

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.

## HOUSE ENROLLED ACT No. 1397

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AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-29-2-6, AS AMENDED BY P.L.213-2018(ss), SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. "Deficit financing" for a budget year:

(1) means, except as provided in subdivision (2), actual expenditures exceeding the employer's current year actual education fund revenue and, for a school employer for which the voters have passed an operating referendum tax levy under IC 20-46-1, the amount of revenue certified by the department of local government finance; or

(2) means, in the case of any distressed school corporation, the Gary Community School Corporation, or the Muncie Community school corporation, actual expenditures plus additional payments against any outstanding debt obligations exceeding the employer's current year actual education fund revenue, and, for a school employer for which the voters have passed an operating referendum tax levy under IC 20-46-1, the amount of revenue certified by the department of local government finance.

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

SECTION 2. IC 20-29-6-3, AS AMENDED BY P.L.244-2017, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

**HEA 1397 — Concur**



JULY 1, 2019]: Sec. 3. (a) It is unlawful for a school employer to enter into any agreement that would place the employer in a position of deficit financing due to a reduction in the employer's actual general fund (before January 1, 2019) or education fund (after December 31, 2018) revenue or an increase in the employer's expenditures when the expenditures exceed the employer's current year actual general fund (before January 1, 2019) or education fund (after December 31, 2018) revenue. **Except as provided in subsection (c),** revenue does not include money estimated to be or actually transferred from the school corporation's ~~operating~~ **operations** fund to its education fund.

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

**(c) Notwithstanding subsection (a), before September 15 of any year, a governing body may pass a one (1) 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 funding a contract under this chapter and to determine whether an agreement would place the employer in a position of deficit financing. The resolution shall expire within one (1) year of the resolution's adoption by the governing body.**

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

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



available for bargaining before an impasse is declared, the parties shall use the certified general fund (before January 1, 2019) or education fund (after December 31, 2018) revenue from the school funding formula for purposes of collective bargaining.

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

**(d) A school employer that passes a resolution under section 3(c) of this chapter to consider a portion or percentage of money transferred from the school employer's operations fund to the education fund as education fund revenue for purposes of determining whether an agreement places a school corporation in a position of deficit financing must 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.**

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



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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

**HEA 1397 — Concur**

