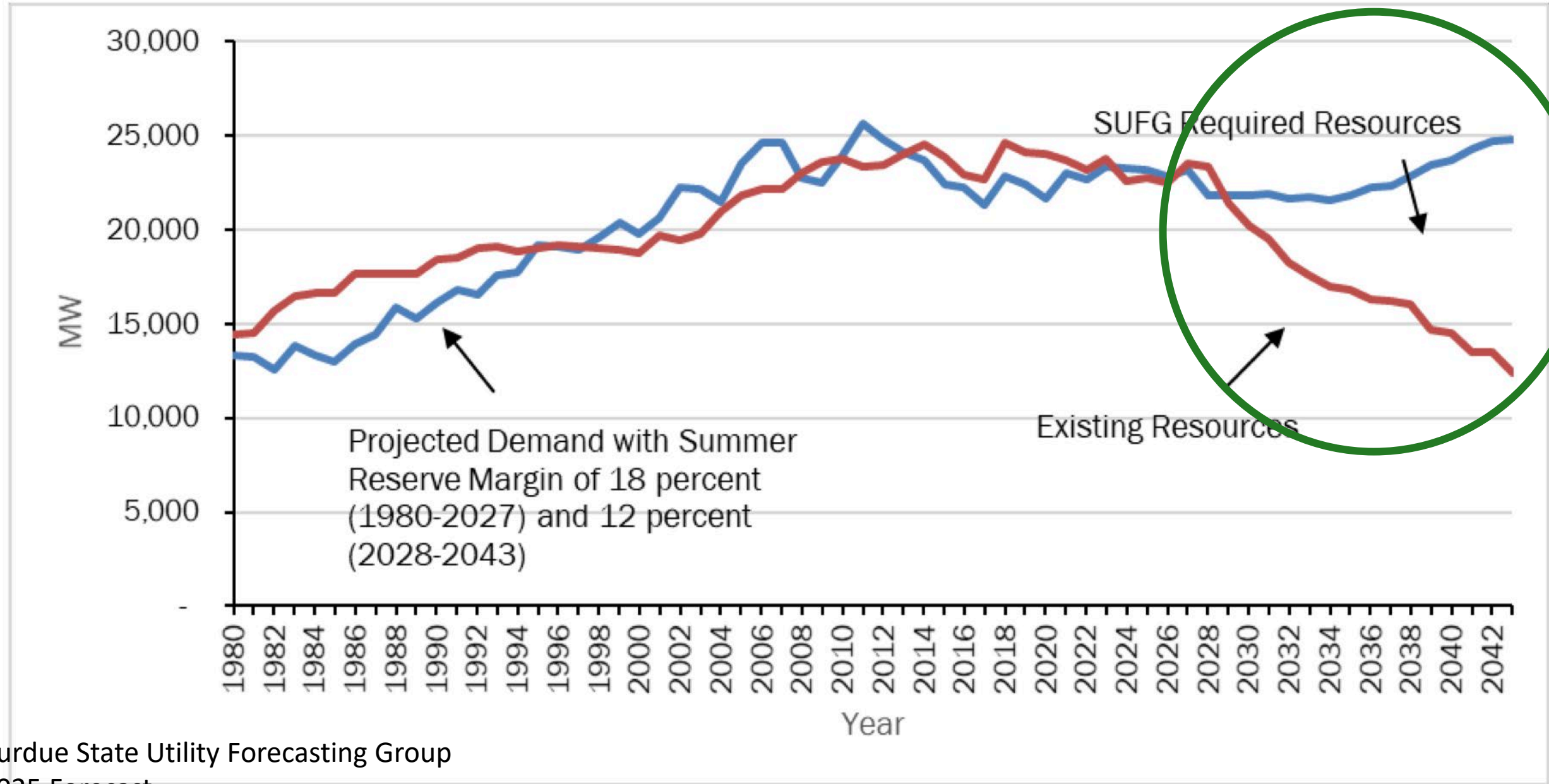

ATTEST: Diego Morales
Secretary of State

Figure 1-3. Indiana Total Demand and Supply in MW (Summer Season) (SUFG Base)



Indiana Fuel Generation Mix (2007-2024)

Resource	2007	2015	2024	Change
Coal	85.5%	68.5%	39.6%	-45.9%
Natural Gas	2.8%	14.2%	34.0%	31.2%
Nuclear	9.0%	9.9%	12.0%	3%
Wind	0%	4.0%	9.2%	9.2%
Solar	0%	0.1%	1.8%	1.8%
Other (e.g. hydro)	2.7%	3.3%	3.3%	0.6%

Competition



Land – farmland; renewable energy; data centers; warehouses; housing; commercial



Water – irrigation; residential; data centers; technology



Electricity – data centers; commercial; residential



New Land Uses

Examples

Solar

Wind

Digesters

Data Centers

Carbon sequestration

Pushback

Zoning

Environmental

- Electricity needs
- Water use
- Other

State – Local
Tension

But....

