



April 3, 2017

ENGROSSED SENATE BILL No. 567

DIGEST OF SB 567 (Updated April 3, 2017 3:07 pm - DI 58)

Citations Affected: IC 4-6; IC 5-11; IC 6-1.1; IC 20-26.

Synopsis: Distressed political subdivisions. Designates the Gary Community School Corporation and Muncie Community Schools as distressed political subdivisions subject to control by the distressed unit appeal board (DUAB). Changes the membership of the distressed unit appeal board (DUAB) by replacing the voting member who is appointed by the chairperson of the legislative council with a member appointed by the governor and adding three nonvoting legislative members. Adds and modifies the duties and powers of the DUAB. Authorizes the treasurer of state to file a petition with the DUAB to have a school corporation designated as distressed unit if the treasurer of state has reason to believe that the school corporation will not be able to pay the school corporation's debt service obligations as those debt service obligations become due. Allows the Indiana education employment relations board (EERB) to petition the DUAB to consider a school corporation for designation as distressed and requires notice to the EERB when a school corporation is designated as distressed.
(Continued next page)

Effective: Upon passage.

**Kenley, Melton, Charbonneau,
Tallian, Randolph Lonnie M**

(HOUSE SPONSORS — BROWN T, BROWN C, SMITH V, BEHNING)

January 18, 2017, read first time and referred to Committee on Appropriations.
February 6, 2017, amended, reported favorably — Do Pass.
February 9, 2017, read second time, ordered engrossed.
February 10, 2017, engrossed.
February 13, 2017, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Ways and Means.
April 3, 2017, amended, reported — Do Pass.

ES 567—LS 7530/DI 73



Digest Continued

Replaces and adds conditions for terminating a political subdivision's distressed status. Adds, removes, modifies, and rearranges the duties and powers of an emergency manager regarding all political subdivisions and makes certain changes with regard to a distressed school corporation, including the employment of a chief financial officer and a chief academic officer by the emergency manager. Requires various reports. Establishes a fiscal management board in the case of a distressed school corporation. Specifies the fiscal management board's membership and qualifications to serve on the board. Provides that the fiscal management board shall make recommendations to the emergency manager and shall advise the emergency manager as requested by the emergency manager. Provides a procedure for residents who want to appeal a decision of an emergency manager. Specifies that if a member of the fiscal management board is made a party to a civil suit, the attorney general shall defend the fiscal management board member throughout the action. Specifies for purposes of a claim against a governmental entity that a member of the fiscal management board and the emergency manager, chief financial officer, or chief academic officer is acting on behalf of the distressed political subdivision and not the state. Provides civil immunity for these individuals with respect to an act or omission made in the course and scope of duties prescribed by the DUAB. Allows a school corporation to opt out of a state board of accounts examination and have an independent examination that meets certain criteria for an audit performed for 2015 and 2016.

ES 567—LS 7530/DI 73



April 3, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 567

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 4-6-2-1.5, AS AMENDED BY P.L.149-2016,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1.5. (a) Whenever any state governmental
4 official or employee, whether elected or appointed, is made a party to
5 a suit, and the attorney general determines that said suit has arisen out
6 of an act which such official or employee in good faith believed to be
7 within the scope of the official's or employee's duties as prescribed by
8 statute or duly adopted regulation, the attorney general shall defend
9 such person throughout such action.
10 (b) Whenever a teacher (as defined in IC 20-18-2-22) is made a
11 party to a civil suit, and the attorney general determines that the suit
12 has arisen out of an act that the teacher in good faith believed was
13 within the scope of the teacher's duties in enforcing discipline policies
14 developed under IC 20-33-8-12, the attorney general shall defend the
15 teacher throughout the action.

ES 567—LS 7530/DI 73



1 (c) Not later than July 30 of each year, the attorney general, in
 2 consultation with the Indiana education employment relations board
 3 established in IC 20-29-3-1, shall draft and disseminate a letter by first
 4 class mail to the residence of teachers providing a summary of the
 5 teacher's rights and protections under state and federal law, including
 6 a teacher's rights and protections relating to the teacher's performance
 7 evaluation under IC 20-28-11.5.

8 (d) The department of education, in consultation with the Indiana
 9 education employment relations board, shall develop a method to
 10 provide the attorney general with the names and addresses of active
 11 teachers in Indiana in order for the attorney general to disseminate the
 12 letter described in subsection (c). Names and addresses collected and
 13 provided to the attorney general under this subsection are confidential
 14 and excepted from public disclosure as provided in IC 5-14-3-4.

15 (e) Whenever a school corporation (as defined in IC 20-26-2-4) is
 16 made a party to a civil suit and the attorney general determines that the
 17 suit has arisen out of an act authorized under IC 20-30-5-0.5 or
 18 IC 20-30-5-4.5, the attorney general shall defend the school corporation
 19 throughout the action.

20 **(f) Whenever a member of the fiscal management board**
 21 **appointed under IC 6-1.1-20.3-6.8 is made a party to a civil suit**
 22 **and the attorney general determines that the suit has arisen out of**
 23 **an act by the fiscal management board member that is authorized**
 24 **or required under IC 6-1.1-20.3 or any other law, the attorney**
 25 **general shall defend the fiscal management board member**
 26 **throughout the action.**

27 ~~(f)~~ **(g)** A determination by the attorney general under subsection (a),
 28 (b), ~~or~~ (e), ~~or~~ **(f)** shall not be admitted as evidence in the trial of any
 29 such civil action for damages.

30 ~~(g)~~ **(h)** Nothing in this chapter shall be construed to deprive any
 31 such person of the person's right to select counsel of the person's own
 32 choice at the person's own expense.

33 SECTION 2. IC 5-11-1-24.4, AS ADDED BY P.L.181-2015,
 34 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 24.4. (a) This section applies only to an
 36 audited entity (excluding a ~~school corporation~~ or a college or university
 37 (as defined in IC 21-7-13-10)) that has:

38 (1) an internal control officer; and

39 (2) an internal control department;

40 established by the legislative body of the audited entity. However, the
 41 requirements of this section do not apply to a consolidated city that
 42 hires an internal auditor or an independent certified public accountant,



1 or both, as authorized under IC 36-3-4-24 to examine the books and
2 records of the consolidated city.

3 (b) An audited entity may request in writing that the state board of
4 accounts authorize the audited entity to:

- 5 (1) opt out of examinations by the state board of accounts; and
6 (2) engage a certified public accountant to conduct the
7 examinations.

8 The request must be approved by resolution adopted by the legislative
9 body for the audited entity.

10 (c) The state board of accounts shall, not more than sixty (60) days
11 after receiving a written request under subsection (b):

- 12 (1) acknowledge receipt of the request; and
13 (2) notify the requesting audited entity that the request is:
14 (A) approved; or
15 (B) disapproved.

16 (d) The state board of accounts shall approve a request under
17 subsection (b) by an audited entity if the state examiner determines
18 that:

- 19 (1) the audited entity filed the written request under subsection
20 (b) with the state board of accounts more than one hundred eighty
21 (180) days before the beginning of the audited entity's fiscal year;
22 (2) the audited entity selects the certified public accountant in
23 accordance with the selection procedure under this section;
24 (3) the certified public accountant selected by the audited entity
25 is:
26 (A) licensed in Indiana; and
27 (B) qualified to conduct examinations in accordance with the
28 government auditing standards adopted by the state board of
29 accounts;
30 (4) the certified public accountant's examination shall:
31 (A) be conducted in accordance with the guidelines
32 established by the state board of accounts; and
33 (B) make findings regarding the audited entity's compliance
34 with the uniform compliance guidelines established by the
35 state board of accounts;
36 (5) the certified public accountant's examination is paid for by the
37 audited entity; and
38 (6) the certified public accountant's examination of the audited
39 entity includes:
40 (A) all associated component units;
41 (B) audits required or necessary for federal financial
42 assistance;



- 1 (C) findings of noncompliance with state law and uniform
 2 compliance guidelines as required by IC 5-11-5-1; and
 3 (D) a separate report in accordance with the guidelines
 4 established by the state board of accounts for any items of
 5 noncompliance identified.
- 6 (e) The audited entity must use the following selection procedures:
 7 (1) The legislative body of the audited entity shall establish an
 8 audit committee to facilitate the selection of a certified public
 9 accountant. The audit committee shall be composed of the
 10 following three (3) members:
 11 (A) One (1) member of the legislative body appointed by the
 12 legislative body.
 13 (B) One (1) certified public accountant appointed by the
 14 legislative body who is not the fiscal officer or an employee of
 15 the audited entity.
 16 (C) One (1) person appointed by the executive of the audited
 17 entity who is qualified due to an involvement with financial
 18 matters, and who is not the fiscal officer or an employee of the
 19 audited entity.
- 20 Each member shall be appointed for a three (3) year term and
 21 shall serve without compensation. However, a member appointed
 22 under subdivision (1)(A) who ceases to hold the office of
 23 legislative body member ceases to be a member of the audit
 24 committee. A member may not have a contractual relationship,
 25 financial interest, or political affiliation with the certified public
 26 accountant selected.
- 27 (2) The audit committee established under subdivision (1) shall
 28 do the following:
 29 (A) Establish factors to evaluate the audit services provided by
 30 a certified public accountant, including:
 31 (i) experience;
 32 (ii) ability to perform the required services;
 33 (iii) capability to follow the guidelines and standards
 34 adopted by the state board of accounts;
 35 (iv) ability to timely complete all necessary components of
 36 the examination; and
 37 (v) any other factors considered necessary by the audit
 38 committee.
 39 (B) Publish notice of a request for proposals under IC 5-3-1
 40 that includes:
 41 (i) a brief description of the audit requirements;
 42 (ii) a time frame;



- 1 (iii) application procedures;
 2 (iv) evaluation criteria; and
 3 (v) any other items considered necessary by the audit
 4 committee.
- 5 (C) Evaluate the proposals submitted by qualified certified
 6 public accountants. If compensation is a factor established
 7 under clause (A), it may not be the sole factor used to evaluate
 8 proposals.
- 9 (D) Rank and recommend in order of preference not fewer
 10 than three (3) certified public accountants considered most
 11 highly qualified on the factors established under clause (A). If
 12 fewer than three (3) certified public accountants respond to the
 13 request for proposals, the audit committee shall recommend
 14 the remaining qualified certified public accountants in order
 15 of preference.
- 16 (3) The legislative body of the audited entity shall select a
 17 qualified certified public accountant from the list recommended
 18 by the audit committee and shall negotiate a contract with the
 19 certified public accountant using one (1) of the following
 20 methods:
- 21 (A) If compensation is a factor established under subdivision
 22 (2)(A), the legislative body shall:
- 23 (i) select; or
 24 (ii) document the reason for not selecting;
 25 the highest ranked certified public accountant.
- 26 (B) If compensation is not a factor established under
 27 subdivision (2)(A), the legislative body shall negotiate a
 28 contract with the highest ranked qualified certified public
 29 accountant. If unable to negotiate a satisfactory contract with
 30 the highest ranked qualified certified public accountant, the
 31 legislative body shall:
- 32 (i) formally terminate negotiations; and
 33 (ii) negotiate with the second highest ranked certified public
 34 accountant.
- 35 Negotiations with the other ranked certified public accountants
 36 shall be undertaken in the same manner. The legislative body
 37 may reopen formal negotiations with any of the top three (3)
 38 ranked certified public accountants but may not negotiate with
 39 more than one (1) certified public accountant at a time.
- 40 (C) The legislative body may select a certified public
 41 accountant recommended by the audit committee and
 42 negotiate a contract using an appropriate alternative



