

PROPOSED AMENDMENT

SB 567 # 21

DIGEST

DUAB and school corporations. Designates Muncie Community Schools as a distressed political subdivision. 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. Allows a superintendent or the governing body of a school corporation to petition the DUAB to be designated as distressed (removes joint petition requirement). Allows the Indiana education employment relations board to petition the DUAB to consider a school corporation for designation as distressed. 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. Provides a procedure for residents who want to appeal a decision of an emergency manager. Provides that the emergency manager employs the chief financial officer. Requires the emergency manager to employ a chief academic officer and specifies the duties of the chief academic officer. Specifies that other political subdivisions and Indiana institutions of higher education have a 30 day right to make an offer on real property that the emergency manager plans to sell. Adds requirements for membership on the fiscal management board. 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 a member of the fiscal management board, an emergency manager, chief financial officer, or chief academic officer 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.

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- 1 Page 2, line 20, delete "an emergency manager appointed under".
 - 2 Page 2, line 21, delete "IC 6-1.1-20.3-7.5 or".
 - 3 Page 2, line 24, delete "emergency manager or".
 - 4 Page 2, line 26, delete "emergency".
 - 5 Page 2, line 27, delete "manager or".
 - 6 Page 2, between lines 34 and 35, begin a new paragraph and insert:
 - 7 "SECTION 2. IC 5-11-1-24.4, AS ADDED BY P.L.181-2015,
 - 8 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 - 9 UPON PASSAGE]: Sec. 24.4. (a) This section applies only to an
 - 10 audited entity (excluding a ~~school corporation~~ or a college or university
 - 11 (as defined in IC 21-7-13-10)) that has:
 - 12 (1) an internal control officer; and
 - 13 (2) an internal control department;

1 established by the legislative body of the audited entity. However, the
 2 requirements of this section do not apply to a consolidated city that
 3 hires an internal auditor or an independent certified public accountant,
 4 or both, as authorized under IC 36-3-4-24 to examine the books and
 5 records of the consolidated city.

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

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

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

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

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

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

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

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

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

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

- 1 guidelines required by the industry.
- 2 (E) If the certified public accountant discovers or suspects
3 instances of fraud, abuse of public funds, or the commission of
4 a crime, the certified public accountant shall notify the state
5 board of accounts:
- 6 (i) immediately; and
7 (ii) before disclosing the discovery or suspicion to the
8 audited entity.
- 9 (F) The certified public accountant shall deliver the completed
10 examination report to the state board of accounts:
- 11 (i) at the same time as the audited entity; and
12 (ii) not later than thirty (30) days after completion of the
13 examination.
- 14 The report shall be in a readable format prescribed by the state
15 board of accounts.
- 16 (G) All work papers supporting the examination report shall be
17 available for review by the state board of accounts.
- 18 (6) If a legislative body of an audited entity renews a written
19 contract with a certified public accountant that was entered into
20 in accordance with this section, the legislative body may renew
21 the contract without complying with the selection procedures in
22 this subsection.
- 23 (f) The certified public accountant must deliver the completed
24 examination report to the state board of accounts not later than thirty
25 (30) days after completion of the examination. The state board of
26 accounts shall review the examination report and may:
- 27 (1) ask questions of the certified public accountant;
28 (2) review the examination work papers; and
29 (3) take any other actions necessary to verify that the guidelines
30 and standards adopted by the state board of accounts have been
31 satisfied.
- 32 (g) If the certified public accountant's examination:
- 33 (1) satisfies the guidelines and standards adopted by the state
34 board of accounts, the state examiner shall publicly file the
35 examination report under IC 5-11-5-1; or
36 (2) fails to satisfy the guidelines and standards adopted by the
37 state board of accounts:
- 38 (A) the state board of accounts shall perform the audit; and
39 (B) the audited entity shall reimburse the state board of
40 accounts for the actual and direct cost of performing the

1 examination.

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

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

8 (1) the termination is approved by resolution adopted by the
9 legislative body of the audited entity; and

10 (2) written notice of the termination is provided to the state board
11 of accounts more than one hundred eighty (180) days before the
12 beginning of the audited entity's fiscal year.

