

# HOUSE BILL No. 1397

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-28; IC 20-29.

**Synopsis:** Teacher evaluations and contracts. Removes the requirement that teacher evaluations must include objective measures of student growth as part of the evaluation. Provides that a school corporation may provide a supplemental payment to a teacher who has earned a master's degree from an accredited postsecondary educational institution. (Current law requires the master's degree to be in an area currently taught by the teacher or in the areas of math, reading, or literacy for an elementary teacher.) Provides that certain factors may be used to determine increments or increases in a local teacher salary range. (Current law requires certain factors must be used to determine increases or increments in a local teacher salary range.) Provides that before September 15 of any year, a governing body may pass a one year resolution indicating that a portion or percentage of money transferred from the operations fund to the education fund may be considered education fund revenue for purposes of funding teacher contracts and to determine whether a teacher collective bargaining agreement would place the employer in a position of deficit financing. Makes a technical amendment.

**Effective:** July 1, 2019.

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## Cook, Cherry

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January 14, 2019, read first time and referred to Committee on Education.

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Introduced

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1397

A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

1 SECTION 1. IC 20-28-9-1.5, AS AMENDED BY P.L.215-2018(ss),  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1.5. (a) This subsection governs salary increases  
4 for a teacher employed by a school corporation. Compensation  
5 attributable to additional degrees or graduate credits earned before the  
6 effective date of a local compensation plan created under this chapter  
7 before July 1, 2015, shall continue for school years beginning after  
8 June 30, 2015. Compensation attributable to additional degrees for  
9 which a teacher has started course work before July 1, 2011, and  
10 completed course work before September 2, 2014, shall also continue  
11 for school years beginning after June 30, 2015. For school years  
12 beginning after June 30, 2015, a school corporation may provide a  
13 supplemental payment to a teacher in excess of the salary specified in  
14 the school corporation's compensation plan under any of the following  
15 circumstances:  
16 (1) The teacher:  
17 (A) teaches an advanced placement course or a Cambridge

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- 1 International course; or  
 2 (B) has earned a master's degree from an accredited  
 3 postsecondary educational institution. ~~in a content area~~  
 4 ~~directly related to the subject matter of:~~  
 5 (i) ~~a dual credit course; or~~  
 6 (ii) ~~another course;~~  
 7 ~~taught by the teacher.~~
- 8 **A school corporation may elect to determine the amount of**  
 9 **the supplement provided to a teacher under clause (B) using**  
 10 **the number of years of teaching experience that the teacher**  
 11 **has acquired.**
- 12 (2) Beginning after June 30, 2018, the teacher:  
 13 (A) is a special education professional; or  
 14 (B) teaches in the areas of science, technology, engineering, or  
 15 mathematics.
- 16 ~~In addition, a supplemental payment may be made to an elementary~~  
 17 ~~school teacher who earns a master's degree in math, reading, or~~  
 18 ~~literacy. A supplement provided under this subsection is not subject to~~  
 19 ~~collective bargaining, but a discussion of the supplement must be held.~~  
 20 ~~Such a supplement is in addition to any increase permitted under~~  
 21 ~~subsection (b).~~
- 22 (b) Increases or increments in a local salary range ~~must~~ **may** be  
 23 based upon a combination of the following factors:  
 24 (1) ~~A combination of the following factors taken together may~~  
 25 ~~account for not more than thirty-three and one-third percent~~  
 26 ~~(33.33%) of the calculation used to determine a teacher's increase~~  
 27 ~~or increment:~~  
 28 (A) (1) The number of years of a teacher's experience.  
 29 (B) (2) The possession of either:  
 30 (i) (A) additional ~~content area~~ degrees beyond the  
 31 requirements for employment; or  
 32 (ii) (B) additional ~~content area~~ degrees and credit hours  
 33 beyond the requirements for employment, if required under  
 34 an agreement bargained under IC 20-29.  
 35 (2) (3) The results of an evaluation conducted under  
 36 IC 20-28-11.5.  
 37 (3) (4) The assignment of instructional leadership roles, including  
 38 the responsibility for conducting evaluations under IC 20-28-11.5.  
 39 (4) (5) The academic needs of students in the school corporation.
- 40 (c) To provide greater flexibility and options, a school corporation  
 41 may differentiate the amount of salary increases or increments  
 42 determined for teachers under subsection ~~(b)(4)~~. **(b)**. A school



1 corporation shall base a differentiated amount under this subsection on  
 2 any academic needs the school corporation determines are appropriate,  
 3 which may include the:

- 4 (1) subject or subjects, including the subjects described in
- 5 subsection (a)(2), taught by a given teacher;
- 6 (2) importance of retaining a given teacher at the school
- 7 corporation; and
- 8 (3) need to attract an individual with specific qualifications to fill
- 9 a teaching vacancy.

