



CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 567

Citations Affected: IC 4-6-2-1.5; IC 5-11-1; IC 6-1.1; IC 20-26-7-1.

Synopsis: Distressed and fiscally impaired political subdivisions. 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 to and modifies the duties and powers of the DUAB. Designates the Gary Community School Corporation as a distressed political subdivision. Specifies the powers and duties of the emergency manager appointed for the Gary Community School Corporation. Establishes the fiscal management board for the Gary Community School Corporation, and 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. Requires the emergency manager for the Gary Community School Corporation to employ a chief financial officer and chief academic officer for the school corporation. Specifies that the chief financial officer shall report to the emergency manager and shall assist the emergency manager and the fiscal management board in carrying out the day to day financial operations of the school corporation. Specifies that the chief academic officer shall report to the emergency manager and shall assist the emergency manager and the fiscal management board in carrying out the academic matters of the school corporation. Authorizes the DUAB to do the following concerning the Gary Community School Corporation: (1) Delay or suspend 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) 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. (3) Establish benchmarks of financial improvement. (4) Provide grants to the school corporation, from funds appropriated to the DUAB, to assist the school corporation in overcoming short term financial problems. (5) Make a recommendation to the general assembly concerning the possible restructuring of advances made to the school corporation from the common school fund, including forgiveness of principal and interest on those advances. Requires the emergency manager to do the following: (1) Attempt to negotiate with the creditors of the school corporation to establish a plan specifying the schedule for paying each creditor. (2) Submit the plan to the DUAB for approval. Provides that the emergency



manager must consult with the governing body of the school corporation, the fiscal management board, and the mayor of the city of Gary in developing the school corporation's annual budget, and that the DUAB must review and approve the school corporation's annual budget. Provides that 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 debt obligations. Requires the emergency manager appointed for the Gary Community School Corporation to provide written notice to the mayor of the city of Gary at least 30 days before selling assets or transferring property, and specifies that if the mayor notifies the emergency manager of any concerns or objections regarding the proposed sale or transfer, the emergency manager must confer with the mayor regarding those concerns or objections. Provides that during the period after the effective date of the bill and before an emergency manager is appointed: (1) the financial specialist appointed for the Gary Community School Corporation may identify and implement labor force reductions, including contract cancellations due to a reduction in force; and (2) the governing body may not enter into or renew any contract unless that contract or contract renewal is first approved by the DUAB. Designates the Muncie Community Schools as a fiscally impaired school corporation. Specifies that the Muncie Community Schools' designation as a fiscally impaired school corporation is not a designation as a distressed political subdivision, and provides that the school corporation's designation as a fiscally impaired school corporation terminates on January 1, 2018. Requires the DUAB to appoint an emergency manager for the school corporation. Provides that the DUAB may immediately appoint the superintendent of the school corporation as the emergency manager for the school corporation on a temporary basis, and that this temporary appointment may continue for not more than six months. Provides that notwithstanding the powers, authority, and responsibilities otherwise granted to an emergency manager under the distressed political subdivision law, the emergency manager appointed for the Muncie Community Schools has only certain specified powers and duties while the school corporation is designated as a fiscally impaired school corporation. Provides that the emergency manager may on behalf of the school corporation negotiate and enter into labor contracts and collective bargaining agreements. Requires the emergency manager for the Muncie Community Schools to take actions necessary to implement a deficit reduction plan. Requires the DUAB to hold a public hearing not later than December 1, 2017, to determine if the school corporation should be designated as a distressed political subdivision effective January 1, 2018. Provides that after holding the public hearing, the DUAB shall either: (1) adopt a resolution providing that the school corporation will not be designated as a distressed political subdivision (if the DUAB makes certain findings); or (2) adopt a resolution designating the school corporation as a distressed political subdivision effective January 1, 2018. Provides that if the DUAB adopts a resolution designating the school corporation as a distressed political subdivision, the emergency manager shall, effective January 1, 2018, assume and exercise all of the powers, authority, and responsibilities granted to emergency managers under the distressed political subdivision statutes. Authorizes the treasurer of state to file a petition with the DUAB to have a school corporation designated as a 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. Requires notice to the Indiana education employment relations board (EERB) when a school corporation is designated 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 distressed school corporations. 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 is required to defend the fiscal management board member. Specifies for purposes of a claim against a governmental entity that a member of the fiscal management board, 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. Specifies that certain independent audits that are already completed for certain school corporations for 2015 and 2016 and that meet certain conditions are considered approved. **(This conference committee report does the following: (1) Specifies that the provisions establishing a fiscal management board and requiring the appointment of a chief financial officer and a chief academic officer apply only to the Gary Community School Corporation. (2) Adds language authorizing the DUAB to provide grants to the Gary Community School Corporation to assist the school corporation in overcoming short term financial problems. (3) Specifies that the DUAB may make a recommendation to the general assembly concerning the possible restructuring of advances made to the Gary Community School Corporation from the common school fund, including forgiveness of principal and interest on those advances. (4) Adds language providing that before appointing the emergency manager, the DUAB shall interview at least one resident of the city of Gary as a candidate for the position, and that if the DUAB is not able to interview a resident of the city of Gary as a candidate for the position, the DUAB shall interview at least one individual who is a resident of Lake County or northwest Indiana. (5) Adds language providing that before appointing the chief financial officer and the chief academic officer, the emergency manager shall interview at least one resident of the city of Gary as a candidate for each of those positions, and that if the emergency manager is not able to interview a resident of the city of Gary as a candidate for such a position, the emergency manager shall interview at least one individual who is a resident of Lake County or northwest Indiana. (6) Provides that in the case of an emergency manager appointed for the Gary Community School Corporation, the emergency manager shall provide written notice to the mayor of the city of Gary at least 30 days before selling assets or transferring property, and specifies that if the mayor notifies the emergency manager of any concerns or objections regarding the proposed sale or transfer, the emergency manager must confer with the mayor regarding those concerns or objections. (7) Provides that during the period after the effective date of the bill and before an emergency manager is appointed: (A) the financial specialist appointed for the Gary Community School Corporation may identify and implement labor force reductions, including contract cancellations due to a reduction in force; and (B) the governing body of the school corporation may not enter into or renew any contract unless that contract or contract renewal is first approved by the DUAB. (8) Changes the provisions concerning the Muncie Community Schools in the following manner: (A) Deletes the provision designating the school corporation as a distressed political subdivision, and instead designates the school corporation as a fiscally impaired school corporation. (B) Provides that the school corporation's designation as a fiscally impaired school corporation terminates on January 1, 2018. (C) Requires the DUAB to appoint an emergency manager for the school corporation. (D) Provides that the DUAB may immediately appoint the superintendent of the school corporation as the emergency manager for the school corporation on a temporary basis. (E) Specifies that the emergency manager has only certain specified powers and duties while the school corporation is designated as a fiscally impaired school corporation. (F) Requires the DUAB to hold a public hearing not later than December 1, 2017, to determine if the school corporation should be designated as a distressed political subdivision. Provides that after holding the public hearing, the DUAB shall either adopt a resolution providing that the school corporation will not be designated as a distressed political subdivision (if the DUAB makes certain findings) or adopt a resolution designating the school corporation as a distressed political subdivision effective January 1, 2018. (G) Provides that if the DUAB adopts a resolution designating the school corporation as a distressed political subdivision, the emergency manager shall, effective January 1, 2018, assume and exercise all of the powers,**