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

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

23 (1) **for examined year 2015 or 2016;**

24 (2) **that is done in accordance with all the requirements of**
25 **section 24.4(d) of this chapter, other than section 24.4(d)(1) of**
26 **this chapter; and**

27 (3) **that meets all the other requirements of section 24.4 of this**
28 **chapter;**

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

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

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

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

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

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

- 1 Page 2, delete line 42.
- 2 Delete pages 3 through 9.
- 3 Page 10, delete lines 1 through 28, begin a new paragraph and
4 insert:
- 5 "SECTION 3. IC 6-1.1-20.3-4, AS AMENDED BY P.L.145-2012,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: Sec. 4. (a) The distressed unit appeal board is
8 established.
- 9 (b) The distressed unit appeal board consists of the following
10 members:
- 11 (1) The director of the office of management and budget or the
12 director's designee. The director or the director's designee shall
13 serve as chairperson of the distressed unit appeal board.
- 14 (2) The commissioner of the department of local government
15 finance or the commissioner's designee.
- 16 (3) The state examiner of the state board of accounts or the state
17 examiner's designee.
- 18 (4) The state superintendent of public instruction or the
19 superintendent's designee.
- 20 (5) An individual appointed by the ~~chairman of the legislative~~
21 ~~council.~~ **governor.**
- 22 **(6) A member of the house of representatives appointed by**
23 **speaker of the house of representatives, who shall serve as a**
24 **nonvoting member.**
- 25 **(7) A member of the senate appointed by the president pro**
26 **tempore of the senate, who shall serve as a nonvoting**
27 **member.**
- 28 **(8) A member to serve a one (1) year term in each**
29 **even-numbered year who:**
- 30 **(A) is a member of the house of representatives; and**
31 **(B) is appointed by the minority leader of the house of**
32 **representatives.**
- 33 **The member is a nonvoting member.**
- 34 **(9) A member to serve a one (1) year term in each**
35 **odd-numbered year who:**
- 36 **(A) is a member of the senate; and**
37 **(B) is appointed by the minority leader of the senate.**
- 38 **The member is a nonvoting member.**
- 39 (c) Each member of the ~~commission board who is not a member~~
40 **of the general assembly** is entitled to reimbursement for:

- 1 (1) traveling expenses as provided under IC 4-13-1-4; and
 2 (2) other expenses actually incurred in connection with the
 3 member's duties as provided in the state policies and procedures
 4 established by the Indiana department of administration and
 5 approved by the budget agency.

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

12 SECTION 4. IC 6-1.1-20.3-6, AS AMENDED BY P.L.257-2013,
 13 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 6. (a) The fiscal body and the executive of a
 15 political subdivision may jointly file a petition with the board seeking
 16 to have the political subdivision designated as a distressed political
 17 subdivision under this chapter.

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

- 20 (1) ~~Jointly~~ File a petition with the board seeking relief under
 21 section 8.3 of this chapter.
 22 (2) ~~Jointly~~ File a petition with the board seeking to have the
 23 school corporation designated as a distressed political subdivision
 24 under this chapter.
 25 (3) ~~Jointly~~ File a petition with the board requesting authority to
 26 transfer before July 1, 2015, excess funds in the school
 27 corporation's debt service fund to the school corporation's
 28 transportation fund as provided in section 8.4 of this chapter.

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

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

35 SECTION 5. IC 6-1.1-20.3-6.5, AS AMENDED BY P.L.257-2013,
 36 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 6.5. (a) After the board receives a petition
 38 concerning a political subdivision under section 6(a), ~~or~~ 6(b)(2), ~~or~~
 39 **6(c)** of this chapter, the board may designate the political subdivision
 40 as a distressed political subdivision if at least one (1) of the following

