

December 14, 2011

TO: School Board Members, Superintendents of Schools and School Business Officials

FROM: Frank Bush, ISBA Executive Director
John Ellis, IAPSS Executive Director
Denny Costerison, IASBO Executive Director

SUBJECT: **2012 Legislative Bulletin***

*This issue (2012-1) is emailed to all board members, superintendents and school business officials. During the legislative session the **Associations will email the Legislative Bulletin to their memberships rather than using postal mail**. Additionally, the Legislative Bulletins will be **posted on the Web sites** of the Associations. The Associations will utilize technology to communicate about the legislative process on a daily and/or weekly basis by sending emails on committee hearings and other legislative announcements and therefore will also use emails and Web sites to communicate the Legislative Bulletin.

LEGISLATIVE BULLETIN 2012-1

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What is the Legislative Bulletin?

The Bulletin is designed to present data on current legislative activity, which includes:

1. An analysis of important legislative developments; and.
2. A digest of introduced legislation influencing directly or indirectly the operations of the public schools.

Recipients may access the Legislative Bulletin via email or Web site:

<http://www.iapss-in.org/>

<http://www.indiana-asbo.org/>

<http://www.isba-ind.org/>

Complete copies of public education bills may be reviewed by accessing:

<http://www.in.gov/legislative/>

Who Receives the Bulletin?

All school board members, superintendents and school business officials will receive the **Legislative Bulletin 2012-1** via email or Web site from respective Associations.

Those not on the email address listings may access 2012 bulletins at the respective Associations Web sites as noted above.



2012 House and Senate Leadership Rosters

SENATE LEADERSHIP		
President	Becky Skillman	Lt. Governor
President Pro Tempore	David Long	(R) Ft. Wayne
Assistant President Pro Tempore	Sue Landske	(R) Cedar Lake
Majority Floor Leader	Connie Lawson	(R) Danville
Majority Floor Leader Emeritus	Johnny Nugent	(R) Lawrenceburg
Assistant Majority Floor Leader for Parliamentary Procedures	Brent Steele	(R) Bedford
Assistant Majority Floor Leader for Communications	Mike Delph	(R) Carmel
Majority Caucus Chair	James W. Merritt	(R) Indianapolis
Assistant Majority Caucus Chair	Richard Bray	(R) Martinsville
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Majority Whip	Brandt Hershman	(R) Monticello
Assistant Majority Whip	Travis Holdman	(R) Markle
Minority Floor Leader	Vi Simpson	(D) Bloomington
Assistant Minority Floor Leader	Timothy Lanane	(D) Anderson
Minority Leader Pro Tempore	Richard Young	(D) Milltown
Minority Caucus Chair	Jim Arnold	(D) LaPorte
Assistant Minority Caucus Chair	Jean Breaux	(D) Indianapolis
Minority Whip	Lindel Hume	(D) Princeton
Minority Whip	Earline Rogers	(D) Gary

HOUSE LEADERSHIP		
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Republican Floor Leader	Bill Friend	(R) Macy
Republican Caucus Chair	Kathy Richardson	(R) Noblesville
Republican Whip	David Frizzel	(R) Indianapolis
Assistant Republican Leader	P. Eric Turner	(R) Cicero
Democratic Leader	Patrick Bauer	(D) South Bend
Democratic Floor Leader	Linda Lawson	(D) Hammond
Democratic Caucus Chair	Gerald Grubb	(D) Covington
Democratic Whip	Kreg Battles	(D) Vincennes
Assistant Democratic Leader	Scott Pelath	(D) Michigan City
Assistant Democratic Floor Leader	Earl Harris	(D) East Chicago
Assistant Democratic Caucus Chair	Vanessa Summers	(D) Indianapolis
Assistant Democratic Whip	Gail Riecken	(D) Evansville

2012 Selected Committee Lists:

<u>SENATE EDUCATION & CAREER DEVELOPMENT</u>	
CHAIR: Dennis Kruse	(R) Auburn
RM: Carlin Yoder	(R) Middlebury
Jim Banks	(R) Indianapolis
Jim Buck	(R) Kokomo
Luke Kenley	(R) Noblesville
Jean Leising	(R) Oldenburg
Scott Schneider	(R) Indianapolis
R.M.M. Earlene Rogers	(D) Gary
Frank Mrvan	(D) Hammond
Tim Skinner	(D) Terre Haute

SENATE PENSIONS AND LABOR

CHAIR: Phil Boots	(R) Crawfordsville
RM: Brent Waltz	(R) Auburn
Jim Buck	(R) Kokomo
Dennis Kruse	(R) Auburn
Scott Schneider	(R) Indianapolis
Greg Walker	(R) Westfield
Mike Young	(R) Speedway
R.M.M. Karen Tallian	(D) Portage
James Arnold	(D) LaPorte
Tim Skinner	(D) Terre Haute

SENATE APPROPRIATIONS

CHAIR: Luke Kenley	(R) Noblesville
R.M. Ed Charbonneau	(R) Valparaiso
Phil Boots	(R) Crawfordsville
Brandt Hershman	(R) Monticello
Connie Lawson	(R) Danville
Patricia Miller	(R) Indianapolis
Ryan Mishler	(R) Bremen
Brent Waltz	(R) Indianapolis
Tom Wyss	(R) Ft. Wayne
R.M.M. John Broden	(D) South Bend
Lindel Hume	(D) Princeton
Karen Tallian	(D) Portage
Earlene Rogers	(D) Gary

SENATE TAX AND FISCAL POLICY

CHAIR: Brandt Hershman	(R) Monticello
R.M. Ryan Mishler	(R) Bremen
Jim Buck	(R) Kokomo
Mike Delph	(R) Carmel
RandyHead	(R) Logansport
Travis Holdman	(R) Markle
Luke Kenley	(R) Noblesville
Sue Landske	(R) Cedar Lake
Greg Walker	(R) Columbus
R.M.M. Tim Skinner	(D) Terre Haute
JeanBreux	(D) Indianapolis
John Broden	(D) South Bend
Lonnie Randolph	(D) East Chicago

HOUSE EDUCATION

CHAIR: Bob Behning	(R) Indianapolis
VICE CHAIR: Rhonda Rhoads	(R) Corydon
Tim Brown	(R) Crawfordsville
Edward Clere	(R) New Albany
David Frizzell	(R) Indianapolis
Kathy Heuer	(R) Columbia City
Cindy Noe	(R) Indianapolis
Jeff Thompson	(R) Lizton
RRM: Greg Porter	(D) Indianapolis
Dave Cheatham	(D) North Vernon
Clyde Kersey	(D) Terre Haute
Vernon Smith	(D) Gary
Shelli VanDenburgh	(D) Indianapolis

HOUSE EMPLOYMENT, LABOR AND PENSIONS

CHAIR: Doug Gutwein	(R) Francesville
VICE CHAIR: Sue Ellspermann	(R) Fredinand
Bill Davis	(R) Portland
Bob Morris	(R) Fort Wayne
Mike Speedy	(R) Indianapolis
Greg Steuerwald	(R) Avon
Gerald Torr	(R) Carmel
Tim Wesco	(R) Osceola
RRM: David Niezgodski	(D) South Bend
John Bartlett	(D) Indianapolis
Clyde Kersey	(D) Terre Haute
Chuck Moseley	(D) Portage
Dennis Tyler	(D) Muncie

HOUSE WAYS AND MEANS

CHAIR: Jeff Espich	(R) Uniondale
VICE CHAIR: Suzanne Crouch	(R) Huntington
Bob Cherry (Budget Subcommittee Chair)	(R) Greenfield
Tom Dermody (Higher Education Chair)	(R) LaPorte
Phyllis Pond (Medicaid and Health Chair)	(R) New Haven
Milo Smith (Tax Chair)	(R) Columbus
Jeffrey Thompson (K-12 Chair)	(R) Lizton
Jim Baird	(R) Greencastle
Ed Clere	(R) New Albany
Mike Karickhoff	(R) Kokomo
Rebecca Kubacki	(R) Syracuse
Dan Leonard	(R) Huntington
Rich McClain	(R) Logansport
Randy Truitt	(R) West Lafayette

Eric Turner	(R) Cicero
Matt Ubelhor	(R) Bloomfield
R.M.M. Bill Crawford	(D) Indianapolis
Mara Candelaria Reardon	(D) Munster
Terry Goodin	(D) Crothersville
Clyde Kersey	(D) Terre Haute
Sheila Klinker	(D) Lafayette
Winfield Moses	(D) Fort Wayne
Scott Pelath	(D) Michigan City
Cherrish Pryor	(D) Indianapolis
Peggy Welch	(D) Bloomington

<u>HOUSE SELECT COMMITTEE ON GOVERNMENT REDUCTION</u>	
CHAIR: Chet Dobis	(D) Merrillville
VICE CHAIR: David Wolkins	(R) Winona Lake
Suzanne Crouch	(R) Evansville
Eric Koch	(R) Bedford
Rich McClain	(R) Logansport
Cindy Noe	(R) Indianapolis
Milo Smith	(R) Columbus
Jeff Thompson	(R) Lizton
Craig Fry	(D) Mishawaka
Linda Lawson	(D) Hammond
Greg Porter	(D) Indianapolis
Vanessa Summers	(D) Indianapolis
Peggy Welch	(D) Bloomington

ISBA Legislative Communications Depends on ISBA Legislative Liaison

Each Indiana school board may appoint a school board member as a legislative liaison to report on The ISBA Legislative Bulletin to the local school board. If a local board does not designate a legislative liaison, the board president could assume the responsibility. The functions of the legislative liaison or board president are:

1. To be informed regarding the nature and status of legislative proposals in education;
2. To keep other members of the local school board informed regarding the status of legislation (particularly in those instances where board member reactions are requested); and,
3. To contact local legislators on education-related issues, especially during the legislative session.