authority, and responsibilities granted to emergency managers under the distressed political subdivision statutes. (H) Specifies that the emergency manager may on behalf of the school corporation negotiate and enter into labor contracts and collective bargaining agreements. (I) Requires the emergency manager to take actions necessary to implement a deficit reduction plan. (9) Provides that while a school corporation is designated as a distressed political subdivision or as a fiscally impaired school corporation, the school corporation may approve a controlled project that requires a petition and remonstrance process or a local public question only if the controlled project is first approved by the emergency manager, and provides that the governing body of such a school corporation may adopt a resolution to place a referendum on the ballot for a referendum tax levy only if the resolution is first approved by the emergency manager. (10) Deletes the provision that would allow the EERB to petition the DUAB to consider a school corporation for designation as distressed. (11) Deletes the provision that would require the implementation of Governmental Accounting Standards Board generally accepted accounting principles as one of the conditions that must be met before the termination of a political subdivision's designation as a distressed political subdivision.)

Effective: Upon passage.



CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 567 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.149-2016,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 1.5. (a) Whenever any state governmental
5 official or employee, whether elected or appointed, is made a party to
6 a suit, and the attorney general determines that said suit has arisen out
7 of an act which such official or employee in good faith believed to be
8 within the scope of the official's or employee's duties as prescribed by
9 statute or duly adopted regulation, the attorney general shall defend
10 such person throughout such action.
11 (b) Whenever a teacher (as defined in IC 20-18-2-22) is made a
12 party to a civil suit, and the attorney general determines that the suit
13 has arisen out of an act that the teacher in good faith believed was
14 within the scope of the teacher's duties in enforcing discipline policies
15 developed under IC 20-33-8-12, the attorney general shall defend the
16 teacher throughout the action.
17 (c) Not later than July 30 of each year, the attorney general, in
18 consultation with the Indiana education employment relations board
19 established in IC 20-29-3-1, shall draft and disseminate a letter by first
20 class mail to the residence of teachers providing a summary of the
21 teacher's rights and protections under state and federal law, including

1 a teacher's rights and protections relating to the teacher's performance
2 evaluation under IC 20-28-11.5.

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

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

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

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

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

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

- 33 (1) an internal control officer; and
- 34 (2) an internal control department;

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

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

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

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

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

- 49 (1) acknowledge receipt of the request; and
- 50 (2) notify the requesting audited entity that the request is:
51 (A) approved; or

- 1 (B) disapproved.
- 2 (d) The state board of accounts shall approve a request under
- 3 subsection (b) by an audited entity if the state examiner determines
- 4 that:
- 5 (1) the audited entity filed the written request under subsection
- 6 (b) with the state board of accounts more than one hundred eighty
- 7 (180) days before the beginning of the audited entity's fiscal year;
- 8 (2) the audited entity selects the certified public accountant in
- 9 accordance with the selection procedure under this section;
- 10 (3) the certified public accountant selected by the audited entity
- 11 is:
- 12 (A) licensed in Indiana; and
- 13 (B) qualified to conduct examinations in accordance with the
- 14 government auditing standards adopted by the state board of
- 15 accounts;
- 16 (4) the certified public accountant's examination shall:
- 17 (A) be conducted in accordance with the guidelines
- 18 established by the state board of accounts; and
- 19 (B) make findings regarding the audited entity's compliance
- 20 with the uniform compliance guidelines established by the
- 21 state board of accounts;
- 22 (5) the certified public accountant's examination is paid for by the
- 23 audited entity; and
- 24 (6) the certified public accountant's examination of the audited
- 25 entity includes:
- 26 (A) all associated component units;
- 27 (B) audits required or necessary for federal financial
- 28 assistance;
- 29 (C) findings of noncompliance with state law and uniform
- 30 compliance guidelines as required by IC 5-11-5-1; and
- 31 (D) a separate report in accordance with the guidelines
- 32 established by the state board of accounts for any items of
- 33 noncompliance identified.
- 34 (e) The audited entity must use the following selection procedures:
- 35 (1) The legislative body of the audited entity shall establish an
- 36 audit committee to facilitate the selection of a certified public
- 37 accountant. The audit committee shall be composed of the
- 38 following three (3) members:
- 39 (A) One (1) member of the legislative body appointed by the
- 40 legislative body.
- 41 (B) One (1) certified public accountant appointed by the
- 42 legislative body who is not the fiscal officer or an employee of
- 43 the audited entity.
- 44 (C) One (1) person appointed by the executive of the audited
- 45 entity who is qualified due to an involvement with financial
- 46 matters, and who is not the fiscal officer or an employee of the
- 47 audited entity.
- 48 Each member shall be appointed for a three (3) year term and
- 49 shall serve without compensation. However, a member appointed
- 50 under subdivision (1)(A) who ceases to hold the office of

- 1 legislative body member ceases to be a member of the audit
2 committee. A member may not have a contractual relationship,
3 financial interest, or political affiliation with the certified public
4 accountant selected.
- 5 (2) The audit committee established under subdivision (1) shall
6 do the following:
- 7 (A) Establish factors to evaluate the audit services provided by
8 a certified public accountant, including:
- 9 (i) experience;
10 (ii) ability to perform the required services;
11 (iii) capability to follow the guidelines and standards
12 adopted by the state board of accounts;
13 (iv) ability to timely complete all necessary components of
14 the examination; and
15 (v) any other factors considered necessary by the audit
16 committee.
- 17 (B) Publish notice of a request for proposals under IC 5-3-1
18 that includes:
- 19 (i) a brief description of the audit requirements;
20 (ii) a time frame;
21 (iii) application procedures;
22 (iv) evaluation criteria; and
23 (v) any other items considered necessary by the audit
24 committee.
- 25 (C) Evaluate the proposals submitted by qualified certified
26 public accountants. If compensation is a factor established
27 under clause (A), it may not be the sole factor used to evaluate
28 proposals.
- 29 (D) Rank and recommend in order of preference not fewer
30 than three (3) certified public accountants considered most
31 highly qualified on the factors established under clause (A). If
32 fewer than three (3) certified public accountants respond to the
33 request for proposals, the audit committee shall recommend
34 the remaining qualified certified public accountants in order
35 of preference.
- 36 (3) The legislative body of the audited entity shall select a
37 qualified certified public accountant from the list recommended
38 by the audit committee and shall negotiate a contract with the
39 certified public accountant using one (1) of the following
40 methods:
- 41 (A) If compensation is a factor established under subdivision
42 (2)(A), the legislative body shall:
- 43 (i) select; or
44 (ii) document the reason for not selecting;
45 the highest ranked certified public accountant.
- 46 (B) If compensation is not a factor established under
47 subdivision (2)(A), the legislative body shall negotiate a
48 contract with the highest ranked qualified certified public
49 accountant. If unable to negotiate a satisfactory contract with
50 the highest ranked qualified certified public accountant, the