- 1 negotiation method for which compensation is not the sole or
2 predominant factor.
- 3 (D) In negotiations with a certified public accountant, the
4 legislative body may allow a designee, who is not the fiscal
5 officer of the audited entity, to conduct negotiations on its
6 behalf.
- 7 (4) If the legislative body is unable to negotiate a satisfactory
8 contract with any of the recommended certified public
9 accountants, the audit committee shall recommend additional
10 certified public accountants, and negotiations shall continue in
11 accordance with this section until an agreement is reached.
- 12 (5) The procurement of audit services shall be evidenced by a
13 written contract embodying all provisions and conditions. For
14 purposes of this section, an engagement letter signed and
15 executed by both parties shall constitute a written contract. The
16 written contract shall include the following provisions:
- 17 (A) Specification of services to be provided and fees or other
18 compensation for the services.
- 19 (B) Invoices for fees or other compensation shall be submitted
20 in sufficient detail to demonstrate compliance with the terms
21 of the contract.
- 22 (C) Specification of the contract period and conditions under
23 which the contract may be terminated or renewed.
- 24 (D) The certified public accountant shall perform the
25 examination in accordance with:
- 26 (i) the guidelines and standards adopted by the state board
27 of accounts;
- 28 (ii) auditing standards generally accepted in the United
29 States; and
- 30 (iii) if applicable, government auditing standards, Office of
31 Management and Budget Circular A-133, and any other
32 guidelines required by the industry.
- 33 (E) If the certified public accountant discovers or suspects
34 instances of fraud, abuse of public funds, or the commission of
35 a crime, the certified public accountant shall notify the state
36 board of accounts:
- 37 (i) immediately; and
- 38 (ii) before disclosing the discovery or suspicion to the
39 audited entity.
- 40 (F) The certified public accountant shall deliver the completed
41 examination report to the state board of accounts:
- 42 (i) at the same time as the audited entity; and



- 1 (ii) not later than thirty (30) days after completion of the
2 examination.
3 The report shall be in a readable format prescribed by the state
4 board of accounts.
5 (G) All work papers supporting the examination report shall be
6 available for review by the state board of accounts.
7 (6) If a legislative body of an audited entity renews a written
8 contract with a certified public accountant that was entered into
9 in accordance with this section, the legislative body may renew
10 the contract without complying with the selection procedures in
11 this subsection.
12 (f) The certified public accountant must deliver the completed
13 examination report to the state board of accounts not later than thirty
14 (30) days after completion of the examination. The state board of
15 accounts shall review the examination report and may:
16 (1) ask questions of the certified public accountant;
17 (2) review the examination work papers; and
18 (3) take any other actions necessary to verify that the guidelines
19 and standards adopted by the state board of accounts have been
20 satisfied.
21 (g) If the certified public accountant's examination:
22 (1) satisfies the guidelines and standards adopted by the state
23 board of accounts, the state examiner shall publicly file the
24 examination report under IC 5-11-5-1; or
25 (2) fails to satisfy the guidelines and standards adopted by the
26 state board of accounts:
27 (A) the state board of accounts shall perform the audit; and
28 (B) the audited entity shall reimburse the state board of
29 accounts for the actual and direct cost of performing the
30 examination.
31 (h) An audited entity that engages a certified public accountant
32 under this section shall reimburse the state board of accounts for all
33 direct and indirect costs incurred by the state board of accounts for any
34 technical assistance and support requested by the audited entity.
35 (i) An audited entity may terminate the use of a certified public
36 accountant engaged under this section if:
37 (1) the termination is approved by resolution adopted by the
38 legislative body of the audited entity; and
39 (2) written notice of the termination is provided to the state board
40 of accounts more than one hundred eighty (180) days before the
41 beginning of the audited entity's fiscal year.
42 (j) Conducting an examination of an audited entity by a certified



1 public accountant does not prohibit the state board of accounts from
 2 conducting a compliance review of the audited entity or an examination
 3 under section 9.5 of this chapter on the schedule determined by the
 4 state board of accounts.

5 SECTION 3. IC 5-11-1-24.5 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 7 **UPON PASSAGE]: Sec. 24.5. (a) An independent examination**
 8 **report issued by a certified public accountant for a school**
 9 **corporation:**

10 (1) for examined year 2015 or 2016;

11 (2) that is done in accordance with all the requirements of
 12 section 24.4(d) of this chapter, other than section 24.4(d)(1) of
 13 this chapter; and

14 (3) that meets all the other requirements of section 24.4 of this
 15 chapter;

16 is considered to have been approved under section 24.4(d) of this
 17 chapter.

18 (b) A school corporation for which an independent examination
 19 report was issued as described in subsection (a) shall notify the
 20 state board of accounts of the issuance as soon as practicable after
 21 the legislative body approves the report.

22 (c) This section expires June 30, 2019.

23 SECTION 4. IC 6-1.1-20.3-2, AS AMENDED BY P.L.234-2013,
 24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 2. As used in this chapter, "distressed political
 26 subdivision" means a political subdivision designated as a distressed
 27 political subdivision by the board under section 6.5 or 6.7 of this
 28 chapter **or a school corporation designated as a distressed school**
 29 **corporation by section 6.8 of this chapter.**

30 SECTION 5. IC 6-1.1-20.3-4, AS AMENDED BY P.L.145-2012,
 31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 4. (a) The distressed unit appeal board is
 33 established.

34 (b) The distressed unit appeal board consists of the following
 35 members:

36 (1) The director of the office of management and budget or the
 37 director's designee. The director or the director's designee shall
 38 serve as chairperson of the distressed unit appeal board.

39 (2) The commissioner of the department of local government
 40 finance or the commissioner's designee.

41 (3) The state examiner of the state board of accounts or the state
 42 examiner's designee.



- 1 (4) The state superintendent of public instruction or the
 2 superintendent's designee.
- 3 (5) An individual appointed by the ~~chairman of the legislative~~
 4 ~~council~~ **governor.**
- 5 **(6) A member of the house of representatives appointed by**
 6 **speaker of the house of representatives, who shall serve as a**
 7 **nonvoting member.**
- 8 **(7) A member of the senate appointed by the president pro**
 9 **tempore of the senate, who shall serve as a nonvoting**
 10 **member.**
- 11 **(8) A member to serve a one (1) year term in each**
 12 **even-numbered year who:**
- 13 **(A) is a member of the house of representatives; and**
 14 **(B) is appointed by the minority leader of the house of**
 15 **representatives.**
- 16 **The member is a nonvoting member.**
- 17 **(9) A member to serve a one (1) year term in each**
 18 **odd-numbered year who:**
- 19 **(A) is a member of the senate; and**
 20 **(B) is appointed by the minority leader of the senate.**
- 21 **The member is a nonvoting member.**
- 22 (c) Each member of the ~~commission board~~ **who is not a member**
 23 **of the general assembly** is entitled to reimbursement for:
- 24 (1) traveling expenses as provided under IC 4-13-1-4; and
- 25 (2) other expenses actually incurred in connection with the
 26 member's duties as provided in the state policies and procedures
 27 established by the Indiana department of administration and
 28 approved by the budget agency.
- 29 **(d) Each member of the board who is a member of the general**
 30 **assembly is entitled to receive the same per diem, mileage, and**
 31 **travel allowances paid to legislative members of interim study**
 32 **committees. Per diem, mileage, and travel allowances paid under**
 33 **this section shall be paid from appropriations made to the**
 34 **legislative council or the legislative services agency.**
- 35 SECTION 6. IC 6-1.1-20.3-6, AS AMENDED BY P.L.257-2013,
 36 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 6. (a) The fiscal body and the executive of a
 38 political subdivision may jointly file a petition with the board seeking
 39 to have the political subdivision designated as a distressed political
 40 subdivision under this chapter.
- 41 (b) The governing body ~~and or~~ the superintendent of a school
 42 corporation may do any of the following:



- 1 (1) ~~Jointly~~ File a petition with the board seeking relief under
- 2 section 8.3 of this chapter.
- 3 (2) ~~Jointly~~ File a petition with the board seeking to have the
- 4 school corporation designated as a distressed political subdivision
- 5 under this chapter.
- 6 (3) ~~Jointly~~ File a petition with the board requesting authority to
- 7 transfer before July 1, 2015, excess funds in the school
- 8 corporation's debt service fund to the school corporation's
- 9 transportation fund as provided in section 8.4 of this chapter.
- 10 **(c) If the treasurer of state has reason to believe that a school**
- 11 **corporation will not be able to pay the school corporation's debt**
- 12 **service obligations (as defined in IC 20-48-1-11) as those debt**
- 13 **service obligations become due, the treasurer of state may file a**
- 14 **petition with the board seeking to have the school corporation**
- 15 **designated as a distressed political subdivision under this chapter.**
- 16 **(d) The Indiana education employment relations board**
- 17 **established by IC 20-29-3-1 may file a petition with the board**
- 18 **seeking to have a school corporation considered for designation as**
- 19 **a distressed political subdivision under this chapter.**
- 20 ~~(e)~~ **(e)** The board may adopt procedures governing the timing and
- 21 required content of a petition under subsection (a), **(c), or (d)**.
- 22 SECTION 7. IC 6-1.1-20.3-6.5, AS AMENDED BY P.L.257-2013,
- 23 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 UPON PASSAGE]: Sec. 6.5. (a) After the board receives a petition
- 25 concerning a political subdivision under section 6(a), ~~or~~ 6(b)(2), **6(c),**
- 26 **or 6(d)** of this chapter, the board may designate the political
- 27 subdivision as a distressed political subdivision if at least one (1) of the
- 28 following conditions applies to the political subdivision:
- 29 (1) The political subdivision has defaulted in payment of principal
- 30 or interest on any of its bonds or notes.
- 31 (2) The political subdivision has failed to make required
- 32 payments to payroll employees for thirty (30) days or two (2)
- 33 consecutive payrolls.
- 34 (3) The political subdivision has failed to make required
- 35 payments to judgment creditors for sixty (60) days beyond the
- 36 date of the recording of the judgment.
- 37 (4) The political subdivision, for at least thirty (30) days beyond
- 38 the due date, has failed to do any of the following:
- 39 (A) Forward taxes withheld on the incomes of employees.
- 40 (B) Transfer employer or employee contributions due under
- 41 the Federal Insurance Contributions Act (FICA).
- 42 (C) Deposit the political subdivision's minimum obligation



- 1 payment to a pension fund.
- 2 (5) The political subdivision has accumulated a deficit equal to
- 3 eight percent (8%) or more of the political subdivision's revenues.
- 4 For purposes of this subdivision, "deficit" means a negative fund
- 5 balance calculated as a percentage of revenues at the end of a
- 6 budget year for any governmental or proprietary fund. The
- 7 calculation must be presented on an accrual basis according to
- 8 generally accepted accounting principles.
- 9 (6) The political subdivision has sought to negotiate a resolution
- 10 or an adjustment of claims that in the aggregate:
- 11 (A) exceed thirty percent (30%) of the political subdivision's
- 12 anticipated annual revenues; and
- 13 (B) are ninety (90) days or more past due.
- 14 (7) The political subdivision has carried over interfund loans for
- 15 the benefit of the same fund at the end of two (2) successive
- 16 years.
- 17 (8) The political subdivision has been severely affected, as
- 18 determined by the board, as a result of granting the property tax
- 19 credits under IC 6-1.1-20.6.
- 20 (9) In addition to the conditions listed in subdivisions (1) through
- 21 (8), and in the case of a school corporation, the board may also
- 22 designate a school corporation as a distressed political
- 23 subdivision if at least one (1) of the following conditions applies:
- 24 (A) The school corporation has:
- 25 (i) issued refunding bonds under IC 5-1-5-2.5; or
- 26 (ii) adopted a resolution under IC 5-1-5-2.5 making the
- 27 determinations and including the information specified in
- 28 IC 5-1-5-2.5(g).
- 29 (B) The ratio that the amount of the school corporation's debt
- 30 (as determined in December 2010) bears to the school
- 31 corporation's 2011 ADM ranks in the highest ten (10) among
- 32 all school corporations.
- 33 (C) The ratio that the amount of the school corporation's debt
- 34 (as determined in December 2010) bears to the school
- 35 corporation's total assessed valuation for calendar year 2011
- 36 ranks in the highest ten (10) among all school corporations.
- 37 (D) The amount of homestead assessed valuation in the school
- 38 corporation for calendar year 2011 was at least sixty percent
- 39 (60%) of the total amount of assessed valuation in the school
- 40 corporation for calendar year 2011.
- 41 The board may consider whether a political subdivision has fully
- 42 exercised all the local options available to the political subdivision,



1 such as a local option income tax or a local option income tax rate
 2 increase or, in the case of a school corporation, an operating
 3 referendum.