The ISBA Legislative Liaison (or board president) should, for the period of the legislative session, be the one board member who is the most knowledgeable about current legislation. Careful reading of The Legislative Bulletin and daily monitoring of the ISBA E-Mail from the ISBA office should make this possible. The Bulletin may be accessed at **www.isba-ind.org**

The following suggestions will facilitate the role of the board president or legislative liaison:

1. Secure a notebook or binder in which to file the bulletins as they are received;
2. Keep a log of the progress of the bills of interest as they move through the process;
3. Call the ISBA office to secure additional information, if necessary;
4. Monitor emails for daily information; and,
5. Summarize legislation.

Discussion should culminate in planned action by the board as an official body. This is the key to the legislative activity and will greatly influence the outcome of action on the various bills. Unless the legislative liaison and other local officials make frequent contacts with Senators and Representatives, the efforts of ISBA on your behalf are less effective.

House and Senate Phone Numbers

Should you need to contact your Senator or Representative, you may use the following numbers:

Indiana Senate - (317) 232-9400 or (800) 382-9467
Indiana House - (317) 232-9600 or (800) 382-9841

or, you may write your legislator at the following address:

Indiana Statehouse
Indianapolis, IN 46204

House/Senate Calendar and Bill Filing Deadlines:

2012 First Session Day – Wednesday, January 4, 2012 at 1:30 pm

LEGISLATIVE CALENDAR FOR 2012 SESSION

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
January-February 1, 2012 SENATE						
1	2	3	4 Convene 1:30 PM	5 SESSION	6 Last day for bill filing 4:00 PM NO SESSION	7
8	9 SESSION	10 SESSION	11 COMMITTEE DAY	12 SESSION	13 Deadline for assignment of SB's COMMITTEE DAY Priority given to Monday Committees	14
15	16 Martin Luther King Holiday	17 SESSION	18 COMMITTEE DAY	19 SESSION	20 COMMITTEE DAY Priority given to Monday Committees	21
22	23 SESSION	24 SESSION	25 COMMITTEE DAY	26 Committee Report Deadline SESSION	27 POSSIBLE SESSION	28
29	30 SESSION	31 2 nd Reading Deadline	1 3 rd Reading Deadline			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
January 2012						
Updated December 12, 2011						
House of Representatives						
<small>*Dates are intended to be a guide only; calendar is subject to change.</small>						
1	2 Office Closed New Year's Day	3	4 Session 1:30 p.m.	5 Session 1:30 p.m.	6 Session Time TBD	7
8	9 Session 1:30 p.m. [Bill filing deadline at 2 p.m. (House Rule 108.2)]	10 Session 1:30 p.m. State of the State, 7 p.m.	11 Session 1:30 p.m. [Statement of Economic Interests due per IC 2-2.1-3.2 by close of business] State of the Judiciary, 2 p.m.	12 Session 1:30 p.m.	13 Session Time TBD	14
15	16 Office Closed Dr. Martin Luther King, Jr. Day	17 Session 1:30 p.m.	18 Committee Day	19 Session 1:30 p.m.	20 Session Time TBD	21
22	23 Session 1:30 p.m.	24 Session 1:30 p.m.	25 Committee Day	26 Session 1:30 p.m.	27 Session Time TBD Committee Report Deadline	28
29	30 Session 1:30 p.m. Second Reading Deadline	31 Session 10:00 a.m. Third Reading Deadline				

Session times may be adjusted at the Speaker's discretion to meet the needs of the House of Representatives.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
February 2012				Updated December 12, 2011		
*Dates are intended to be a guide only; calendar is subject to change.				House of Representatives		
			1 Session 10:00 a.m. [Fallback Third Reading Deadline]	2 No session	3 No session	4
5 Super Bowl XLVI	6 Session 1:30 p.m.	7 Session 1:30 p.m.	8 Committee Day	9 Session 10:00 a.m.	10 No session	11
12	13 Session 1:30 p.m.	14 Session 1:30 p.m.	15 Committee Day	16 Session 10:00 a.m.	17 No session Women's Heart Awareness Lunch	18
19	20 Session 1:30 p.m.	21 Session 1:30 p.m.	22 Committee Day	23 Session 10:00 a.m.	24 No session	25
26	27 Session 1:30 p.m.	28 Session 1:30 p.m.	29 Session 10:00 a.m. Committee Report Deadline			

Session times may be adjusted at the Speaker's discretion to meet the needs of the House of Representatives.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
March 2012				Updated December 12, 2011		
*Dates are intended to be a guide only; calendar is subject to change.				House of Representatives		
				1 Session 10:00 a.m.	2 Session 10:00 a.m. Second Reading Deadline	3 All CCRs go to Rules after today (House Rule 162.2)
4	5 Session 10:00 a.m. Third Reading Deadline (House Rule 148.2(2.1))	6 Session 1:30 p.m. Conference Committee	7 Session 1:30 p.m. Conference Committee	8 Session 1:30 p.m. Conference Committee	9 Session 10:00 a.m. Conference Committee	10
11	12 Session 1:30 p.m. Conference Committee	13 Session 10:00 a.m. Conference Committee	14 Session 10:00 a.m. Last Day to Adjourn <i>Sine Die</i> (I.C. 2-2.1-1-3(b))	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Session times may be adjusted at the Speaker's discretion to meet the needs of the House of Representatives.



INFORMATION TOPICS

ISBA Legislative Suggestions Filed for Passages on Four Issues: Teacher Evaluation, Collective Bargaining, Open Door Law – School Consolidation and Sale of Real Estate

P.L. 90 – 2011 SEA 001 Teacher Evaluation and Licensing

ISBA Technical Corrections

After reviewing SEA 001 and advising school boards on its implementation, ISBA believes that the following technical corrections are necessary to assist with an ongoing effective utilization of the statute. Therefore, these concepts are recommended for changes during the 2012 Indiana General Assembly session:

IC 20-18-2-22 Definition of “teacher”

Sec. 22. (a) "Teacher" means a professional person whose position in a school corporation requires certain educational preparation and licensing **and whose primary responsibility is the instruction of students.**

(b) For purposes of IC 20-28, the term includes the following:

- (1) A superintendent.
- ~~(2) A supervisor.~~
- ~~(3) (2) A principal.~~
- ~~(4) An attendance officer.~~
- ~~(5) (3) A teacher.~~
- ~~(6) (4) A librarian.~~

Review: The definition of “teacher” that is to be used throughout the Education Code at Title 20 has been modified to add the requirement that a “teacher” must be one “whose primary responsibility is the instruction of students.” Only superintendents, principals, and librarians are deemed teachers for purposes of the Teacher Contract Statute at IC 20-28. It is likely that since assistant superintendents have to be licensed as superintendents and assistant principals as principals the Legislature meant to include them within the definition of “teacher.”

However, questions are now raised regarding other positions occupied by personnel who have been placed on the Regular Teacher Contract and who have had the benefits of the Teacher Contract Law, but who now do not meet the requirement of the primary responsibility being the instruction of students. This would include athletic directors and varsity coaches who do not teach, deans, guidance counselors, and such central office positions as business managers, directors and coordinators.

Because of constitutional due process concerns that arise because these persons have been given a reasonable expectation of continued employment, the wisest course to take may be to keep them on the same contracts and accord them the benefits of the Teacher Contract Law until they retire or otherwise terminate their employment.

For those newly hired into positions where the primary responsibility is not the instruction of students and who are not superintendents, assistant superintendents, principals, assistant principals, and librarians, it appears that the Legislature meant for corporations to employ them in a manner other than by the Regular Teacher Contract. **ISBA suggests that either “whose primary responsibility is the instruction of students” be deleted from statute or language is provided that clearly defines teacher and other licensed school employees so that the contract issue is not debatable.**

IC 20-28-7.5 Teacher contract cancellation

Chapter 7.5. Cancellation of Teacher Contracts

Sec. 1. (a) This chapter applies to a teacher in a school corporation (as defined in IC 20-18-2-16(a)).

(b) A principal may decline to continue a probationary teacher's contract under sections 2 through 4 of this chapter if the probationary teacher:

(1) receives an ineffective designation on a performance evaluation under IC 20-28-11.5;

(2) receives two (2) consecutive improvement necessary ratings on a performance evaluation under IC 20-28-11.5; or

(3) is subject to a justifiable decrease in the number of teaching positions or any reason relevant to the school corporation's interest.....

Review: The language in the new section 7.5 of IC 20-28 replaces the procedures established in the original “tenure law “of 1927. The grounds for contract cancellation remain nearly identical.

Section 1(a) references Chapter 7.5’s application to a “teacher,” which under the new definition of “teacher” at IC 20-18-2-22 means a person **“whose primary responsibility is the instruction of students,” and includes superintendents, principals, and librarians (and presumably assistant superintendents and assistant principals).** See the commentary above under IC 20-18-2-22. Whether the Legislature actually meant to remove all other persons previously considered “teachers” from the process and grounds to cancel their Regular Teacher Contracts (e.g., central office directors, coordinators, and business managers with teaching licenses and building-level athletic directors and varsity coaches who do not primarily teach, counselors, and deans) is not clearly ascertainable. **Either the Legislature will need to make this clarification via an amendment in 2012, or a court may have to.** To avoid litigation, schools should continue employing persons presently in the noted positions as before and should contract cancellation be necessary, follow the procedures and grounds in IC 20-28-7.5.