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

- 1 audited entity.
- 2 (F) The certified public accountant shall deliver the completed
3 examination report to the state board of accounts:
4 (i) at the same time as the audited entity; and
5 (ii) not later than thirty (30) days after completion of the
6 examination.
- 7 The report shall be in a readable format prescribed by the state
8 board of accounts.
- 9 (G) All work papers supporting the examination report shall be
10 available for review by the state board of accounts.
- 11 (6) If a legislative body of an audited entity renews a written
12 contract with a certified public accountant that was entered into
13 in accordance with this section, the legislative body may renew
14 the contract without complying with the selection procedures in
15 this subsection.
- 16 (f) The certified public accountant must deliver the completed
17 examination report to the state board of accounts not later than thirty
18 (30) days after completion of the examination. The state board of
19 accounts shall review the examination report and may:
20 (1) ask questions of the certified public accountant;
21 (2) review the examination work papers; and
22 (3) take any other actions necessary to verify that the guidelines
23 and standards adopted by the state board of accounts have been
24 satisfied.
- 25 (g) If the certified public accountant's examination:
26 (1) satisfies the guidelines and standards adopted by the state
27 board of accounts, the state examiner shall publicly file the
28 examination report under IC 5-11-5-1; or
29 (2) fails to satisfy the guidelines and standards adopted by the
30 state board of accounts:
31 (A) the state board of accounts shall perform the audit; and
32 (B) the audited entity shall reimburse the state board of
33 accounts for the actual and direct cost of performing the
34 examination.
- 35 (h) An audited entity that engages a certified public accountant
36 under this section shall reimburse the state board of accounts for all
37 direct and indirect costs incurred by the state board of accounts for any
38 technical assistance and support requested by the audited entity.
- 39 (i) An audited entity may terminate the use of a certified public
40 accountant engaged under this section if:
41 (1) the termination is approved by resolution adopted by the
42 legislative body of the audited entity; and
43 (2) written notice of the termination is provided to the state board
44 of accounts more than one hundred eighty (180) days before the
45 beginning of the audited entity's fiscal year.
- 46 (j) Conducting an examination of an audited entity by a certified
47 public accountant does not prohibit the state board of accounts from
48 conducting a compliance review of the audited entity or an examination
49 under section 9.5 of this chapter on the schedule determined by the
50 state board of accounts.

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

6 (1) for examined year 2015 or 2016;

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

10 (3) that meets all the other requirements of section 24.4 of this
 11 chapter;

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

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

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

19 SECTION 4. IC 6-1.1-20.3-2, AS AMENDED BY P.L.234-2013,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 2. As used in this chapter, "distressed political
 22 subdivision" means a political subdivision designated as a distressed
 23 political subdivision by the board under section 6.5, 6.7, or 7.1 of this
 24 chapter or a school corporation designated as a distressed political
 25 subdivision by section 6.8 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

3 **The member is a nonvoting member.**

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

6 **(A) is a member of the senate; and**

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

8 **The member is a nonvoting member.**

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

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

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

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

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

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

30 (1) ~~Jointly~~ File a petition with the board seeking relief under
31 section 8.3 of this chapter.

32 (2) ~~Jointly~~ File a petition with the board seeking to have the
33 school corporation designated as a distressed political subdivision
34 under this chapter.

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

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

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

47 SECTION 7. IC 6-1.1-20.3-6.5, AS AMENDED BY P.L.257-2013,
48 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
49 UPON PASSAGE]: Sec. 6.5. (a) After the board receives a petition
50 concerning a political subdivision under section 6(a), ~~or~~ 6(b)(2), **or**
51 **6(c)** of this chapter, the board may designate the political subdivision

1 as a distressed political subdivision if at least one (1) of the following
2 conditions applies to the political subdivision:

3 (1) The political subdivision has defaulted in payment of principal
4 or interest on any of its bonds or notes.

5 (2) The political subdivision has failed to make required
6 payments to payroll employees for thirty (30) days or two (2)
7 consecutive payrolls.

8 (3) The political subdivision has failed to make required
9 payments to judgment creditors for sixty (60) days beyond the
10 date of the recording of the judgment.

11 (4) The political subdivision, for at least thirty (30) days beyond
12 the due date, has failed to do any of the following:

13 (A) Forward taxes withheld on the incomes of employees.

14 (B) Transfer employer or employee contributions due under
15 the Federal Insurance Contributions Act (FICA).

16 (C) Deposit the political subdivision's minimum obligation
17 payment to a pension fund.

18 (5) The political subdivision has accumulated a deficit equal to
19 eight percent (8%) or more of the political subdivision's revenues.
20 For purposes of this subdivision, "deficit" means a negative fund
21 balance calculated as a percentage of revenues at the end of a
22 budget year for any governmental or proprietary fund. The
23 calculation must be presented on an accrual basis according to
24 generally accepted accounting principles.

25 (6) The political subdivision has sought to negotiate a resolution
26 or an adjustment of claims that in the aggregate:

27 (A) exceed thirty percent (30%) of the political subdivision's
28 anticipated annual revenues; and

29 (B) are ninety (90) days or more past due.

30 (7) The political subdivision has carried over interfund loans for
31 the benefit of the same fund at the end of two (2) successive
32 years.

33 (8) The political subdivision has been severely affected, as
34 determined by the board, as a result of granting the property tax
35 credits under IC 6-1.1-20.6.

36 (9) In addition to the conditions listed in subdivisions (1) through
37 (8), and in the case of a school corporation, the board may also
38 designate a school corporation as a distressed political
39 subdivision if at least one (1) of the following conditions applies:

40 (A) The school corporation has:

41 (i) issued refunding bonds under IC 5-1-5-2.5; or

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

45 (B) The ratio that the amount of the school corporation's debt
46 (as determined in December 2010) bears to the school
47 corporation's 2011 ADM ranks in the highest ten (10) among
48 all school corporations.

49 (C) The ratio that the amount of the school corporation's debt
50 (as determined in December 2010) bears to the school

1 corporation's total assessed valuation for calendar year 2011
 2 ranks in the highest ten (10) among all school corporations.
 3 (D) The amount of homestead assessed valuation in the school
 4 corporation for calendar year 2011 was at least sixty percent
 5 (60%) of the total amount of assessed valuation in the school
 6 corporation for calendar year 2011.

