

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1167

---

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 6-1.1-19-1, AS AMENDED BY P.L.182-2009(ss), SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. As used in this chapter, "appeal" refers to an appeal taken **or petition** to the department of local government finance by or in respect of a school corporation under any of the following:

- (1) IC 6-1.1-17.
- (2) IC 20-43.
- (3) IC 20-46-8.**

SECTION 2. IC 6-1.1-20.3-6, AS AMENDED BY P.L.241-2017, SECTION 6, AND AS AMENDED BY P.L.244-2017, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 6. (a) The fiscal body and the executive of a political subdivision may jointly file a petition with the board seeking to have the political subdivision designated as a distressed political subdivision under this chapter.

(b) The governing body *and or* the superintendent of a school corporation may do any of the following:

- (1) *Jointly* File a petition with the board seeking relief under section 8.3 of this chapter.
- (2) *Jointly* File a petition with the board seeking to have the school corporation designated as a distressed political subdivision

**HEA 1167 — Concur**



under this chapter.

*(3) Jointly File a petition with the board requesting authority to transfer before July 1, 2015, excess funds in the school corporation's debt service fund to the school corporation's transportation fund as provided in section 8.4 of this chapter.*

*(c) If the treasurer of state has reason to believe that a school corporation will not be able to pay the school corporation's debt service obligations (as defined in IC 20-48-1-11) as those debt service obligations become due, the treasurer of state may file a petition with the board seeking to have the school corporation designated as a distressed political subdivision under this chapter.*

~~(c)~~ *(d) The board may adopt procedures governing the timing and required content of a petition under subsection (a) or (c).*

SECTION 3. IC 20-23-6-8, AS AMENDED BY P.L.169-2017, SECTION 6, AND AS AMENDED BY P.L.244-2017, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 8. (a) Consolidated schools are under the control and management of the consolidated governing body created under this chapter, and a new consolidated school corporation comes into existence:

(1) at the time specified in the resolutions provided in section 3, ~~or~~ 4, 5.5, or 12.5 of this chapter; or

(2) if a time is not specified, at the following times:

(A) If a protest has not been filed and the creation is accomplished by the adoption of a joint resolution following publication of notice as provided in section 3 or 5.5 of this chapter, thirty (30) days after the adoption of the joint resolution.

(B) If the creation is accomplished after an election as provided in section 6 of this chapter, thirty (30) days after the election.

(b) The members of the governing body shall:

(1) take an oath to faithfully discharge the duties of office; and

(2) meet at least five (5) days before the time the new consolidated school corporation comes into existence to organize.

*(c) The governing body shall meet to reorganize ~~on August 1 of each year and at any time the personnel of the board is changed.~~ at the time provided in IC 20-26-4-1(b).* At the organization or reorganization meeting, the members of the governing body shall elect the following:

(1) A president.

(2) A secretary.

(3) A treasurer.

**HEA 1167 — Concur**



(d) The treasurer, before starting the duties of the treasurer's office, shall execute a bond to the acceptance of the county auditor. The fee for the bond shall be paid from the ~~school general operations~~ fund of the consolidated school corporation. Any vacancy occurring in the membership in any governing body ~~other than vacancy in the office of an ex officio member~~, shall be filled in the following manner:

~~(1) If the membership was originally made by appointment, the vacancy shall be filled by appointment by the legislative body of the:~~

- ~~(A) city;~~
- ~~(B) town;~~
- ~~(C) township; or~~
- ~~(D) other body;~~

~~or other official making the original appointment.~~

~~(2) If the membership was elected, the vacancy shall be filled by a majority vote of the remaining members of the governing body of the consolidated school corporation. shall be filled in the manner provided in IC 20-26-4-4.~~

(e) The members of the governing body ~~other than the township executive or ex officio member~~, shall receive compensation ~~for services as fixed by resolution of the governing body. The members, other than the township executive or any ex officio member, may not receive more than two hundred dollars (\$200) annually. Any:~~

- ~~(1) township executive; or~~
- ~~(2) ex officio member of the governing body;~~

~~shall serve without additional compensation. in the manner provided in IC 20-26-4-7.~~

(f) The governing body of a consolidated school corporation may elect and appoint personnel it considers necessary.

SECTION 4. IC 20-24.2-4-4, AS AMENDED BY P.L.242-2017, SECTION 13, AND AS AMENDED BY P.L.244-2017, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 4. The following provisions of this title and rules and guidelines adopted under the following provisions of this title apply to a qualified district or qualified high school:

- IC 20-20-1 (educational service centers).
- IC 20-20-8 (school corporation annual performance report).
- IC 20-23 (organization of school corporations).
- IC 20-26 (school corporation general administrative provisions).
- IC 20-27 (school transportation).
- IC 20-28-3-4 (teacher continuing education).



IC 20-28-4-8 (hiring of transition to teaching participants; restrictions).

IC 20-28-4-11 (transition to teaching participants; school corporation or subject area; transition to teaching permit).

IC 20-28-5-8 (conviction of certain felonies; notice and hearing; permanent revocation of license; data base of school employees who have been reported).

IC 20-28-6 (teacher contracts).

IC 20-28-7.5 (cancellation of teacher contracts).

IC 20-28-8 (contracts with school administrators).

IC 20-28-9 (teacher salary and related payments).

IC 20-28-10 (conditions of employment).

IC 20-28-11.5 (staff performance evaluations).

IC 20-29 (collective bargaining for teachers).

IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).

IC 20-30-5-13 (human sexuality instructional requirements).

IC 20-30-5-19 (personal financial responsibility instruction).

IC 20-31 (accountability for school performance and improvement).

IC 20-32-4, IC 20-32-5 (*for a school year beginning before July 1, 2018*), IC 20-32-5.1 (*for a school year ending after June 30, 2018*), and IC 20-32-8 (accreditation, assessment, and remediation), or any other statute, rule, or guideline related to standardized assessments.

IC 20-33 (students: general provisions).

IC 20-34-3 (health and safety measures).

IC 20-35 (special education).

IC 20-36 (high ability students).

IC 20-39 (accounting and financial reporting procedures).

IC 20-40 (government funds and accounts).

IC 20-41 (extracurricular funds and accounts).