10 ~~(d)~~ A school corporation may provide differentiated increases or  
 11 increments under subsection (b); and in excess of the percentage  
 12 specified in subsection (b)(1); in order to reduce the gap between the  
 13 school corporation's minimum teacher salary and the average of the  
 14 school corporation's minimum and maximum teacher salaries.

15 ~~(e)~~ ~~(d)~~ Except as provided in subsection ~~(f)~~; ~~(e)~~, a teacher rated  
 16 ineffective or improvement necessary under IC 20-28-11.5 may not  
 17 receive any raise or increment for the following year if the teacher's  
 18 employment contract is continued. The amount that would otherwise  
 19 have been allocated for the salary increase of teachers rated ineffective  
 20 or improvement necessary shall be allocated for compensation of all  
 21 teachers rated effective and highly effective based on the criteria in  
 22 subsection (b).

23 ~~(f)~~ ~~(e)~~ Subsection ~~(e)~~ ~~(d)~~ does not apply to a teacher in the first two  
 24 (2) full school years that the teacher provides instruction to students in  
 25 elementary school or high school. If a teacher provides instruction to  
 26 students in elementary school or high school in another state, any full  
 27 school year, or its equivalent in the other state, that the teacher provides  
 28 instruction counts toward the two (2) full school years under this  
 29 subsection.

30 ~~(g)~~ ~~(f)~~ A teacher who does not receive a raise or increment under  
 31 subsection ~~(e)~~ ~~(d)~~ may file a request with the superintendent or  
 32 superintendent's designee not later than five (5) days after receiving  
 33 notice that the teacher received a rating of ineffective. The teacher is  
 34 entitled to a private conference with the superintendent or  
 35 superintendent's designee.

36 ~~(h)~~ ~~(g)~~ The Indiana education employment relations board  
 37 established in IC 20-29-3-1 shall publish a model compensation plan  
 38 with a model salary range that a school corporation may adopt.

39 ~~(i)~~ ~~(h)~~ Each school corporation shall submit its local compensation  
 40 plan to the Indiana education employment relations board. For a school  
 41 year beginning after June 30, 2015, a local compensation plan must  
 42 specify the range for teacher salaries. The Indiana education



1 employment relations board shall publish the local compensation plans  
 2 on the Indiana education employment relations board's Internet web  
 3 site.

4 ~~(j)~~ (i) The Indiana education employment relations board shall  
 5 review a compensation plan for compliance with this section as part of  
 6 its review under IC 20-29-6-6.1. The Indiana education employment  
 7 relations board has jurisdiction to determine compliance of a  
 8 compensation plan submitted under this section.

9 ~~(k)~~ (j) This chapter may not be construed to require or allow a  
 10 school corporation to decrease the salary of any teacher below the  
 11 salary the teacher was earning on or before July 1, 2015, if that  
 12 decrease would be made solely to conform to the new compensation  
 13 plan.

14 ~~(l)~~ (k) After June 30, 2011, all rights, duties, or obligations  
 15 established under IC 20-28-9-1 before its repeal are considered rights,  
 16 duties, or obligations under this section.

17 SECTION 2. IC 20-28-11.5-4, AS AMENDED BY P.L.239-2015,  
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2019]: Sec. 4. (a) Each school corporation shall develop a  
 20 plan for annual performance evaluations for each certificated  
 21 employee. A school corporation shall implement the plan beginning  
 22 with the 2012-2013 school year.

23 (b) Instead of developing its own staff performance evaluation plan  
 24 under subsection (a), a school corporation may adopt a staff  
 25 performance evaluation plan that meets the requirements set forth in  
 26 this chapter or any of the following models:

27 (1) A plan using master teachers or contracting with an outside  
 28 vendor to provide master teachers.

29 (2) The System for Teacher and Student Advancement (TAP).

30 (3) The Peer Assistance and Review Teacher Evaluation System  
 31 (PAR).

32 (c) A plan must include the following components:

33 (1) Performance evaluations for all certificated employees,  
 34 conducted at least annually.