Need for tech is not going away

Artificial
intelligence
(AI)

E-
commerce

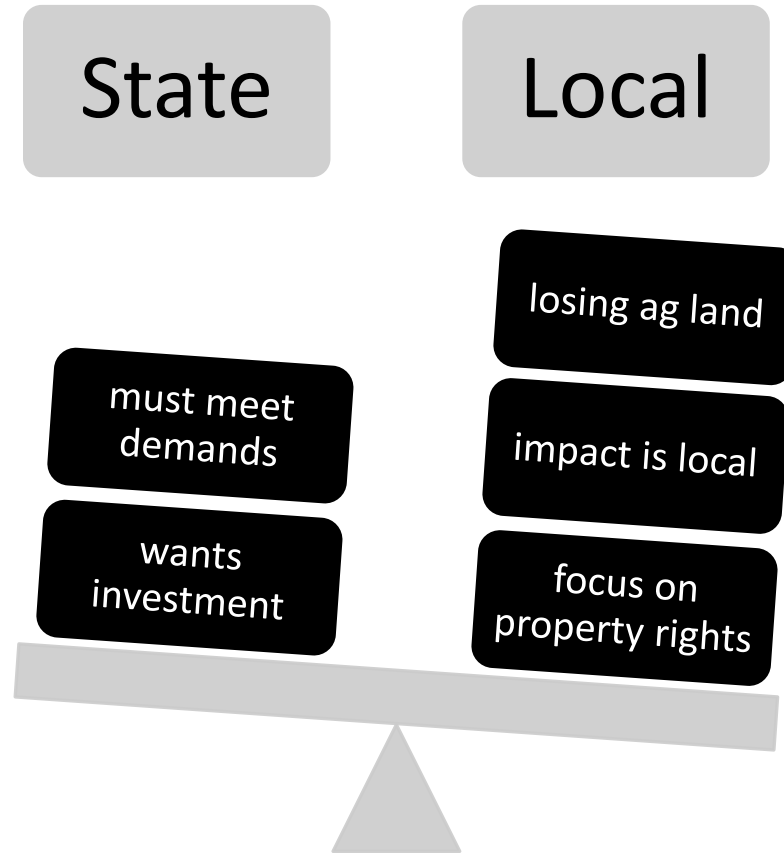
Social
media

Email

Streaming

Medicine

Possible State & Local Tension



Responses to local/state/federal tension?

December 2025 coalition letter requesting Congress reform solar permitting as EOs slow federal project approval (DOI)

State legislation pushing back on local bans

- **MI** (Renewable Energy Siting Law – Pub. Act 233 (2023))
- **NY** (Accelerated Renewable Energy Growth and Community Benefit Act, repeal of 100-foot setback, Build-Ready Program)
- **IL** (Clean and Reliable Grid Affordability Act - HB 4412 (2023))

ENVIRONMENT

Wind and solar face resistance in Indiana despite statewide push for more energy options

Sophie Hartley, Elizabeth Weise and Karl Schneider Indianapolis Star

Oct. 20, 2025, 5:02 a.m. ET



NEWS POLICY U.S. MARKET

Mapping the state-level battles over blocking renewable energy

Report: In Trump's second term, state activity has been characterized by "restrictive momentum."

...MAEVE ALLSUP | AUGUST 26, 2025

With ramped-up local restrictions, renewable energy marches on

Residents and local restrictions are delaying and blocking renewable energy projects at an accelerated rate, a study from Columbia University found.

JULY 14, 2025 RACHEL METEA

POLICY MICHIGAN UNITED STATES



This Ohio county banned wind and solar. Now, residents are pushing back.

Richland County forbade large-scale renewable energy in most townships. Next May, voters will have a chance to reject the rules in a first-of-its-kind referendum.