IC 20-42.5 (allocation of expenditures to student instruction *and learning*).

IC 20-43 (state tuition support).

IC 20-44 (property tax levies).

~~IC 20-45 (general fund levies).~~

IC 20-46 (levies other than general fund levies).

IC 20-47 (related entities; holding companies; lease agreements).

IC 20-48 (borrowing and bonds).

IC 20-49 (state management of common school funds; state advances and loans).



IC 20-50 (homeless children and foster care children).

SECTION 5. IC 20-26-7-1, AS AMENDED BY P.L.217-2017, SECTION 100, AND AS AMENDED BY P.L.241-2017, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "charter school" has the meaning set forth in IC 20-24-1-4 and includes a group or entity seeking approval from an authorizer to operate a charter school under IC 20-24-3.

(b) Except as otherwise provided in this section, if a governing body of a school corporation determines that any real or personal property:

- (1) is no longer needed for school purposes; or
- (2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

(d) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections (k) through ~~(o)~~, **(p)**, a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

(1) either:

- (A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or
- (B) appears on the list compiled by the department under subsection (f); and

(2) was previously used for classroom instruction; in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied



school buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list not later than fifteen (15) days after being notified of a closed, unused, or unoccupied building.

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. *If the designation of a school building is "Available" on the department's list, the governing body of the school corporation that owns the school building may reclaim the school building for classroom instruction at any time before the submission of a letter of intent by a charter school under subsection (h) by indicating to the department, on a form prescribed by the department, that the school desires to reclaim the building for classroom instruction. The department shall remove the school building from the department's list under subsection (f).* If a school building ~~that is designated as unavailable on the department's list~~ remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) If a charter school wishes to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school corporation of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use



the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (f). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (f). If a school building is sold to a charter school under this subsection and the charter school or any entity related to the charter school subsequently sells or transfers the school building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(i) During the term of a lease under subsection (h), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(j) *Notwithstanding anything to the contrary in this section, and* With the *sole* exception of a waiver provided in *subsection (n)*, *this section*, when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available", *unless it is reclaimed under subsection (g)*, and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11.

(k) Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection (n), the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

(l) If the department receives a waiver request under subsection (k), the department, within five (5) days after receiving the waiver request



under subsection (k), shall notify each charter school authorizer and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection (k). The notice must include a copy of the governing body's waiver request.

(m) Not later than thirty (30) days after a charter school authorizer or statewide organization representing charter schools in Indiana receives a notice described in subsection (l), the charter school authorizer or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection (k). The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and
- (2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(n) If the department receives a qualified objection under subsection (m), the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

*(o) The governing body of the School City of East Chicago school corporation may request a waiver from the department from the requirements of subsection (e) for the Carrie Gosch Elementary School building. If requested, the department shall grant the waiver. To receive the waiver, the governing body must apply to the department on a form prescribed by the department.*

~~(o)~~ **(p)** *An emergency manager of a distressed school corporation under IC 6-1.1-20.3 or a fiscally impaired school corporation under IC 6-1.1-20.3 may sell an existing school building without complying with the requirements of subsection (e).*

SECTION 6. IC 20-26-7-1, AS AMENDED BY P.L.217-2017, SECTION 100, AS AMENDED BY P.L.241-2017, SECTION 17, AND AS AMENDED BY P.L.244-2017, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. (a) As used in this section,





"charter school" has the meaning set forth in IC 20-24-1-4 and includes a group or entity seeking approval from an authorizer to operate a charter school under IC 20-24-3.

(b) Except as otherwise provided in this section, if a governing body of a school corporation determines that any real or personal property:

- (1) is no longer needed for school purposes; or
- (2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in ~~any~~ *the school corporation's operations* fund.

- ~~(1) established under applicable law; and~~
- ~~(2) that the governing body considers appropriate.~~

(d) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections (k) through ~~(n); (o);~~ **(p)**, a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

- (1) either:
  - (A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or
  - (B) appears on the list compiled by the department under subsection (f); and
- (2) was previously used for classroom instruction;

in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list not later than



fifteen (15) days after being notified of a closed, unused, or unoccupied building.

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. *If the designation of a school building is "Available" on the department's list, the governing body of the school corporation that owns the school building may reclaim the school building for classroom instruction at any time before the submission of a letter of intent by a charter school under subsection (h) by indicating to the department, on a form prescribed by the department, that the school desires to reclaim the building for classroom instruction. The department shall remove the school building from the department's list under subsection (f).* If a school building *that is designated as unavailable on the department's list* remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) If a charter school wishes to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school corporation of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's



list under subsection (f). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (f). If a school building is sold to a charter school under this subsection and the charter school or any entity related to the charter school subsequently sells or transfers the school building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(i) During the term of a lease under subsection (h), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(j) *Notwithstanding anything to the contrary in this section; and* With the *sole* exception of a waiver provided in *subsection (n); this section*, when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available", *unless it is reclaimed under subsection (g)*, and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11.

(k) Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection (n), the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

(l) If the department receives a waiver request under subsection (k), the department, within five (5) days after receiving the waiver request under subsection (k), shall notify each charter school authorizer and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection (k). The notice must include a copy of the governing body's waiver request.



(m) Not later than thirty (30) days after a charter school authorizer or statewide organization representing charter schools in Indiana receives a notice described in subsection (l), the charter school authorizer or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection (k). The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and
- (2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(n) If the department receives a qualified objection under subsection (m), the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

*(o) The governing body of the School City of East Chicago school corporation may request a waiver from the department from the requirements of subsection (e) for the Carrie Gosch Elementary School building. If requested, the department shall grant the waiver. To receive the waiver, the governing body must apply to the department on a form prescribed by the department.*

~~(p)~~ **(p)** *An emergency manager of a distressed school corporation under IC 6-1.1-20.3 or a fiscally impaired school corporation under IC 6-1.1-20.3 may sell an existing school building without complying with the requirements of subsection (e).*

SECTION 7. IC 20-26-11-13, AS AMENDED BY P.L.256-2017, SECTION 185, AND AS AMENDED BY P.L.244-2017, SECTION 50, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 13. (a) As used in this section, the following terms have the following meanings:

- (1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school



or junior high school, high school, and special schools or classes, such as schools or classes for special education, career and technical education, or career education.