35 ~~(2) Objective measures of student achievement and growth to~~  
 36 ~~significantly inform the evaluation. The objective measures must~~  
 37 ~~include:~~

38 ~~(A) student assessment results from statewide assessments for~~  
 39 ~~certificated employees whose responsibilities include~~  
 40 ~~instruction in subjects measured in statewide assessments;~~

41 ~~(B) methods for assessing student growth for certificated~~  
 42 ~~employees who do not teach in areas measured by statewide~~



- 1 assessments; and
- 2 ~~(C)~~ student assessment results from locally developed
- 3 assessments and other test measures for certificated employees
- 4 whose responsibilities may or may not include instruction in
- 5 subjects and areas measured by statewide assessments.
- 6 ~~(3)~~ (2) Rigorous measures of effectiveness, including
- 7 observations and other performance indicators.
- 8 ~~(4)~~ (3) An annual designation of each certificated employee in
- 9 one (1) of the following rating categories:
- 10 (A) Highly effective.
- 11 (B) Effective.
- 12 (C) Improvement necessary.
- 13 (D) Ineffective.
- 14 ~~(5)~~ (4) An explanation of the evaluator's recommendations for
- 15 improvement, and the time in which improvement is expected.
- 16 ~~(6)~~ (5) A provision that a teacher who negatively affects student
- 17 achievement and growth cannot receive a rating of highly
- 18 effective or effective.
- 19 ~~(7)~~ (6) For annual performance evaluations for school years
- 20 beginning after June 30, 2015, provide for a pre-evaluation
- 21 planning session conducted by the superintendent or equivalent
- 22 authority for the school corporation with the principals in the
- 23 school corporation.
- 24 (d) In developing a performance evaluation model, a school
- 25 corporation may consider the following:
- 26 (1) Test scores of students (both formative and summative).
- 27 (2) Classroom presentation observations.
- 28 (3) Observation of student-teacher interaction.
- 29 (4) Knowledge of subject matter.
- 30 (5) Dedication and effectiveness of the teacher through time and
- 31 effort on task.
- 32 (6) Contributions of teachers through group teacher interactivity
- 33 in fulfilling the school improvement plan.
- 34 (7) Cooperation of the teacher with supervisors and peers.
- 35 (8) Extracurricular contributions of the teacher.
- 36 (9) Outside performance evaluations.
- 37 (10) Compliance with school corporation rules and procedures.
- 38 (11) Other items considered important by the school corporation
- 39 in developing each student to the student's maximum intellectual
- 40 potential and performance.
- 41 The state board and the department may recommend additional factors,
- 42 but may not require additional factors unless directed to do so by the



1 general assembly.

2 (e) ~~This subsection applies to plans applicable to annual~~  
 3 ~~performance evaluations for school years beginning after June 30,~~  
 4 ~~2015.~~ The plan must:

5 (1) be in writing; and

6 (2) be explained to the governing body in a public meeting;  
 7 before the evaluations are conducted. Before explaining the plan to the  
 8 governing body, the superintendent of the school corporation shall  
 9 discuss the plan with teachers or the teachers' representative, if there  
 10 is one. This discussion is not subject to the open door law  
 11 (IC 5-14-1.5). The plan is not subject to bargaining, but a discussion of  
 12 the plan must be held.

13 (f) The evaluator shall discuss the evaluation with the certificated  
 14 employee.

15 SECTION 3. IC 20-28-11.5-8, AS AMENDED BY P.L.160-2012,  
 16 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 8. (a) To implement this chapter, the state board  
 18 shall do the following:

19 (1) ~~Before January 31, 2012,~~ Adopt rules under IC 4-22-2 that  
 20 establish:

21 (A) the criteria that define each of the four categories of  
 22 teacher ratings under section ~~4(c)(4)~~ **4(c)(3)** of this chapter;

23 ~~(B) the measures to be used to determine student academic~~  
 24 ~~achievement and growth under section 4(c)(2) of this chapter;~~  
 25 ~~(C) (B) standards that define actions that constitute a negative~~  
 26 ~~impact on student achievement; and~~

27 ~~(D) (C) an acceptable standard for training evaluators.~~

28 (2) ~~Before January 31, 2012,~~ Work with the department to  
 29 develop a model plan and release it to school corporations.  
 30 Subsequent versions of the model plan that contain substantive  
 31 changes must be provided to school corporations.

32 (3) Work with the department to ensure the availability of  
 33 ongoing training on the use of the performance evaluation to  
 34 ensure that all evaluators and certificated employees have access  
 35 to information on the plan, the plan's implementation, and this  
 36 chapter.