Section 1(c) states that when a teacher is professional or established, the principal can only “decline to continue” the contract if it is for the sole ground of “justifiable decrease in the number of teaching positions.” This seems to indicate that there is some reason why the principal can “decline to continue” all teachers’ contracts based on “justifiable decrease,” but must follow the cancellation process for professional and established teachers for the six other grounds listed

in section 1(e). **It cannot be readily determined, however, if there is truly a substantive difference between a principal “declining to continue” a contract based on a “justifiable decrease” in positions, and using one of the contract “cancellation” grounds in section 1(e), one of which is justifiable decrease, especially when the cancellation procedures that are to be followed for all teachers are contained in IC 20-7.5, sections 2, 3, and 4.**

Section 2(b) switches the terminology once again from “decline to continue” a contract to “cancellation of contract” and applies it to all reasons “other than a reduction in force.” Because subsections (d), (f), and (g) below, use “cancellation” as well, It probably means that the Legislature meant to use the two terms interchangeably.

Furthermore, **it is noted that the language has also shifted from “justifiable decrease in the number of teaching positions” to the more colloquial “reduction in force.”** This switch may be due to faulty draftsmanship and not for the purpose of making a meaningful distinction between the two.

Additionally, section 2(b) states that the principal’s written contract cancellation notice (for a reason other than “reduction in force) must state that the teacher has only five (5) days from receiving the notice to request a private conference with the superintendent, and if the “meeting” is requested by the teacher, the superintendent must set it within ten (10) days of the request.

This language appears to mean that the required notice when the reason is “reduction in force” does not have to contain the five day conference demand in order to receive the private conference with the superintendent. Perhaps it even means that there is no right for a teacher being reduced in force to have a conference with the superintendent. However, under subsection (f), which follows, if the teacher is facing the statutory cancellation ground of “justifiable decrease in the number of teaching positions, “said teacher may have an “additional private conference” with the school board (writer’s emphasis).

Hopefully, the Legislature will clear up this confusion before a court has to. In the meantime, schools are advised to practice preventive law, and treat “justifiable decrease” as a “reduction in force,” and to put in said teacher’s initial notice of the principal’s preliminary decision that the teacher has five days to request a conference with the superintendent [or, on the other hand, the notice could drop the five-day requirement when it is due to a justifiable decrease in teaching positions (or RIF), and **merely state the right to a conference with the superintendent without a five-day deadline for the request].**

Section 2(c) allows the teacher to have a representative at the conference with the superintendent.

Section 2 (d) requires the superintendent (following such conference, but no deadline is stated) to make a written recommendation to the school board “regarding the cancellation of the teacher’s contract.” This mandatory recommendation, whether it is to cancel or not cancel the contract, is precondition to being able to legally terminate the contract. See the case of *Myers v. Greater Clark County Sch. Corp.* 464 N.E.2d 1325 (Ind.App. 1984), where the court ruled the recommendation must come from the superintendent, and not a designee.

Section 2(d) is silent on whether the superintendent must also notify the principal and the teacher of the superintendent’s recommendation. This silence will force the teacher to guess, and in order to be protected, to request a second private conference with the school board within five days of the conference with the superintendent.

Section 2(g), whose procedural requirements are more elaborate, applies when the cancellation reasons are immorality, insubordination, neglect of duty, and other good or just cause, allows the teacher to request an additional private conference with the school board, but only if it is

requested within five days after the initial private conference with the superintendent. For this “section (g)” conference, the school board is required to: (1) permit the teacher to “present evidence to refute” the administration’s reason(s) and evidence for cancellation, with both parties having to exchange the evidence that is to be presented at least seven (7) days before the private conference; and (2) **“consider whether a preponderance of the evidence” supports cancellation of the contract (emphasis added).**

A note of concern is sounded regarding whether the Legislature intended to override the judicial substantial evidence standard enunciated by the Court of Appeals in *Harrison-Washington Comm. Sch. Corp. v. Bales*, 450 N.E.2d 559 (Ind.App. 1983) and *Fiscus v. Bd. of Sch. Trustees of Central Sch. Dist. of Greene Co.*, 509 N.E.2d (Ind.App. 1137), wherein the court prohibited a reviewing court from reweighing the evidence and required it to affirm the school board’s conclusion if there was any substantial evidence supporting the board’s cancellation of contract.. By introducing this “preponderance of evidence” standard, the Legislature appears to invite reviewing courts to reweigh the evidence and substitute the court’s judgment for that of the school board, which was disallowed under case law.

Lastly, subsection 2(g) requires the board’s final decision to be written and made not more than thirty (30) days after it receives the request for the additional private conference. (For section 2(g), note the discussion and apply the advice given under section 3, below, regarding section (f)’s conference culmination process.)

Section 3 of IC 20-28-7.5 requires the school board to make its decision on the contract cancellation “at the first public meeting” following either its private conference under section 2(f)’s conference process (but not under section 2(g)’s process) or the superintendent’s section 2(b)’s process when no conference with the board was requested. If the decision is to cancel the contract, it must be “by a majority vote evidenced by a signed statement in the minutes. The ruling in the case of *South Vermillion Sch. Corp. v. Benetti*, 492 N.E.2d 47 (Ind.App. 1986) indicates that the term “majority vote” means a majority of the quorum present, and not a majority of the entire members of the board. The ruling of two cases, *State ex rel. Newton v. Bd. of Sch. Trustees of M.S.D. of Wabash County*, 404 N.E.2d 47 (Ind.App. 1980) and *Whitney v. Bd. of Sch. Trustees of Dekalb Eastern Comm. Sch. Dist.*, 416 N.E.2d 1289 (Ind.App. 1981) requires that the board has to adopt written findings of fact and conclusions of law for purposes of judicial review, but that these findings do not have to be made at the same meeting that the vote to cancel is made. Under this ruling, the findings and conclusions were required after the statutory hearing process was requested by the teacher. **Now that there is a conference process, the issue arises whether courts will continue the findings and conclusions requirement when the teacher has requested the school board to hold the conference.** Based on preventive law, it is advisable for the board to adopt said findings and conclusions, but only when the board has held the conference (and not when the process stopped at the superintendent level).

Section 4 of IC 20-28-7.5 permits the suspension of a teacher pending “a final decision” on the cancellation of the contract. A “final decision” can be at the principal’s level if there is no request for a conference with the superintendent (section 2(e)) or at the school board level when either the teacher stops after the superintendent conference level or continues the board conference level.

The now repealed statute (effective July 1, 2011) required the suspension pending contract cancellation to be with pay, but the new one is silent. Therefore, schools and their attorneys will have to decide whether to continue pay or withhold it. The practice of preventive law

would result in continuation of pay, and now that boards do not have to wait a minimum of 30 days to cancel, there will be far fewer days for which the teacher will be paid if the board decides to discharge the teacher.

Section 8 continues the repealed law's language about public school teachers who sign contracts with other schools after August 15, but makes two changes by: (1) requiring the incoming teacher to show proof of delivery of written notice to the first employer 30 days (instead of the prior 21 days) before the starting contract date at the second employer, and (2) adding subsection (c) that allows the prospective school's principal to request a new teacher at the time of contracting to supply "a written statement as to whether the teacher has signed another teaching contract." **It then concludes by saying if the teacher fails to provide this statement, it "is not a cause for subsequently voiding the contract."**

ISBA contends that there are several changes and/or clarifications needed in this section of the law as noted in the review. These are, but not limited to, definition of a teacher, declining to continue versus justifiable decrease, teacher conference on RIF with whom and when, superintendent's notice to principal and teacher of his/her decision on termination of contract, preponderance of evidence deleted with substantial evidence added and clarification on teachers signing a contract in a different school corporation after August 15. And on the matter of superintendent termination since the superintendent is considered a teacher, the Legislature should clarify that the school attorney should write the letter of termination as the designee of the school board, not the principal who must write the letter for all other teachers.

IC 20-28-10-4 Disability or sick leaves

Sec. 4. (a) A school corporation may place a teacher, with or without written request, on a disability or sick leave not to exceed one (1) year.

(b) A teacher placed on a disability or sick leave without a written request is entitled to a hearing on that action under ~~IC 20-28-7-1 and IC 20-28-7-3 through IC 20-28-7-5.~~ **IC 20-28-7.5.**

Review: Because the new teacher contract law at IC 20-28-7.5 now has a conference process instead of the old hearing process, the Legislature neglected to strike the word "hearing" and replace it with the word "conference." This is simply an oversight and needs to be corrected. A school should not take the position that since IC 20-28-7.5 does not have a hearing process, the Legislature meant to allow corporations to simply, without any process, to place a teacher on a unilateral leave due to sickness or disability. It is advisable to modify the present conference process with the principal making a preliminary decision to place the teacher on leave, notify the teacher of the right to a conference with the superintendent, and proceed from there if the teacher requests the conference. **ISBA believes that the replacing of conference for hearing is important.**

IC 20-28-11.5 Staff performance evaluation plan

Chapter 11.5. Staff Performance Evaluations

Sec. 1. As used in this chapter, "evaluator" means an individual who conducts a staff

performance evaluation. The term includes a teacher who:

- (1) has clearly demonstrated a record of effective teaching over several years;**
- (2) is approved by the principal as qualified to evaluate under the plan; and**
- (3) conducts staff performance evaluations as a significant part of teacher's responsibilities.....**

Review: Section 1 of the new teacher evaluation plan chapter, IC 20-28-11.5 defines, the term “evaluator” to mean an individual who conducts a staff performance evaluation,” and includes a teacher who meets three requirements: (1) “a clearly demonstrated record of effective teaching over several years,” (2) the principal’s approval as being “qualified to evaluate under the plan,” and (3) a job description where conducting staff performance evaluations is a “significant part of [the] teacher’s responsibilities.” If the requirement of a demonstrated record of “effective” teaching is construed technically to mean only those teachers rated as “effective” or “highly effective” under this new evaluation plan, then the corporation will only be able to legally determine this at the end of the 2014-2015 school year. **A more practical and reasonable interpretation would be those teachers who have been determined “effective,” or its equivalent under evaluation systems in use prior to the effective date of this statute (July 1, 2011).**

Section 4(a) of IC 20-28-11.5 requires each “school corporation”(as defined in section 3), including interlocals and special education cooperatives, to “develop a plan for annual performance evaluations for each certificated employee”... and to “*implement the plan beginning with the 2012-2013 school year.*”

Because the term “certificated employee” is clearly stated to be as defined in the collective bargaining law at IC 20-29-2-4, the new staff performance evaluation plan must include not only classroom teachers, but also each and every “person whose contract with the school corporation requires that the person hold a license or permit from the division of professional standards of the department under IC 20-28,” meaning the from the Indiana Department of Education. **This means that certain administrators, including at least superintendents, principals, their respective assistants, and interlocal and special education directors, will need to be evaluated under the new “highly effective, effective, improvement necessary, and ineffective” rating system beginning with the 2012-2013 school year.** Although the apparent intent of this new evaluation system was to apply to classroom teachers who are part of the bargaining unit for purposes of instructional performance relating to pay increases, these administrators got caught in the proverbial net due to the broad definition used.