- 1 conditions applies to the political subdivision:
- 2 (1) The political subdivision has defaulted in payment of principal
- 3 or interest on any of its bonds or notes.
- 4 (2) The political subdivision has failed to make required
- 5 payments to payroll employees for thirty (30) days or two (2)
- 6 consecutive payrolls.
- 7 (3) The political subdivision has failed to make required
- 8 payments to judgment creditors for sixty (60) days beyond the
- 9 date of the recording of the judgment.
- 10 (4) The political subdivision, for at least thirty (30) days beyond
- 11 the due date, has failed to do any of the following:
- 12 (A) Forward taxes withheld on the incomes of employees.
- 13 (B) Transfer employer or employee contributions due under
- 14 the Federal Insurance Contributions Act (FICA).
- 15 (C) Deposit the political subdivision's minimum obligation
- 16 payment to a pension fund.
- 17 (5) The political subdivision has accumulated a deficit equal to
- 18 eight percent (8%) or more of the political subdivision's revenues.
- 19 For purposes of this subdivision, "deficit" means a negative fund
- 20 balance calculated as a percentage of revenues at the end of a
- 21 budget year for any governmental or proprietary fund. The
- 22 calculation must be presented on an accrual basis according to
- 23 generally accepted accounting principles.
- 24 (6) The political subdivision has sought to negotiate a resolution
- 25 or an adjustment of claims that in the aggregate:
- 26 (A) exceed thirty percent (30%) of the political subdivision's
- 27 anticipated annual revenues; and
- 28 (B) are ninety (90) days or more past due.
- 29 (7) The political subdivision has carried over interfund loans for
- 30 the benefit of the same fund at the end of two (2) successive
- 31 years.
- 32 (8) The political subdivision has been severely affected, as
- 33 determined by the board, as a result of granting the property tax
- 34 credits under IC 6-1.1-20.6.
- 35 (9) In addition to the conditions listed in subdivisions (1) through
- 36 (8), and in the case of a school corporation, the board may also
- 37 designate a school corporation as a distressed political
- 38 subdivision if at least one (1) of the following conditions applies:
- 39 (A) The school corporation has:
- 40 (i) issued refunding bonds under IC 5-1-5-2.5; or

1 (ii) adopted a resolution under IC 5-1-5-2.5 making the
 2 determinations and including the information specified in
 3 IC 5-1-5-2.5(g).

4 (B) The ratio that the amount of the school corporation's debt
 5 (as determined in December 2010) bears to the school
 6 corporation's 2011 ADM ranks in the highest ten (10) among
 7 all school corporations.

8 (C) The ratio that the amount of the school corporation's debt
 9 (as determined in December 2010) bears to the school
 10 corporation's total assessed valuation for calendar year 2011
 11 ranks in the highest ten (10) among all school corporations.

12 (D) The amount of homestead assessed valuation in the school
 13 corporation for calendar year 2011 was at least sixty percent
 14 (60%) of the total amount of assessed valuation in the school
 15 corporation for calendar year 2011.

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

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

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

28 (1) the treasurer of state; ~~and~~
 29 (2) the county auditor and county treasurer of each county in
 30 which the distressed political subdivision is wholly or partially
 31 located; ~~and~~

32 **(3) in the case of a school corporation, the Indiana education**
 33 **employment relations board established by IC 20-29-3-1;**
 34 that the board has designated the political subdivision as a distressed
 35 political subdivision.

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

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

1 **(1) "Chief academic officer" means the chief academic officer**
2 **appointed under subsection (i).**

3 **(2) "Chief financial officer" means the chief financial officer**
4 **appointed under subsection (h).**

5 **(3) "Governing body" refers to the governing body of a school**
6 **corporation.**

7 **(c) The Gary Community School Corporation and Muncie**
8 **Community Schools are each designated as a distressed political**
9 **subdivision for purposes of this chapter until the school**
10 **corporation's designation as a distressed political subdivision is**
11 **terminated as provided in section 13(b) of this chapter. This**
12 **designation as a distressed political subdivision is effective**
13 **regardless of whether the school corporation has submitted a**
14 **petition requesting to be designated as a distressed political**
15 **subdivision. Until the school corporation's designation as a**
16 **distressed political subdivision is terminated as provided in section**
17 **13(b) of this chapter, the governing body of the school corporation**
18 **may not meet more often than once each month.**

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

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

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

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

39 **(A) determine the compensation of the emergency**
40 **manager, chief financial officer, and chief academic**

1 officer; and
2 **(B) subject to subsections (h) and (i), pay the emergency**
3 **manager's, chief financial officer's, and chief academic**
4 **officer's compensation and reimburse the emergency**
5 **manager, chief financial officer, and chief academic officer**
6 **for actual and necessary expenses from funds appropriated**
7 **to the distressed unit appeal board.**

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

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

16 **(1) The distressed unit appeal board may delay or suspend,**
17 **for a period determined by the board, any payments of**
18 **principal or interest, or both, that would otherwise be due**
19 **from the school corporation on loans or advances from the**
20 **common school fund.**

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

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

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

35 **(1) One (1) member appointed by the governing body.**
36 **(2) One (1) member appointed by the mayor of the city in**
37 **which the school corporation is located.**
38 **(3) One (1) member, who must have experience working with**
39 **or for an urban school corporation, appointed by the**
40 **superintendent of public instruction.**