(2) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized education program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

(3) "Student enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the state board.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the state board.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) student. The state board may select a different date for counts under this subdivision. However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 6 of this chapter, transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's current ADM, allocate to the transfer student a proportionate share of the following *general* education fund revenues of the transferee school:

(A) State tuition support distributions received during the



calendar year in which the school year ends.

(B) Property tax levies under IC 20-45-7 and IC 20-45-8 for the calendar year in which the school year ends.

(C) The sum of the following excise tax revenue received for deposit in the calendar year in which the school year begins:

- (i) Financial institution excise tax revenue (IC 6-5.5).
- (ii) ~~Motor~~ Vehicle excise taxes (IC 6-6-5).
- (iii) Commercial vehicle excise taxes (IC 6-6-5.5).
- (iv) Boat excise tax (IC 6-6-11).
- (v) Aircraft license excise tax (IC 6-6-6.5).

(D) Allocations to the transferee school under IC 6-3.6.

STEP THREE: Determine the greater of:

- (A) zero (0); or
- (B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana by or with the approval of the department of child services, the institution or facility shall charge the department of child services for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its ~~general~~ *education fund and operations* fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

- (1) capital outlay;
- (2) debt service;
- (3) costs of transportation;
- (4) salaries of board members;
- (5) contracted service for legal expenses; and
- (6) any expenditure that is made from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

- (1) the cost of the special equipment; divided by
- (2) the product of:
  - (A) the useful life of the special equipment, as determined under the rules adopted by the state board; multiplied by



(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

- (1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by
- (2) the student enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence, the student has been excluded or expelled from school for the balance of the school year or for an indefinite period, or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in subsection (b) STEP TWO to a transfer student by dividing:

- (1) the total amount of revenues received during a period; by
- (2) the current ADM of the transferee school for the period in which the revenues are received.

However, for state tuition support distributions or any other state distribution computed using less than the total current ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive during the period by the student count used to compute the state distribution.

(h) Instead of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the



transfer of students. The contract may:

- (1) be entered into for a period of not more than five (5) years with an option to renew;
- (2) specify a maximum number of students to be transferred; and
- (3) fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) A school corporation may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

- (1) be for one (1) year or longer; and
- (2) fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

SECTION 8. IC 20-26-15-5, AS AMENDED BY P.L.242-2017, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. Notwithstanding any other law, the operation of the following is suspended for a freeway school corporation or a freeway school if the governing body of the school corporation elects to have the specific statute or rule suspended in the contract:

(1) The following statutes and rules concerning curriculum and instructional time:

- IC 20-30-2-7
- IC 20-30-5-8
- IC 20-30-5-9
- IC 20-30-5-11
- 511 IAC 6-7-6
- 511 IAC 6.1-5-0.5
- 511 IAC 6.1-5-1
- 511 IAC 6.1-5-2.5
- 511 IAC 6.1-5-3.5
- 511 IAC 6.1-5-4.

(2) The following rule concerning pupil/teacher ratios:

- 511 IAC 6.1-4-1.

(3) The following statutes and rules concerning curricular materials:

- IC 20-26-12-24
- IC 20-26-12-26





IC 20-26-12-1

IC 20-26-12-2

511 IAC 6.1-5-5.

(4) 511 IAC 6-7, concerning graduation requirements.

(5) IC 20-31-4, concerning the performance based accreditation system.

(6) IC 20-32-5 (before its expiration on July 1, 2018), concerning the ISTEP program established under IC 20-32-5-15, if an alternative locally adopted assessment program is adopted under section ~~6(7)~~ **6(4)** of this chapter.

SECTION 9. IC 20-26-15-6, AS AMENDED BY P.L.242-2017, SECTION 18, AND AS AMENDED BY P.L.244-2017, SECTION 53, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 6. Except as provided in this chapter and notwithstanding any other law, a freeway school corporation or a freeway school may do the following during the contract period:

(1) Disregard the observance of any statute or rule that is listed in the contract.

(2) Lease school transportation equipment to others for nonschool use when the equipment is not in use for a school corporation purpose, if the lessee has not received a bid from a private entity to provide transportation equipment or services for the same purpose.

(3) Replace the budget and accounting system that is required by law with a budget or accounting system that is frequently used in the private business community. The state board of accounts may not go beyond the requirements imposed upon the state board of accounts by statute in reviewing the budget and accounting system used by a freeway school corporation or a freeway school.

~~(4) Establish a professional development and technology fund to be used for:~~

~~(A) professional development; or~~

~~(B) technology, including video distance learning.~~

~~However, any money deposited in the professional development and technology fund for technology purposes must be transferred to the school technology fund.~~

~~(5) Subject to subdivision (4), transfer funds obtained from sources other than state or local government taxation among any accounts of the school corporation, including a professional development and technology fund established under subdivision (4).~~



*(6) Transfer funds obtained from property taxation and from state distributions among the general fund and the school transportation fund, subject to the following:*

*(A) The sum of the property tax rates for the general fund and the school transportation fund after a transfer occurs under this subdivision may not exceed the sum of the property tax rates for the general fund and the school transportation fund before a transfer occurs under this subdivision.*

*(B) This subdivision does not allow a school corporation to transfer to any other fund money from the:*

*(i) capital projects fund; or*

*(ii) debt service fund.*

*(7) (4) Establish a locally adopted assessment program to replace the assessment of students under the ISTEP program established under IC 20-32-5-15 (before its expiration on July 1, 2018), subject to the following:*

*(A) A locally adopted assessment program must be established by the governing body and approved by the department.*

*(B) A locally adopted assessment program may use a locally developed test or a nationally developed test.*

*(C) Results of assessments under a locally adopted assessment program are subject to the same reporting requirements as results under the ISTEP program (before its expiration on July 1, 2018).*

*(D) Each student who completes a locally adopted assessment program and the student's parent have the same rights to inspection and rescoring:*

*(i) for school years ending before July 1, 2018, as set forth in IC 20-32-5-9; and*

*(ii) for school years beginning after June 30, 2018, as set forth in IC 20-32-5.1.*

SECTION 10. IC 20-26-15-7, AS AMENDED BY SEA 354-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 7. Except as provided under section 15 of this chapter (before its expiration), the minimum educational benefits that a freeway school corporation or a freeway school must produce under this chapter are the following:

(1) An average attendance rate that increases:

(A) not less than two percent (2%) each school year until the average attendance rate is eighty-five percent (85%); and

(B) one percent (1%) each school year until the average attendance rate is ninety percent (90%).