37 (b) A school corporation may adopt the department's model plan, or  
 38 any other model plan approved by the department, without the state  
 39 board's approval.

40 (c) A school corporation may substantially modify the model plan  
 41 or develop the school corporation's own plan, if the substantially  
 42 modified or developed plan meets the criteria established under this



1 chapter. If a school corporation substantially modifies the model plan  
 2 or develops its own plan, the department may request that the school  
 3 corporation submit the plan to the department to ensure the plan meets  
 4 the criteria developed under this chapter. If the department makes such  
 5 a request, before submitting a substantially modified or new staff  
 6 performance evaluation plan to the department, the governing body  
 7 shall submit the staff performance evaluation plan to the teachers  
 8 employed by the school corporation for a vote. If at least seventy-five  
 9 percent (75%) of the voting teachers vote in favor of adopting the staff  
 10 performance evaluation plan, the governing body may submit the staff  
 11 performance evaluation plan to the department.

12 (d) Each school corporation shall submit its staff performance  
 13 evaluation plan to the department. The department shall publish the  
 14 staff performance evaluation plans on the department's Internet web  
 15 site. A school corporation must submit its staff performance evaluation  
 16 plan to the department for approval in order to qualify for any grant  
 17 funding related to this chapter.

18 SECTION 4. IC 20-28-11.5-9, AS AMENDED BY P.L.239-2015,  
 19 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2019]: Sec. 9. (a) The principal of a school in a school  
 21 corporation shall report in the aggregate the results of staff  
 22 performance evaluations for the school for the previous school year to  
 23 the superintendent and the governing body for the school corporation  
 24 before August 15 of each year on the schedule determined by the  
 25 governing body. The report must be presented in a public meeting of  
 26 the governing body. Before presentation to the governing body, the  
 27 superintendent of the school corporation shall discuss the report of  
 28 completed evaluations with the teachers. This discussion is not subject  
 29 to the open door law (IC 5-14-1.5). The report of completed evaluations  
 30 is not subject to bargaining, but a discussion of the report must be held.

31 (b) A school corporation annually shall provide the disaggregated  
 32 results of staff performance evaluations by teacher identification  
 33 numbers to the department:

34 (1) after completing the presentations required under subsection

35 (a) for all schools for the school corporation; and

36 (2) before November 15 of that year.

37 Before November 15 of each year, each charter school (including a  
 38 virtual charter school) shall provide the disaggregated results of staff  
 39 performance evaluations by teacher identification numbers to the  
 40 department.

41 (c) Before August 1 of each year, each charter school and school  
 42 corporation shall provide to the department:





1 (1) the name of the teacher preparation program that  
 2 recommended the initial license for each teacher employed by the  
 3 school; and

4 (2) the annual retention rate for teachers employed by the school.

5 (d) Not before the beginning of the second semester (or the  
 6 equivalent) of the school year and not later than August 1 of each year,  
 7 the principal at each school described in subsection (b) shall complete  
 8 a survey that provides information regarding the principal's assessment  
 9 of the quality of instruction by each particular teacher preparation  
 10 program located in Indiana for teachers employed at the school who  
 11 initially received their teaching license in Indiana in the previous two  
 12 (2) years. The survey shall be adopted by the state board and prescribed  
 13 on a form developed not later than July 30, 2016, by the department  
 14 that is aligned with the matrix system established under  
 15 IC 20-28-3-1(i). The school shall provide the surveys to the department  
 16 along with the information provided in subsection (c). The department  
 17 shall compile the information contained in the surveys, broken down  
 18 by each teacher preparation program located in Indiana. The  
 19 department shall include information relevant to a particular teacher  
 20 preparation program located in Indiana in the department's report under  
 21 subsection (g).

22 (e) During the second semester (or the equivalent) of the school year  
 23 and not later than August 1 of each year, each teacher employed by a  
 24 school described in subsection (b) in Indiana who initially received a  
 25 teacher's license in Indiana in the previous three (3) years shall  
 26 complete a form after the teacher completes the teacher's initial year  
 27 teaching at a particular school. The information reported on the form  
 28 must:

29 (1) provide the year in which the teacher was hired by the school;

30 (2) include the name of the teacher preparation program that  
 31 recommended the teacher for an initial license;

32 (3) describe subjects taught by the teacher;

33 (4) provide the location of different teaching positions held by the  
 34 teacher since the teacher initially obtained an Indiana teaching  
 35 license;

36 (5) provide a description of any mentoring the teacher has  
 37 received while teaching in the teacher's current teaching position;

38 (6) describe the teacher's current licensure status; and

39 (7) include an assessment by the teacher of the quality of  
 40 instruction of the teacher preparation program in which the  
 41 teacher participated.