BY: KATHIANN M. KOWALSKI, CANARY MEDIA - DECEMBER 5, 2025 4:40 AM



Inside Climate News

Pulitzer Prize-winning, nonpartisan reporting on the biggest crisis facing our planet.

Clean Energy

With Federal Support for Wind and Solar Waning, States Are Trying to Push Policy Through on Their Own

A new report from the think tank Clean Tomorrow tracks how states are expanding—or restricting—where renewable energy projects can be built.

By Aidan Hughes
September 29, 2025

© A cornfield in Richland County, Ohio, where commissioners voted this summer to bar large-scale solar and wind developments in 11 out of 18 townships. (Jeff Greenberg/Universal Images Group via Getty Images)

Company transparency
with communities

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graph TD; A[Company transparency with communities] --> B[Reasonable local zoning]; B --> C[Updated state rules];
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Reasonable local
zoning

Updated state rules

What's next?

Local Government Boards

APC/Commissioners → rezone

Commissioners → Economic Development Agreement; Road Use Agreement

BZA → variance; special exception

County Council → abatements; fiscal decisions

Moratoria

Ban on development

Preserving status quo in the face of a previously untested land use

Quintessential zoning





Zoning Options



What happens when county doesn't address new land use?



Technology is outpacing ordinances

New Land
Uses

Right-of-Way Issues

Purposes:

Fiber optic

Broadband

Utilities

Issues:

Establishment

Width

Purpose

Sources:

I.C. 8-20-1 *et seq.*

Contel v. Coulson

Worldcom v. Thompson

Fox v. Ohio Valley

Traditional Ag
Land Uses

Confined feeding
operations

Farm expansions

Non-conforming uses

CFOs

Point system

Special exception

Variance

Rezone

Overlay

Setbacks

Storage

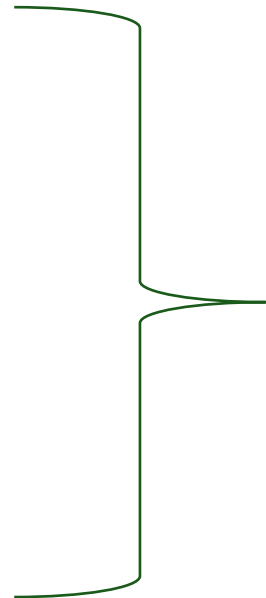
Land Application

CFOs

Setbacks

Storage

Land Application



Preemption?

Indiana Home Rule

State grants local governments all the powers they need for the effective operation of government as to local affairs. I.C. § 36-1-3-2

Local governments have broad powers and any doubt as to the existence of a power of a local government unit shall be resolved in favor of its existence. I.C. § 36-1-3-3-3



Indiana Home Rule Exception

Local government does not have the “power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.”

I.C. § 36-1-3-8(7)

Home Rule Preemption



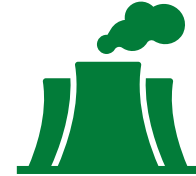
Fact-specific



Local control



Consistency
statewide



What is next?

Recent Case Law
Updates

*Fussner et al. v. Rush Cty.
BZA*

*Monroe Cty. BZA v. Bedford
Recycling Inc.*

Burgess v. Town of Utica BZA

Beaver Gravel v. Valdovich

Recent Case Law
Updates

Fussner et al. v. Rush Cty. BZA

Standing

Director decision

Sufficiency of evidence

Legislative intent

Recent Case Law
Updates

*Monroe Cty. BZA v. Bedford
Recycling Inc.*

Conditional use

Revoked permit

No authority to reconsider

Recent Case Law
Updates

Burgess v. Town of Utica BZA

Deadline to file petition for
judicial review

Meeting or findings of fact?

Feb. 4 Sup Ct. briefing

Recent Case Law
Updates

Beaver Gravel v. Valdovich

Use variance

Substantial evidence of
unnecessary hardship?

Harmless error

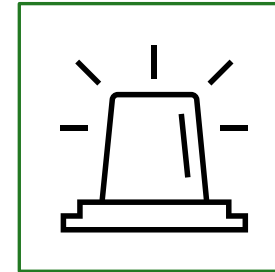
Takeaways...



Competition for resources and new technology impacting rural economic development



Local development projects can create state/local tension



New tech uses on ag land causing organized opposition

Questions?

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