4 (b) If the board designates a political subdivision as distressed under
 5 subsection (a), the board shall review the designation annually to
 6 determine if the distressed political subdivision meets at least one (1)
 7 of the conditions listed in subsection (a).

8 (c) If the board designates a political subdivision as a distressed
 9 political subdivision under subsection (a), the board shall immediately
 10 notify:

11 (1) the treasurer of state; ~~and~~

12 (2) the county auditor and county treasurer of each county in
 13 which the distressed political subdivision is wholly or partially
 14 located; **and**

15 **(3) in the case of a school corporation, the Indiana education
 16 employment relations board established by IC 20-29-3-1;**

17 that the board has designated the political subdivision as a distressed
 18 political subdivision.

19 SECTION 8. IC 6-1.1-20.3-6.8 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: **Sec. 6.8. (a) This section applies to
 22 a distressed school corporation.**

23 **(b) As used in this section, the following definitions apply:**

24 (1) "Chief academic officer" means the chief academic officer
 25 appointed under subsection (i).

26 (2) "Chief financial officer" means the chief financial officer
 27 appointed under subsection (h).

28 (3) "Governing body" refers to the governing body of a school
 29 corporation.

30 (c) **The Gary Community School Corporation and Muncie
 31 Community Schools are each designated as a distressed political
 32 subdivision for purposes of this chapter until the school
 33 corporation's designation as a distressed political subdivision is
 34 terminated as provided in section 13(b) of this chapter. This
 35 designation as a distressed political subdivision is effective
 36 regardless of whether the school corporation has submitted a
 37 petition requesting to be designated as a distressed political
 38 subdivision. Until the school corporation's designation as a
 39 distressed political subdivision is terminated as provided in section
 40 13(b) of this chapter, the governing body of the school corporation
 41 may not meet more often than once each month.**

42 **(d) Until the school corporation's designation as a distressed**



1 political subdivision is terminated as provided in section 13(b) of
 2 this chapter, the following apply to the emergency manager
 3 appointed under section 7.5 of this chapter for the school
 4 corporation:

5 (1) The emergency manager has the powers and duties
 6 specified in this chapter.

7 (2) The emergency manager shall consult with and consider
 8 recommendations from the fiscal management board and the
 9 governing body, but the emergency manager has full
 10 responsibility and authority related to financial and academic
 11 matters of the school corporation, and the emergency
 12 manager may act, as specified in this chapter, on these
 13 financial and academic matters without the approval of the
 14 fiscal management board or the governing body. The school
 15 corporation's superintendent, or the superintendent's
 16 designee, shall work with the emergency manager and serve
 17 as a resource in an administrative capacity.

18 (3) Notwithstanding section 7.5(d) of this chapter, the
 19 distressed unit appeal board shall:

20 (A) determine the compensation of the emergency
 21 manager, chief financial officer, and chief academic
 22 officer; and

23 (B) subject to subsections (h) and (i), pay the emergency
 24 manager's, chief financial officer's, and chief academic
 25 officer's compensation and reimburse the emergency
 26 manager, chief financial officer, and chief academic officer
 27 for actual and necessary expenses from funds appropriated
 28 to the distressed unit appeal board.

29 The appointment of the emergency manager for the school
 30 corporation is terminated on the date the school corporation's
 31 designation as a distressed political subdivision is terminated as
 32 provided in section 13(b) of this chapter.

33 (e) In addition to any other actions that the distressed unit
 34 appeal board may take under this chapter concerning a distressed
 35 political subdivision, for a distressed school corporation, the
 36 distressed unit appeal board may also do any of the following:

37 (1) The distressed unit appeal board may delay or suspend,
 38 for a period determined by the board, any payments of
 39 principal or interest, or both, that would otherwise be due
 40 from the school corporation on loans or advances from the
 41 common school fund.

42 (2) The distressed unit appeal board may recommend to the



1 state board of finance that the state board of finance make an
 2 interest free loan to the school corporation from the common
 3 school fund. The distressed unit appeal board shall determine
 4 the payment schedule and the commencement date for the
 5 loan. If the distressed unit appeal board makes a
 6 recommendation that such a loan be made, the state board of
 7 finance may, notwithstanding IC 20-49, make such a loan for
 8 a term of not more than ten (10) years.

9 (3) The distressed unit appeal board may establish
 10 benchmarks of financial improvement for the school
 11 corporation.

12 (f) The fiscal management board is established. The fiscal
 13 management board consists of the following four (4) members:

- 14 (1) One (1) member appointed by the governing body.
- 15 (2) One (1) member appointed by the mayor of the city in
 16 which the school corporation is located.
- 17 (3) One (1) member, who must have experience working with
 18 or for an urban school corporation, appointed by the
 19 superintendent of public instruction.
- 20 (4) One (1) member, who must have experience working with
 21 or for an urban school corporation, appointed by the state
 22 board of education.

23 (g) The following apply to the fiscal management board and to
 24 the members of the fiscal management board:

- 25 (1) The term of office of a member of the fiscal management
 26 board is four (4) years, beginning on the date of appointment.
 27 A member of the fiscal management board may be
 28 reappointed to the fiscal management board. A member of the
 29 fiscal management board may be removed for cause by the
 30 appointing authority.
- 31 (2) A member of the fiscal management board must have the
 32 following:
 - 33 (A) At least three (3) years experience in financial
 34 management.
 - 35 (B) A meaningful background and work experience in
 36 finance and business.
 - 37 (C) An understanding of government contracts.
 - 38 (D) Knowledge and experience in organizational
 39 effectiveness, operations management, and implementing
 40 best practices.
 - 41 (E) Experience in budget development and oversight.
 - 42 (F) A demonstrated commitment to high professional and



- 1 ethical standards and a diverse workplace.
- 2 (G) An understanding of tax and other compliance
- 3 implications.
- 4 (3) A member of the governing body may not serve as a
- 5 member of the fiscal management board.
- 6 (4) The fiscal management board:
- 7 (A) shall make recommendations to the emergency
- 8 manager; and
- 9 (B) shall advise the emergency manager as requested by
- 10 the emergency manager.
- 11 (5) The members of the fiscal management board are not
- 12 entitled to any compensation for their service on the fiscal
- 13 management board.
- 14 (6) The fiscal management board is abolished, and the terms
- 15 of the members of the fiscal management board are
- 16 terminated on the date the school corporation's designation as
- 17 a distressed political subdivision is terminated as provided in
- 18 section 13(b) of this chapter.
- 19 (h) The emergency manager shall employ a chief financial
- 20 officer for the school corporation. The chief financial officer is an
- 21 employee of the school corporation. The chief financial officer shall
- 22 report to the emergency manager and shall assist the emergency
- 23 manager appointed for the school corporation and the fiscal
- 24 management board in carrying out the day to day financial
- 25 operations of the school corporation. Before July 1, 2019, the
- 26 compensation of the chief financial officer shall be determined by
- 27 the distressed unit appeal board. Before July 1, 2019, the
- 28 compensation of the chief financial officer shall be paid from the
- 29 funds appropriated to the distressed unit appeal board. After June
- 30 30, 2019, the compensation of the chief financial officer shall be
- 31 determined by and paid by the school corporation. The chief
- 32 financial officer:
- 33 (1) must possess, through both education and experience, an
- 34 understanding of finance and financial management; and
- 35 (2) must possess any other experience and must meet any
- 36 other requirements as required by the distressed unit appeal
- 37 board to ensure that the chief financial officer is qualified to
- 38 carry out the financial restructuring of the school
- 39 corporation.
- 40 (i) The emergency manager shall employ a chief academic
- 41 officer for the school corporation, after consultation with the
- 42 department of education, who must have experience working with



1 or for an urban school corporation. The chief academic officer is
 2 an employee of the school corporation. The chief academic officer
 3 shall report to the emergency manager and shall assist the
 4 emergency manager appointed for the school corporation and the
 5 fiscal management board in carrying out the academic matters of
 6 the school corporation. Before July 1, 2019, the compensation of
 7 the chief academic officer shall be determined by the distressed
 8 unit appeal board. Before July 1, 2019, the compensation of the
 9 chief academic officer shall be paid from the funds appropriated
 10 to the distressed unit appeal board. After June 30, 2019, the
 11 compensation of the chief academic officer shall be determined by
 12 and paid by the school corporation. The chief academic officer
 13 must:

14 (1) hold a valid license to teach in a public school under
 15 IC 20-28-5;

16 (2) possess, through both education and experience, an
 17 understanding of curriculum and academics; and

18 (3) possess any other experience and meet any other
 19 requirements as required by the distressed unit appeal board
 20 to ensure that the chief academic officer is qualified to carry
 21 out the academic goals of the school corporation.

22 (j) The chief financial officer and chief academic officer shall
 23 assist the emergency manager in carrying out the emergency
 24 manager's duties under this chapter.

25 (k) The annual budget adopted by the emergency manager for
 26 the school corporation must dedicate a significant part of the
 27 school corporation's budget to eliminating the school corporation's
 28 outstanding financial obligations. The emergency manager shall
 29 attempt to negotiate with the creditors of the school corporation to
 30 establish a plan specifying the schedule for paying each creditor.
 31 The emergency manager shall submit the plan to the distressed
 32 unit appeal board for approval. The distressed unit appeal board
 33 must:

34 (1) review the plan submitted by the emergency manager; and

35 (2) not later than sixty (60) days after the plan is submitted,
 36 either:

37 (A) approve the plan as submitted by the emergency
 38 manager; or

39 (B) modify the plan as submitted by the emergency
 40 manager and then approve the modified plan.

41 (l) The emergency manager shall consult with the governing
 42 body, the fiscal management board, and the mayor of the city in



1 which the school corporation is located in developing the school
 2 corporation's annual budget. The distressed unit appeal board
 3 must review and approve the school corporation's annual budget
 4 that is proposed by the emergency manager.

5 (m) In consultation with the fiscal management board, the
 6 governing body, and the mayor of the city in which the school
 7 corporation is located, the emergency manager shall do the
 8 following:

9 (1) Conduct a financial and compliance audit of the
 10 operations of the school corporation.

11 (2) Develop a written financial plan for the school
 12 corporation. The object of the plan must be to achieve
 13 financial stability for the school corporation, and the plan
 14 must include provisions for paying all of the school
 15 corporation's outstanding obligations and for paying all
 16 future obligations of the school corporation (including any
 17 federal, state, or local taxes or assessments) in a timely
 18 manner.

19 (n) In addition to the report required by section 8.5(c)(5) of this
 20 chapter, the emergency manager, the chief financial officer, and
 21 the chief academic officer shall report quarterly to the distressed
 22 unit appeal board in a format specified by the distressed unit
 23 appeal board. The report must include:

24 (1) information concerning the actions that the school
 25 corporation is taking to improve the financial condition of the
 26 school corporation; and

27 (2) any other information required by the distressed unit
 28 appeal board.

29 The emergency manager shall report more frequently than
 30 quarterly if requested by the distressed unit appeal board. The
 31 emergency manager shall provide copies of the report to the
 32 governing body, the fiscal management board, and the mayor of
 33 the city in which the school corporation is located. The emergency
 34 manager shall present each report at a public meeting of the fiscal
 35 management board.

36 (o) The school corporation shall do the following:

37 (1) Publish a copy of each report under subsection (n) on the
 38 school corporation's Internet web site, along with a link to the
 39 main page of the Indiana transparency Internet web site
 40 established under IC 5-14-3.7 to provide access to financial
 41 data for local schools.