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

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

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

19 (1) the treasurer of state; ~~and~~
 20 (2) the county auditor and county treasurer of each county in
 21 which the distressed political subdivision is wholly or partially
 22 located; **and**

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

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

27 SECTION 8. IC 6-1.1-20.3-6.8 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE UPON PASSAGE]: **Sec. 6.8. (a) This section applies**
 30 **only to the Gary Community School Corporation.**

31 **(b) The general assembly finds that the provisions of this**
 32 **section:**

33 **(1) are necessary to address the unique issues faced by the**
 34 **Gary Community School Corporation; and**
 35 **(2) are not precedent for and may not be appropriate for**
 36 **addressing issues faced by other school corporations.**

37 **(c) As used in this section, the following definitions apply:**

38 **(1) "Chief academic officer" means the chief academic officer**
 39 **appointed under subsection (j).**

40 **(2) "Chief financial officer" means the chief financial officer**
 41 **appointed under subsection (i).**

42 **(3) "Governing body" refers to the governing body of the**
 43 **Gary Community School Corporation.**

44 **(4) "School corporation" refers to the Gary Community**
 45 **School Corporation.**

46 **(d) The Gary Community School Corporation is designated as**
 47 **a distressed political subdivision for purposes of this chapter until**
 48 **the school corporation's designation as a distressed political**
 49 **subdivision is terminated as provided in section 13(b) of this**
 50 **chapter. This designation as a distressed political subdivision is**
 51 **effective regardless of whether the school corporation has**

1 submitted a petition requesting to be designated as a distressed
 2 political subdivision. Until the school corporation's designation as
 3 a distressed political subdivision is terminated as provided in
 4 section 13(b) of this chapter, the governing body of the school
 5 corporation may not meet more often than once each month. In
 6 addition to any other powers of the financial specialist appointed
 7 under section 6.9 of this chapter, during the period after the
 8 effective date of this section and before an emergency manager is
 9 appointed for the school corporation, the financial specialist may
 10 identify and implement labor force reductions, including contract
 11 cancellations as provided in IC 20-28-7.5 due to a reduction in
 12 force.

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

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

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

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

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

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

42 (4) Before appointing the emergency manager, the distressed
 43 unit appeal board shall interview at least one (1) resident of
 44 the city of Gary as a candidate for the position. If the
 45 distressed unit appeal board is not able to interview a resident
 46 of the city of Gary as a candidate for the position, the
 47 distressed unit appeal board shall interview at least one (1)
 48 individual who is a resident of Lake County or northwest
 49 Indiana as a candidate for the position.

50 The appointment of the emergency manager for the school
 51 corporation is terminated on the date the school corporation's

1 designation as a distressed political subdivision is terminated as
2 provided in section 13(b) of this chapter.

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

7 (1) The distressed unit appeal board may delay or suspend,
8 for a period determined by the board, any payments of
9 principal or interest, or both, that would otherwise be due
10 from the school corporation on loans or advances from the
11 common school fund.

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

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

24 (4) The distressed unit appeal board may provide a grant or
25 grants to the school corporation from funds appropriated to
26 the distressed unit appeal board, in amounts determined by
27 the distressed unit appeal board, to assist the school
28 corporation in overcoming short term financial problems.

29 (5) The distressed unit appeal board may make a
30 recommendation to the general assembly concerning the
31 possible restructuring of advances made to the school
32 corporation from the common school fund, including
33 forgiveness of principal and interest on those advances.

34 (g) The fiscal management board is established. The fiscal
35 management board consists of the following members:

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

37 (2) One (1) member appointed by the mayor of the city of
38 Gary.

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

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

45 (h) The following apply to the fiscal management board and to
46 the members of the fiscal management board:

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

- 1 appointing authority.
- 2 **(2) A member of the fiscal management board must have the**
- 3 **following:**
- 4 **(A) At least three (3) years experience in financial**
- 5 **management.**
- 6 **(B) A meaningful background and work experience in**
- 7 **finance and business.**
- 8 **(C) An understanding of government contracts.**
- 9 **(D) Knowledge and experience in organizational**
- 10 **effectiveness, operations management, and implementing**
- 11 **best practices.**
- 12 **(E) Experience in budget development and oversight.**
- 13 **(F) A demonstrated commitment to high professional and**
- 14 **ethical standards and a diverse workplace.**
- 15 **(G) An understanding of tax and other compliance**
- 16 **implications.**
- 17 **(3) A member of the governing body may not serve as a**
- 18 **member of the fiscal management board.**
- 19 **(4) The fiscal management board:**
- 20 **(A) shall make recommendations to the emergency**
- 21 **manager; and**
- 22 **(B) shall advise the emergency manager as requested by**
- 23 **the emergency manager.**
- 24 **(5) The members of the fiscal management board are not**
- 25 **entitled to any compensation for their service on the fiscal**
- 26 **management board.**
- 27 **(6) The fiscal management board is abolished, and the terms**
- 28 **of the members of the fiscal management board are**
- 29 **terminated, on the date the school corporation's designation**
- 30 **as a distressed political subdivision is terminated as provided**
- 31 **in section 13(b) of this chapter.**
- 32 **(7) Under the supervision of the emergency manager, the**
- 33 **fiscal management board shall serve as a liaison to and shall**
- 34 **work jointly with the distressed unit appeal board, the mayor**
- 35 **of the city of Gary, and the department of education to**
- 36 **develop a transition plan to address issues or questions related**
- 37 **to:**
- 38 **(A) the designation of the school corporation as a**
- 39 **distressed political subdivision and the transfer of powers**
- 40 **and duties to the emergency manager under this chapter;**
- 41 **and**
- 42 **(B) the potential impact of the transition on the community**
- 43 **and the school corporation.**
- 44 **(8) Under the supervision of the emergency manager, the**
- 45 **fiscal management board shall work jointly with the**
- 46 **distressed unit appeal board, the mayor of the city of Gary,**
- 47 **and the department of education to provide information on a**
- 48 **regular basis to parents, students, employees of the school**
- 49 **corporation, and the public on the status of the transition.**
- 50 **(i) The emergency manager shall employ a chief financial officer**
- 51 **for the school corporation. The chief financial officer is an**

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

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

20 Before employing a chief financial officer under this subsection, the
 21 emergency manager shall interview at least one (1) resident of the
 22 city of Gary as a candidate for the position. If the emergency
 23 manager is not able to interview a resident of the city of Gary as a
 24 candidate for the position, the emergency manager shall interview
 25 at least one (1) individual who is a resident of Lake County or
 26 northwest Indiana as a candidate for the position.

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

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

51 Before employing a chief academic officer under this subsection,

1 the emergency manager shall interview at least one (1) resident of
2 the city of Gary as a candidate for the position. If the emergency
3 manager is not able to interview a resident of the city of Gary as a
4 candidate for the position, the emergency manager shall interview
5 at least one (1) individual who is a resident of Lake County or
6 northwest Indiana as a candidate for the position.

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

32 (n) In consultation with the fiscal management board, the
33 governing body, and the mayor of the city of Gary, the emergency
34 manager shall do the following:

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

37 (2) Develop a written financial plan for the school
38 corporation. The object of the plan must be to achieve
39 financial stability for the school corporation, and the plan
40 must include provisions for paying all of the school
41 corporation's outstanding obligations and for paying all
42 future obligations of the school corporation (including any
43 federal, state, or local taxes or assessments) in a timely
44 manner.