- 1 **(4) One (1) member, who must have experience working with**
2 **or for an urban school corporation, appointed by the state**
3 **board of education.**
- 4 **(g) The following apply to the fiscal management board and to**
5 **the members of the fiscal management board:**
- 6 **(1) The term of office of a member of the fiscal management**
7 **board is four (4) years, beginning on the date of appointment.**
8 **A member of the fiscal management board may be**
9 **reappointed to the fiscal management board. A member of the**
10 **fiscal management board may be removed for cause by the**
11 **appointing authority.**
- 12 **(2) A member of the fiscal management board must have the**
13 **following:**
- 14 **(A) At least three (3) years experience in financial**
15 **management.**
- 16 **(B) A meaningful background and work experience in**
17 **finance and business.**
- 18 **(C) An understanding of government contracts.**
- 19 **(D) Knowledge and experience in organizational**
20 **effectiveness, operations management, and implementing**
21 **best practices.**
- 22 **(E) Experience in budget development and oversight.**
- 23 **(F) A demonstrated commitment to high professional and**
24 **ethical standards and a diverse workplace.**
- 25 **(G) An understanding of tax and other compliance**
26 **implications.**
- 27 **(3) A member of the governing body may not serve as a**
28 **member of the fiscal management board.**
- 29 **(4) The fiscal management board:**
- 30 **(A) shall make recommendations to the emergency**
31 **manager; and**
- 32 **(B) shall advise the emergency manager as requested by**
33 **the emergency manager.**
- 34 **(5) The members of the fiscal management board are not**
35 **entitled to any compensation for their service on the fiscal**
36 **management board.**
- 37 **(6) The fiscal management board is abolished, and the terms**
38 **of the members of the fiscal management board are**
39 **terminated on the date the school corporation's designation as**
40 **a distressed political subdivision is terminated as provided in**

1 section 13(b) of this chapter.

2 **(h) The emergency manager shall employ a chief financial**
3 **officer for the school corporation. The chief financial officer is an**
4 **employee of the school corporation. The chief financial officer shall**
5 **report to the emergency manager and shall assist the emergency**
6 **manager appointed for the school corporation and the fiscal**
7 **management board in carrying out the day to day financial**
8 **operations of the school corporation. Before July 1, 2019, the**
9 **compensation of the chief financial officer shall be determined by**
10 **the distressed unit appeal board. Before July 1, 2019, the**
11 **compensation of the chief financial officer shall be paid from the**
12 **funds appropriated to the distressed unit appeal board. After June**
13 **30, 2019, the compensation of the chief financial officer shall be**
14 **determined by and paid by the school corporation. The chief**
15 **financial officer:**

16 **(1) must possess, through both education and experience, an**
17 **understanding of finance and financial management; and**
18 **(2) must possess any other experience and must meet any**
19 **other requirements as required by the distressed unit appeal**
20 **board to ensure that the chief financial officer is qualified to**
21 **carry out the financial restructuring of the school**
22 **corporation.**

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

39 **(1) hold a valid license to teach in a public school under**
40 **IC 20-28-5;**

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

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

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

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

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

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

22 (A) approve the plan as submitted by the emergency
23 manager; or

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

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

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

36 (1) Conduct a financial and compliance audit of the
37 operations of the school corporation.

38 (2) Develop a written financial plan for the school
39 corporation. The object of the plan must be to achieve
40 financial stability for the school corporation, and the plan

1 **must include provisions for paying all of the school**
2 **corporation's outstanding obligations and for paying all**
3 **future obligations of the school corporation (including any**
4 **federal, state, or local taxes or assessments) in a timely**
5 **manner.**

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

11 **(1) information concerning the actions that the school**
12 **corporation is taking to improve the financial condition of the**
13 **school corporation; and**

14 **(2) any other information required by the distressed unit**
15 **appeal board.**

