

PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

INTRODUCTION

The 2012 session of the 117th Indiana General Assembly adjourned sine die on Saturday, March 10, 2012. The legislature considered nearly 800 bills during the session, many of which addressed education policy and school governance, or were child-related legislation. The following is a summary of 14 key K-12 education bills that were enacted into law by the legislature. Many other bills were passed by the legislature on a number of public policy topics, including K-12 education, higher education, and child welfare and advocacy. For more information on these laws, go to: www.in.gov/legislative. The acts of legislation included in this report were selected by the Center for Evaluation & Education Policy (CEEP) at Indiana University for their significance and potential long-term impact on the K-12 education delivery system in Indiana.

A unique feature of this legislative summary is the inclusion of commentary and perspectives from statewide education and advocacy associations on the new laws. Representatives from those associations were invited to share their views concerning the pros and cons of the new laws because of their knowledge and expertise of topics covered by the legislation. The summary also includes the perspectives of Terry Spradlin, Director for Education Policy at CEEP. We hope you find his personal insights beneficial. Their comments, other than Mr. Spradlin's, do not represent, nor are they endorsed by, CEEP.

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COMMENTATORS

Todd Bess, Associate Executive Director, Indiana Association of School Principals (IASP)
Wally Bourke, Superintendent of Schools, Metropolitan School District of Franklin Township, Indiana
Frank Bush, Executive Director, Indiana School Boards Association (ISBA)
Denny Costerison, Executive Director, Indiana Association of School Business Officials (IASBO)
John Ellis, Executive Director, Indiana Association of Public School Superintendents (IAPSS)
The Honorable Greg Porter, Indiana State Representative
Derek Redelman, VP of Education and Workforce Development for the Indiana Chamber of Commerce
Sally Sloan, Executive Director, Indiana Federation of Teachers (IFT)
Vic Smith, Board Member, Indiana Coalition for Public Education (ICPE)
Gail Zeharilis, Director of Government Relations, Indiana State Teachers Association (ISTA)
Terry Spradlin, Director for Education Policy, Center for Evaluation & Education Policy (CEEP)



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Senate Bill 0259 (PL 24-2012)

<p>Title: School Consolidation Executive Session</p> <p>Authors: Alting, Skinner</p> <p>Sponsors: Dermody, Truitt, Klinker, Neese</p> <p>Effective Date: July 1, 2012</p>	<p><i>Summary</i></p> <p>Allows discussion of strategy with respect to school consolidation to be conducted in an executive session.</p>
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Frank Bush: *The bill was an ISBA Legislative Resolution and the Association extends appreciation to Senator Alting and Representative Dermody for carrying the legislation in the Senate and House. The Hoosier State Press Association and IAPSS also supported the bill, which had no oppositional testimony. The intent of the law is now to provide flexibility for school boards and superintendents as they assess the planning strategies regarding a school consolidation.*

John Ellis: *Supported by the press association, this is positive for school districts. Like considerations involved in bargaining and property considerations, consolidation needs to be well thought out, and board members need to consider broad-based implications rather than being placed in an arena with little preparation.*

Senate Bill 0267 (PL 46-2012)

<p>Title: Education Concerning Child Abuse</p> <p>Authors: Rogers, Kruse, Randolph</p> <p>Sponsors: Behning, Lawson, Porter, Klinker</p> <p>Effective Date: Signed by President of Senate</p>	<p><i>Summary</i></p> <p>Requires the Department of Education, in collaboration with the Department of Child Services and organizations that have expertise in child abuse, including child sexual abuse, to identify or develop model education materials, response policies, and reporting procedures on child abuse, including child sexual abuse, for use by schools for Grade 2 through Grade 5.</p>
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Todd Bess: *IASP supported the development of this legislation, as it addresses an important issue for our students. Schools may choose to utilize the developed programs which provide the desired flexibility schools desire when implementing legislative actions.*



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Senate Bill 0268 (PL 64-2012)

<p>Title: Advisory committee on Early Education</p> <p>Authors: Rogers, Kruse, Randolph</p> <p>Sponsors: Behning, V. Smith, Porter, VanDenburgh</p> <p>Effective Date: July 1, 2012</p>	<p><i>Summary</i></p> <p>Requires the Education Roundtable to establish an advisory committee on early education, with members from around the state, to provide professional and technical assistance to the roundtable.</p>
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Todd Bess: *The continued discussion of early education issues is a proactive step and is one that will draw in knowledgeable educators on professional practices that will benefit Indiana children. This advisory committee should be empowered with all available resources to ensure a successful discussion and subsequent implementation of the committee's recommendations.*

John Ellis: *Appreciation is extended to the General Assembly and to the bill's author, Senator Rogers, a champion for early childhood education, for getting this topic on the table. Indiana is severely behind almost every other state in early childhood programming and in our state's late school entrance age.*



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Senate Bill 0296 (PL 129-2012)

<p>Title: Certified Scholarship Program Eligibility</p> <p>Authors: Leising, Yoder</p> <p>Sponsors: Behning, Frizzell</p> <p>Effective Date: July 1, 2012</p>	<p><i>Summary</i></p> <p>Certified scholarship program eligibility. Provides that an individual is eligible for a scholarship from a scholarship program that is certified by the department of education if the student received a scholarship in a preceding school year, including a school year that does not immediately precede a school year in which the individual receives a scholarship from a scholarship granting organization. Provides that an individual must be a member of a household with an annual income of not more than 200% of the amount required for the individual to qualify for the federal free or reduced price lunch program each year that an individual receives a scholarship from a scholarship granting organization.</p>
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Commentary



IFT opposed the introduced version of SB 296 because it expanded the program of tuition tax credits. The changes to SEA 296 likely made it better for students as there is now a way for students to remain in the same school setting providing for consistency.