Section 4(c) of IC 20-28-11.5 requires that any evaluation plan must contain at least six stated components, the first of which is that each and every teacher and administrator who meets the definition of a “certificated employee” must be evaluated “*at least annually.*” Component number 2 requires “objective measures of student achievement and growth to significantly inform the evaluation,” and then lists three requirements of what the objective measures must include, i.e., “student assessment results from statewide assessments for those teachers of subjects measured the statewide assessments, methods for assessing student growth for those teachers not teaching in areas measured by the statewide assessments, and student assessment results from locally developed assessments and other test measures for teachers whose duties “may or may not include instruction in subjects and areas measured by statewide assessment.” Component number 3 that the plan must include calls for “rigorous” measures of teaching effectiveness that include “observations and other performance indicators.” Component 4

requires an *annual designation* for each teacher in only one of four stated “rating categories”: “highly effective,” “effective,” “improvement necessary,” or “ineffective.” Component 5 requires that the evaluator explain his/her recommendations for improvement as well at the time period in which the expected improvement is to occur. It is surmised that this would certainly apply to teachers in the improvement necessary and ineffective categories, and likely apply to any of the higher category teachers where improvement is recommended. Component 6 states that “a teacher who negatively affects student achievement and growth cannot receive a rating of highly effective or effective. **Hopefully, the IDOE will clarify in its model evaluation plan to be completed by January 31, 2012 how to determine the meaning of the phrase, “negatively affects student achievement growth.”**

ISBA believes that a different rating scale should be used for administrators than is in statute for teachers. And the Association also believes that the statute will be implemented with more effectiveness if definitions are provided for concepts such as “negatively affects student achievement growth.”

P.L. 48 – 2011 SEA 575 Teacher Collective Bargaining

ISBA Technical Corrections

After reviewing SEA 575 and advising school boards on its implementation, ISBA believes that the following technical corrections are necessary to assist with an ongoing effective utilization of the statute. Therefore, these concepts are recommended for changes during the 2012 Indiana General Assembly session:

IC 20-29-6-5 Grievance procedure

Sec. 5. A contract entered into under this chapter may contain a grievance procedure. ~~culminating in final and binding arbitration of unresolved grievances. However, the binding arbitration has no power to amend, add to, subtract from, or supplement provisions of the contract.~~

Review: Although the “final and binding arbitration” language was deleted, it appears that due to the fact that no language was added to expressly disallow such arbitration, a school and union may bargain binding arbitration if the board thinks that it is wise to give up its decision-making authority to an outsider.

Note, however, that IC 20-28-7.5-7(c) (as added by SEA 1) expressly prohibits binding arbitration regarding teacher dismissals. Therefore, only non-binding (or “advisory”) arbitration of teacher dismissals could be bargained as part of a grievance procedure, if the school board believes it is wise. **ISBA believes that consistency with the statutes is important and thus suggest that SEA 1 language prevail and be placed in SEA 575. That is expressly stating that “no final and binding arbitration” can be placed in the contract since Indiana now has binding fact finding. Also, clarification is needed on the conflict between IC 20-29-6-4 and IC 20-29-6-5 over whether a contract is allowed to have a grievance procedure.**

IC 20-29-6-12 Commencement of collective bargaining

Sec. 12. Formal collective bargaining between a school corporation and the exclusive representative shall **not** begin before:

(1) August 1 in the first year of the state budget biennium; or

(2) August 1 in the second year of the state budget biennium if the parties agreed to a one (1) year contract during the first year of the state budget biennium or the contract provides for renegotiating certain financial items the second year of a two (2) year contract. Informal negotiations may be held before August 1.

Review: The term “formal collective bargaining” is not defined by the statute. SEA 575 does not contain a specified time to begin bargaining. **ISBA recommends that the statute clearly state that bargaining shall begin on August 1 by inserting the language in Sec. 12 and deleting items (1) and (2).**

IC 20-29-6-12.5 Certification of revenue available for bargaining

Sec. 12.5. **(a) Before August 1 of the first year of the state budget biennium, the department shall provide the parties with an estimate of the general fund revenue available for bargaining in the school corporation from the school funding formula.**

Review: A school corporation that has passed a general fund operating referendum must obtain a certification of the amount (presumably available to become part of the current year’s actual general fund revenue per the definition of “deficit financing”) from the department of local government finance. No deadline is given. **ISBA suggests that the assumption be clarified by specific language, noting that the general fund referendum certified amount is a part of the actual general fund revenue and a specific date for certification be established to coincide with the next ensuing bargaining cycle.**

IC 20-29-6-13 Appointment of mediator

Sec. 13. **(a) At any time after the one hundred eighty (180) days described in section 12 of this chapter has begun, at least sixty (60) days following the beginning of formal bargaining collectively between the parties, an impasse is declared, and the board shall appoint a mediator from the board's staff or an ad hoc panel.**

Review: Under subsection (a), the language regarding when “an impasse is declared” does not state by whom it is declared. Is it by either party and/or the IEERB? If IEERB does not decide it has the authority to declare an impasse, it is reasonably conceivable that neither the school employer or the union may declare such either, especially if neither party desires to go to factfinding and is willing to live with its present master contract. (The new bargaining law requires impasse to be initiated in order to trigger the factfinding process, IC 20-29-6-15.1(a).) **ISBA suggests that IEERB be given the statutory authority to declare impasse.**

IC 20-29-6-16 Continuation of contract terms (formerly termed “status quo”)

Sec. 16. (a) If an agreement has not been reached on the items to be bargained collectively by November 1, as provided in IC 6-1.1-17-5, the parties shall continue the ~~status quo~~, **terms of the current contract that is in effect**, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this ~~status quo~~ period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(b) ~~During the bargaining process~~, **Upon the expiration of the current contract that is in effect**, the school employer *shall continue under the terms of the current contract that is in effect, with no increase or increment in salary, wages, or benefits for any bargaining unit employee until a new contract is executed, unless continuation of the ~~status quo~~ would put the school employer in a position of deficit financing due to a reduction in the employer's actual general fund revenue or an increase in an employer's expenditures when the expenditures exceed the current year actual general fund revenue.*

Review: The language appears to give two dates for the start of what was formerly termed the “status quo period.” Subsection (a) references November 1, but subsection (b) references what in practicality will be an earlier date—“the expiration of the current contract that is in effect.”

Using (b)’s earlier, more logical date means that the school cannot change any “section 4” wage or related benefit and cannot increase or recognize an “increment in salary, wages, or benefits for any bargaining unit employee until a new contract is executed,” provided the continuation does not put the school in a position of deficit financing. The italicized language is new in 2011 and was meant to override the Indiana Supreme Court’s case of *Ind. Educ. Employment Relations Bd. v. Mill Creek Classroom Teachers Ass’n*, 456 N.E.2d 709, 712 (Ind.1983) by prohibiting schools from recognizing incremental increases in “salary, wages, or benefits” until the contract has been settled.

However, as to lane changes with regard to additional degrees or graduate credits, SEA 1’s amendment of IC 20-28-9-1(a) states that if such degrees or credits were earned “before the effective date of the local salary schedule created under this chapter [IC 20-28-9],” they continue. Therefore, if a teacher earned “lane-change” degrees or credits before the next definite Regular Teachers Contract is signed in August 2011, a school can apply the master contract “lane-change” language to increase pay for this particular increase (but not for increment due to experience until a new agreement is reached). **ISBA suggests that the (b) interpretation become the statutory intent to simplify the issue. However, a present ISTA lawsuit may render a judicial ruling on the issue.**

ISBA OPEN DOOR PROPOSALS FOR SCHOOL CONSOLIDATION DISCUSSION

UNDER 5-14-1.5-6.1(B) (2) (D) AND (E) AS NOTED BELOW

IC5-14-1.5-6.1
Executive sessions

Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

NEW (E) SCHOOL CONSOLIDATION.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, the Indiana state department of agriculture, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to

the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

As added by P.L.1-1991, SEC.37 and P.L.10-1991, SEC.8. Amended by P.L.48-1991, SEC.1; P.L.37-2000, SEC.1; P.L.200-2003, SEC.2; P.L.4-2005, SEC.28; P.L.229-2005, SEC.2; P.L.235-2005, SEC.84; P.L.101-2006, SEC.3; P.L.179-2007, SEC.5; P.L.2-2008, SEC.20; P.L.98-2008, SEC.3; P.L.120-2008, SEC.1.