(2) A successful completion rate of the assessment program by meeting essential standards under the statewide assessment program or a locally adopted assessment program established under section ~~6(7)~~ **6(4)** of this chapter that increases:

(A) not less than two percent (2%) each school year until the successful completion rate is not less than eighty-five percent (85%); and

(B) one percent (1%) each school year until the successful completion rate is not less than ninety percent (90%);

of the students in the designated grade levels under the statewide assessment program or the locally adopted assessment program that are grades contained in the freeway school corporation or freeway school.

(3) Beginning with the class of students who expect to graduate four (4) years after a freeway school corporation or a freeway school that is a high school obtains freeway status, a graduation rate as determined under 511 IAC 6.1-1-2(k) that increases:

(A) not less than two percent (2%) each school year until the graduation rate is not less than eighty-five percent (85%); and

(B) one percent (1%) each school year until the graduation rate is ninety percent (90%).

Except as provided under section 15 of this chapter (before its expiration), after a freeway school corporation or a freeway school has achieved the minimum rates required under subdivisions (1) through (3), the freeway school corporation or freeway school must either maintain the minimum required rates or show continued improvement of those rates.

SECTION 11. IC 20-32-8-4, AS AMENDED BY P.L.242-2017, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 4. The remediation grant program is established to provide grants to school corporations for the following:

(1) Remediation of students who score below academic standards.

(2) Preventive remediation for students who are at risk of falling below academic standards.

(3) For students in a freeway school or freeway school corporation who are assessed under a locally adopted assessment program under ~~IC 20-26-15-6(7)~~: **IC 20-26-15-6(4)**:

(A) remediation of students who score below academic standards under the locally adopted assessment program; and

(B) preventive remediation for students who are at risk of falling below academic standards under the locally adopted assessment program.



## (4) Targeted instruction of students to:

- (A) reduce the likelihood that a student may fail a graduation exam (before July 1, 2018) or fail to meet a graduation pathway requirement (after June 30, 2018), and require a graduation waiver under IC 20-32-4-4 or IC 20-32-4-5; or
- (B) minimize the necessity of remedial work of students while the students attend postsecondary educational institutions or workforce training programs.

SECTION 12. IC 20-40-2-4, AS AMENDED BY P.L.244-2017, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 4. **Except as provided in IC 36-1-8-5.1 (school corporation rainy day fund), the education fund is the exclusive fund shall be used only** to pay for expenses allocated to student instruction and learning under IC 20-42.5. The fund may not be used to pay directly any expenses that are not allocated to student instruction and learning under IC 20-42.5 or expenses permitted to be paid from the school corporation's operations fund.

SECTION 13. IC 20-40-8-1 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 1. ~~As used in this chapter, "calendar year distribution" means the sum of the following:~~

- (1) ~~A school corporation's:~~
  - (A) ~~state tuition support; and~~
  - (B) ~~maximum permissible tuition support levy (as defined in IC 20-45-1-15 before its repeal);~~
- ~~for the calendar year:~~
- (2) ~~The sum of the following excise tax revenue of the school corporation for the immediately preceding calendar year:~~
  - (A) ~~Financial institution excise tax revenue (IC 6-5.5).~~
  - (B) ~~Vehicle excise taxes (IC 6-6-5).~~
  - (C) ~~Commercial vehicle excise taxes (IC 6-6-5.5).~~
  - (D) ~~Boat excise tax (IC 6-6-11).~~
  - (E) ~~Aircraft license excise tax (IC 6-6-6.5).~~

SECTION 14. IC 20-40-9-7, AS AMENDED BY P.L.244-2017, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 7. (a) Money in the fund may be used for payment of all unreimbursed costs of curricular materials for the school corporation's students who were eligible for free or reduced lunches in the previous school year.

(b) Money in the fund may not be used for payment of debt service, lease payments, or similar obligations for a controlled project that is approved by the voters in a referendum under IC 6-1.1-20.

(c) The governing body may transfer the amount levied to cover



unreimbursed costs of curricular materials under this section to **the curricular materials rental fund, the extracurricular account, or** the education fund.

SECTION 15. IC 20-40-18-4, AS ADDED BY P.L.244-2017, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Any balance in the operations fund may be invested in the manner provided for investment of money by a political subdivision. The net proceeds from the investment become a part of the operations fund.

(b) Any balance, **or a part of the balance**, remaining in the operations fund at the end of a year **remains may be:**

(1) **retained** in the operations fund; **or**

(2) **transferred to the school corporation's rainy day fund.**

SECTION 16. IC 20-40-18-6, AS ADDED BY P.L.244-2017, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 6. (a) A school corporation's capital projects expenditure plan or amended plan must limit proposed expenditures to those described in section 7 of this chapter. **The plan must include all proposed expenditures that exceed ten thousand dollars (\$10,000) and are for:**

(1) **capital assets; or**

(2) **projects that are considered capital in nature under section 7 of this chapter, including technology related projects.**

**The department of local government finance shall prescribe the information that is required in a plan.**

(b) The department of local government finance shall prescribe the format of the plan. A plan must:

(1) apply to at least the three (3) years immediately following the year the plan is adopted;

(2) estimate for each year to which the plan applies the nature and amount of proposed **capital** expenditures from the fund; and

(3) estimate:

(A) the source of all revenue to be dedicated to the proposed **capital** expenditures in the upcoming calendar year; and

(B) the amount of property taxes to be collected in the upcoming calendar year and retained in the fund for **capital** expenditures proposed for a later year.

(c) If a school corporation wants to use money in the operations fund during the year to pay for any items listed in section 7 of this chapter **that are considered capital in nature**, the governing body must adopt a resolution approving the plan or amended plan. The



school corporation shall post the proposed plan or proposed amended plan on the school corporation's Internet web site before the hearing. The governing body must hold a hearing on the adoption of the resolution as follows:

(1) For a school corporation that has not elected to adopt a budget under IC 6-1.1-17-5.6 or for which a resolution adopted under IC 6-1.1-17-5.6(d) is in effect, the school corporation must hold the hearing and adopt the resolution after January 1 and not later than November 1 of the immediately preceding year.