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

23 **(o) The school corporation shall do the following:**

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

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

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

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

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

- 1 **academic standards.**
- 2 **(2) A plan to improve the academic performance of all**
- 3 **students, including improvement in the performance of**
- 4 **students on standardized tests.**
- 5 **(3) A plan to engage parents in school performance and school**
- 6 **activities, including regular meetings at each school involving**
- 7 **administrators, teachers, parents, and interested members of**
- 8 **the community.**
- 9 **(4) A plan to implement performance standards that will**
- 10 **attract students and families to the school corporation.**
- 11 **(5) A plan specifying how the school corporation will work**
- 12 **directly with the city in which the school corporation is**
- 13 **located:**
- 14 **(A) to make the schools a successful component of life**
- 15 **within the city; and**
- 16 **(B) to develop a sense of pride and progress in the**
- 17 **operations and accomplishments of the school corporation.**
- 18 **The chief financial officer and the chief academic officer shall**
- 19 **confer with the governing body at least once each month. The chief**
- 20 **financial officer and chief academic officer shall meet at least**
- 21 **quarterly with the executive committee of the bargaining unit to**
- 22 **inform the executive committee of the academic progress of the**
- 23 **school corporation."**
- 24 Page 10, line 39, after "board." insert **"For purposes of IC 34-13,**
- 25 **an emergency manager appointed under this section is acting on**
- 26 **behalf of the distressed political subdivision and not the state."**
- 27 Page 11, between lines 2 and 3, begin a new paragraph and insert:
- 28 **"(e) A member of a fiscal management board, an emergency**
- 29 **manager, a chief financial officer, or a chief academic officer is**
- 30 **immune from civil liability for an act or omission within the scope**
- 31 **and arising out of the performance of duties prescribed by the**
- 32 **board under this chapter. This subsection does not apply to an act**
- 33 **or omission that constitutes gross negligence or willful misconduct.**
- 34 **(f) The attorney general may represent a member of a fiscal**
- 35 **management board, an emergency manager, a chief financial**
- 36 **officer, or a chief academic officer in a legal action arising out of**
- 37 **the exercise of powers granted under this chapter, if the member**
- 38 **of a fiscal management board, emergency manager, chief financial**
- 39 **officer, or chief academic officer makes a written request to the**
- 40 **attorney general requesting representation. The attorney general**

1 may not represent a member of a fiscal management board, an
 2 emergency manager, a chief financial officer, or a chief academic
 3 officer under this subsection if the legal action is initiated or the
 4 claim is asserted by the member of the fiscal management board,
 5 emergency manager, or the distressed political subdivision. If the
 6 attorney general represents a member of a fiscal management
 7 board, an emergency manager, a chief financial officer, or a chief
 8 academic officer under this subsection, the member of a fiscal
 9 management board, emergency manager, chief financial officer, or
 10 chief academic officer is entitled to recover attorney's fees from the
 11 losing party to the extent the member of the fiscal management
 12 board, emergency manager, chief financial officer, or chief
 13 academic officer prevails. Any attorney's fees recovered shall be
 14 deposited in the state general fund."

15 Page 11, delete lines 3 through 42.

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

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

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

30 (1) ~~Assume and exercise the authority and responsibilities of both~~
 31 ~~the executive and the fiscal body of the political subdivision~~
 32 ~~concerning the adoption, amendment, and enforcement of~~
 33 **Adopting, amending, and enforcing** ordinances and resolutions
 34 relating to or affecting the fiscal stability of the political
 35 subdivision. However, the emergency manager ~~does not have the~~
 36 **power to may impose only those** taxes or fees ~~in addition to the~~
 37 ~~taxes or fees authorized by that~~ the political subdivision ~~before~~
 38 ~~the political subdivision was designated a distressed political~~
 39 ~~subdivision: is authorized by law to impose.~~