ISBA OPEN DOOR PROPOSALS FOR SCHOOL REAL ESTATE SALE REVIEW

UNDER 5-14-1.5-6.1(B) (2) (D) AS NOTED BELOW

IC5-14-1.5-6.1

Executive sessions

Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

NEW (D) The purchase, **SALE**, or lease of real property by the governing body up to the time a contract or option to purchase, **SALE**, or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

- (3) For discussion of the assessment, design, and implementation of school safety and

security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, the Indiana state department of agriculture, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

As added by P.L.1-1991, SEC.37 and P.L.10-1991, SEC.8. Amended by P.L.48-1991, SEC.1; P.L.37-2000, SEC.1; P.L.200-2003, SEC.2; P.L.4-2005, SEC.28; P.L.229-2005, SEC.2; P.L.235-2005, SEC.84; P.L.101-2006, SEC.3; P.L.179-2007, SEC.5; P.L.2-2008, SEC.20; P.L.98-2008, SEC.3; P.L.120-2008, SEC.1.

Financially Distressed School Corporation Appeals Board

**(The Associations are requesting a board be established as
presented below.)**

- **Purpose:** To determine the merits of an appeal by a school corporation regarding financially distressed status and the granting of emergency financial relief.
- **Membership:** The board shall consist of seven (7) voting members. One member shall be appointed by the Commissioner of the Department of Local Government Finance; one member shall be appointed by the State Examiner of the State Board of Accounts; one member shall be appointed by the State Superintendent of Public Instruction; one member who shall be an active school superintendent appointed by the Speaker of the House; one member who shall be an active school business official appointed by the President Pro Tempore of the Senate; and two citizens appointed by the Governor. The Governors' appointees shall be citizens of the state of Indiana who neither hold an elective or appointive office in the government of the state of Indiana nor are regularly employed by the state of Indiana. Knowledge of public school funding is the major criteria for appointments to the board.
- **Terms:** Each member shall serve at the will of the appointing authority.
- **Vacancies:** A vacancy in the membership of the Distressed School Corporation Appeals Board shall be filled by the appointing authority which made the appointment to the seat that is vacated.
- **Compensation:** No member of the board shall receive any compensation for their services as a member. Mileage will be provided to the superintendent, school business official, and two citizen appointees as determined by the State Budget Agency.

- **Chairperson:** An organizational meeting shall be held annually in January and the board shall elect a chairperson from one of its members.
- **Staff:** The Department of Education shall provide the board with staff and secretarial assistance as the board reasonably requires. The Department of Education shall have the authority to procure financial consultants to assist with the analysis of appeal information and data.
- **Meetings:** The board shall meet, as business may require, in rooms provided by the Department of Education. The board chairperson shall consult with staff of the Department of Education to determine if meetings are required.
- **Appeal Petitions:** Appeal petitions and related materials that meet the appeal criteria shall be submitted to the Department of Education who shall promptly deliver the appeals to the board.
- **Appeal Criteria:** At the first meeting of the board, the members will determine the criteria for the appeal petitions. The board may use any or all of the following factors in determining the criteria: failed general fund and/or property tax cap referendums; declining school enrollment; declining assessed valuation; increased class sizes; property tax circuit breaker impact; delayed payments to vendors; reductions in school corporation staff; efficiencies in energy usage, purchasing, etc.; impact of outsourcing of services; declining state support dollars per student; and, other information submitted by the appealing school corporation as the board may deem acceptable.
- **Hearings:** The board shall conduct hearings on any qualifying appeal petition. Members of the appealing school corporations will be asked to attend the hearing to present the appeal petition and supporting material. The hearings are open to the public.
- **Financially Distressed School Corporation Status:** At the appeal hearing the board shall determine if the school corporation is financially distressed and, if necessary, the appropriate emergency financial relief. A school corporation will be designated as financially distressed by the board if the corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to it by law and provide the adequate educational opportunities for all students of the school corporation.
- **Emergency Financial Relief:** The board may provide emergency financial relief to a school corporation who the board determines to be a financially distressed school corporation. Emergency financial relief from the state, on terms specified by the board, will be in the form of the following: (a) an interest free loan from the state Rainy Day Fund; (b) an interest free loan from the Common School Fund; (c) an interest free loan from the state appropriated Distressed School Fund; (d)

permission to use unobligated balances in construction funds; (e) inter-fund transfers from any statutory fund. Loans would be repaid utilizing an excessive Debt Service Fund tax levy that is outside of the property tax levy caps.

- **Board Action:** By a majority vote, the board will determine the approval or disapproval of the appeal petition for emergency financial relief. Board action on any appeal is final and binding.
- **Controls:** The board shall request a school corporation that receives emergency financial relief to do the following: (a) prepare a plan to move out of financially distressed status; and, (b) provide a quarterly report to the board regarding the corporation's current financial status. School corporations who receive emergency financial relief are prohibited, unless approved by the board, to: (a) acquire real estate for school building purposes, construct new school buildings, or remodel or renovate existing school buildings; (b) incur contractual obligations (except an employment contract for a new employee, whose contract is to supersede the contract of a terminating employee) calling for an annual outlay in excess of \$10,000; (c) the purchase of any personal property in excess of \$10,000; (d) adopt or advertise a budget, tax levy or tax rate for an ensuing calendar year.

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ISBA Legislative Resolutions

ISBA Legislative Resolutions

The Indiana School Boards Association is dedicated to maintaining and improving the quality of public education in the State of Indiana. The ISBA believes that the Indiana General Assembly should continue to take the necessary action to ensure that funding levels allow local schools to continue to improve public education.

This Association supports local control by individual boards of education. The ISBA believes that the governance and management of local schools should be a responsibility of the chosen representatives of the local citizens in each school community and authority to effectively carry out that important responsibility. The ISBA supports educational programs that do not foster racial, social, or economic segregation or segregation of special needs children.

With this preamble, ISBA also believes that the following education-related concepts reflect ongoing resolutions of the Association that should be considered whenever legislation is enacted on behalf of Indiana public schools.

STANDING RESOLUTIONS

- A. **Funding State Mandates**
State-mandated education programs must be fully funded by the state.
- B. **Elected/Appointed Boards and Reorganization Plan**
The General Assembly should not mandate changes in the local reorganization plan.
- C. **Equivalent Instruction**
Indiana should develop a definition of and establish regulations for "equivalent instruction" for non-accredited schools including home school and virtual instruction.
- D. **Instructional Time/Class Size**
Instructional time and class size are directly related to student achievement. ISBA, therefore, supports guaranteeing sufficient instructional time for K-12 programs and maintaining lower class sizes in grades K-3 with full state funding.
- E. **Teacher Collective Bargaining**
The Indiana General Assembly should not consider revisions to the teacher bargaining law unless a revision expands the authority of school board governance.
- F. **Property Taxes and Other Revenue Sources**
The Indiana School Boards Association strongly supports that all public school corporations receive timely, adequate and responsible funding. To ensure stable funding, there is a need to utilize property taxes as a revenue source. If property tax is not received when due, the state should pay the interest incurred by the school corporation on borrowed funds. Further, the state must guarantee that education funding is protected and received on time, that revenue growth is continued, and that controlling restrictions are reduced. If the state cannot provide such funding, the local school board will be granted the authority to transfer among and between funds to support General Fund expenditures.
- G. **School Governance Role/Powers**
The Indiana School Boards Association supports legislation that upholds and does not erode the authority of the local school board to govern the public schools.
- H. **Staff Development Programs**
The Indiana School Boards Association supports fully state funded professional staff development and in-service programs that are beyond the 180-day school year.
- I. **Student Testing**

The Indiana School Boards Association believes that reasonable and responsible standardized measurement of student achievement and progress is important to guarantee accountability for public education. The Association supports an alternative testing option that meets or exceeds state standards.

J. **Charter Schools**

The Indiana School Boards Association believes that school boards should be permitted to establish and operate Charter Schools under current Charter School statutes.

K. **TIF Districts/Tax Abatements**

The Indiana School Boards Association believes that any system of tax abatement and tax incremental financing (TIF) must provide a mechanism for replacing revenue lost to the public schools at the time of abatement/TIF approval. Further, the Association will support these changes to TIF:

- A school board member from each board impacted by the redevelopment commission should be placed on the commission as a “voting”-member.
- TIF should only be utilized to finance projects in blighted areas.
- Strict notification standards should be established.
- All school tax revenue and AV in the TIF should flow to the schools.
- An annual report on all TIFs should be issued.

L. **Classified Personnel Bargaining**

The Indiana School Boards Association opposes any legislation to impose mandatory collective bargaining with classified personnel in local public schools. Local school communities should maintain the right to determine whether collective bargaining with classified personnel is in the best interest of their school corporation.

M. **Alternative Schools**

The Indiana School Boards Association believes that an alternative school program is a local control issue, which should be supported by a weighted cost factor in the school funding formula.

N. **Voucher Plan and Tax Credits**

The Indiana School Boards Association opposes any voucher and/or tax credit plan that permits the expenditure of public tax dollars for private school education. Public school tax dollars must be fully committed to the mission of public schools.

O. **School Consolidation**

The Indiana School Boards Association believes that school consolidation is a local control issue.

P. **Petition/Remonstrance and Referendum Process**

The Indiana School Boards Association supports the Indiana General Assembly maintaining and improving equitable statewide standards and procedures for the petition/remonstrance and referendum process

including, but not limited to, permitting school board members and school officials to speak on the issues until the election.

Q. School Choice

The Indiana School Boards Association believes that school choice is a local control issue.