(2) For a school corporation that elects to adopt a budget under IC 6-1.1-17-5.6, the school corporation must hold the hearing and adopt the resolution after January 1 and not later than April 1 of the immediately preceding school fiscal year.

The governing body shall publish a notice of the hearing in accordance with IC 5-3-1-2(b). The notice must include the address of the school corporation's Internet web site. The governing body may hold the hearing and include the notice as part of a regular governing body meeting or part of the same hearing and notice for a school bus replacement plan. If an amendment to a capital projects expenditure plan is being proposed, the governing body must declare the nature of and the need for the amendment in the resolution to adopt the amendment to the plan. The plan, as proposed to be amended, must comply with the requirements for a plan under this section.

(d) If a governing body adopts the resolution specified in subsection (c), the school corporation must then submit the resolution to the department of local government finance in the manner prescribed by the department.

(e) This subsection applies to an amendment to a plan that is required because of an emergency that results in costs that exceed the amount accumulated in the fund for repair, replacement, or site acquisition that is necessitated by an emergency. The governing body is not required to comply with subsection (c) or (d). If the governing body determines that an emergency exists, the governing body may adopt a resolution to amend the plan. An amendment to the plan is not subject to the deadline and the procedures for adoption described in this section.

SECTION 17. IC 20-40-18-9, AS ADDED BY P.L.244-2017, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 9. (a) Before a school corporation may use money in the operations fund for replacing school buses, a resolution approving the school bus replacement plan or amended plan must be submitted to the department of local government finance.

**HEA 1167 — Concur**



(b) The department of local government finance shall prescribe the format of the plan. A plan must apply to at least the five (5) budget years immediately following the year the plan is adopted and include at least the following:

(1) An estimate for each year to which it applies of the nature and amount of proposed expenditures from the fund.

~~(2) An identification of:~~

~~(A) the source of all revenue to be dedicated to the proposed expenditures in the upcoming budget year; and~~

~~(B) the amount of property taxes to be collected in that year and the unexpended balance to be retained in the fund for expenditures proposed for a later year.~~

~~(3) (2) If the school corporation is seeking to:~~

~~(A) acquire; or~~

~~(B) contract for transportation services that will provide; additional school buses or school buses with a larger seating capacity as compared with the number and type of school buses from the prior school year, evidence of a demand for increased transportation services within the school corporation. Clause (B) does not apply if contracted transportation services are not paid from the fund.~~

~~(4) (3) If the school corporation is seeking to require a contractor to replace a school bus, evidence that the need exists for the replacement of the school bus. This subdivision does not apply if contracted transportation services are not paid from the operations fund.~~

~~(5) (4) Evidence that the school corporation that seeks to acquire additional school buses under this section is acquiring or contracting for the school buses only for the purposes specified in subdivision ~~(3) (2)~~ or for replacement purposes.~~

(c) If a school corporation wants to use money in the operations fund during the year to pay for school bus replacement, the governing body must adopt a resolution approving the bus replacement plan or amended plan. The school corporation shall post the proposed plan or proposed amended plan on the school corporation's Internet web site before the hearing. The governing body must hold a hearing on the adoption of the resolution as follows:

(1) For a school corporation that has not elected to adopt a budget under IC 6-1.1-17-5.6 or for which a resolution adopted under IC 6-1.1-17-5.6(d) is in effect, the school corporation must hold the hearing and adopt the resolution after January 1 and not later than November 1 of the immediately preceding year.



(2) For a school corporation that elects to adopt a budget under IC 6-1.1-17-5.6, the school corporation must hold the hearing and adopt the resolution after January 1 and not later than April 1 of the immediately preceding school fiscal year.

The governing body shall publish a notice of the hearing in accordance with IC 5-3-1-2(b). The notice must include the address of the school corporation's Internet web site. The governing body may hold the hearing and include the notice as part of a regular governing body meeting or part of the same hearing and notice for a capital projects expenditure plan. If an amendment to a bus replacement plan is being proposed, the governing body must declare the nature of and the need for the amendment in the resolution to adopt the amendment to the plan. The plan, as proposed to be amended, must comply with the requirements for a plan under this section.

(d) If a governing body adopts the resolution specified in subsection (c), the school corporation must then submit the resolution to the department of local government finance in the manner prescribed by the department.

(e) The operations fund ~~is the exclusive fund to~~ **must** be used to pay for the replacement of school buses, either through a purchase agreement or under a lease agreement.

(f) Before the last Thursday in August in the year preceding the first school year in which a proposed contract commences, the governing body of a school corporation may elect to designate a part of a:

- (1) transportation contract (as defined in IC 20-27-2-12);
- (2) fleet contract (as defined in IC 20-27-2-5); or
- (3) common carrier contract (as defined in IC 20-27-2-3);

as an expenditure payable from the fund. An election under this subsection must be included in the resolution approving the school bus replacement plan or amended plan. The election applies throughout the term of the contract.

(g) The amount that may be paid from the fund under this section in a school year is equal to the fair market lease value in the school year of each school bus, school bus chassis, or school bus body used under the contract, as substantiated by invoices, depreciation schedules, and other documented information available to the school corporation.

(h) The allocation of costs under this section to the fund must comply with the accounting standards prescribed by the state board of accounts.

SECTION 18. IC 20-41-2-5, AS AMENDED BY P.L.244-2017, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. (a) A governing body in operating a





curricular materials rental program under IC 20-26-5-4(a)(12) may use either of the following accounting methods:

(1) The governing body may supervise and control the program through the school corporation's **curricular materials rental fund or** education fund.

(2) If curricular materials have not been purchased and financial commitments or guarantees for the purchases have not been made by the school corporation, the governing body may cause the program to be operated by the individual schools of the school corporation through the school corporation's extracurricular account or accounts in accordance with IC 20-41-1.

(b) If the governing body determines that a hardship exists due to the inability of a student's family to purchase or rent curricular materials, taking into consideration the income of the family and the demands on the family, the governing body may furnish curricular materials to the student without charge, without reference to the application of any other statute or rule except IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1.

