



March 20, 2019

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## ENGROSSED HOUSE BILL No. 1397

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DIGEST OF HB 1397 (Updated March 19, 2019 11:14 am - DI 125)

**Citations Affected:** IC 20-29.

**Synopsis:** School corporations. Provides that before September 15 of any year, a governing body may pass a one year resolution indicating that a portion or percentage of money transferred from the operations fund to the education fund may be considered education fund revenue for purposes of determining whether a teacher collective bargaining agreement would place the employer in a position of deficit financing. Makes a technical amendment. Provides that a school corporation shall submit a copy of the resolution to the department of local government finance on or before November 1. Provides that the resolution shall include: (1) all transfers between the operations fund and the education fund; and (2) a statement regarding whether or not the transfer is for the purpose of funding teacher contracts.

**Effective:** July 1, 2019.

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### Cook, Cherry, McNamara, DeLaney

(SENATE SPONSORS — SPARTZ, RAATZ, BASSLER)

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January 14, 2019, read first time and referred to Committee on Education.  
February 18, 2019, amended, reported — Do Pass.  
February 20, 2019, read second time, ordered engrossed. Engrossed.  
February 21, 2019, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 7, 2019, read first time and referred to Committee on Tax and Fiscal Policy.  
March 19, 2019, amended, reported favorably — Do Pass.

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EH 1397—LS 6301/DI 116





March 20, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1397

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

1 SECTION 1. IC 20-29-2-6, AS AMENDED BY P.L.213-2018(ss),  
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 6. "Deficit financing" for a budget year:  
4 (1) means, except as provided in subdivision (2), actual  
5 expenditures exceeding the employer's current year actual  
6 education fund revenue and, for a school employer for which the  
7 voters have passed an operating referendum tax levy under  
8 IC 20-46-1, the amount of revenue certified by the department of  
9 local government finance; or  
10 (2) means, in the case of any distressed school corporation, the  
11 Gary Community School Corporation, or the Muncie Community  
12 school corporation, actual expenditures plus additional payments  
13 against any outstanding debt obligations exceeding the employer's  
14 current year actual education fund revenue, and, for a school  
15 employer for which the voters have passed an operating  
16 referendum tax levy under IC 20-46-1, the amount of revenue  
17 certified by the department of local government finance.

**EH 1397—LS 6301/DI 116**



1 **Except as provided in IC 20-29-6-3(c)**, revenue does not include  
 2 money estimated to be or actually transferred from the school  
 3 corporation's operations fund to its education fund.

4 SECTION 2. IC 20-29-6-3, AS AMENDED BY P.L.244-2017,  
 5 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2019]: Sec. 3. (a) It is unlawful for a school employer to enter  
 7 into any agreement that would place the employer in a position of  
 8 deficit financing due to a reduction in the employer's actual general  
 9 fund (before January 1, 2019) or education fund (after December 31,  
 10 2018) revenue or an increase in the employer's expenditures when the  
 11 expenditures exceed the employer's current year actual general fund  
 12 (before January 1, 2019) or education fund (after December 31, 2018)  
 13 revenue. **Except as provided in subsection (c)**, revenue does not  
 14 include money estimated to be or actually transferred from the school  
 15 corporation's ~~operating~~ **operations** fund to its education fund.

16 (b) A contract that provides for deficit financing is void to that  
 17 extent, and an individual teacher's contract executed under the contract  
 18 is void to that extent.

19 (c) **Notwithstanding subsection (a), before September 15 of any**  
 20 **year, a governing body may pass a one (1) year resolution**  
 21 **indicating that a portion or percentage of money transferred from**  
 22 **the operations fund to the education fund may be considered**  
 23 **education fund revenue for purposes of funding a contract under**  
 24 **this chapter and to determine whether an agreement would place**  
 25 **the employer in a position of deficit financing. The resolution shall**  
 26 **expire within one (1) year of the resolution's adoption by the**  
 27 **governing body.**

28 SECTION 3. IC 20-29-6-12.5, AS AMENDED BY P.L.244-2017,  
 29 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2019]: Sec. 12.5. (a) Before September 15 of the first year of  
 31 the state budget biennium, the department shall provide the parties with  
 32 an estimate of the general fund (before January 1, 2019) or education  
 33 fund (after December 31, 2018) revenue available for bargaining in the  
 34 school corporation from the school funding formula.

35 (b) Within thirty (30) days after the date of the fall count of ADM  
 36 of the school year in the first year of the state budget biennium, the  
 37 department shall provide the parties with a certification of estimated  
 38 general fund (before January 1, 2019) or education fund (after  
 39 December 31, 2018) revenue available for bargaining from the school  
 40 funding formula. If the parties do not receive a certified estimate from  
 41 the department within thirty (30) days after the fall count of ADM, the  
 42 parties may use the school corporation's estimate of the general fund



1 (before January 1, 2019) or education fund (after December 31, 2018)  
 2 revenue available based on the school corporation's fall count of ADM  
 3 for purposes of collective bargaining. However, if the parties  
 4 subsequently receive the certification of estimated general fund (before  
 5 January 1, 2019) or education fund (after December 31, 2018) revenue  
 6 available for bargaining before an impasse is declared, the parties shall  
 7 use the certified general fund (before January 1, 2019) or education  
 8 fund (after December 31, 2018) revenue from the school funding  
 9 formula for purposes of collective bargaining.

10 (c) A school employer for which the voters have passed a general  
 11 fund operating referendum (before January 1, 2019) or an operating  
 12 referendum tax levy (after December 31, 2018) under IC 20-46-1 must  
 13 have that amount certified by the department of local government  
 14 finance.

15 **(d) A school employer that passes a resolution under section 3(c)**  
 16 **of this chapter to consider a portion or percentage of money**  
 17 **transferred from the school employer's operations fund to the**  
 18 **education fund as education fund revenue for purposes of**  
 19 **determining whether an agreement places a school corporation in**  
 20 **a position of deficit financing must submit a copy of the resolution**  
 21 **to the department of local government finance on or before**  
 22 **November 1. The resolution shall include:**

23 **(1) all transfers between the operations fund and the**  
 24 **education fund; and**

25 **(2) a statement regarding whether or not the transfer is for**  
 26 **the purpose of funding teacher contracts.**

27 ~~(d)~~ **(e)** The school corporation must obtain the certification  
 28 described in subsection (c) before the conclusion of bargaining. The  
 29 certifications or estimate described in subsection (b) must be the basis  
 30 for determinations throughout impasse proceedings under this chapter.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1397, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 8.

Page 9, delete lines 1 through 41.

Page 11, line 40, delete "or (d)".

Page 11, line 41, reset in roman "subsection".

Page 11, line 41, delete "subsections".

Page 11, line 42, delete "and (d)".

Page 12, delete lines 2 through 42.

Delete page 13.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1397 as introduced.)

BEHNING

Committee Vote: yeas 13, nays 0.

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 COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1397, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 20, delete "have that amount approved by" and insert **"submit a copy of the resolution to the department of local government finance on or before November 1. The resolution shall include:**

**(1) all transfers between the operations fund and the education fund; and**



**(2) a statement regarding whether or not the transfer is for the purpose of funding teacher contracts."**

Page 3, delete lines 21 through 22.

and when so amended that said bill do pass.

(Reference is to HB 1397 as printed February 18, 2019.)

HOLDMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