PRESENT RESOLUTIONS

A. Finance:

- B.**
1. Funding
 - a. School Distribution Formula
 - b. Special Education/High Ability Students
 - c. Special Needs Factor
 - d. Summer School/ Balanced Calendar
 - e. Textbooks and Instructional Resources
 - f. Transportation
 - g. Vocational Education
 - h. Capital Projects Fund—
Maintenance (Skilled) Personnel
 - i. Lease Rental Payments from Debt Service Fund

B. School Governance:

1. Open Door Law – Executive Session to Discuss School Consolidation
2. Open Door Law – Executive Session/Sale of Real Estate
3. Legislative Changes -- Teacher Evaluation and Collective Bargaining

A. FINANCE

11-A-1

Funding

The Indiana School Boards Association supports the timely and adequate funding of Indiana's public schools to allow local boards of education to improve the quality of public education. Specifically, the Association supports the following:

- a. **School Distribution Formula and/or Categorical Funding**
 1. The ISBA strongly supports equalization of educational opportunities for all children.
 2. The ISBA supports the addition of the following provisions into the school distribution formula or as categorical funding for all qualifying school corporations:

- (a) A weighted cost factor for school corporations employing teachers with additional experience and training.
 - (b) A weighted cost factor for students with limited-English proficiency.
 - (c) Full funding for school corporations that have or will initiate all-day kindergarten programs.
 - (d) Full funding of the employer portion of social security.
 - (e) Full funding of the employer portion of teacher retirement.
 - (f) At-risk funding for all school corporations.
 - (g) A weighted cost factor for growing school corporations.
 - (h) A weighted cost factor for staff development.
 - (i) A guarantee of no loss in state funding based on student achievement scores.
 - (j) Full funding of remediation programs.
 - (k) Alternative energy costs funding for all school corporations.
- b. **Special Education/High Ability Students**
- 1. The ISBA supports adequate and stable funding for special education and high ability student programs.
 - 2. The ISBA believes that all excess costs for special education services in out-of-state institutions should be funded by the State.
 - 3. The ISBA supports adequate and stable funding for the preschool special education program.
 - 4. The ISBA supports financial incentives for local school corporations to create programs for the education of special education/high ability students in the local school community.
- c. **Special Needs Factor**
- School corporations have unique needs that are presently not addressed in the school funding formula. The ISBA believes that a factor should be developed to meet these special needs, such as security, substance abuse prevention, truancy and poverty.
- d. **Summer School/Balanced Calendar**
- 1. The ISBA supports adequate and stable state funding for summer school including bus transportation.
 - 2. The ISBA supports adequate and stable state funding for the inter-session costs of year-round school programs including bus transportation.
- e. **Textbooks and Instructional Resources**
- 1. The ISBA supports adequate and stable state funding

- of textbooks, workbooks, associated instructional resources and computer software for classroom instruction for all pupils in the public schools.
2. The ISBA supports local control and selection of textbooks, workbooks, associated instructional resources and computer software for classroom instruction.
- f. **Transportation**
1. The ISBA supports adequate and stable state funding for regular transportation services.
 2. The ISBA supports adequate and stable state funding for special/vocational transportation services.
- g. **Vocational Education**
1. The ISBA supports adequate and stable state funding for vocational education.
 2. The ISBA believes that control and selection of educational choices for vocational classes should be a local control issue.
- h. **Capital Projects Fund—Maintenance (Skilled) Personnel**
The ISBA supports the payment of maintenance (skilled) personnel salaries and fringe benefits from the Capital Projects Fund without limitation for all school corporations.
- i. **Lease Rental Payment from Debt Service Fund**
The ISBA supports that school corporations have the option to make lease rental payments from the Debt Service Fund.

Rationale

The Indiana School Boards Association believes that the school distribution formula must provide equalization of educational opportunities for all school corporations. School funding is a complex area that demands constant review to assure adequate funding levels for all school corporations.

B. SCHOOL GOVERNANCE

11-B-1

Open Door Law – Executive Session to Discuss School Consolidation

The Indiana School Boards Association supports amending the Open Door Law (IC 5-14-1.5-6.1(b)) to allow school boards to meet in executive session to discuss issues related to school consolidation.

Rationale

School boards are willing to explore consolidation options, but have found it difficult to engage in meaningful dialogue about critical issues in light of the fact that the Open Door Law does not permit the discussion of consolidation in an executive session.

The discussion of consolidation often times elicits emotional reactions from the public. School boards that are considering consolidating need to be able to meet with each other in closed door sessions to have meaningful dialogue on the pro's and con's of consolidation.

Superintendents and school board members of the school corporations that are considering consolidating need to be able to meet in executive session to assess whether consolidation is a viable avenue for the school corporation to explore.

11-B-2

Open Door Law – Executive Session/Sale of Real Estate

The Indiana School Boards Association believes that the Open Door Law (I.C. 5-14-1.5-6.1(b)(D)), as it relates to executive sessions and the purchase of real estate, should be amended to also permit the discussion of the sale of real estate, as well as the purchase.

Rationale

The local school board needs to be able to discuss these items privately, because of the ramifications of such a decision. It, therefore, is appropriate to allow a Board to at least begin discussion in executive session. If this is done, the public's interest is still fully protected, because the school board must go through appropriate appraisal and notice procedures to sell real estate (I.C. 36-1-11-4). All discussions and actions would then become public. Thus, in reality, the only thing that can take place in executive session is a consensus as to whether the school board wants to move forward with a sale. Once it becomes a consensus to move forward, then all decisions after that point would be public just as current law provides for purchasing. As a result, open disclosure will occur because the appraisal process and sale notice provisions generally take several months to accomplish; it, therefore, is not the type of situation where a quick action will be thrust upon the public without adequate notice. In essence, by providing the flexibility of conducting discussions on selling as purchasing is allowed, the state will foster consistency in the consideration of real estate decisions.

11-B-3

Legislative Changes -- Teacher Evaluation and Collective Bargaining

The Indiana School Boards Association supports the Indiana General Assembly reviewing and clarifying statutory language in PL 90-2011 SEA

1 and PL 48-2011 SEA 575. The Association recommends the following changes to the statutes:

- Sources of funding for the various initiatives, such as evaluation, fact finding, mentors and performance pay;
- Grievance procedure is or is not a part of a teacher collective bargaining agreement;
- Starting date to begin collective bargaining;
- Legal preliminary notice of contract cancellation for RIF teacher same as notice for all other grounds;
- Definition of “teacher” includes assistant superintendent and assistant principal; and, but not limited to,
- Evidence to cancel a contract same as common law standard of “substantial evidence” rather than “preponderance of evidence.”

Rationale

As school boards strive to implement the Teacher Evaluation and Collective Bargaining statutes, there has been considerable confusion regarding the intent of the language in the respective laws. It is, therefore, important that legislative attention be given to clarifying specific statutory issues so that a consistent and timely application of the statutes can be effective statewide.

Selected IAPSS Legislative Resolutions

INDIANA ASSOCIATION OF PUBLIC SCHOOL SUPERINTENDENTS

2012

LEGISLATIVE PROGRAM

The public school leaders of Indiana are committed to educating all students under rigorous standards and to ensuring that, upon graduation, they are well prepared for additional training, continuing their education at a post secondary institution of their choice, and/or serving in the nation’s military. With its commitment to preparing students for their role as responsible adults in the 21st century as a primary focus, and empowered through the participation of its statewide membership in consideration of these legislative positions, the IAPSS

declares the following to be its legislative priorities for the 2012 session of the Indiana General Assembly:

I. GENERAL LEGISLATIVE POSITIONS:

A. Maintaining a Commitment to the Public Schools

IAPSS believes that Indiana's Constitution provides that the system of common schools funded by taxpayer monies in the state must be open to the enrollment of all students without regard to any limiting factor.

Expansion of programming or other such fiscal commitments, including alternative uses of tax monies for K-12 education, should not be considered until any new or existing mandates and programs, including summer school, have been fully funded. Progress in increasing student achievement in the public schools must be the primary objective and supported with additional resources, even in times of scarcity.

IAPSS supports public school student transfers that occur with communication among superintendents, or their designee, of both the sending and the receiving school corporation.

B. Balancing Mandates with Time and Funding

Legislation considered by the General Assembly includes fiscal notes whenever there is a potential fiscal impact. Legislation to impose additional responsibilities on the public schools should focus on support for increased student achievement without adding additional regulations and should include relief from existing statutes and regulations.

C. Coordinating and Supporting Existing Accountability Measures

At no other time in recent history have so many levels of government imposed new regulations and requirements on the public schools when resources for the public schools were more stressed. Any additional legislation to impose any mandates on the public schools should be coordinated with state and federal legislation already in place and should be accompanied with the resources of time and/or funds to accomplish the tasks assigned including support for professional development. Most, if not all, P-12 education statutes and administrative rules have a fiscal impact and should, therefore, be considered by the legislative fiscal committees before enactment. All schools, including home schools, receiving state funding should be held to the same state and federal accountability standards as public schools.

D. Preserving the Ability to Manage the Local District Budget

The fiscal crisis experienced by the State of Indiana continues to be shared by local school districts. Mandates, coupled with escalating cost increases in areas such as health insurance, property and casualty insurance,

inflationary increases in purchased materials and energy costs, TRF assessments for the new fund, and the increase in General Fund expenditures for free and reduced textbooks and transportation costs, along with cuts and delays in school funding from state sources, have created a critical fiscal situation in many school districts. The diminished cash reserves of school districts are the only remaining buffer available to avoid major program and staff reductions. IAPSS urges legislators to remain constantly aware of these fiscal conditions and consider legislation that will reduce strains on local school district budgets. Taxpayers should, through local control, have an option to sustain programs through new or additional revenue sources.

E. Funding Programs and Initiatives

Adequate revenue is essential to fund remediation programs for subject areas as they are added to the state testing program. IAPSS continues to oppose all unfunded and underfunded mandates.

F. Efficiencies and Funding Issues

A long term objective should be to adequately fund the General Fund to include the cost of increases in utilities and insurance. In particular, assistance provided by the service centers are important to school districts and the efficiencies enhanced by the service centers should be restored and funded.