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

50 (1) information concerning the actions that the school
51 corporation is taking to improve the financial condition of the

1 school corporation; and

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

4 The emergency manager shall report more frequently than
5 quarterly if requested by the distressed unit appeal board. The
6 emergency manager shall provide copies of the report to the
7 governing body, the fiscal management board, and the mayor of
8 the city of Gary. The emergency manager shall present each report
9 at a public meeting of the fiscal management board.

10 (p) The school corporation shall do the following:

11 (1) Publish a copy of each report under subsection (o) on the
12 school corporation's Internet web site, along with a link to the
13 main page of the Indiana transparency Internet web site
14 established under IC 5-14-3.7 to provide access to financial
15 data for local schools.

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

18 (3) Provide copies of each report to the mayor of the city of
19 Gary. The mayor shall make copies of the reports available
20 free of charge to the public upon request.

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

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

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

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

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

37 (5) A plan specifying how the school corporation will work
38 directly with the city of Gary:

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

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

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

49 (r) During the period after the effective date of this section and
50 before an emergency manager is appointed for the school
51 corporation, the governing body may not enter into or renew any

1 **contract unless that contract or contract renewal is first approved**
 2 **by the distressed unit appeal board.**

3 SECTION 9. IC 6-1.1-20.3-7.1 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE UPON PASSAGE]: **Sec. 7.1. (a) This section applies**
 6 **only to the Muncie Community Schools.**

7 **(b) The general assembly finds that the provisions of this**
 8 **section:**

9 **(1) are necessary to address the unique issues faced by the**
 10 **Muncie Community Schools; and**

11 **(2) are not precedent for and may not be appropriate for**
 12 **addressing issues faced by other school corporations.**

13 **(c) As used in this section, the following definitions apply:**

14 **(1) "Emergency manager" includes a temporary emergency**
 15 **manager appointed under this section.**

16 **(2) "Governing body" refers to the governing body of the**
 17 **Muncie Community Schools.**

18 **(3) "School corporation" refers to the Muncie Community**
 19 **Schools.**

20 **(d) Muncie Community Schools is designated as a fiscally**
 21 **impaired school corporation. The school corporation's designation**
 22 **as a fiscally impaired school corporation terminates on January 1,**
 23 **2018. The school corporation's designation as a fiscally impaired**
 24 **school corporation is not a designation of the school corporation as**
 25 **a distressed political subdivision for purposes of this chapter. The**
 26 **school corporation's designation as a fiscally impaired school**
 27 **corporation is effective regardless of whether the school**
 28 **corporation has submitted a petition under this section requesting**
 29 **to be designated as a fiscally impaired school corporation. The**
 30 **board shall appoint an emergency manager for the school**
 31 **corporation. Notwithstanding section 7.5(d) of this chapter, the**
 32 **board shall determine the compensation of the emergency**
 33 **manager, pay the emergency manager's compensation, and**
 34 **reimburse the emergency manager for actual and necessary**
 35 **expenses from funds appropriated to the board. Upon the effective**
 36 **date of this section, the board may immediately appoint the**
 37 **superintendent of the Muncie Community Schools as the**
 38 **emergency manager for the school corporation on a temporary**
 39 **basis. The appointment of the superintendent as the emergency**
 40 **manager may continue for not more than six (6) months. However,**
 41 **the superintendent may be considered for the permanent**
 42 **emergency manager position.**

43 **(e) Notwithstanding the powers, authority, and responsibilities**
 44 **otherwise granted to an emergency manager under this chapter,**
 45 **before January 1, 2018, the emergency manager appointed for the**
 46 **school corporation has only the following powers, authority, and**
 47 **responsibilities:**

48 **(1) The emergency manager shall:**

49 **(A) take actions necessary to implement the deficit**
 50 **reduction plan that was presented at a public meeting of**
 51 **the governing body on April 17, 2017; and**

- 1 **(B) work with the governing body and the superintendent**
2 **to:**
3 **(i) achieve financial stability for the school corporation;**
4 **(ii) provide for the payment of the school corporation's**
5 **outstanding debt obligations and anticipated future debt**
6 **obligations; and**
7 **(iii) align the school corporation's personnel and**
8 **facilities with the anticipated revenues and enrollment of**
9 **the school corporation.**
- 10 **(2) The emergency manager may on behalf of the school**
11 **corporation negotiate and enter into labor contracts and**
12 **collective bargaining agreements. The emergency manager**
13 **shall also review existing labor contracts and collective**
14 **bargaining agreements, and if the emergency manager**
15 **considers it appropriate, the emergency manager may on**
16 **behalf of the school corporation attempt to renegotiate such**
17 **a labor contract or collective bargaining agreement.**
- 18 **(3) Subject to labor contracts and collective bargaining**
19 **agreements applicable to the school corporation and any**
20 **obligations to inform the governing body or the**
21 **superintendent, the emergency manager may do any of the**
22 **following:**
- 23 **(A) Set the salaries and other compensation of the school**
24 **corporation's employees.**
- 25 **(B) Identify and implement labor force reductions.**
- 26 **(C) Outsource services performed by employees of the**
27 **school corporation.**
- 28 **(4) The emergency manager may do any of the following:**
- 29 **(A) Close facilities of the school corporation.**
- 30 **(B) Sell, transfer, or lease property of the school**
31 **corporation. If the emergency manager sells real property,**
32 **any political subdivision that has territory where the real**
33 **property is located and institutions of higher education**
34 **with real property located in Indiana shall be given a thirty**
35 **(30) day first right to make an offer to purchase the real**
36 **property. Ball State University shall have the right of first**
37 **refusal for any property sold, transferred, or leased under**
38 **this subsection. The emergency manager shall determine**
39 **whether it is appropriate to accept one (1) of these offers**
40 **and shall negotiate the terms and conditions of the sale of**
41 **the real property to the offeror.**
- 42 **(5) The emergency manager must approve any of the**
43 **following actions by the school corporation before the school**
44 **corporation may take the action:**
- 45 **(A) Acquiring real property.**
- 46 **(B) Constructing new buildings or remodeling or**
47 **renovating existing buildings.**
- 48 **(C) Incurring a contractual obligation that requires an**
49 **expenditure of more than thirty thousand dollars**
50 **(\$30,000).**
- 51 **(D) Purchasing or entering into an agreement to purchase**