40 (2) ~~Review the political subdivision's budget.~~

- 1 ~~(3)~~ **Review (2) Subject to existing labor contracts, setting the**
 2 salaries **and other compensation** of the political subdivision's
 3 employees.
- 4 ~~(4)~~ **Conduct a financial and compliance audit of the internal**
 5 **operations of the political subdivision.**
- 6 ~~(5)~~ **Develop a written financial plan in consultation with the**
 7 **officials of the political subdivision not later than six (6) months**
 8 **after appointment.**
- 9 ~~(6)~~ **Develop a plan for paying all the political subdivision's**
 10 **outstanding obligations.**
- 11 ~~(7)~~ **Review (3) Reviewing existing labor contracts and collective**
 12 **bargaining agreements, and negotiating and entering into**
 13 **labor contracts and collective bargaining agreements.**
- 14 ~~(8)~~ **Adopt (4) Adopting a budget for the political subdivision for**
 15 **each calendar or fiscal year, as applicable, that the political**
 16 **subdivision remains a distressed political subdivision.**
- 17 ~~(9)~~ **Review (5) Approving payrolls and other claims against the**
 18 **political subdivision before payment.**
- 19 ~~(10)~~ **Make, approve, or disapprove (6) Making, approving, or**
 20 **disapproving** the following:
- 21 (A) A contract.
- 22 (B) An expenditure.
- 23 (C) A loan.
- 24 (D) The creation of any new position.
- 25 (E) The filling of any vacant position.
- 26 ~~(11)~~ **Submit a written report to the board every three (3) months**
 27 **concerning:**
- 28 ~~(A)~~ **actions taken by the emergency manager;**
 29 ~~(B)~~ **expenditures made by the distressed political subdivision;**
 30 **and**
- 31 ~~(C)~~ **the work that has been done to remove the distressed**
 32 **political subdivision from distressed status.**
- 33 **(7) Identifying and implementing labor force reductions.**
- 34 **(8) Outsourcing services performed by employees of the**
 35 **distressed political subdivision.**
- 36 **(9) Renegotiating existing labor contracts and acting as an**
 37 **agent of the political subdivision in collective bargaining.**
- 38 **(10) Reducing or suspending salaries of the political**
 39 **subdivision's employees.**
- 40 **(11) Entering into agreements with other political**

- 1 subdivisions for the provision of services.
- 2 **(12) Selling assets, including real property, of the distressed**
3 **political subdivision. If real property is being sold, any**
4 **political subdivision that has territory where the real property**
5 **is located and institutions of higher education with real**
6 **property located in Indiana shall be given a thirty (30) day**
7 **first right to make an offer to purchase the real property. The**
8 **emergency manager shall determine whether it is appropriate**
9 **to accept one (1) of these offers and shall negotiate the terms**
10 **and conditions of the sale of the real property to the offeror.**
- 11 **(13) Closing facilities of the distressed political subdivision.**
- 12 **(14) Requesting technical assistance from the board and state**
13 **agencies to assist in carrying out the powers and duties**
14 **outlined in this subsection, including assistance from the**
15 **department of administration in evaluating and assessing**
16 **facilities.**
- 17 **(15) Reviewing each contract that is in effect and not covered**
18 **by subdivision (3) and, if prudent, renegotiating or canceling**
19 **the contract to the extent permitted by the contract.**
- 20 **(16) Transferring property not needed by the distressed**
21 **political subdivision.**
- 22 **(17) Acquiring real property that is necessary to achieve the**
23 **goals expressed in the financial plan.**
- 24 **(18) Implementing the Governmental Accounting Standards**
25 **Board generally accepted accounting principles.**
- 26 **(19) Requesting a waiver from the application of**
27 **IC 6-1.1-20.6-9.8 in order to use IC 6-1.1-20.6-13 regarding**
28 **the allocation of protected taxes. To request a waiver, the**
29 **emergency manager must submit, before May 1 of the year**
30 **for which a waiver is sought, a written request to the board.**
31 **The board shall make a determination concerning the request,**
32 **and if the waiver is granted the board shall provide, before**
33 **June 1 of that year, a written certification of the**
34 **determination to the department of local government finance.**
- 35 **(20) If the distressed political subdivision is a school**
36 **corporation, requesting a loan from the counter-cyclical**
37 **revenue and economic stabilization fund under**
38 **IC 6-1.1-21.4-3(b) as provided in section 8.3 of this chapter.**
- 39 ~~(12)~~ **Petition (21) Petitioning** the board to terminate a political
40 subdivision's status as a distressed political subdivision when the

1 conditions found in section 6.5 of this chapter are no longer
 2 applicable to the political subdivision **and the conditions set**
 3 **forth in section 13(b) of this chapter are met.**

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

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

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

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

12 **(1) Review the political subdivision's budget.**

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

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

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

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

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

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

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

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

29 **(D) A long term plan for providing non-educational**
 30 **services.**

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

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

36 **(G) A new governance structure for the distressed political**
 37 **subdivision.**

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

40 **(A) Actions taken by the emergency manager.**

1 **(B) Expenditures made by the distressed political**
 2 **subdivision.**

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

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

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

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

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

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

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

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

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

- 39 (1) an emergency manager of a distressed political subdivision;
 40 (2) the fiscal body and executive of the political subdivision