G. Kindergarten

Noting that 98% of our nation's children attend kindergarten, 43 states require their schools to offer kindergarten, and 40 states offer full-day kindergarten, kindergarten should be mandated and fully funded with a new and sustainable revenue stream for all school districts to offer to all students. IAPSS supports the replacement of the full-day kindergarten grant with funding through the regular state formula by adding students as a full count. A provision for start-up costs should be implemented upon the first day of student enrollment. This should include support to simplify the current facility approval process for school construction needed to institute full-day kindergarten when buildings are at capacity.

H. Professional Development/Job Training/Resources

Effective professional development and job training for teachers and administrators is the missing piece in Indiana's funding plan for school improvement. Additional and flexible time is essential in achieving maximum progress in increasing student achievement by increasing the expertise and effectiveness of schools. Opportunities for professional development would result if school corporations had the ability to opt for the accumulation of staff development hours to be used by the district.

I. Petition/Remonstrance, Referendum Language

IAPSS also believes that since the adoption of the referendum process for certain defined projects now in place, the former petition/remonstrance language written as a compromise to earlier proposed legislation regarding referendum should be eliminated from referendum language to allow school districts access to resources outside of the school corporation. IAPSS supports eliminating the 7 year sunset provision on referendums.

J. Collective Bargaining and Local Control

IAPSS appreciates changes made to date in Indiana's collective bargaining process, recognizes change usually results in a need for further clarification of key issues, and stands ready to provide assistance on any such issues.

II. PRIORITY LEGISLATIVE ISSUES:

A. Any discussions concerning programming decisions, the consolidation of service, administration, schools or school districts, or staffing comparisons, must be research based.

B. Reinstate financial relief to mitigate the negative impacts of the circuit breaker on affected school communities.

C. All schools, including home schools, receiving state funding should be held to the same state and federal accountability standards as public schools.

D. IAPSS further believes that legislative action is needed to protect school district funding from broad interpretations of legislation outside of legislative action. IAPSS urges legislators to remain constantly aware of these fiscal conditions and consider legislation that will reduce strains on local school district budgets.

It is important that transition from previous funding-formula principles in a manner that gives time for adjustments and ensures equal educational opportunity for all Indiana children. Though funding is generated by individual student counts, most school programs (i.e. special needs programs, music programs, and support staff) cannot automatically be reduced when enrollments in a school or a school system decline.

E. A superintendent's contract is a public document, and superintendents should, on an annual basis, provide a summary to be signed by the board and made available to the media, which states the total annual compensation package of the superintendent; including all benefits that are above what other employees receive: salary, insurance, annuity (i.e. 401K), and vehicle allowance/benefit. The local board members signatures also state that they have read superintendent's contract.

F. Given that 98% of our nation's children attend kindergarten, 43 states require their schools to offer kindergarten, and 40 states offer full-day kindergarten, Indiana trails in meeting the needs of early learners. According to the Center for Public Education, states with pre-k programs see these participants go on to score higher on tests of third grade

readiness, see reduced special education placements, and see reductions in grade retentions in elementary school. Immediately develop a plan to implement state-wide pilot programs, from January 2012 through June of 2012, by assessing methodology and determining the identification process to be used to identify eligible students for a pilot for pre-kindergarten. Prior to implementation develop a deployment plan that can be reviewed and measured annually. Participation in the pilot programs should involve a mix of all students.

III. LEGISLATIVE POSITIONS REGARDING SCHOOL FINANCE

A. Funding Special Need Areas Including Limited English Proficiency

Adequate funding for special need areas is necessary due to the minimal capacity to fund such needs available in the present budget structure of most school districts. Rulings by the Department of Education to require school districts to extend summer school offerings to all special education students demand even more local school district resources for special education programs. The elimination of summer programming in categories two and three has reduced educational experiences for Indiana's students, and funding should be reinstated to provide for the option of offering both basic and enrichment programs. Expenditures in excess of designated funding are common in programs for special education, including preschool special education, limited English proficiency programs, and alternative education programs.

The use by IDOE of the reimbursement model for the disbursement of federal dollars to schools should not continue, fiscally damages school corporations, and the dollars should again flow directly to school districts in a timely manner per past practice. IDOE should fully fund all S-5 "Wrap-Around" special needs placements, and not place the burden on school districts through yet another reimbursement process.

B. Adequate and Equitable Funding Formula

Indiana's fiscal difficulties over the past several years have translated into limited revenues for increased funding for schools. In spite of the Legislature's best efforts, limited funding increases have created unintended issues among various types of school districts. Increased costs, heightened demands for increased performance, and personnel needs continue to require a basic inflationary increase for all schools to offer the necessary and required student programs. Increases to meet these needs have caused a corresponding need within all schools for increased funding. Funding all of the needs on an equitable basis in times of restricted revenue is a challenge that needs to be met. IAPSS wishes to work with legislators on these funding issues with the following priorities in mind:

1. Protect existing educational programs from curtailment as local school corporations struggle to meet the fiscal liabilities inherent to state and federal mandates. Special education, high ability learners, alternative education, vocational and technical education, and the needs of limited English-proficient students consistently exceed funding allocations for these needs. The result is diminished programs for other students in the regular education program.
2. It is important that transition from previous funding-formula principles is accomplished in a manner that gives time for adjustments and ensures equal educational opportunity for all Indiana children. Though funding is generated by individual student counts, most school programs (i.e. special needs programs, music programs, and support staff) cannot automatically be reduced when enrollments in a school or a school system decline.
3. Reinstate financial relief to mitigate the negative impacts of the circuit breaker on affected school communities.

The IAPSS also urges adjustments in the existing revenue distribution procedure which:

- a. allow time for schools to reduce and advocate for an allowance of a cumulative growth qualifying factor over two consecutive school years.
- b. would separate complexity index generated revenues, as determined by state reports, in formula computations and legislative printouts pertaining to “total per pupil expenditure.”
- c. would permit school districts to increase school transportation budgets on a delayed basis in subsequent years if cash balances have been used to tax levy increases or to replace lost state support.

The IAPSS further advocates:

- (i) identifying and recognizing varied programming needs which impact school corporations, including actual general fund expenditures for in-house security and actual costs inherent to a higher incidence of special education placements. Mandated programs often require funding far beyond the formula-generated funds for specific programs. Cost per pupil reports without explanation do not accurately reflect the unique needs of some schools districts—needs that impact the cost per pupil.
- (ii) increasing funding for special education, including pre-school special education. Current formula support does not adequately fund special education and results in diminished programs for other students.
- (iii) appropriating a level for summer school including summer special education programs in amounts adequate to fund needed summer school programs including statutory and DOE mandated programs and enhanced remediation.

C. Alternative Revenue Sources

The IAPSS supports legislation increasing the authority of local school boards to collect tax revenue from any of the alternative sources currently available to other local units of government.

Designated state reserves should be increased and set aside to ensure adequate reserves to fund state support to schools.

D. Textbook and Related Materials

The IAPSS supports:

1. Full and timely funding of textbook materials and fees for students receiving free and reduced lunches. Past appropriations have failed to fully fund these costs, and school districts have been forced to pay such costs from the General Fund and Debt Service Fund. School districts experience additional problems in this area due to the delayed distribution of the funds by DOE and the absence of a second distribution of funds to pay for qualified students who arrive after the first distribution's qualification date.
2. For all children not qualified under the terms of I.C. 20-8.1-9-1 through I.C. 20-8.1-9-14, the establishment of a state appropriation that would support an assistance fund for textbooks, workbooks, and textbook-related software. The assistance fund would be distributed to local school corporations on the basis of the ADM count for the previous school year toward an ultimate goal of 100 percent reimbursement per student. Costs for said materials beyond state distribution levels are to be charged to parents (or guardians) under the terms of the existing Indiana Statute I.C. 20-10.1-10-1.
3. The requirement that a plan to fund textbooks must include the provision that costs in excess of such funding for materials and textbooks which meet state textbook guidelines may be secured from the parents or guardians so that textbook quality and accuracy can be maintained.
4. Create a free textbook fund, in place in a vast majority of states, with alternative means for revenue through a separate fund.

E. Efficiencies

1. All school districts should be able to employ skilled workers (plumbers, carpenters, painters, electricians, etc.) and pay for the service through the Capital Projects Fund.
2. Any discussions concerning the consolidation of services and comparisons of staffing of Indiana's schools should be research based.

IV. RELATED ISSUES

The IAPSS supports:

- a.) An alternative to the mandated publication of the school report card in the legal advertising section of local newspapers or by posting the report on the school district website as an alternative to the expenditure of public

- dollars. Such alternative publication would include all of the information required in the existing legal advertisement.
- b.) Adequate funding for the Department of Education to acquire, on a resource basis, personnel services of expert educators to assist schools classified as failing and all other schools requesting this assistance. Such personnel shall not become full-time employees of DOE.
 - c.) The recently enacted "tax credits for private school tuition" redirects state tax dollars needed by the public schools for operational costs to selective, often religious-based private schools. IAPSS urges repeal of this legislation.

Selected IASBO Legislative Resolutions

INDIANA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

2012 LEGISLATIVE RESOLUTIONS

I. MAJOR LEGISLATIVE PRIORITIES

Indiana ASBO presents the following legislative resolutions as priorities for the 2012 session of the Indiana General Assembly:

A. Fully Fund the School Distribution Formula Each Year

- The school distribution formula should be funded at a 100% level every year

IASBO believes that the school distribution formula should be funded at a 100% level. School corporations build their budgets and base their contractual obligations expecting to receive the full amount of their tuition support. The Indiana General Assembly has made the decision to fund the school distribution formula with only state dollars. Therefore, the State has a responsibility to fund the formula accordingly. IASBO is greatly aware of the current fiscal issues that face the State of Indiana, but fully funding state support should be a high priority.