- 1 personal property at a cost of more than thirty thousand
2 dollars (\$30,000).
- 3 (E) Making, approving, or disapproving the following:
- 4 (i) A loan.
- 5 (ii) The creation of any new position.
- 6 (iii) The filling of any vacant position.
- 7 (6) The emergency manager shall submit a written report to
8 the board and the governing body each month concerning the
9 following:
- 10 (A) Actions taken by the emergency manager and the
11 school corporation.
- 12 (B) Expenditures made by the school corporation.
- 13 (C) The progress that has been made toward achieving
14 financial stability for the school corporation.
- 15 The emergency manager, rather than the governing body or the
16 superintendent of the school corporation, has and shall exercise the
17 powers, authority, and responsibilities described in subdivisions (1)
18 through (6), including the authority to negotiate and enter into
19 labor contracts and collective bargaining agreements on behalf of
20 the school corporation. This subsection expires January 1, 2018.
- 21 (f) The school corporation's designation as a fiscally impaired
22 school corporation terminates on January 1, 2018. The board shall,
23 not later than December 1, 2017, hold a public hearing to
24 determine if the school corporation should be designated as a
25 distressed political subdivision for purposes of this chapter
26 effective January 1, 2018. After holding the public hearing, the
27 board shall do one (1) of the following:
- 28 (1) If the board finds that:
- 29 (A) the school corporation has developed and is
30 implementing a deficit reduction plan described in
31 subsection (e)(1);
- 32 (B) the actions taken by the school corporation to
33 implement the deficit reduction plan have resulted in
34 progress toward achieving financial stability for the school
35 corporation; and
- 36 (C) it is in the best interest of the students, the community,
37 and the school corporation and its employees to not
38 designate the school corporation as a distressed political
39 subdivision;
- 40 the board shall adopt a resolution providing that the school
41 corporation will not be designated as a distressed political
42 subdivision under this chapter. If the board adopts such a
43 resolution, the school corporation is not subject to this
44 chapter after December 31, 2017.
- 45 (2) If the board does not adopt a resolution under subdivision
46 (1), the board shall adopt a resolution designating the school
47 corporation as a distressed political subdivision effective
48 January 1, 2018.
- 49 (g) If the board adopts a resolution under subsection (f)(1)
50 providing that the school corporation will not be designated as a
51 distressed political subdivision, the position of the emergency

1 manager is terminated on January 1, 2018.

2 (h) If the board adopts a resolution under subsection (f)(2)
3 providing that the school corporation is designated as a distressed
4 political subdivision effective January 1, 2018:

5 (1) the emergency manager shall, effective January 1, 2018,
6 assume and exercise all of the powers, authority, and
7 responsibilities granted to emergency managers of school
8 corporations under this chapter; and

9 (2) the school corporation's designation as a distressed
10 political subdivision continues until that designation is
11 terminated as provided in section 13(b) of this chapter.

12 (i) The following apply while the school corporation is
13 designated as a fiscally impaired school corporation and, if the
14 board adopts a resolution under subsection (f)(2), while the school
15 corporation is designated as a distressed political subdivision:

16 (1) The school corporation may approve a controlled project
17 under IC 6-1.1-20 that requires a petition and remonstrance
18 process or a local public question only if the controlled project
19 is first approved by the emergency manager.

20 (2) The governing body may adopt a resolution to place a
21 referendum on the ballot for a referendum tax levy under
22 IC 20-46-1 only if the resolution is first approved by the
23 emergency manager.

24 SECTION 10. IC 6-1.1-20.3-7.5, AS AMENDED BY P.L.2-2014,
25 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 7.5. (a) This section does not apply to a school
27 corporation designated before July 1, 2013, as a distressed political
28 subdivision.

29 (b) If the board designates a political subdivision as a distressed
30 political subdivision under section 6.5, ~~or 6.7~~, **or 7.1** of this chapter **or**
31 **if a political subdivision is designated as a distressed political**
32 **subdivision by section 6.8 of this chapter**, the board shall appoint an
33 emergency manager for the distressed political subdivision. **The board**
34 **shall appoint an emergency manager for a school corporation**
35 **designated by section 7.1 of this chapter as a fiscally impaired**
36 **school corporation**. An emergency manager serves at the pleasure of
37 the board. **For purposes of IC 34-13, an emergency manager**
38 **appointed under this section is acting on behalf of the distressed**
39 **political subdivision and not the state.**

40 (c) The chairperson of the board shall oversee the activities of an
41 emergency manager.

42 (d) **Except as provided in this chapter**, the distressed political
43 subdivision shall pay the emergency manager's compensation and
44 reimburse the emergency manager for actual and necessary expenses.

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

51 (f) The attorney general may represent a member of a fiscal

1 management board, an emergency manager, a chief financial
 2 officer, or a chief academic officer in a legal action arising out of
 3 the exercise of powers granted under this chapter, if the member
 4 of a fiscal management board, emergency manager, chief financial
 5 officer, or chief academic officer makes a written request to the
 6 attorney general requesting representation. The attorney general
 7 may not represent a member of a fiscal management board, an
 8 emergency manager, a chief financial officer, or a chief academic
 9 officer under this subsection if the legal action is initiated or the
 10 claim is asserted by the member of the fiscal management board,
 11 emergency manager, or the distressed political subdivision. If the
 12 attorney general represents a member of a fiscal management
 13 board, an emergency manager, a chief financial officer, or a chief
 14 academic officer under this subsection, the member of a fiscal
 15 management board, emergency manager, chief financial officer, or
 16 chief academic officer is entitled to recover attorney's fees from the
 17 losing party to the extent the member of the fiscal management
 18 board, emergency manager, chief financial officer, or chief
 19 academic officer prevails. Any attorney's fees recovered shall be
 20 deposited in the state general fund.

21 SECTION 11. IC 6-1.1-20.3-8.5, AS AMENDED BY P.L.2-2014,
 22 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 8.5. (a) This section does not apply to a school
 24 corporation designated before July 1, 2013, as a distressed political
 25 subdivision. **This section applies to the Muncie Community Schools**
 26 **designation under section 7.1 of this chapter only if the board**
 27 **adopts a resolution under section 7.1(f)(2) of this chapter**
 28 **designating the school corporation as a distressed political**
 29 **subdivision.**

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

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

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

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

51 (4) ~~Conduct a financial and compliance audit of the internal~~

- 1 operations of the political subdivision.
- 2 (5) Develop a written financial plan in consultation with the
- 3 officials of the political subdivision not later than six (6) months
- 4 after appointment.
- 5 (6) Develop a plan for paying all the political subdivision's
- 6 outstanding obligations.
- 7 (7) Review **(3) Reviewing** existing labor contracts and collective
- 8 **bargaining agreements, and negotiating and entering into**
- 9 **labor contracts and collective bargaining agreements.**
- 10 (8) ~~Adopt~~ **(4) Adopting** a budget for the political subdivision for
- 11 each calendar or fiscal year, as applicable, that the political
- 12 subdivision remains a distressed political subdivision.
- 13 (9) ~~Review~~ **(5) Approving** payrolls and other claims against the
- 14 political subdivision before payment.
- 15 (10) ~~Make, approve, or disapprove~~ **(6) Making, approving, or**
- 16 **disapproving** the following:
- 17 (A) A contract.
- 18 (B) An expenditure.
- 19 (C) A loan.
- 20 (D) The creation of any new position.
- 21 (E) The filling of any vacant position.
- 22 (11) ~~Submit a written report to the board every three (3) months~~
- 23 ~~concerning:~~
- 24 (A) actions taken by the emergency manager;
- 25 (B) expenditures made by the distressed political subdivision;
- 26 and
- 27 (C) the work that has been done to remove the distressed
- 28 political subdivision from distressed status.
- 29 **(7) Identifying and implementing labor force reductions.**
- 30 **(8) Outsourcing services performed by employees of the**
- 31 **distressed political subdivision.**
- 32 **(9) Renegotiating existing labor contracts and acting as an**
- 33 **agent of the political subdivision in collective bargaining.**
- 34 **(10) Reducing or suspending salaries of the political**
- 35 **subdivision's employees.**
- 36 **(11) Entering into agreements with other political**
- 37 **subdivisions for the provision of services.**
- 38 **(12) Selling assets, including real property, of the distressed**
- 39 **political subdivision. If real property is being sold, any**
- 40 **political subdivision that has territory where the real property**
- 41 **is located and institutions of higher education with real**
- 42 **property located in Indiana shall be given a thirty (30) day**
- 43 **first right to make an offer to purchase the real property. The**
- 44 **emergency manager shall determine whether it is appropriate**
- 45 **to accept one (1) of these offers and shall negotiate the terms**
- 46 **and conditions of the sale of the real property to the offeror.**
- 47 **In the case of an emergency manager appointed for the Gary**
- 48 **Community School Corporation, the emergency manager**
- 49 **shall provide written notice to the mayor of the city of Gary**
- 50 **at least thirty (30) days before selling assets under this**
- 51 **subdivision. If the mayor of the city of Gary notifies the**