42 (2) Make copies of each report available free of charge to the



1 **public upon request.**

2 **(3) Provide copies of each report to the mayor of the city in**
 3 **which the school corporation is located. The mayor of the city**
 4 **shall make copies of the reports available free of charge to the**
 5 **public upon request.**

6 **(p) The chief academic officer shall develop an education plan**
 7 **to provide academic services to students in the school corporation**
 8 **and to achieve academic progress. The education plan must include**
 9 **at least the following components:**

10 **(1) An academic program designed to meet Indiana's**
 11 **academic standards and to assist students in meeting those**
 12 **academic standards.**

13 **(2) A plan to improve the academic performance of all**
 14 **students, including improvement in the performance of**
 15 **students on standardized tests.**

16 **(3) A plan to engage parents in school performance and school**
 17 **activities, including regular meetings at each school involving**
 18 **administrators, teachers, parents, and interested members of**
 19 **the community.**

20 **(4) A plan to implement performance standards that will**
 21 **attract students and families to the school corporation.**

22 **(5) A plan specifying how the school corporation will work**
 23 **directly with the city in which the school corporation is**
 24 **located:**

25 **(A) to make the schools a successful component of life**
 26 **within the city; and**

27 **(B) to develop a sense of pride and progress in the**
 28 **operations and accomplishments of the school corporation.**

29 **The chief financial officer and the chief academic officer shall**
 30 **confer with the governing body at least once each month. The chief**
 31 **financial officer and chief academic officer shall meet at least**
 32 **quarterly with the executive committee of the bargaining unit to**
 33 **inform the executive committee of the academic progress of the**
 34 **school corporation.**

35 SECTION 9. IC 6-1.1-20.3-7.5, AS AMENDED BY P.L.2-2014,
 36 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 7.5. (a) This section does not apply to a school
 38 corporation designated before July 1, 2013, as a distressed political
 39 subdivision.

40 (b) If the board designates a political subdivision as a distressed
 41 political subdivision under section 6.5 or 6.7 of this chapter **or if a**
 42 **political subdivision is designated as a distressed political**



1 **subdivision by section 6.8 of this chapter**, the board shall appoint an
 2 emergency manager for the distressed political subdivision. An
 3 emergency manager serves at the pleasure of the board. **For purposes**
 4 **of IC 34-13, an emergency manager appointed under this section**
 5 **is acting on behalf of the distressed political subdivision and not the**
 6 **state.**

7 (c) The chairperson of the board shall oversee the activities of an
 8 emergency manager.

9 (d) The distressed political subdivision shall pay the emergency
 10 manager's compensation and reimburse the emergency manager for
 11 actual and necessary expenses.

12 (e) **A member of a fiscal management board, an emergency**
 13 **manager, a chief financial officer, or a chief academic officer is**
 14 **immune from civil liability for an act or omission within the scope**
 15 **and arising out of the performance of duties prescribed by the**
 16 **board under this chapter. This subsection does not apply to an act**
 17 **or omission that constitutes gross negligence or willful misconduct.**

18 (f) The attorney general may represent a member of a fiscal
 19 management board, an emergency manager, a chief financial
 20 officer, or a chief academic officer in a legal action arising out of
 21 the exercise of powers granted under this chapter, if the member
 22 of a fiscal management board, emergency manager, chief financial
 23 officer, or chief academic officer makes a written request to the
 24 attorney general requesting representation. The attorney general
 25 may not represent a member of a fiscal management board, an
 26 emergency manager, a chief financial officer, or a chief academic
 27 officer under this subsection if the legal action is initiated or the
 28 claim is asserted by the member of the fiscal management board,
 29 emergency manager, or the distressed political subdivision. If the
 30 attorney general represents a member of a fiscal management
 31 board, an emergency manager, a chief financial officer, or a chief
 32 academic officer under this subsection, the member of a fiscal
 33 management board, emergency manager, chief financial officer, or
 34 chief academic officer is entitled to recover attorney's fees from the
 35 losing party to the extent the member of the fiscal management
 36 board, emergency manager, chief financial officer, or chief
 37 academic officer prevails. Any attorney's fees recovered shall be
 38 deposited in the state general fund.

39 SECTION 10. IC 6-1.1-20.3-8.5, AS AMENDED BY P.L.2-2014,
 40 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 8.5. (a) This section does not apply to a school
 42 corporation designated before July 1, 2013, as a distressed political



1 subdivision.

2 (b) Notwithstanding any other law, an emergency manager of a
 3 distressed political subdivision appointed under section 7.5 of this
 4 chapter shall ~~do~~ **assume and exercise all of the power, authority, and**
 5 **responsibilities of both the executive and the fiscal body of the**
 6 **political subdivision during the time the political subdivision is a**
 7 **distressed political subdivision. An emergency manager's power,**
 8 **authority, and responsibilities include** the following:

9 (1) ~~Assume and exercise the authority and responsibilities of both~~
 10 ~~the executive and the fiscal body of the political subdivision~~
 11 ~~concerning the adoption, amendment, and enforcement of~~
 12 **Adopting, amending, and enforcing** ordinances and resolutions
 13 relating to or affecting the fiscal stability of the political
 14 subdivision. However, the emergency manager ~~does not have the~~
 15 ~~power to~~ **may impose only those** taxes or fees ~~in addition to the~~
 16 ~~taxes or fees authorized by that~~ the political subdivision ~~before~~
 17 ~~the political subdivision was designated a distressed political~~
 18 ~~subdivision.~~ **is authorized by law to impose.**

19 (2) Review the political subdivision's budget.

20 (3) Review **(2) Subject to existing labor contracts, setting the**
 21 **salaries and other compensation** of the political subdivision's
 22 employees.

23 (4) Conduct a financial and compliance audit of the internal
 24 operations of the political subdivision.

25 (5) ~~Develop a written financial plan in consultation with the~~
 26 ~~officials of the political subdivision not later than six (6) months~~
 27 ~~after appointment.~~

28 (6) ~~Develop a plan for paying all the political subdivision's~~
 29 ~~outstanding obligations.~~

30 (7) Review **(3) Reviewing** existing labor contracts **and collective**
 31 **bargaining agreements, and negotiating and entering into**
 32 **labor contracts and collective bargaining agreements.**

33 (8) ~~Adopt~~ **(4) Adopting** a budget for the political subdivision for
 34 each calendar or fiscal year, as applicable, that the political
 35 subdivision remains a distressed political subdivision.

36 (9) Review **(5) Approving** payrolls and other claims against the
 37 political subdivision before payment.

38 (10) ~~Make, approve, or disapprove~~ **(6) Making, approving, or**
 39 **disapproving** the following:

40 (A) A contract.

41 (B) An expenditure.

42 (C) A loan.



- 1 (D) The creation of any new position.
 2 (E) The filling of any vacant position.
 3 ~~(H)~~ Submit a written report to the board every three ~~(3)~~ months
 4 concerning:
 5 (A) actions taken by the emergency manager;
 6 (B) expenditures made by the distressed political subdivision;
 7 and
 8 (C) the work that has been done to remove the distressed
 9 political subdivision from distressed status.
 10 **(7) Identifying and implementing labor force reductions.**
 11 **(8) Outsourcing services performed by employees of the**
 12 **distressed political subdivision.**
 13 **(9) Renegotiating existing labor contracts and acting as an**
 14 **agent of the political subdivision in collective bargaining.**
 15 **(10) Reducing or suspending salaries of the political**
 16 **subdivision's employees.**
 17 **(11) Entering into agreements with other political**
 18 **subdivisions for the provision of services.**
 19 **(12) Selling assets, including real property, of the distressed**
 20 **political subdivision. If real property is being sold, any**
 21 **political subdivision that has territory where the real property**
 22 **is located and institutions of higher education with real**
 23 **property located in Indiana shall be given a thirty (30) day**
 24 **first right to make an offer to purchase the real property. The**
 25 **emergency manager shall determine whether it is appropriate**
 26 **to accept one (1) of these offers and shall negotiate the terms**
 27 **and conditions of the sale of the real property to the offeror.**
 28 **(13) Closing facilities of the distressed political subdivision.**
 29 **(14) Requesting technical assistance from the board and state**
 30 **agencies to assist in carrying out the powers and duties**
 31 **outlined in this subsection, including assistance from the**
 32 **Indiana department of administration in evaluating and**
 33 **assessing facilities.**
 34 **(15) Reviewing each contract that is in effect and not covered**
 35 **by subdivision (3) and, if prudent, renegotiating or canceling**
 36 **the contract to the extent permitted by the contract.**
 37 **(16) Transferring property not needed by the distressed**
 38 **political subdivision.**
 39 **(17) Acquiring real property that is necessary to achieve the**
 40 **goals expressed in the financial plan.**
 41 **(18) Implementing the Governmental Accounting Standards**
 42 **Board generally accepted accounting principles.**



- 1 (19) Requesting a waiver from the application of
 2 IC 6-1.1-20.6-9.8 in order to use IC 6-1.1-20.6-13 regarding
 3 the allocation of protected taxes. To request a waiver, the
 4 emergency manager must submit, before May 1 of the year
 5 for which a waiver is sought, a written request to the board.
 6 The board shall make a determination concerning the request,
 7 and if the waiver is granted the board shall provide, before
 8 June 1 of that year, a written certification of the
 9 determination to the department of local government finance.
 10 (20) If the distressed political subdivision is a school
 11 corporation, requesting a loan from the counter-cyclical
 12 revenue and economic stabilization fund under
 13 IC 6-1.1-21.4-3(b) as provided in section 8.3 of this chapter.
 14 ~~(12) Petition~~ (21) **Petitioning** the board to terminate a political
 15 subdivision's status as a distressed political subdivision when the
 16 conditions found in section 6.5 of this chapter are no longer
 17 applicable to the political subdivision **and the conditions set**
 18 **forth in section 13(b) of this chapter are met.**
- 19 (c) An emergency manager of a distressed political subdivision
 20 appointed under section 7.5 of this chapter ~~may~~ **shall** do the following:
- 21 ~~(1) Renegotiate existing labor contracts and act as an agent of the~~
 22 ~~political subdivision in collective bargaining.~~
- 23 ~~(2) Reduce or suspend salaries of the political subdivision's~~
 24 ~~employees.~~
- 25 ~~(3) Enter into agreements with other political subdivisions for the~~
 26 ~~provision of services.~~
- 27 **(1) Review the political subdivision's budget.**
- 28 **(2) Conduct a financial and compliance audit of the internal**
 29 **operations of the political subdivision.**
- 30 **(3) Report and make recommendations to the board**
 31 **regarding the following:**
- 32 **(A) A written comprehensive financial plan in consultation**
 33 **with the officials of the political subdivision not later than**
 34 **six (6) months after appointment.**
- 35 **(B) A comprehensive long term plan for paying all the**
 36 **political subdivision's outstanding obligations.**
- 37 **(4) If the distressed political subdivision is a school**
 38 **corporation, report and make recommendations to the board**
 39 **regarding the following:**
- 40 **(A) The geographic boundaries of the school corporation**
 41 **and alternative boundaries.**
- 42 **(B) A long term plan for meeting transportation needs.**



- 1 (C) A long term plan for providing educational services.
 2 (D) A long term plan for providing noneducational
 3 services.
 4 (E) A long term plan for providing adequate personnel and
 5 a plan for compensation.
 6 (F) The capital plant of the school corporation and a long
 7 term plan for meeting the long term capital plant needs of
 8 the school corporation.
 9 (G) A new governance structure for the distressed political
 10 subdivision.
 11 (5) Submit a written report to the board each month
 12 concerning the following:
 13 (A) Actions taken by the emergency manager.
 14 (B) Expenditures made by the distressed political
 15 subdivision.
 16 (C) The progress that has been made toward removing the
 17 distressed political subdivision from distressed status.
 18 (d) Except as provided in section 13(d) of this chapter, an
 19 emergency manager of a distressed political subdivision retains the
 20 powers and duties described in subsections (b) and (c) until:
 21 (1) the emergency manager resigns or dies;
 22 (2) the board removes the emergency manager; or
 23 (3) the political subdivision's status as a distressed political
 24 subdivision is terminated under section 13(b) or 13(c) of this
 25 chapter.
 26 SECTION 11. IC 6-1.1-20.3-9, AS ADDED BY P.L.146-2008,
 27 SECTION 208, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE UPON PASSAGE]: Sec. 9. The board shall keep a
 29 record of its proceedings and its orders. **IC 5-14-1.5 (the open door
 30 law) applies to the commission's meetings.**
 31 SECTION 12. IC 6-1.1-20.3-9.9 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE UPON PASSAGE]: **Sec. 9.9. (a) A petition may be
 34 filed with the board to appeal a decision by the emergency
 35 manager.**
 36 **(b) Two hundred fifty (250) or more individuals residing within
 37 the distressed political subdivision who are of the opinion that the
 38 decision by the emergency manager is not fair or reasonable may
 39 file a petition in the office of the county auditor within thirty (30)
 40 days after the decision is made. The petition must set forth the
 41 petitioners' names, addresses, and objections to the decision and
 42 the facts showing that the decision is not fair and reasonable.**



1 (c) Upon the filing of a petition under subsection (b), the county
2 auditor shall immediately certify a copy of the petition, together
3 with any other data necessary to present the questions involved, to
4 the board.