SECTION 19. IC 20-46-1-19, AS AMENDED BY P.L.246-2017, SECTION 9, AND AS AMENDED BY P.L.244-2017, SECTION 99, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 19. (a) If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question:

(1) the school corporation may not make any levy for its *operating* referendum tax levy fund; and

(2) another referendum under this section may not be held earlier than:

(A) *except as provided in clause (B), seven hundred (700) days after the date of the referendum; or*

(B) *three hundred fifty (350) days after the date of the referendum, if a petition that meets the requirements of subsection (b) is submitted to the county auditor.*

(b) *If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, a petition may be submitted to the county auditor to request that the limit under subsection (a)(2)(B) apply to the holding of a subsequent referendum by the school corporation. If such a petition is submitted to the county auditor and is signed by the lesser of:*

(1) *five hundred (500) persons who are either owners of property within the school corporation or registered voters residing within the school corporation; or*



*(2) five percent (5%) of the registered voters residing within the political subdivision;*  
*the limit under subsection (a)(2)(B) applies to the holding of a second referendum by the school corporation, and the limit under subsection (a)(2)(A) does not apply to the holding of a second referendum by the school corporation.*

SECTION 20. IC 20-46-4-10 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 10. (a) A school corporation may appeal to the department of local government finance under IC 6-1.1-19 to increase the maximum levy permitted for the school corporation's fund. To be granted an increase by the department of local government finance, the school corporation must establish that the increase is necessary because of conditions under both of the following:

(1) At least one (1) of the following:

(A) Actual transportation related expenditures from all funds of the school corporation in the current year are at least ten percent (10%) greater than actual transportation related expenditures from all funds of the school corporation in the preceding year.

(B) The school corporation is significantly restructuring its transportation service for one (1) or more ensuing years.

(C) The percentage growth in the school corporation's assessed value for the preceding year compared to the year before the preceding year is at least two (2) times the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the preceding year.

(D) The school corporation's student enrollment increased by at least fifty percent (50%) between the last two (2) decennial censuses.

(E) The average of the school corporation's annual percentage increase in student enrollment for the preceding six (6) years is greater than two percent (2%); but the school corporation's maximum levy under this chapter has grown on average by less than three percent (3%) during the same period.

(2) At least one (1) of the following:

(A) A fuel expense increase.

(B) A significant increase in the number of students enrolled in the school corporation that need transportation or a significant increase in the mileage traveled by the school corporation's buses compared with the previous year.

(C) A significant increase in the number of students enrolled in special education who need transportation or a significant



increase in the mileage traveled by the school corporation's buses due to students enrolled in special education as compared with the previous year.

(D) Increased transportation operating costs due to compliance with a court ordered desegregation plan.

(E) The closure of a school building within the school corporation that results in a significant increase in the distances that students must be transported to attend another school building.

(F) Restructuring or redesigning transportation services due to a need for additional, expanded, consolidated, or modified routes.

(G) A labor shortage affecting the school corporation's ability to hire qualified transportation employees.

In addition, before the department of local government finance may grant a maximum levy increase, the school corporation must establish that the school corporation will be unable to provide transportation services without an increase. The school corporation must support its appeal for a maximum levy increase with reasonably detailed statements of fact. A failure to do so despite meeting the mathematical criteria of this subsection may be grounds for denial of the appeal.

(b) The department of local government finance may grant a maximum operating costs levy increase that is less than the increase requested by the school corporation. The department of local government finance shall consider the school corporation's current operating balances, including any rainy day fund the school corporation has, in evaluating the school corporation's appeal under subsection (a) and may approve an increase under this section that accounts for the school corporation's current operating balances. However, the school corporation's rainy day fund balance may serve as the basis for modifying or denying the appeal only if the rainy day fund balance is not otherwise substantially earmarked for use by the school corporation. The school corporation may, as part of its reasonably detailed statements of fact, explain whether the school corporation's rainy day fund balance is substantially earmarked for use by the school corporation.

(c) If the department of local government finance determines that a permanent increase in the maximum permissible levy is necessary, the maximum levy after the increase granted under this section becomes the school corporation's maximum permissible levy under this chapter.

(d) An appeal under this section must be filed with the department of local government finance before October 20 of the calendar year



~~immediately preceding the ensuing calendar year.~~

SECTION 21. IC 20-46-7-8, AS AMENDED BY P.L.246-2017, SECTION 10, AND AS AMENDED BY P.L.244-2017, SECTION 104, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 8. (a) This section does not apply to the following:

(1) Bonds or lease rental agreements for which a school corporation:

(A) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(B) in the case of bonds or lease rental agreements not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the bonds or lease rental agreement after June 30, 2008.

(2) Repayment from the debt service fund of loans made after June 30, 2008, for the purchase of school buses under IC 20-27-4-5.

(b) A school corporation must file a petition requesting approval from the department of local government finance to:

(1) incur bond indebtedness;

(2) enter into a lease rental agreement; or

(3) repay from the debt service fund loans made for the purchase of school buses under IC 20-27-4-5;

not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(b)(2), unless the school corporation demonstrates that a longer period is reasonable in light of the school corporation's facts and circumstances.

(c) A school corporation must obtain approval from the department of local government finance before the school corporation may:

(1) incur the indebtedness;

(2) enter into the lease agreement; or

(3) repay the school bus purchase loan.

(d) This restriction does not apply to property taxes that a school corporation levies to pay or fund bond or lease rental indebtedness created or incurred before July 1, 1974. In addition, this restriction does not apply to a lease agreement or a purchase agreement entered into between a school corporation and the Indiana bond bank for the lease or purchase of a school bus under IC 5-1.5-4-1(a)(5), if the lease agreement or purchase agreement conforms with the school corporation's ~~ten (10) year~~ school bus replacement plan. ~~approved by the department of local government finance under IC 21-2-11.5-3.1~~

**HEA 1167 — Concur**



~~(before its repeal) or IC 20-46-5.~~

(e) This section does not apply to school bus purchase loans made by a school corporation that will be repaid solely from the *general operations* fund of the school corporation.