1 emergency manager of any concerns or objections regarding
 2 the proposed sale of the asset, the emergency manager must
 3 confer with the mayor regarding those concerns or objections.

4 **(13) Closing facilities of the distressed political subdivision.**

5 **(14) Requesting technical assistance from the board and state**
 6 **agencies to assist in carrying out the powers and duties**
 7 **outlined in this subsection, including assistance from the**
 8 **Indiana department of administration in evaluating and**
 9 **assessing facilities.**

10 **(15) Reviewing each contract that is in effect and not covered**
 11 **by subdivision (3) and, if prudent, renegotiating or canceling**
 12 **the contract to the extent permitted by the contract.**

13 **(16) Transferring property not needed by the distressed**
 14 **political subdivision. In the case of an emergency manager**
 15 **appointed for the Gary Community School Corporation, the**
 16 **emergency manager shall provide written notice to the mayor**
 17 **of the city of Gary at least thirty (30) days before transferring**
 18 **property under this subdivision. If the mayor of the city of**
 19 **Gary notifies the emergency manager of any concerns or**
 20 **objections regarding the proposed transfer of the property,**
 21 **the emergency manager must confer with the mayor**
 22 **regarding those concerns or objections.**

23 **(17) Acquiring real property that is necessary to achieve the**
 24 **goals expressed in the financial plan.**

25 **(18) Requesting a waiver from the application of**
 26 **IC 6-1.1-20.6-9.8 in order to use IC 6-1.1-20.6-13 regarding**
 27 **the allocation of protected taxes. To request a waiver, the**
 28 **emergency manager must submit, before May 1 of the year**
 29 **for which a waiver is sought, a written request to the board.**
 30 **The board shall make a determination concerning the request,**
 31 **and if the waiver is granted the board shall provide, before**
 32 **June 1 of that year, a written certification of the**
 33 **determination to the department of local government finance.**

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

38 ~~(12) Petition~~ **(20) Petitioning** the board to terminate a political
 39 subdivision's status as a distressed political subdivision when the
 40 conditions found in section 6.5 of this chapter are no longer
 41 applicable to the political subdivision **and the conditions set**
 42 **forth in section 13(b) of this chapter are met.**

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

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

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

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

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

- 1 **(2) Conduct a financial and compliance audit of the internal**
 2 **operations of the political subdivision.**
 3 **(3) Report and make recommendations to the board**
 4 **regarding the following:**
 5 **(A) A written comprehensive financial plan in consultation**
 6 **with the officials of the political subdivision not later than**
 7 **six (6) months after appointment.**
 8 **(B) A comprehensive long term plan for paying all the**
 9 **political subdivision's outstanding obligations.**
 10 **(4) If the distressed political subdivision is a school**
 11 **corporation, report and make recommendations to the board**
 12 **regarding the following:**
 13 **(A) The geographic boundaries of the school corporation**
 14 **and alternative boundaries.**
 15 **(B) A long term plan for meeting transportation needs.**
 16 **(C) A long term plan for providing educational services.**
 17 **(D) A long term plan for providing noneducational**
 18 **services.**
 19 **(E) A long term plan for providing adequate personnel and**
 20 **a plan for compensation.**
 21 **(F) The capital plant of the school corporation and a long**
 22 **term plan for meeting the long term capital plant needs of**
 23 **the school corporation.**
 24 **(G) A new governance structure for the distressed political**
 25 **subdivision.**
 26 **(5) Submit a written report to the board each month**
 27 **concerning the following:**
 28 **(A) Actions taken by the emergency manager.**
 29 **(B) Expenditures made by the distressed political**
 30 **subdivision.**
 31 **(C) The progress that has been made toward removing the**
 32 **distressed political subdivision from distressed status.**
 33 **(d) Except as provided in section 13(d) of this chapter, an**
 34 **emergency manager of a distressed political subdivision retains the**
 35 **powers and duties described in subsections (b) and (c) until:**
 36 **(1) the emergency manager resigns or dies;**
 37 **(2) the board removes the emergency manager; or**
 38 **(3) the political subdivision's status as a distressed political**
 39 **subdivision is terminated under section 13(b) or 13(c) of this**
 40 **chapter.**
 41 **SECTION 12. IC 6-1.1-20.3-8.7, AS ADDED BY P.L.145-2012,**
 42 **SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 43 **UPON PASSAGE]: Sec. 8.7. (a) This section applies to the Muncie**
 44 **Community Schools designation under section 7.1 of this chapter**
 45 **only if the board adopts a resolution under section 7.1(f)(2) of this**
 46 **chapter designating the school corporation as a distressed political**
 47 **subdivision.**
 48 **(b) A school corporation that is designated a distressed political**
 49 **subdivision may not do any of the following without the approval of the**
 50 **board during the period before the board terminates the school**
 51 **corporation's status as a distressed political subdivision:**

- 1 (1) Acquire real property for school building purposes.
 2 (2) Construct new school buildings or remodel or renovate
 3 existing school buildings.
 4 (3) Incur a contractual obligation (except for a maintenance
 5 contract or an employment contract for a new employee whose
 6 employment replaces the employment of a former employee) that
 7 requires an expenditure of more than thirty thousand dollars
 8 (\$30,000).
 9 (4) Purchase or enter into an agreement to purchase personal
 10 property at a cost of more than thirty thousand dollars (\$30,000).
 11 (5) Adopt or advertise a budget, tax levy, or tax rate for an
 12 ensuing budget year.