5 (d) The board shall schedule a public meeting as soon as
6 practicable to consider the petition.

7 SECTION 13. IC 6-1.1-20.3-13, AS AMENDED BY P.L.249-2015,
8 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 13. (a) If:

- 10 (1) an emergency manager of a distressed political subdivision;
11 (2) the fiscal body and executive of the political subdivision
12 jointly; or
13 (3) the governing body of a school corporation that:
14 (A) employs a new superintendent; or
15 (B) has a new member elected or appointed to its governing
16 body;
17 during the time the school corporation is a distressed political
18 subdivision;

19 files a petition with the board for termination of the political
20 subdivision's status as a distressed political subdivision, the board shall
21 conduct a public hearing on the question of whether to terminate the
22 political subdivision's status as a distressed political subdivision.

23 (b) In the case of a political subdivision designated as distressed
24 under section 6.5 or 6.8 of this chapter, the board shall terminate the
25 political subdivision's status as a distressed political subdivision if the
26 board finds that the conditions found in section 6.5 of this chapter are
27 no longer applicable to the political subdivision **and all the following**
28 **conditions are met:**

29 (1) **The political subdivision has achieved and maintained**
30 **financial solvency for a period of at least two (2) years,**
31 **including the following:**

- 32 (A) **Maintaining a structurally balanced budget for at least**
33 **two (2) years.**
34 (B) **Having no unpaid or past due critical contractual**
35 **financial obligations or vendor payments.**

36 (2) **The political subdivision has a fiscal plan that maintains**
37 **financial solvency for a period of at least five (5) years after**
38 **the termination of its distressed status.**

39 (3) **The political subdivision has implemented the**
40 **Governmental Accounting Standards Board generally**
41 **accepted accounting principles.**

42 (4) **The political subdivision meets all other conditions**



1 **identified by the board.**

2 **(5) The board determines that the political subdivision is**
 3 **financially stable.**

4 (c) In the case of a township designated as distressed under section
 5 6.7 of this chapter, the board shall terminate the township's status as a
 6 distressed political subdivision if the board finds that the township's
 7 township assistance property tax rate (as defined in section 6.7(a) of
 8 this chapter) for the current calendar year is not more than the result of:

9 (1) the statewide average township assistance property tax rate (as
 10 determined by the department of local government finance) for
 11 property taxes first due and payable in the preceding year;
 12 multiplied by

13 (2) twelve (12).

14 (d) Notwithstanding any other section of this chapter, not later than
 15 ninety (90) days after taking office, a new executive of a distressed
 16 political subdivision may petition the board for suspension of the
 17 political subdivision's distressed status. In the case of a political
 18 subdivision designated as distressed under section 6.5 of this chapter,
 19 the executive must include in its petition a written plan to resolve the
 20 applicable issues described in section 6.5 of this chapter. In the case of
 21 a township designated as distressed under section 6.7 of this chapter,
 22 the executive must include in its petition a written plan to lower the
 23 township's township assistance property tax rate (as defined in section
 24 6.7(a) of this chapter). If the board approves the executive's written
 25 plan, the board may suspend the political subdivision's distressed status
 26 for one hundred eighty (180) days. Suspension under this chapter
 27 terminates automatically upon expiration of the one hundred eighty
 28 (180) day period. The board may consider a petition to terminate the
 29 political subdivision's distressed status during a period of suspension.

30 SECTION 14. IC 6-1.1-20.6-13 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) A political subdivision**
 33 **is eligible to allocate credits proportionately under this section if**
 34 **the distressed unit appeal board has approved the waiver request**
 35 **of the emergency manager for the political subdivision under**
 36 **IC 6-1.1-20.3-8.5.**

37 **(b) For a political subdivision that has been granted a waiver**
 38 **under IC 6-1.1-20.3-8.5, the political subdivision may allocate the**
 39 **effect of the credits granted under this chapter proportionately**
 40 **among all the political subdivision's property tax funds that are not**
 41 **exempt under section 7.5(b) or 7.5(c) of this chapter, based on the**
 42 **levy for each fund and without taking into account the**



1 **requirements of section 9.8 of this chapter regarding protected**
 2 **taxes.**

3 SECTION 15. IC 20-26-7-1, AS AMENDED BY P.L.5-2015,
 4 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]:Sec. 1. (a) As used in this section, "charter school"
 6 has the meaning set forth in IC 20-24-1-4 and includes a group or entity
 7 seeking approval from an authorizer to operate a charter school under
 8 IC 20-24-3.

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

11 (1) is no longer needed for school purposes; or

12 (2) should, in the interests of the school corporation, be
 13 exchanged for other property;

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

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

18 (1) established under applicable law; and

19 (2) that the governing body considers appropriate.

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

22 (e) This subsection does not apply to a school building that on July
 23 1, 2011, is leased or loaned by the school corporation that owns the
 24 school building to another entity, if the entity is not a building
 25 corporation or other entity that is related in any way to, or created by,
 26 the school corporation or the governing body. Except as provided in
 27 subsections (k) through (n), a governing body shall make available for
 28 lease or purchase to any charter school any school building owned by
 29 the school corporation or any other entity that is related in any way to,
 30 or created by, the school corporation or the governing body, including
 31 but not limited to a building corporation, that:

32 (1) either:

33 (A) is not used in whole or in part for classroom instruction at
 34 the time the charter school seeks to lease the building; or

35 (B) appears on the list compiled by the department under
 36 subsection (f); and

37 (2) was previously used for classroom instruction;

38 in order for the charter school to conduct classroom instruction.

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



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

7 (g) A school building that appears for the first time on the
8 department's list under subsection (f) shall be designated as
9 "Unavailable until (a date two (2) years after the school building first
10 appears on the list)" if the governing body of the school corporation
11 that owns the school building indicates to the department, on a form
12 prescribed by the department, that the school building may be
13 reclaimed during that period for classroom instruction. If a governing
14 body does not indicate that a school building may be reclaimed, the
15 governing body shall designate the school building as "Available" on
16 the department's list. The governing body may change the designation
17 of a building from unavailable to available at any time. If a school
18 building that is designated as unavailable on the department's list
19 remains unused for classroom instruction one (1) year after being
20 reclaimed under this subsection, the governing body shall designate the
21 school building as "Available" on the department's list. A governing
22 body may reclaim a school building only one (1) time under this
23 subsection.

24 (h) If a charter school wishes to use a school building on the list
25 created under subsection (f), the charter school shall send a letter of
26 intent to the department. Within thirty (30) days after receiving a letter
27 from a charter school, the department shall notify the school
28 corporation of the charter school's intent, and, within thirty (30) days
29 after receiving notification from the department, the school corporation
30 that owns the school building shall lease the school building to the
31 charter school for one dollar (\$1) per year for as long as the charter
32 school uses the school building for classroom instruction or for a term
33 at the charter school's discretion, or sell the school building to the
34 charter school for one dollar (\$1). The charter school must begin to use
35 the school building for classroom instruction not later than two (2)
36 years after acquiring the school building. If the school building is not
37 used for classroom instruction within two (2) years after acquiring the
38 school building, the school building shall be placed on the department's
39 list under subsection (f). If during the term of the lease the charter
40 school closes or ceases using the school building for classroom
41 instruction, the school building shall be placed on the department's list
42 under subsection (f). If a school building is sold to a charter school



1 under this subsection and the charter school or any entity related to the
2 charter school subsequently sells or transfers the school building to a
3 third party, the charter school or related entity must transfer an amount
4 equal to the gain in the property minus the adjusted basis (including
5 costs of improvements to the school building) to the school corporation
6 that initially sold the vacant school building to the charter school. Gain
7 and adjusted basis shall be determined in the manner prescribed by the
8 Internal Revenue Code and the applicable Internal Revenue Service
9 regulations and guidelines.

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

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

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

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

38 (m) Not later than thirty (30) days after a charter school authorizer
39 or statewide organization representing charter schools in Indiana
40 receives a notice described in subsection (l), the charter school
41 authorizer or a statewide organization representing charter schools may
42 submit a qualified objection to the governing body's request for a



1 waiver under subsection (k). The qualified objection must be submitted
 2 to the department in writing. In order for an objection to be considered
 3 a qualified objection by the department, the objection must include:

4 (1) the name of the charter school that is interested in leasing or
 5 purchasing the vacant or unused school building; and

6 (2) a time frame, which may not exceed one (1) year from the date
 7 of the objection, in which the charter school intends to begin
 8 providing classroom instruction in the vacant or unused school
 9 building.

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

19 **(o) An emergency manager of a distressed school corporation**
 20 **under IC 6-1.1-20.3 may sell an existing school building without**
 21 **complying with the requirements of subsection (e).**

22 SECTION 16. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 567, 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 2, delete lines 20 through 29, begin a new paragraph and insert:

"(f) Whenever an emergency manager appointed under IC 6-1.1-20.3-7.5 or a member of the fiscal management board appointed under IC 6-1.1-20.3-6.8 is made a party to a civil suit and the attorney general determines that the suit has arisen out of an act by the emergency manager or fiscal management board member that is authorized or required under IC 6-1.1-20.3 or any other law, the attorney general shall defend the emergency manager or fiscal management board member throughout the action."

Page 3, line 36, delete "The" and insert **"Notwithstanding section 7.5(d) of this chapter, the"**.

Page 3, line 39, delete "compensation of the emergency manager" and insert **"emergency manager's compensation and reimburse the emergency manager for actual and necessary expenses"**.

Page 4, line 22, after "grants" insert **"or a loan or loans"**.

Page 4, line 24, delete "if the school corporation meets one (1) or more of the" and insert **"to assist the school corporation in overcoming short term financial problems."**

Page 4, delete line 25.

Page 4, line 26, after "grant" insert **"or loan"**.

Page 5, delete lines 17 through 19.

Page 5, line 20, delete "(7)" and insert **"(6)"**.

Page 5, line 25, delete "distressed unit appeal board shall appoint" and insert **"governing body shall employ"**.

Page 5, line 26, after "corporation." insert **"The individual who is employed by the governing body as the chief financial officer must be approved by the emergency manager to serve as the chief financial officer."**

Page 5, line 27, after "officer" insert **"must be an employee of the school corporation, but the chief financial officer"**.

Page 5, line 30, delete "The" and insert **"Until July 1, 2019, the"**.

Page 5, line 35, after "be" insert **"determined by and"**.

Page 5, line 35, delete "The".

Page 5, delete line 36.

ES 567—LS 7530/DI 73



Page 5, line 37, delete "appeal board."

Page 8, between lines 15 and 16, begin a new line blocked left and insert:

"The governing body may appeal to the distressed unit appeal board concerning any disagreements with the emergency manager that relate to academic issues."

Page 8, line 16, after "body" insert **"and the emergency manager"**.

Page 8, line 16, after "year" insert **"jointly"**.

Page 8, line 35, after "corporation" delete ";" and insert **", which includes the implementation of a financial management plan that provides for the payment of all of the school corporation's debts and that will allow the school corporation to operate under a balanced budget and be financially solvent and stable;"**.

and when so amended that said bill do pass.

(Reference is to SB 567 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 567, 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 2, line 20, delete "an emergency manager appointed under".