42 The form shall be prescribed by the department. The forms shall be



1 submitted to the department with the information provided in  
 2 subsection (c). Upon receipt of the information provided in this  
 3 subsection, the department shall compile the information contained in  
 4 the forms and include an aggregated summary of the report on the  
 5 department's Internet web site.

6 (f) Before December 15 of each year, the department shall report the  
 7 results of staff performance evaluations in the aggregate to the state  
 8 board, and to the public via the department's Internet web site for:

9 (1) the aggregate of certificated employees of each school and  
 10 school corporation;

11 (2) the aggregate of graduates of each teacher preparation  
 12 program in Indiana;

13 (3) for each school described in subsection (b), the annual rate of  
 14 retention for certificated employees for each school within the  
 15 charter school or school corporation; and

16 (4) the aggregate results of staff performance evaluations for each  
 17 category described in section ~~4(c)(4)~~ **4(c)(3)** of this chapter. In  
 18 addition to the aggregate results, the results must be broken down:

19 (A) by the content area of the initial teacher license received  
 20 by teachers upon completion of a particular teacher  
 21 preparation program; or

22 (B) as otherwise requested by a teacher preparation program,  
 23 as approved by the state board.

24 (g) Beginning November 1, 2016, and before September 1 of each  
 25 year thereafter, the department shall report to each teacher preparation  
 26 program in Indiana for teachers with three (3) or fewer years of  
 27 teaching experience:

28 (1) information from the surveys relevant to that particular teacher  
 29 education program provided to the department under subsection  
 30 (d);

31 (2) information from the forms relevant to that particular teacher  
 32 preparation program compiled by the department under  
 33 subsection (e); and

34 (3) the results from the most recent school year for which data are  
 35 available of staff performance evaluations for each category  
 36 described in section ~~4(c)(4)~~ **4(c)(3)** of this chapter with three (3)  
 37 or fewer years of teaching experience for that particular teacher  
 38 preparation program. The report to the teacher preparation  
 39 program under this subdivision shall be in the aggregate form and  
 40 shall be broken down by the teacher preparation program that  
 41 recommended an initial teaching license for the teacher.

42 SECTION 5. IC 20-29-2-6, AS AMENDED BY P.L.213-2018(ss),



1 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2019]: Sec. 6. "Deficit financing" for a budget year:

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

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

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

20 SECTION 6. IC 20-29-6-3, AS AMENDED BY P.L.244-2017,  
21 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2019]: Sec. 3. (a) It is unlawful for a school employer to enter  
23 into any agreement that would place the employer in a position of  
24 deficit financing due to a reduction in the employer's actual general  
25 fund (before January 1, 2019) or education fund (after December 31,  
26 2018) revenue or an increase in the employer's expenditures when the  
27 expenditures exceed the employer's current year actual general fund  
28 (before January 1, 2019) or education fund (after December 31, 2018)  
29 revenue. **Except as provided in subsection (c)**, revenue does not  
30 include money estimated to be or actually transferred from the school  
31 corporation's ~~operating~~ **operations** fund to its education fund.

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

35 (c) **Notwithstanding subsection (a), before September 15 of any**  
36 **year, a governing body may pass a one (1) year resolution**  
37 **indicating that a portion or percentage of money transferred from**  
38 **the operations fund to the education fund may be considered**  
39 **education fund revenue for purposes of funding a contract under**  
40 **this chapter and to determine whether an agreement would place**  
41 **the employer in a position of deficit financing. The resolution shall**  
42 **expire within one (1) year of the resolution's adoption by the**



1 **governing body.**

2 SECTION 7. IC 20-29-6-12.5, AS AMENDED BY P.L.244-2017,  
3 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 12.5. (a) Before September 15 of the first year of  
5 the state budget biennium, the department shall provide the parties with  
6 an estimate of the general fund (before January 1, 2019) or education  
7 fund (after December 31, 2018) revenue available for bargaining in the  
8 school corporation from the school funding formula.