B. Capital Projects Fund – Make Utility and Property Insurance Payments Permanent

- The ability to pay for utilities and property insurance should be made permanent permitted uses of the CPF

IASBO recommends that utilities and property insurance become permanently permitted uses of the Capital Projects Fund. Current law eliminates these expenditure categories after 2013. School corporations currently allocate over \$200 million for these purposes from the CPF. It is important to note that this procedure does not impact state funding or provide additional property tax increases above the current statutory limits. Elimination of this provision will be an immediate and significant financial hardship for all school corporations.

C. Voucher and Scholarship Funding

- Funding for the Choice Scholarship (Vouchers) and the Mitch Daniels Early Graduation Scholarship programs should have a separate appropriation in the state budget.

State dollars should be set aside in the state budget to fund the Choice Scholarship and the Mitch Daniels Early Graduation Scholarship programs outside of the appropriation for tuition support. School corporations should not be penalized in the school funding formula mechanism if they are not directly impacted by these programs.

D. Local Option Income Tax for Circuit Breaker Reductions

- School boards should have the authority to raise a Local Option Income Tax to eliminate the losses from circuit breaker property tax reductions

IASBO supports the implementation of a Local Option Income Tax for school corporations to eliminate the adverse impact of circuit breaker property tax losses. For numerous school corporations, the circuit breaker process will reduce property taxes for the Debt Service, Capital Projects, Transportation and Bus Replacement Funds. The amount of the Local Option Income Tax imposed by a school board will only equal the circuit breaker losses. The new tax will not provide new revenue for school corporations and is an optional procedure for school boards.

II. School Funding Issues

The 2012 session of the Indiana General Assembly will be a short session where opening the state budget is doubtful. Still, IASBO has strong positions on the various funding issues involving the public schools. Appropriate funding for Indiana's public schools continues to be IASBO's highest priority for the 2012 session. Significant school funding issues are as follows:

A. School Distribution Formula

- Provide adequate and equitable funding for the learning opportunities for all students

IASBO supports funding in the school distribution formula that will provide adequacy and equity for all Indiana school students. Efforts should continue to be made to accelerate the movement for all school corporations to the formula foundation amount. Appropriate

funding must be made available in order to meet accountability requirements, to narrow the achievement gap, increase graduation rates, and to meet the needs of all students.

B. School Corporation Appeal Board

- a. A state appeal board should be created to assist school corporations in financial distress

In 1973, the General Assembly created the School Property Tax Control Board to assist school corporations who were experiencing financial difficulties. This board was eliminated in 2009, and now there is no mechanism to aid corporations who are in financial distress. The question is: Where do school corporations go for assistance? At this time, there is no state agency, department or board that can assist in these times of need.

Indiana ASBO is recommending that a new appeal board be created by the General Assembly to fill this void. The new board should have members who are from state agencies that have an understanding of school funding. Further, any new board should have members who are superintendents and school business officials. A mechanism should be included in this legislation to determine who can meet with the board and how the board can provide assistance.

C. Early Childhood Programs

- Fully fund Full-Day Kindergarten as an important element of early childhood education

IASBO believes that Full-Day Kindergarten should be a voluntary school program that is fully funded by the State of Indiana. As the program is developed, issues such as facilities and transportation should be emphasized. Further, the program should be funded from the time of implementation to assure that the first year of the program has up-front funding. Full-Day Kindergarten should become a permanent calculation within the school distribution formula and these students should be counted as one ADM.

- Pre-Kindergarten programs should be studied with the future outcome of full funding

Research studies show that providing educational services to children prior to kindergarten greatly enhances their ability to learn. The General Assembly should study the issue and determine the best approach to offer fully funded educational programs to pre-kindergarten students.

D. Categorical Instructional Initiatives

- IASBO believes that funding is required for the following programs to assist with the accountability requirements, the narrowing of the achievement gap, and meeting the needs of all students in Indiana's public schools.

- **Summer School Funding**
Fully fund summer school for all students

IASBO believes that the General Assembly should fully fund summer school for students at the elementary school, middle school, and high school levels. The last year summer

school programs were fully funded was in 1991. School corporations have struggled to pay the unreimbursed costs of summer school programs because the state appropriation for summer school has been inadequate.

- **Remediation Funding**

Increase funding for all remediation programs

IASBO believes that the General Assembly should continue to make monies available for supplemental remediation. With increasing accountability and higher academic standards at the local, state and federal levels, many Indiana students will need remediation services. Fully funded remediation programs for all students in need will allow local school corporations to improve the quality of Indiana's schools.

- **Professional Development**

Re-establish funding for professional development opportunities

IASBO supports re-establishing the funding for professional development to be used in conjunction with school improvement plans, teacher mentoring and teacher evaluation.

- **Funding Future Education Initiatives**

Fully fund future education initiatives to assure the most advantageous learning environment for all students

IASBO believes that the General Assembly should fully fund future education initiatives to assure the most advantageous learning environment for all students. IASBO supports educational concepts and initiatives that will narrow the achievement gap and provide enhanced learning opportunities for all Indiana public school students.

E. Transportation Operating Fee

- School corporations should be allowed to charge a fee for regular transportation

IASBO believes that the General Assembly should adopt legislation that would allow school boards to create a fee for regular transportation. The recent Attorney General's opinion stated that charging a fee for regular transportation was unconstitutional since the General Assembly had not specifically allowed this practice. This should be a may provision that provides school boards the option of charging a fee.

F. Technology Grant

- With all of the movement to on-line education, the loss of Capital Projects Fund monies and the impact of the circuit breaker provisions, a new Technology Grant should be created by the General Assembly

Indiana is moving toward on-line testing and on-line courses with no new funding to implement these programs. School corporations have used their Capital Projects Fund monies for technology, but those funds are now being strained by losses in assessed valuation and the need to use the fund for neutralization of pension bonds. A new grant program and state appropriation (comparable to the 1999 state grant) should be developed to deal with the needs of the modern technology world.

G. Multiple Pupil Count Dates

- IASBO supports a second pupil count date after the beginning of the second semester that does not penalize school corporations.

Moving to multiple pupil count dates that increase the funding amounts to school corporations should begin after the beginning of the second semester. Any change in funding should not penalize a school corporation. A major concern for a reduction in state support after the first of the year is the impact on the deficit financing requirement found in the new collective bargaining statute. Currently, school administrators cannot adjust their programs in mid-year to accommodate a loss of state revenue. Teachers are hired in the summer to meet the needs of students for the full school year. Reductions in force cannot be made that will impact the funding in a current school year. If reductions in staff are allowed, the impact on students having to change teachers in mid-year will need to be analyzed closely.

H. Eliminate Levy Cap from the School Bus Replacement Fund

- There should be no levy or rate cap on the School Bus Replacement Fund since it is a needs based fund.

The School Bus Replacement Fund was created to allow school corporations the flexibility to purchase school buses when the need arose. The current tax levy cap on this fund eliminates that flexibility for the safety of students and for those school corporations who are growing in enrollment. The determination of a fair base levy for each corporation has been problematic as each corporation has followed an individual plan for bus replacement for several years.

I. School Bus Replacement Fund – Pension Neutralization

- The method to neutralize pension debt in the School Bus Replacement Fund should revert back to the 2011 procedures until the debt is fully paid.

Over the past several years, the Department of Local Government Finance allowed school corporations to add their pension bond neutralization amounts to the School Bus Replacement Fund above the tax levy needed to purchase buses. For 2012, DLGF has changed their position on this issue and will not allow the previous practice. IASBO is requesting that this procedure be reinstated until the pension bond debt is retired. The impact of the DLGF decision is that buses will not be purchased to assure a safe environment for students and/or a major reduction in Capital Projects Funds that will decrease the funding for technology and yearly maintenance.

J. School Bus Replacement Fund – Appeal Procedures

- If the levy cap continues for the School Bus Replacement Fund, appeal procedures should be created to deal with unforeseen circumstances.

There is a need to create an appeal procedure for the School Bus Replacement Fund with the new legislation that created a tax levy limit for the purchase of school buses. Previously, school corporations could purchase buses with no limitations per the School Bus Replacement Fund plan. Now there will be a levy cap and appeal procedures to the DLGF are needed to deal with unforeseen circumstances such as enrollment growth, new special education students, federal and state mandates, inflation, etc.

K. 65% Solution

- The 65% Solution concept should not become a mandate to school corporations.

The national concept that 65% of school funding should be going to the classroom should not be mandated. Many have criticized Indiana's public schools for having less than 65% of their funding being used in the classroom. This is not an accurate assessment since the base dollar amount used in these calculations contain funds that cannot be spent in the classroom, such as debt service, transportation, food service, bus replacement, construction, etc. The reality is that 85% of the dollars going to school corporation General Funds are being spent in the classroom. The General Fund monies can go directly to the classroom. The 65% Solution does not apply to dollars going to the classroom and should not be mandated.

III. Other School Business Management Issues

A. Budget Advertising Dates

- Eliminate the September dates for advertising the school corporation budget.

IASBO recommends that school budgets be advertised using the current statute that begins advertising at a prescribed time before budget adoption on November 1. The current statute calls for the last dates to advertise which be in October rather than early September. The dates calling for advertising in September should be eliminated. This would allow the advertised budget to reflect the actual number of students attending each school corporation.

**THE SESSION BILLS WILL BE POSTED ON THE WEB
PAGES OF THE RESPECTIVE ASSOCIATIONS. THEY MAY
BE ACCESSED AT:**

<http://www.iapss-in.org/>

<http://www.indiana-asbo.org/>

www.isba-ind.org