Page 2, line 21, delete "IC 6-1.1-20.3-7.5 or".

Page 2, line 24, delete "emergency manager or".

Page 2, line 26, delete "emergency".

Page 2, line 27, delete "manager or".

Page 2, between lines 34 and 35, begin a new paragraph and insert:
"SECTION 2. IC 5-11-1-24.4, AS ADDED BY P.L.181-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24.4. (a) This section applies only to an audited entity (excluding a school corporation or a college or university (as defined in IC 21-7-13-10)) that has:

(1) an internal control officer; and

(2) an internal control department;

established by the legislative body of the audited entity. However, the requirements of this section do not apply to a consolidated city that

ES 567—LS 7530/DI 73



hires an internal auditor or an independent certified public accountant, or both, as authorized under IC 36-3-4-24 to examine the books and records of the consolidated city.

(b) An audited entity may request in writing that the state board of accounts authorize the audited entity to:

- (1) opt out of examinations by the state board of accounts; and
- (2) engage a certified public accountant to conduct the examinations.

The request must be approved by resolution adopted by the legislative body for the audited entity.

(c) The state board of accounts shall, not more than sixty (60) days after receiving a written request under subsection (b):

- (1) acknowledge receipt of the request; and
- (2) notify the requesting audited entity that the request is:
 - (A) approved; or
 - (B) disapproved.

(d) The state board of accounts shall approve a request under subsection (b) by an audited entity if the state examiner determines that:

- (1) the audited entity filed the written request under subsection (b) with the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year;
- (2) the audited entity selects the certified public accountant in accordance with the selection procedure under this section;
- (3) the certified public accountant selected by the audited entity is:
 - (A) licensed in Indiana; and
 - (B) qualified to conduct examinations in accordance with the government auditing standards adopted by the state board of accounts;
- (4) the certified public accountant's examination shall:
 - (A) be conducted in accordance with the guidelines established by the state board of accounts; and
 - (B) make findings regarding the audited entity's compliance with the uniform compliance guidelines established by the state board of accounts;
- (5) the certified public accountant's examination is paid for by the audited entity; and
- (6) the certified public accountant's examination of the audited entity includes:
 - (A) all associated component units;
 - (B) audits required or necessary for federal financial



assistance;

(C) findings of noncompliance with state law and uniform compliance guidelines as required by IC 5-11-5-1; and

(D) a separate report in accordance with the guidelines established by the state board of accounts for any items of noncompliance identified.

(e) The audited entity must use the following selection procedures:

(1) The legislative body of the audited entity shall establish an audit committee to facilitate the selection of a certified public accountant. The audit committee shall be composed of the following three (3) members:

(A) One (1) member of the legislative body appointed by the legislative body.

(B) One (1) certified public accountant appointed by the legislative body who is not the fiscal officer or an employee of the audited entity.

(C) One (1) person appointed by the executive of the audited entity who is qualified due to an involvement with financial matters, and who is not the fiscal officer or an employee of the audited entity.

Each member shall be appointed for a three (3) year term and shall serve without compensation. However, a member appointed under subdivision (1)(A) who ceases to hold the office of legislative body member ceases to be a member of the audit committee. A member may not have a contractual relationship, financial interest, or political affiliation with the certified public accountant selected.

(2) The audit committee established under subdivision (1) shall do the following:

(A) Establish factors to evaluate the audit services provided by a certified public accountant, including:

(i) experience;

(ii) ability to perform the required services;

(iii) capability to follow the guidelines and standards adopted by the state board of accounts;

(iv) ability to timely complete all necessary components of the examination; and

(v) any other factors considered necessary by the audit committee.

(B) Publish notice of a request for proposals under IC 5-3-1 that includes:

(i) a brief description of the audit requirements;



- (ii) a time frame;
- (iii) application procedures;
- (iv) evaluation criteria; and
- (v) any other items considered necessary by the audit committee.

(C) Evaluate the proposals submitted by qualified certified public accountants. If compensation is a factor established under clause (A), it may not be the sole factor used to evaluate proposals.

(D) Rank and recommend in order of preference not fewer than three (3) certified public accountants considered most highly qualified on the factors established under clause (A). If fewer than three (3) certified public accountants respond to the request for proposals, the audit committee shall recommend the remaining qualified certified public accountants in order of preference.

(3) The legislative body of the audited entity shall select a qualified certified public accountant from the list recommended by the audit committee and shall negotiate a contract with the certified public accountant using one (1) of the following methods:

(A) If compensation is a factor established under subdivision (2)(A), the legislative body shall:

- (i) select; or
- (ii) document the reason for not selecting;

the highest ranked certified public accountant.

(B) If compensation is not a factor established under subdivision (2)(A), the legislative body shall negotiate a contract with the highest ranked qualified certified public accountant. If unable to negotiate a satisfactory contract with the highest ranked qualified certified public accountant, the legislative body shall:

- (i) formally terminate negotiations; and
- (ii) negotiate with the second highest ranked certified public accountant.

Negotiations with the other ranked certified public accountants shall be undertaken in the same manner. The legislative body may reopen formal negotiations with any of the top three (3) ranked certified public accountants but may not negotiate with more than one (1) certified public accountant at a time.

(C) The legislative body may select a certified public accountant recommended by the audit committee and



negotiate a contract using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor.

(D) In negotiations with a certified public accountant, the legislative body may allow a designee, who is not the fiscal officer of the audited entity, to conduct negotiations on its behalf.

(4) If the legislative body is unable to negotiate a satisfactory contract with any of the recommended certified public accountants, the audit committee shall recommend additional certified public accountants, and negotiations shall continue in accordance with this section until an agreement is reached.

(5) The procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall include the following provisions:

(A) Specification of services to be provided and fees or other compensation for the services.

(B) Invoices for fees or other compensation shall be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(C) Specification of the contract period and conditions under which the contract may be terminated or renewed.

(D) The certified public accountant shall perform the examination in accordance with:

(i) the guidelines and standards adopted by the state board of accounts;

(ii) auditing standards generally accepted in the United States; and

(iii) if applicable, government auditing standards, Office of Management and Budget Circular A-133, and any other guidelines required by the industry.

(E) If the certified public accountant discovers or suspects instances of fraud, abuse of public funds, or the commission of a crime, the certified public accountant shall notify the state board of accounts:

(i) immediately; and

(ii) before disclosing the discovery or suspicion to the audited entity.

(F) The certified public accountant shall deliver the completed examination report to the state board of accounts:



- (i) at the same time as the audited entity; and
- (ii) not later than thirty (30) days after completion of the examination.

The report shall be in a readable format prescribed by the state board of accounts.

(G) All work papers supporting the examination report shall be available for review by the state board of accounts.

- (6) If a legislative body of an audited entity renews a written contract with a certified public accountant that was entered into in accordance with this section, the legislative body may renew the contract without complying with the selection procedures in this subsection.

(f) The certified public accountant must deliver the completed examination report to the state board of accounts not later than thirty (30) days after completion of the examination. The state board of accounts shall review the examination report and may:

- (1) ask questions of the certified public accountant;
- (2) review the examination work papers; and
- (3) take any other actions necessary to verify that the guidelines and standards adopted by the state board of accounts have been satisfied.

(g) If the certified public accountant's examination:

- (1) satisfies the guidelines and standards adopted by the state board of accounts, the state examiner shall publicly file the examination report under IC 5-11-5-1; or
- (2) fails to satisfy the guidelines and standards adopted by the state board of accounts:

- (A) the state board of accounts shall perform the audit; and
- (B) the audited entity shall reimburse the state board of accounts for the actual and direct cost of performing the examination.

(h) An audited entity that engages a certified public accountant under this section shall reimburse the state board of accounts for all direct and indirect costs incurred by the state board of accounts for any technical assistance and support requested by the audited entity.

(i) An audited entity may terminate the use of a certified public accountant engaged under this section if:

- (1) the termination is approved by resolution adopted by the legislative body of the audited entity; and
- (2) written notice of the termination is provided to the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year.



(j) Conducting an examination of an audited entity by a certified public accountant does not prohibit the state board of accounts from conducting a compliance review of the audited entity or an examination under section 9.5 of this chapter on the schedule determined by the state board of accounts.

SECTION 3. IC 5-11-1-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24.5. (a) An independent examination report issued by a certified public accountant for a school corporation:**

- (1) for examined year 2015 or 2016;**
- (2) that is done in accordance with all the requirements of section 24.4(d) of this chapter, other than section 24.4(d)(1) of this chapter; and**
- (3) that meets all the other requirements of section 24.4 of this chapter;**

is considered to have been approved under section 24.4(d) of this chapter.

(b) A school corporation for which an independent examination report was issued as described in subsection (a) shall notify the state board of accounts of the issuance as soon as practicable after the legislative body approves the report.

(c) This section expires June 30, 2019."

Page 2, line 40, delete "political subdivision" and insert "**school corporation**".

Page 2, line 40, after "distressed" delete "political".

Page 2, line 41, delete "subdivision" and insert "**school corporation**".

Page 2, delete line 42.

Delete pages 3 through 9.

Page 10, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-20.3-4, AS AMENDED BY P.L.145-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The distressed unit appeal board is established.

(b) The distressed unit appeal board consists of the following members:

- (1) The director of the office of management and budget or the director's designee. The director or the director's designee shall serve as chairperson of the distressed unit appeal board.
- (2) The commissioner of the department of local government

ES 567—LS 7530/DI 73



finance or the commissioner's designee.

(3) The state examiner of the state board of accounts or the state examiner's designee.

(4) The state superintendent of public instruction or the superintendent's designee.

(5) An individual appointed by the ~~chairman of the legislative council~~ **governor**.

(6) A member of the house of representatives appointed by speaker of the house of representatives, who shall serve as a nonvoting member.

(7) A member of the senate appointed by the president pro tempore of the senate, who shall serve as a nonvoting member.

(8) A member to serve a one (1) year term in each even-numbered year who:

(A) is a member of the house of representatives; and

(B) is appointed by the minority leader of the house of representatives.

The member is a nonvoting member.

(9) A member to serve a one (1) year term in each odd-numbered year who:

(A) is a member of the senate; and

(B) is appointed by the minority leader of the senate.

The member is a nonvoting member.

(c) Each member of the ~~commission board~~ who is not a member of the general assembly is entitled to reimbursement for:

(1) traveling expenses as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) Each member of the board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees. Per diem, mileage, and travel allowances paid under this section shall be paid from appropriations made to the legislative council or the legislative services agency.

SECTION 4. IC 6-1.1-20.3-6, AS AMENDED BY P.L.257-2013, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 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.

(d) The Indiana education employment relations board established by IC 20-29-3-1 may file a petition with the board seeking to have a school corporation considered for designation as a distressed political subdivision under this chapter.

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

SECTION 5. IC 6-1.1-20.3-6.5, AS AMENDED BY P.L.257-2013, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) After the board receives a petition concerning a political subdivision under section 6(a), ~~or 6(b)(2), 6(c), or 6(d)~~ of this chapter, the board may designate the political subdivision as a distressed political subdivision if at least one (1) of the following conditions applies to the political subdivision:

- (1) The political subdivision has defaulted in payment of principal or interest on any of its bonds or notes.
- (2) The political subdivision has failed to make required payments to payroll employees for thirty (30) days or two (2) consecutive payrolls.
- (3) The political subdivision has failed to make required payments to judgment creditors for sixty (60) days beyond the date of the recording of the judgment.
- (4) The political subdivision, for at least thirty (30) days beyond the due date, has failed to do any of the following:
 - (A) Forward taxes withheld on the incomes of employees.