9 (b) Within thirty (30) days after the date of the fall count of ADM  
10 of the school year in the first year of the state budget biennium, the  
11 department shall provide the parties with a certification of estimated  
12 general fund (before January 1, 2019) or education fund (after  
13 December 31, 2018) revenue available for bargaining from the school  
14 funding formula. If the parties do not receive a certified estimate from  
15 the department within thirty (30) days after the fall count of ADM, the  
16 parties may use the school corporation's estimate of the general fund  
17 (before January 1, 2019) or education fund (after December 31, 2018)  
18 revenue available based on the school corporation's fall count of ADM  
19 for purposes of collective bargaining. However, if the parties  
20 subsequently receive the certification of estimated general fund (before  
21 January 1, 2019) or education fund (after December 31, 2018) revenue  
22 available for bargaining before an impasse is declared, the parties shall  
23 use the certified general fund (before January 1, 2019) or education  
24 fund (after December 31, 2018) revenue from the school funding  
25 formula for purposes of collective bargaining.

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

31 **(d) A school employer that passes a resolution under section 3(c)**  
32 **of this chapter to consider a portion or percentage of money**  
33 **transferred from the school employer's operations fund to the**  
34 **education fund as education fund revenue for purposes of**  
35 **determining whether an agreement places a school corporation in**  
36 **a position of deficit financing must have that amount approved by**  
37 **the governing body certified by the department of local**  
38 **government finance.**

39 ~~(d)~~ (e) The school corporation must obtain the certification  
40 described in subsection (c) **or (d)** before the conclusion of bargaining.  
41 The certifications or estimate described in ~~subsection~~ **subsections (b)**  
42 **and (d)** must be the basis for determinations throughout impasse



- 1 proceedings under this chapter.
- 2 SECTION 8. IC 20-29-8-7, AS AMENDED BY P.L.244-2017,  
3 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 7. (a) When a factfinder is requested or required  
5 under IC 20-29-6, the board shall appoint a factfinder.
- 6 (b) The factfinder shall make an investigation and hold hearings as  
7 the factfinder considers necessary in connection with a dispute.
- 8 (c) The factfinder:
- 9 (1) may restrict the factfinder's findings to those issues that the  
10 factfinder determines significant;
- 11 (2) must restrict the findings to the items listed in IC 20-29-6-4;  
12 and
- 13 (3) may not impose terms beyond those proposed by the parties in  
14 their last, best offers.
- 15 (d) The factfinder may use evidence furnished to the factfinder by:
- 16 (1) the parties;
- 17 (2) the board;
- 18 (3) the board's staff; or
- 19 (4) any other state agency.
- 20 (e) The factfinder shall conduct the factfinding hearing in public in  
21 a room or facility owned by the county or local unit of government  
22 located in the county in which the school employer is located, or if the  
23 school employer is located in more than one (1) county, in the county  
24 in which the greatest number of students who attend the school  
25 employer's schools reside. The public hearing may begin not earlier  
26 than November 15 in the first year of the state budget biennium and  
27 must be concluded by February 15 of the calendar year after the start  
28 of formal collective bargaining.
- 29 (f) The factfinding process may not exceed thirty (30) days from  
30 beginning to end, and not more than two (2) of those days may be used  
31 for public testimony, which may be taken at the discretion of the  
32 factfinder. During the public hearing, each party shall present fully its  
33 last, best offer, including the fiscal rationale for the offer. Only  
34 education fund revenue and, for a school employer for which the voters  
35 have passed an operating referendum tax levy under IC 20-46-1, the  
36 amount of revenue certified by the department of local government  
37 finance, may be considered a source of the funding for items. **Except**  
38 **as provided in IC 20-29-6-3(c)**, money estimated to be or actually  
39 transferred from the school corporation's operations fund to its  
40 education fund may not be considered a source of funding for items.
- 41 (g) The factfinder shall make a recommendation as to the settlement  
42 of the disputes over which the factfinder has jurisdiction.



- 1 (h) The factfinder shall:  
2 (1) make the investigation, hearing, and findings as expeditiously  
3 as the circumstances permit; and  
4 (2) deliver the findings to the parties and to the board.  
5 (i) The board, after receiving the findings and recommendations,  
6 may make additional findings and recommendations to the parties  
7 based on information in:  
8 (1) the report; or  
9 (2) the board's own possession.  
10 The board may not make any recommendations to the parties related to  
11 any items not specifically identified in IC 20-29-6-4.  
12 (j) At any time within five (5) days after the findings and  
13 recommendations are delivered to the board, the board may make the  
14 findings and recommendations of the factfinder and the board's  
15 additional findings and recommendations, if any, available to the  
16 public through news media and other means the board considers  
17 effective.  
18 (k) The board shall make the findings and recommendations  
19 described in subsection (j) available to the public not later than ten (10)  
20 days after the findings and recommendations are delivered to the board.