SECTION 22. IC 20-46-8-1, AS ADDED BY P.L.244-2017, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 1. (a) **A school corporation may impose an annual property tax levy for its operations fund.**

(b) For property taxes first due and payable after ~~December 31, 2018~~; **in 2019, the maximum permissible property tax levy** a school corporation may impose ~~the following property tax levies for its school corporation operations fund (IC 20-40-18) is the following:~~

**STEP ONE: Determine the sum of the following:**

~~(1)~~ **(A) The 2018 maximum permissible** transportation levy as provided in section 3 of this chapter **determined under IC 20-46-4 (repealed January 1, 2019).**

~~(2)~~ **(B) The 2018 maximum permissible** school bus replacement levy as provided in section 4 of this chapter **determined under IC 20-46-5 (repealed January 1, 2019).**

~~(3)~~ **(C) The 2018 capital projects levy as provided in section 5 of this chapter. amount that would be raised from a capital projects fund tax rate equal to the sum of:**

- (i) the maximum capital projects fund rate that the school corporation was authorized to impose for 2018 under IC 20-46-6 (repealed January 1, 2019), after any adjustment under IC 6-1.1-18-12 (but excluding any rate imposed for qualified utility and insurance costs); plus
- (ii) the capital projects fund rate imposed for qualified utility and insurance costs in 2018.

~~(4)~~ **(D) For school corporations described in IC 36-10-13-7, a the 2018** levy as provided in section 6 of this chapter **(repealed January 1, 2019)** to provide funding for an art association.

~~(5)~~ **(E) For a school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), a the 2018** levy as provided in section 7 of this chapter **(repealed January 1, 2019)** to provide funding for a historical society.

~~(6)~~ **(F) For a school corporation described in IC 36-10-14-1, a the 2018** levy as provided in section 8 of this chapter **(repealed January 1, 2019)** to provide funding for a public playground.



**STEP TWO: Determine the product of:**

- (A) The amount determined in STEP ONE, after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to each of these levies for 2018 (regardless of whether the school corporation imposed the entire amount of that maximum permissible levy for the previous year); multiplied by  
 (B) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

**STEP THREE: Determine the result of the following:**

- (A) Determine the sum of:  
 (i) the amount determined in STEP TWO; plus  
 (ii) the amount granted due to an appeal to increase the levy for transportation for 2019.  
 (B) Make the school bus replacement adjustment for 2019.

(b) A school corporation's (c) After 2019, the maximum permissible property tax levy a school corporation may impose for its operations fund for a particular year is equal to the sum of the levies described in subsection (a)(1) through (a)(6) for that year. the following:

**STEP ONE: Determine the product of:**

- (A) the maximum permissible property tax levy for the school corporation's operations fund for the previous year, after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the previous year (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy for the previous year); multiplied by  
 (B) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

**STEP TWO: Determine the result of the following:**

- (A) Determine the sum of:  
 (i) the amount determined in STEP ONE; plus  
 (ii) the amount granted due to an appeal to increase the maximum permissible operations fund levy for the year under section 3 of this chapter for transportation.  
 (B) Make the school bus replacement adjustment permitted by section 4 of this chapter.

SECTION 23. IC 20-46-8-3, AS ADDED BY P.L.244-2017, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 3. (a) Except as provided in subsection (c); for property taxes first due and payable in 2019; a



school corporation's transportation levy may not exceed an amount equal to:

(1) the school corporation's maximum permissible levy determined under IC 20-46-4 (repealed January 1, 2019) for the school corporation's transportation fund for 2018; after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for 2018 (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in 2018); multiplied by  
 (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(b) Except as provided in subsection (c); for property taxes first due and payable after 2019, a school corporation's transportation levy may not exceed an amount equal to:

(1) the school corporation's maximum permissible levy determined under this section for the preceding year; after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the year (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in the immediately preceding year); multiplied by  
 (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(c) A school corporation may appeal to the department of local government finance under IC 6-1.1-19 to increase the school corporation's ~~transportation levy~~ **maximum permissible operations fund levy**. **The appeal must be filed with the department of local government finance before October 20 of the year before the increase is proposed to take effect.** To be granted an increase by the department of local government finance, the school corporation must establish that the increase is necessary because of a ~~transportation operating~~ cost increase of at least ten percent (10%) over the preceding year ~~as a result of~~ **for** at least one (1) of the following:

- (1) A fuel expense increase.
- (2) ~~A significant~~ **A cost increase due to an** increase in the number of students enrolled in the school corporation who need transportation or a ~~significant~~ **an** increase in the mileage traveled by the school corporation's buses compared with the previous year.
- (3) ~~A significant~~ **A cost increase due to an** increase in the number of students enrolled in special education who need transportation or a ~~significant~~ **an** increase in the mileage traveled



by the school corporation's buses due to students enrolled in special education as compared with the previous year.

(4) Increased transportation operating costs due to compliance with a court ordered desegregation plan.

(5) **A cost increase due to** the closure of a school building within the school corporation that results in a significant increase in the distances that students must be transported to attend another school building.

(6) **A cost increase due to restructuring or redesigning transportation services due to a need for additional, expanded, consolidated, or modified routes.**

(7) **A labor cost increase due to a labor shortage affecting the school corporation's ability to hire qualified transportation employees.**

In addition, before the department of local government finance may grant a maximum **permissible operations fund** levy increase, the school corporation must establish that the school corporation will be unable to provide transportation services without an increase. The department of local government finance may grant a levy increase that is less than the increase requested by the school corporation. If the department of local government finance determines that a permanent increase in the maximum permissible levy is necessary, ~~the maximum levy after the increase granted under this section becomes~~ **shall be added to** the school corporation's maximum permissible ~~transportation operations fund~~ **levy under this section: as provided in section 1 of this chapter.**

SECTION 24. IC 20-46-8-4, AS ADDED BY P.L.244-2017, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 4. (a) For property taxes first due and payable in 2019; a school corporation's school bus replacement levy may not exceed an amount equal to:

(1) the school corporation's maximum permissible levy determined under IC 20-46-5 (repealed January 1, 2019) for the school corporation's school bus replacement fund for 2018; after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for 2018 (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in 2018); multiplied by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(b) For property taxes first due and payable after 2019; a school corporation's school bus replacement levy may not exceed an amount





equal to:

- (1) the school corporation's maximum permissible levy determined under this section for the preceding year, after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the year (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in the immediately preceding year); multiplied by
- (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(e) The department of local government finance may, upon petition by a school corporation, adjust the school corporation's **maximum permissible** levy for the **its operations fund under section 1 of this chapter** to reflect the school corporation's plan adopted or amended under IC 20-46-5 (before its repeal January 1, 2019) or IC 20-40-18-9 (after December 31, 2018). **The petition must be filed with the department of local government finance before October 20 of the year before the adjustment is proposed to take effect.**

SECTION 25. IC 20-46-8-5 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec: 5: (a) For property taxes first due and payable in 2019; a school corporation's capital projects levy may not exceed the result of:

- (1) the amount that would be raised from a rate equal to the sum of:
  - (A) the maximum capital projects fund rate that the school corporation was authorized to impose for 2018 under IC 20-46-6 (before its repeal); after any adjustment under IC 6-1.1-18-12 (but excluding any rate imposed for qualified utility and insurance costs); plus
  - (B) the capital projects fund rate imposed for qualified utility and insurance costs in 2018; multiplied by
- (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(b) For property taxes first due and payable after 2019; a school corporation's capital projects levy may not exceed an amount equal to:

- (1) the school corporation's maximum permissible levy determined under this section for the preceding year, after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the year (regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in the immediately preceding year); multiplied by



(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 26. IC 20-46-8-6 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 6: (a) A school corporation described in IC 36-10-13-7 may impose a levy to provide funding for an art association:

(b) For property taxes first due and payable in 2019; a school corporation's levy under this section may not exceed an amount equal to:

(1) the school corporation's levy for an art association under IC 36-10-13 in 2018; multiplied by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(c) For property taxes first due and payable after 2019; a school corporation's levy under this section may not exceed an amount equal to:

(1) the school corporation's maximum permissible levy under this section for the preceding year; multiplied by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 27. IC 20-46-8-7 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 7: (a) A school corporation in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may impose a levy to provide funding for a historical society:

(b) For property taxes first due and payable in 2019; a school corporation's levy under this section may not exceed an amount equal to:

(1) the school corporation's levy for a historical society under IC 36-10-13 in 2018; multiplied by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(c) For property taxes first due and payable after 2019; a school corporation's levy under this section may not exceed an amount equal to:

(1) the school corporation's maximum permissible levy under this section for the preceding year; multiplied by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 28. IC 20-46-8-8 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 8: (a) A school corporation described in IC 36-10-14-1 may impose a levy to provide funding for public



playgrounds.

(b) For property taxes first due and payable in 2019; a school corporation's levy under this section may not exceed an amount equal to:

- (1) the school corporation's levy for public playgrounds under IC 36-10-14 in 2018; multiplied by
- (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

(c) For property taxes first due and payable after 2019; a school corporation's levy under this section may not exceed an amount equal to:

- (1) the school corporation's maximum permissible levy under this section for the preceding year; multiplied by
- (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 29. IC 36-1-8-5.1, AS AMENDED BY P.L.197-2016, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund by the adoption of:

- (1) an ordinance, in the case of a county, city, or town; or
- (2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund, which may include the following:
  - (A) Unused and unencumbered funds under:
    - (i) section 5 of this chapter; or
    - (ii) IC 6-3.6-9-15.
  - (B) Any other funding source:
    - (i) specified in the ordinance or resolution adopted under this section; and
    - (ii) not otherwise prohibited by law.

(c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money.

(d) In any fiscal year, a political subdivision may, at any time, do the following:

- (1) Transfer any unused and unencumbered funds specified in subsection (b)(2)(A) from any fiscal year to the rainy day fund.
- (2) Transfer any other unobligated cash balances from any fiscal year that are not otherwise identified in subsection (b)(2)(A) or section 5 of this chapter to the rainy day fund as long as the



transfer satisfies the following requirements:

(A) The amount of the transfer is authorized by and identified in an ordinance or resolution.

(B) The amount of the transfer is not more than ten percent (10%) of the political subdivision's total annual budget adopted under IC 6-1.1-17 for that fiscal year.

(C) The transfer is not made from a debt service fund.

(e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The political subdivision may adopt a subsequent ordinance or resolution authorizing the use of another funding source.

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

(g) A county, city, or town may at any time, by ordinance or resolution, transfer to:

(1) its general fund; or

(2) any other appropriated funds of the county, city, or town; money that has been deposited in the rainy day fund of the county, city, or town.

**(h) A school corporation may at any time, by resolution, transfer to its education fund or operations fund money that has been deposited in its rainy day fund.**

SECTION 30. IC 36-10-13-4 IS REPEALED [EFFECTIVE JANUARY 1, 2019]. Sec. 4. (a) This section does not apply to a school corporation in a county having a population of:

(1) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or

(2) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) The governing body of a school corporation may annually appropriate, from the school corporation's general fund, a sum of not more than five-tenths of one cent (\$.005) on each one hundred dollars (\$100) of assessed valuation in the school corporation to be paid to a historical society, subject to section 6 of this chapter.

SECTION 31. IC 36-10-13-5, AS AMENDED BY P.L.255-2017, SECTION 57, AND AS AMENDED BY P.L.244-2017, SECTION 130, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. (a) This section applies only to a school corporation in a county having a population of:

(1) more than two hundred fifty thousand (250,000) but less than



two hundred seventy thousand (270,000); or  
(2) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

*(b) To provide funding for a historical society under this section, the governing body of a school corporation may impose a tax of not more than five-tenths of one cent (\$.005) on each one hundred dollars (\$100) of assessed valuation in the school corporation.*

*(c) The school corporation shall deposit the proceeds of the tax in a fund to be known as the historical society fund. The historical society fund is separate and distinct from the school corporation's general fund and may be used only to provide funds for a historical society under this section.*

*(d) (b) Subject to section 6 of this chapter, the governing body of the school corporation may annually appropriate the money in the operations fund to be paid in semiannual installments to a historical society having facilities in the county.*

**SECTION 32. An emergency is declared for this act.**



---

Speaker of the House of Representatives

---

President of the Senate

---

President Pro Tempore

---

Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1167 — Concur**