13 SECTION 13. 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 board's meetings.**

18 SECTION 14. 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) This section applies to
 21 the Muncie Community Schools designation under section 7.1 of
 22 this chapter only if the board adopts a resolution under section
 23 7.1(f)(2) of this chapter designating the school corporation as a
 24 distressed political subdivision. This section does not apply to the
 25 Muncie Community Schools while the school corporation is
 26 designated as a fiscally impaired school corporation.**

27 **(b) A petition may be filed with the board to appeal a decision
 28 by the emergency manager.**

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

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

40 **(e) The board shall schedule a public meeting as soon as
 41 practicable to consider the petition.**

42 SECTION 15. IC 6-1.1-20.3-13, AS AMENDED BY P.L.249-2015,
 43 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 UPON PASSAGE]: Sec. 13. (a) If:

- 45 (1) an emergency manager of a distressed political subdivision;
 46 (2) the fiscal body and executive of the political subdivision
 47 jointly; or
 48 (3) the governing body of a school corporation that:
 49 (A) employs a new superintendent; or
 50 (B) has a new member elected or appointed to its governing
 51 body;

- 1 during the time the school corporation is a distressed political
 2 subdivision;
 3 files a petition with the board for termination of the political
 4 subdivision's status as a distressed political subdivision, the board shall
 5 conduct a public hearing on the question of whether to terminate the
 6 political subdivision's status as a distressed political subdivision.
- 7 (b) In the case of a political subdivision designated as distressed
 8 under section 6.5, **6.8, or 7.1** of this chapter, the board shall terminate
 9 the political subdivision's status as a distressed political subdivision if
 10 the board finds that the conditions found in section 6.5 of this chapter
 11 are no longer applicable to the political subdivision **and all the**
 12 **following conditions are met:**
- 13 **(1) The political subdivision has achieved and maintained**
 14 **financial solvency for a period of at least two (2) years,**
 15 **including the following:**
- 16 **(A) Maintaining a structurally balanced budget for at least**
 17 **two (2) years.**
- 18 **(B) Having no unpaid or past due critical contractual**
 19 **financial obligations or vendor payments.**
- 20 **(2) The political subdivision has a fiscal plan that maintains**
 21 **financial solvency for a period of at least five (5) years after**
 22 **the termination of its distressed status.**
- 23 **(3) The political subdivision meets all other conditions**
 24 **identified by the board.**
- 25 **(4) The board determines that the political subdivision is**
 26 **financially stable.**
- 27 (c) In the case of a township designated as distressed under section
 28 6.7 of this chapter, the board shall terminate the township's status as a
 29 distressed political subdivision if the board finds that the township's
 30 township assistance property tax rate (as defined in section 6.7(a) of
 31 this chapter) for the current calendar year is not more than the result of:
 32 (1) the statewide average township assistance property tax rate (as
 33 determined by the department of local government finance) for
 34 property taxes first due and payable in the preceding year;
 35 multiplied by
 36 (2) twelve (12).
- 37 (d) Notwithstanding any other section of this chapter, not later than
 38 ninety (90) days after taking office, a new executive of a distressed
 39 political subdivision may petition the board for suspension of the
 40 political subdivision's distressed status. In the case of a political
 41 subdivision designated as distressed under section 6.5 of this chapter,
 42 the executive must include in its petition a written plan to resolve the
 43 applicable issues described in section 6.5 of this chapter. In the case of
 44 a township designated as distressed under section 6.7 of this chapter,
 45 the executive must include in its petition a written plan to lower the
 46 township's township assistance property tax rate (as defined in section
 47 6.7(a) of this chapter). If the board approves the executive's written
 48 plan, the board may suspend the political subdivision's distressed status
 49 for one hundred eighty (180) days. Suspension under this chapter
 50 terminates automatically upon expiration of the one hundred eighty
 51 (180) day period. The board may consider a petition to terminate the

1 political subdivision's distressed status during a period of suspension.

2 SECTION 16. IC 6-1.1-20.6-13 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) A political subdivision**
5 **is eligible to allocate credits proportionately under this section if**
6 **the distressed unit appeal board has approved the waiver request**
7 **of the emergency manager for the political subdivision under**
8 **IC 6-1.1-20.3-8.5.**

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

17 SECTION 17. IC 20-26-7-1, AS AMENDED BY P.L.5-2015,
18 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]: Sec. 1. (a) As used in this section, "charter school"
20 has the meaning set forth in IC 20-24-1-4 and includes a group or entity
21 seeking approval from an authorizer to operate a charter school under
22 IC 20-24-3.

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

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

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

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

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

32 (1) established under applicable law; and

33 (2) that the governing body considers appropriate.

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

36 (e) This subsection does not apply to a school building that on July
37 1, 2011, is leased or loaned by the school corporation that owns the
38 school building to another entity, if the entity is not a building
39 corporation or other entity that is related in any way to, or created by,
40 the school corporation or the governing body. Except as provided in
41 subsections (k) through ~~(n)~~; **(o)**, a governing body shall make available
42 for lease or purchase to any charter school any school building owned
43 by the school corporation or any other entity that is related in any way
44 to, or created by, the school corporation or the governing body,
45 including but not limited to a building corporation, that:

46 (1) either:

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

49 (B) appears on the list compiled by the department under
50 subsection (f); and

51 (2) was previously used for classroom instruction;

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

2 (f) Not later than August 1 each calendar year, each governing body
3 shall inform the department if a school building that was previously
4 used for classroom instruction is closed, unused, or unoccupied. The
5 department shall maintain a list of closed, unused, or unoccupied
6 school buildings and make the list available on the department's
7 Internet web site. Each school corporation shall provide a list of closed,
8 unused, or unoccupied buildings to the department by the date set by
9 the department. The department must update the list not later than
10 fifteen (15) days after being notified of a closed, unused, or unoccupied
11 building.

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

29 (h) If a charter school wishes to use a school building on the list
30 created under subsection (f), the charter school shall send a letter of
31 intent to the department. Within thirty (30) days after receiving a letter
32 from a charter school, the department shall notify the school
33 corporation of the charter school's intent, and, within thirty (30) days
34 after receiving notification from the department, the school corporation
35 that owns the school building shall lease the school building to the
36 charter school for one dollar (\$1) per year for as long as the charter
37 school uses the school building for classroom instruction or for a term
38 at the charter school's discretion, or sell the school building to the
39 charter school for one dollar (\$1). The charter school must begin to use
40 the school building for classroom instruction not later than two (2)
41 years after acquiring the school building. If the school building is not
42 used for classroom instruction within two (2) years after acquiring the
43 school building, the school building shall be placed on the department's
44 list under subsection (f). If during the term of the lease the charter
45 school closes or ceases using the school building for classroom
46 instruction, the school building shall be placed on the department's list
47 under subsection (f). If a school building is sold to a charter school
48 under this subsection and the charter school or any entity related to the
49 charter school subsequently sells or transfers the school building to a
50 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
41 to the department in writing. In order for an objection to be considered
42 a qualified objection by the department, the objection must include:

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

49 (n) If the department receives a qualified objection under subsection
50 (m), the vacant or unused school building shall remain on the

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

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

12 SECTION 18. **An emergency is declared for this act.**

(Reference is to ESB 567 as reprinted April 6, 2017.)

Conference Committee Report
on
Engrossed Senate Bill 567

Signed by:

Senator Kenley
Chairperson

Representative Brown T

Senator Melton

Representative Bauer

Senate Conferees

House Conferees