- 1 jointly; or
- 2 (3) the governing body of a school corporation that:
- 3 (A) employs a new superintendent; or
- 4 (B) has a new member elected or appointed to its governing
- 5 body;
- 6 during the time the school corporation is a distressed political
- 7 subdivision;
- 8 files a petition with the board for termination of the political
- 9 subdivision's status as a distressed political subdivision, the board shall
- 10 conduct a public hearing on the question of whether to terminate the
- 11 political subdivision's status as a distressed political subdivision.
- 12 (b) In the case of a political subdivision designated as distressed
- 13 under section 6.5 **or 6.8** of this chapter, the board shall terminate the
- 14 political subdivision's status as a distressed political subdivision if the
- 15 board finds that the conditions found in section 6.5 of this chapter are
- 16 no longer applicable to the political subdivision **and all the following**
- 17 **conditions are met:**
- 18 **(1) The political subdivision has achieved and maintained**
- 19 **financial solvency for a period of at least two (2) years,**
- 20 **including the following:**
- 21 **(A) Maintaining a structurally balanced budget for at least**
- 22 **two (2) years.**
- 23 **(B) Having no unpaid or past due critical contractual**
- 24 **financial obligations or vendor payments.**
- 25 **(2) The political subdivision has a fiscal plan that maintains**
- 26 **financial solvency for a period of at least five (5) years after**
- 27 **the termination of its distressed status.**
- 28 **(3) The political subdivision has implemented the**
- 29 **Governmental Accounting Standards Board generally**
- 30 **accepted accounting principles.**
- 31 **(4) The political subdivision meets all other conditions**
- 32 **identified by the board.**
- 33 **(5) The board determines that the political subdivision is**
- 34 **financially stable.**
- 35 (c) In the case of a township designated as distressed under section
- 36 6.7 of this chapter, the board shall terminate the township's status as a
- 37 distressed political subdivision if the board finds that the township's
- 38 township assistance property tax rate (as defined in section 6.7(a) of
- 39 this chapter) for the current calendar year is not more than the result of:
- 40 (1) the statewide average township assistance property tax rate (as

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

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

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

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

36 SECTION 11. IC 20-26-7-1, AS AMENDED BY P.L.5-2015,
 37 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 1. (a) As used in this section, "charter school"
 39 has the meaning set forth in IC 20-24-1-4 and includes a group or entity
 40 seeking approval from an authorizer to operate a charter school under

1 IC 20-24-3.

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

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

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

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

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

11 (1) established under applicable law; and

12 (2) that the governing body considers appropriate.

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

15 (e) This subsection does not apply to a school building that on July
16 1, 2011, is leased or loaned by the school corporation that owns the
17 school building to another entity, if the entity is not a building
18 corporation or other entity that is related in any way to, or created by,
19 the school corporation or the governing body. Except as provided in
20 subsections (k) through (n), a governing body shall make available for
21 lease or purchase to any charter school any school building owned by
22 the school corporation or any other entity that is related in any way to,
23 or created by, the school corporation or the governing body, including
24 but not limited to a building corporation, that:

25 (1) either:

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

28 (B) appears on the list compiled by the department under
29 subsection (f); and

30 (2) was previously used for classroom instruction;

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

32 (f) Not later than August 1 each calendar year, each governing body
33 shall inform the department if a school building that was previously
34 used for classroom instruction is closed, unused, or unoccupied. The
35 department shall maintain a list of closed, unused, or unoccupied
36 school buildings and make the list available on the department's
37 Internet web site. Each school corporation shall provide a list of closed,
38 unused, or unoccupied buildings to the department by the date set by
39 the department. The department must update the list not later than
40 fifteen (15) days after being notified of a closed, unused, or unoccupied

1 building.

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

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

1 equal to the gain in the property minus the adjusted basis (including
2 costs of improvements to the school building) to the school corporation
3 that initially sold the vacant school building to the charter school. Gain
4 and adjusted basis shall be determined in the manner prescribed by the
5 Internal Revenue Code and the applicable Internal Revenue Service
6 regulations and guidelines.

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

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

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

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

35 (m) Not later than thirty (30) days after a charter school authorizer
36 or statewide organization representing charter schools in Indiana
37 receives a notice described in subsection (l), the charter school
38 authorizer or a statewide organization representing charter schools may
39 submit a qualified objection to the governing body's request for a
40 waiver under subsection (k). The qualified objection must be submitted

1 to the department in writing. In order for an objection to be considered
2 a qualified objection by the department, the objection must include:

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

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

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

21 Renumber all SECTIONS consecutively.

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