- (B) Transfer employer or employee contributions due under the Federal Insurance Contributions Act (FICA).
 - (C) Deposit the political subdivision's minimum obligation payment to a pension fund.
- (5) The political subdivision has accumulated a deficit equal to eight percent (8%) or more of the political subdivision's revenues. For purposes of this subdivision, "deficit" means a negative fund balance calculated as a percentage of revenues at the end of a budget year for any governmental or proprietary fund. The calculation must be presented on an accrual basis according to generally accepted accounting principles.
- (6) The political subdivision has sought to negotiate a resolution or an adjustment of claims that in the aggregate:
- (A) exceed thirty percent (30%) of the political subdivision's anticipated annual revenues; and
 - (B) are ninety (90) days or more past due.
- (7) The political subdivision has carried over interfund loans for the benefit of the same fund at the end of two (2) successive years.
- (8) The political subdivision has been severely affected, as determined by the board, as a result of granting the property tax credits under IC 6-1.1-20.6.
- (9) In addition to the conditions listed in subdivisions (1) through (8), and in the case of a school corporation, the board may also designate a school corporation as a distressed political subdivision if at least one (1) of the following conditions applies:
- (A) The school corporation has:
 - (i) issued refunding bonds under IC 5-1-5-2.5; or
 - (ii) adopted a resolution under IC 5-1-5-2.5 making the determinations and including the information specified in IC 5-1-5-2.5(g).
 - (B) The ratio that the amount of the school corporation's debt (as determined in December 2010) bears to the school corporation's 2011 ADM ranks in the highest ten (10) among all school corporations.
 - (C) The ratio that the amount of the school corporation's debt (as determined in December 2010) bears to the school corporation's total assessed valuation for calendar year 2011 ranks in the highest ten (10) among all school corporations.
 - (D) The amount of homestead assessed valuation in the school corporation for calendar year 2011 was at least sixty percent (60%) of the total amount of assessed valuation in the school



corporation for calendar year 2011.

The board may consider whether a political subdivision has fully exercised all the local options available to the political subdivision, such as a local option income tax or a local option income tax rate increase or, in the case of a school corporation, an operating referendum.

(b) If the board designates a political subdivision as distressed under subsection (a), the board shall review the designation annually to determine if the distressed political subdivision meets at least one (1) of the conditions listed in subsection (a).

(c) If the board designates a political subdivision as a distressed political subdivision under subsection (a), the board shall immediately notify:

- (1) the treasurer of state; ~~and~~
- (2) the county auditor and county treasurer of each county in which the distressed political subdivision is wholly or partially located; **and**
- (3) in the case of a school corporation, the Indiana education employment relations board established by IC 20-29-3-1;**

that the board has designated the political subdivision as a distressed political subdivision.

SECTION 6. IC 6-1.1-20.3-6.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.8. (a) This section applies to a distressed school corporation.**

(b) As used in this section, the following definitions apply:

- (1) "Chief academic officer" means the chief academic officer appointed under subsection (i).**
- (2) "Chief financial officer" means the chief financial officer appointed under subsection (h).**
- (3) "Governing body" refers to the governing body of a school corporation.**

(c) The Gary Community School Corporation and Muncie Community Schools are each designated as a distressed political subdivision for purposes of this chapter until the school corporation's designation as a distressed political subdivision is terminated as provided in section 13(b) of this chapter. This designation as a distressed political subdivision is effective regardless of whether the school corporation has submitted a petition requesting to be designated as a distressed political subdivision. Until the school corporation's designation as a distressed political subdivision is terminated as provided in section



13(b) of this chapter, the governing body of the school corporation may not meet more often than once each month.

(d) Until the school corporation's designation as a distressed political subdivision is terminated as provided in section 13(b) of this chapter, the following apply to the emergency manager appointed under section 7.5 of this chapter for the school corporation:

(1) The emergency manager has the powers and duties specified in this chapter.

(2) The emergency manager shall consult with and consider recommendations from the fiscal management board and the governing body, but the emergency manager has full responsibility and authority related to financial and academic matters of the school corporation, and the emergency manager may act, as specified in this chapter, on these financial and academic matters without the approval of the fiscal management board or the governing body. The school corporation's superintendent, or the superintendent's designee, shall work with the emergency manager and serve as a resource in an administrative capacity.

(3) Notwithstanding section 7.5(d) of this chapter, the distressed unit appeal board shall:

(A) determine the compensation of the emergency manager, chief financial officer, and chief academic officer; and

(B) subject to subsections (h) and (i), pay the emergency manager's, chief financial officer's, and chief academic officer's compensation and reimburse the emergency manager, chief financial officer, and chief academic officer for actual and necessary expenses from funds appropriated to the distressed unit appeal board.

The appointment of the emergency manager for the school corporation is terminated on the date the school corporation's designation as a distressed political subdivision is terminated as provided in section 13(b) of this chapter.

(e) In addition to any other actions that the distressed unit appeal board may take under this chapter concerning a distressed political subdivision, for a distressed school corporation, the distressed unit appeal board may also do any of the following:

(1) The distressed unit appeal board may delay or suspend, for a period determined by the board, any payments of principal or interest, or both, that would otherwise be due



from the school corporation on loans or advances from the common school fund.

(2) The distressed unit appeal board may recommend to the state board of finance that the state board of finance make an interest free loan to the school corporation from the common school fund. The distressed unit appeal board shall determine the payment schedule and the commencement date for the loan. If the distressed unit appeal board makes a recommendation that such a loan be made, the state board of finance may, notwithstanding IC 20-49, make such a loan for a term of not more than ten (10) years.

(3) The distressed unit appeal board may establish benchmarks of financial improvement for the school corporation.

(f) The fiscal management board is established. The fiscal management board consists of the following four (4) members:

(1) One (1) member appointed by the governing body.

(2) One (1) member appointed by the mayor of the city in which the school corporation is located.

(3) One (1) member, who must have experience working with or for an urban school corporation, appointed by the superintendent of public instruction.

(4) One (1) member, who must have experience working with or for an urban school corporation, appointed by the state board of education.

(g) The following apply to the fiscal management board and to the members of the fiscal management board:

(1) The term of office of a member of the fiscal management board is four (4) years, beginning on the date of appointment. A member of the fiscal management board may be reappointed to the fiscal management board. A member of the fiscal management board may be removed for cause by the appointing authority.

(2) A member of the fiscal management board must have the following:

(A) At least three (3) years experience in financial management.

(B) A meaningful background and work experience in finance and business.

(C) An understanding of government contracts.

(D) Knowledge and experience in organizational effectiveness, operations management, and implementing



best practices.

(E) Experience in budget development and oversight.

(F) A demonstrated commitment to high professional and ethical standards and a diverse workplace.

(G) An understanding of tax and other compliance implications.

(3) A member of the governing body may not serve as a member of the fiscal management board.

(4) The fiscal management board:

(A) shall make recommendations to the emergency manager; and

(B) shall advise the emergency manager as requested by the emergency manager.

(5) The members of the fiscal management board are not entitled to any compensation for their service on the fiscal management board.

(6) The fiscal management board is abolished, and the terms of the members of the fiscal management board are terminated on the date the school corporation's designation as a distressed political subdivision is terminated as provided in section 13(b) of this chapter.

(h) The emergency manager shall employ a chief financial officer for the school corporation. The chief financial officer is an employee of the school corporation. The chief financial officer shall report to the emergency manager and shall assist the emergency manager appointed for the school corporation and the fiscal management board in carrying out the day to day financial operations of the school corporation. Before July 1, 2019, the compensation of the chief financial officer shall be determined by the distressed unit appeal board. Before July 1, 2019, the compensation of the chief financial officer shall be paid from the funds appropriated to the distressed unit appeal board. After June 30, 2019, the compensation of the chief financial officer shall be determined by and paid by the school corporation. The chief financial officer:

(1) must possess, through both education and experience, an understanding of finance and financial management; and

(2) must possess any other experience and must meet any other requirements as required by the distressed unit appeal board to ensure that the chief financial officer is qualified to carry out the financial restructuring of the school corporation.



(i) The emergency manager shall employ a chief academic officer for the school corporation, after consultation with the department of education, who must have experience working with or for an urban school corporation. The chief academic officer is an employee of the school corporation. The chief academic officer shall report to the emergency manager and shall assist the emergency manager appointed for the school corporation and the fiscal management board in carrying out the academic matters of the school corporation. Before July 1, 2019, the compensation of the chief academic officer shall be determined by the distressed unit appeal board. Before July 1, 2019, the compensation of the chief academic officer shall be paid from the funds appropriated to the distressed unit appeal board. After June 30, 2019, the compensation of the chief academic officer shall be determined by and paid by the school corporation. The chief academic officer must:

- (1) hold a valid license to teach in a public school under IC 20-28-5;
- (2) possess, through both education and experience, an understanding of curriculum and academics; and
- (3) possess any other experience and meet any other requirements as required by the distressed unit appeal board to ensure that the chief academic officer is qualified to carry out the academic goals of the school corporation.

(j) The chief financial officer and chief academic officer shall assist the emergency manager in carrying out the emergency manager's duties under this chapter.

(k) The annual budget adopted by the emergency manager for the school corporation must dedicate a significant part of the school corporation's budget to eliminating the school corporation's outstanding financial obligations. The emergency manager shall attempt to negotiate with the creditors of the school corporation to establish a plan specifying the schedule for paying each creditor. The emergency manager shall submit the plan to the distressed unit appeal board for approval. The distressed unit appeal board must:

- (1) review the plan submitted by the emergency manager; and
- (2) not later than sixty (60) days after the plan is submitted, either:
 - (A) approve the plan as submitted by the emergency manager; or
 - (B) modify the plan as submitted by the emergency



manager and then approve the modified plan.

(l) The emergency manager shall consult with the governing body, the fiscal management board, and the mayor of the city in which the school corporation is located in developing the school corporation's annual budget. The distressed unit appeal board must review and approve the school corporation's annual budget that is proposed by the emergency manager.

(m) In consultation with the fiscal management board, the governing body, and the mayor of the city in which the school corporation is located, the emergency manager shall do the following:

- (1) Conduct a financial and compliance audit of the operations of the school corporation.
- (2) Develop a written financial plan for the school corporation. The object of the plan must be to achieve financial stability for the school corporation, and the plan must include provisions for paying all of the school corporation's outstanding obligations and for paying all future obligations of the school corporation (including any federal, state, or local taxes or assessments) in a timely manner.

(n) In addition to the report required by section 8.5(c)(5) of this chapter, the emergency manager, the chief financial officer, and the chief academic officer shall report quarterly to the distressed unit appeal board in a format specified by the distressed unit appeal board. The report must include:

- (1) information concerning the actions that the school corporation is taking to improve the financial condition of the school corporation; and
- (2) any other information required by the distressed unit appeal board.

The emergency manager shall report more frequently than quarterly if requested by the distressed unit appeal board. The emergency manager shall provide copies of the report to the governing body, the fiscal management board, and the mayor of the city in which the school corporation is located. The emergency manager shall present each report at a public meeting of the fiscal management board.

(o) The school corporation shall do the following:

- (1) Publish a copy of each report under subsection (n) on the school corporation's Internet web site, along with a link to the main page of the Indiana transparency Internet web site



established under IC 5-14-3.7 to provide access to financial data for local schools.

(2) Make copies of each report available free of charge to the public upon request.

(3) Provide copies of each report to the mayor of the city in which the school corporation is located. The mayor of the city shall make copies of the reports available free of charge to the public upon request.

(p) The chief academic officer shall develop an education plan to provide academic services to students in the school corporation and to achieve academic progress. The education plan must include at least the following components:

(1) An academic program designed to meet Indiana's academic standards and to assist students in meeting those academic standards.

(2) A plan to improve the academic performance of all students, including improvement in the performance of students on standardized tests.

(3) A plan to engage parents in school performance and school activities, including regular meetings at each school involving administrators, teachers, parents, and interested members of the community.

(4) A plan to implement performance standards that will attract students and families to the school corporation.

(5) A plan specifying how the school corporation will work directly with the city in which the school corporation is located:

(A) to make the schools a successful component of life within the city; and

(B) to develop a sense of pride and progress in the operations and accomplishments of the school corporation.

The chief financial officer and the chief academic officer shall confer with the governing body at least once each month. The chief financial officer and chief academic officer shall meet at least quarterly with the executive committee of the bargaining unit to inform the executive committee of the academic progress of the school corporation."

Page 10, line 39, after "board." insert "For purposes of IC 34-13, an emergency manager appointed under this section is acting on behalf of the distressed political subdivision and not the state."

Page 11, between lines 2 and 3, begin a new paragraph and insert:
"(e) A member of a fiscal management board, an emergency



manager, a chief financial officer, or a chief academic officer is immune from civil liability for an act or omission within the scope and arising out of the performance of duties prescribed by the board under this chapter. This subsection does not apply to an act or omission that constitutes gross negligence or willful misconduct.

(f) The attorney general may represent a member of a fiscal management board, an emergency manager, a chief financial officer, or a chief academic officer in a legal action arising out of the exercise of powers granted under this chapter, if the member of a fiscal management board, emergency manager, chief financial officer, or chief academic officer makes a written request to the attorney general requesting representation. The attorney general may not represent a member of a fiscal management board, an emergency manager, a chief financial officer, or a chief academic officer under this subsection if the legal action is initiated or the claim is asserted by the member of the fiscal management board, emergency manager, or the distressed political subdivision. If the attorney general represents a member of a fiscal management board, an emergency manager, a chief financial officer, or a chief academic officer under this subsection, the member of a fiscal management board, emergency manager, chief financial officer, or chief academic officer is entitled to recover attorney's fees from the losing party to the extent the member of the fiscal management board, emergency manager, chief financial officer, or chief academic officer prevails. Any attorney's fees recovered shall be deposited in the state general fund."

Page 11, delete lines 3 through 42.

Page 12, delete lines 1 through 34, begin a new paragraph and insert:

"SECTION 6. IC 6-1.1-20.3-8.5, AS AMENDED BY P.L.2-2014, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) This section does not apply to a school corporation designated before July 1, 2013, as a distressed political subdivision.

(b) Notwithstanding any other law, an emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter shall ~~do~~ **assume and exercise all of the power, authority, and responsibilities of both the executive and the fiscal body of the political subdivision during the time the political subdivision is a distressed political subdivision. An emergency manager's power, authority, and responsibilities include** the following:

- (1) ~~Assume and exercise the authority and responsibilities of both~~



the executive and the fiscal body of the political subdivision concerning the adoption, amendment, and enforcement of **Adopting, amending, and enforcing** ordinances and resolutions relating to or affecting the fiscal stability of the political subdivision. However, the emergency manager **does not have the power to may** impose **only those** taxes or fees **in addition to the taxes or fees authorized by that** the political subdivision **before the political subdivision was designated a distressed political subdivision: is authorized by law to impose.**

(2) Review the political subdivision's budget:

(3) Review **(2) Subject to existing labor contracts, setting the salaries and other compensation** of the political subdivision's employees.

(4) Conduct a financial and compliance audit of the internal operations of the political subdivision:

(5) Develop a written financial plan in consultation with the officials of the political subdivision not later than six (6) months after appointment:

(6) Develop a plan for paying all the political subdivision's outstanding obligations:

(7) Review **(3) Reviewing** existing labor contracts **and collective bargaining agreements, and negotiating and entering into labor contracts and collective bargaining agreements.**

(8) Adopt **(4) Adopting** a budget for the political subdivision for each calendar or fiscal year, as applicable, that the political subdivision remains a distressed political subdivision.

(9) Review **(5) Approving** payrolls and other claims against the political subdivision before payment.

(10) Make, approve, or disapprove **(6) Making, approving, or disapproving** the following:

(A) A contract.

(B) An expenditure.

(C) A loan.

(D) The creation of any new position.

(E) The filling of any vacant position.

(11) Submit a written report to the board every three (3) months concerning:

(A) actions taken by the emergency manager;

(B) expenditures made by the distressed political subdivision;
and

(C) the work that has been done to remove the distressed political subdivision from distressed status:



- (7) Identifying and implementing labor force reductions.**
- (8) Outsourcing services performed by employees of the distressed political subdivision.**
- (9) Renegotiating existing labor contracts and acting as an agent of the political subdivision in collective bargaining.**
- (10) Reducing or suspending salaries of the political subdivision's employees.**
- (11) Entering into agreements with other political subdivisions for the provision of services.**
- (12) Selling assets, including real property, of the distressed political subdivision. If real property is being sold, any political subdivision that has territory where the real property is located and institutions of higher education with real property located in Indiana shall be given a thirty (30) day first right to make an offer to purchase the real property. The emergency manager shall determine whether it is appropriate to accept one (1) of these offers and shall negotiate the terms and conditions of the sale of the real property to the offeror.**
- (13) Closing facilities of the distressed political subdivision.**
- (14) Requesting technical assistance from the board and state agencies to assist in carrying out the powers and duties outlined in this subsection, including assistance from the Indiana department of administration in evaluating and assessing facilities.**
- (15) Reviewing each contract that is in effect and not covered by subdivision (3) and, if prudent, renegotiating or canceling the contract to the extent permitted by the contract.**
- (16) Transferring property not needed by the distressed political subdivision.**
- (17) Acquiring real property that is necessary to achieve the goals expressed in the financial plan.**
- (18) Implementing the Governmental Accounting Standards Board generally accepted accounting principles.**
- (19) Requesting a waiver from the application of IC 6-1.1-20.6-9.8 in order to use IC 6-1.1-20.6-13 regarding the allocation of protected taxes. To request a waiver, the emergency manager must submit, before May 1 of the year for which a waiver is sought, a written request to the board. The board shall make a determination concerning the request, and if the waiver is granted the board shall provide, before June 1 of that year, a written certification of the determination to the department of local government finance.**



(20) If the distressed political subdivision is a school corporation, requesting a loan from the counter-cyclical revenue and economic stabilization fund under IC 6-1.1-21.4-3(b) as provided in section 8.3 of this chapter.

(12) Petition (21) Petitioning the board to terminate a political subdivision's status as a distressed political subdivision when the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision **and the conditions set forth in section 13(b) of this chapter are met.**

(c) An emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter ~~may~~ **shall** do the following:

~~(1) Renegotiate existing labor contracts and act as an agent of the political subdivision in collective bargaining.~~

~~(2) Reduce or suspend salaries of the political subdivision's employees.~~

~~(3) Enter into agreements with other political subdivisions for the provision of services.~~

(1) Review the political subdivision's budget.

(2) Conduct a financial and compliance audit of the internal operations of the political subdivision.

(3) Report and make recommendations to the board regarding the following:

(A) A written comprehensive financial plan in consultation with the officials of the political subdivision not later than six (6) months after appointment.

(B) A comprehensive long term plan for paying all the political subdivision's outstanding obligations.

(4) If the distressed political subdivision is a school corporation, report and make recommendations to the board regarding the following:

(A) The geographic boundaries of the school corporation and alternative boundaries.

(B) A long term plan for meeting transportation needs.

(C) A long term plan for providing educational services.

(D) A long term plan for providing noneducational services.

(E) A long term plan for providing adequate personnel and a plan for compensation.

(F) The capital plant of the school corporation and a long term plan for meeting the long term capital plant needs of the school corporation.

(G) A new governance structure for the distressed political



subdivision.

(5) Submit a written report to the board each month concerning the following:

(A) Actions taken by the emergency manager.

(B) Expenditures made by the distressed political subdivision.

(C) The progress that has been made toward removing the distressed political subdivision from distressed status.

(d) Except as provided in section 13(d) of this chapter, an emergency manager of a distressed political subdivision retains the powers and duties described in subsections (b) and (c) until:

- (1) the emergency manager resigns or dies;
- (2) the board removes the emergency manager; or
- (3) the political subdivision's status as a distressed political subdivision is terminated under section 13(b) or 13(c) of this chapter.

SECTION 7. IC 6-1.1-20.3-9, AS ADDED BY P.L.146-2008, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The board shall keep a record of its proceedings and its orders. **IC 5-14-1.5 (the open door law) applies to the commission's meetings.**

SECTION 8. IC 6-1.1-20.3-9.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.9. (a) A petition may be filed with the board to appeal a decision by the emergency manager.**

(b) Two hundred fifty (250) or more individuals residing within the distressed political subdivision who are of the opinion that the decision by the emergency manager is not fair or reasonable may file a petition in the office of the county auditor within thirty (30) days after the decision is made. The petition must set forth the petitioners' names, addresses, and objections to the decision and the facts showing that the decision is not fair and reasonable.

(c) Upon the filing of a petition under subsection (b), the county auditor shall immediately certify a copy of the petition, together with any other data necessary to present the questions involved, to the board.

(d) The board shall schedule a public meeting as soon as practicable to consider the petition.

SECTION 9. IC 6-1.1-20.3-13, AS AMENDED BY P.L.249-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If:



- (1) an emergency manager of a distressed political subdivision;
- (2) the fiscal body and executive of the political subdivision jointly; or
- (3) the governing body of a school corporation that:
 - (A) employs a new superintendent; or
 - (B) has a new member elected or appointed to its governing body;
 during the time the school corporation is a distressed political subdivision;

files a petition with the board for termination of the political subdivision's status as a distressed political subdivision, the board shall conduct a public hearing on the question of whether to terminate the political subdivision's status as a distressed political subdivision.

(b) In the case of a political subdivision designated as distressed under section 6.5 or 6.8 of this chapter, the board shall terminate the political subdivision's status as a distressed political subdivision if the board finds that the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision **and all the following conditions are met:**

- (1) The political subdivision has achieved and maintained financial solvency for a period of at least two (2) years, including the following:**
 - (A) Maintaining a structurally balanced budget for at least two (2) years.**
 - (B) Having no unpaid or past due critical contractual financial obligations or vendor payments.**
- (2) The political subdivision has a fiscal plan that maintains financial solvency for a period of at least five (5) years after the termination of its distressed status.**
- (3) The political subdivision has implemented the Governmental Accounting Standards Board generally accepted accounting principles.**
- (4) The political subdivision meets all other conditions identified by the board.**
- (5) The board determines that the political subdivision is financially stable.**

(c) In the case of a township designated as distressed under section 6.7 of this chapter, the board shall terminate the township's status as a distressed political subdivision if the board finds that the township's township assistance property tax rate (as defined in section 6.7(a) of this chapter) for the current calendar year is not more than the result of:

- (1) the statewide average township assistance property tax rate (as



determined by the department of local government finance) for property taxes first due and payable in the preceding year; multiplied by
(2) twelve (12).

(d) Notwithstanding any other section of this chapter, not later than ninety (90) days after taking office, a new executive of a distressed political subdivision may petition the board for suspension of the political subdivision's distressed status. In the case of a political subdivision designated as distressed under section 6.5 of this chapter, the executive must include in its petition a written plan to resolve the applicable issues described in section 6.5 of this chapter. In the case of a township designated as distressed under section 6.7 of this chapter, the executive must include in its petition a written plan to lower the township's township assistance property tax rate (as defined in section 6.7(a) of this chapter). If the board approves the executive's written plan, the board may suspend the political subdivision's distressed status for one hundred eighty (180) days. Suspension under this chapter terminates automatically upon expiration of the one hundred eighty (180) day period. The board may consider a petition to terminate the political subdivision's distressed status during a period of suspension.

SECTION 10. IC 6-1.1-20.6-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) A political subdivision is eligible to allocate credits proportionately under this section if the distressed unit appeal board has approved the waiver request of the emergency manager for the political subdivision under IC 6-1.1-20.3-8.5.**

(b) For a political subdivision that has been granted a waiver under IC 6-1.1-20.3-8.5, the political subdivision may allocate the effect of the credits granted under this chapter proportionately among all the political subdivision's property tax funds that are not exempt under section 7.5(b) or 7.5(c) of this chapter, based on the levy for each fund and without taking into account the requirements of section 9.8 of this chapter regarding protected taxes.

SECTION 11. IC 20-26-7-1, AS AMENDED BY P.L.5-2015, SECTION 47, IS 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 (n), 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 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.

ES 567—LS 7530/DI 73



(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), when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available" 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) An emergency manager of a distressed school corporation under IC 6-1.1-20.3 may sell an existing school building without complying with the requirements of subsection (e)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 567 as printed February 7, 2017.)

BROWN T

Committee Vote: yeas 19, nays 3.