It is important to note that the law is not being followed regarding annual audits of Scholarship Granting Organizations (SGOs). SGOs are not following the required audit statutes nor are they distributing 90% of the funds they take in. Since the distributions are low, there is less need to receive tax credited contributions. An amendment was offered that would have capped the amounts SGOs could receive. That would create a two-fold solution. It would limit the amounts of tax credits the state is providing hence greater income for the state general fund; and it would give SGOs a better opportunity to distribute the statutorily mandated 90% of its income. That amendment was rejected.

Sally Sloan
Executive Director
Indiana Federation of Teachers

Derek Redelman: *We supported this bill as originally proposed (allowing current private school students to qualify for a voucher upon reaching high school) and as passed by the Senate (allowing those students to qualify for aid through the scholarship tax credit). In each case, the bill would have helped families who may be struggling with private school tuition at the elementary level but now face significant tuition increases at the high school level. Indeed, it is likely a result of those increases that enrollment in private schools drops off at the 9th grade and enrollment in public schools increases. As ultimately passed, this bill is effectively a technical correction that will help families maintain eligibility for school choice through fluctuations in income levels.*

Dr. Vic Smith: *The Indiana Coalition for Public Education strongly opposed SB 296. The Senate version greatly expanded tax credit school scholarships for private and parochial school tuition, making all 8th graders currently in private schools eligible without transferring from a public school. Saving the state money through a transfer from public to private school was the rationale which sold this program to legislators when it was first passed in 2009.*

The Indiana Coalition for Public Education fundamentally opposes spending public money to subsidize private school tuition. In addition, ICPE brought testimony to show that the Indiana Department of Education is letting Scholarship Granting Organizations ignore two provisions of the law without penalty. First, the law requires SGO's to file an annual audit with the IDOE. In 2009-10, of three SGO's granting scholarships, only one filed an audit. By 2010-11, four SGO's were operating, yet once again, only one filed an audit for that school year. Second, the law requires SGO's to distribute 90% of their donated money as scholarships. Audits and required reports document 90% distribution by only one of the four SGO's. The other three assert compliance without any publicly available evidence, and IDOE takes their word for it. This is clearly a double standard compared to the close scrutiny IDOE gives to public schools on accountability standards.

On the last day of the session, the Senate gave up on the 8th grade expansion plan and concurred with the much more limited House version designed to help students resume eligibility when family incomes fall.



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ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1003 (PL 134-2012)

Title:
Public Access Issues

Authors:
Crouch, Dobis, Karickhoff, Klinker

Sponsors:
Holdman, Alting, Becker, Arnold

Effective Date:
July 1, 2012 and January 1, 2013

Summary

Public access issues. Allows a member of the governing body of any public agency of the state to participate in a meeting of the governing body by electronic communication only if: (1) the meeting meets all other requirements of the open door law; and (2) a majority of the governing body adopts a policy regarding the use of meetings by electronic communication. Provides that if a meeting by electronic communication is conducted, the governing body is required to: (1) have the greater of two members or one-third of the governing body physically present at the meeting place; and (2) take only roll call votes. Provides that unless a policy adopted by the governing body provides otherwise, a member who participates in a meeting by electronic communication: (1) is considered to be present at the meeting; (2) must be counted for purposes of establishing a quorum; and (3) may vote at the meeting. Requires each member of the governing body to physically attend at least one meeting annually. Specifies that a governing body may adopt a policy that allows the public to attend meetings conducted by electronic communication at a public place and where a member is physically present and participates by electronic communication, excluding executive sessions. Requires a governing body to post the governing body's electronic meeting policy on the Internet web site of the governing body or public agency. Specifies that the electronic meeting law does not affect a governing body's right to exclude the public from an executive session conducted by electronic communication. Adds electronic media to the definition of "record" for purposes of the public records law. Imposes civil penalties of \$100 for first violation, and \$500 for each additional violation, upon political subdivision board members and managers (e.g., superintendents) at the discretion of a court and upon an advisory opinion of the Public Access Counselor for failure to comply with public notice, records, and meeting requirements. The bill includes other provisions not specific to K-12 public education. For more information on the bill go to: <http://www.in.gov/legislative/bills/2012/PDF/HE/HE1003.1.pdf>

Commentary

The legislation has been proposed for several years and now has passed. This version regarding fines issued to members of a political subdivision for violations of the Access to Records and Open Door statutes is less onerous than in the past. Because there are progressive steps built into the issuing of a fine and because school board members take an oath of office to uphold state law, there should be minimal impact on school board service.



*Frank Bush
Executive Director
Indiana School Boards Association (ISBA)*



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House Bill 1047 (PL 12-2012)

Title:
Education Study Committee

Authors:
Lutz, Gutwein

Sponsors:
Kruse, Taylor

Effective Date:
Upon passage – expires 12/21/12

Summary

Establishes the education issues interim study committee to study the feasibility of establishing a process by which residents of a part of an existing school corporation may elect to disannex from the existing school corporation and either annex to another existing school corporation or establish a new school corporation.

Commentary



We supported this bill when it established an actual process for dis-annexation because it would have given communities greater control over their schools and required districts to be more responsive to community needs. However, we acknowledged some continuing challenges with the division of assets and liabilities, and we suggested that those questions be further addressed through rule-making at the State Board of Education. A study committee provides the same opportunity. We also hope that the study committee will consider the broader issue of Indiana's school district boundaries, as many in our state are based on historical lines that have no current relevance.

*Derek Redelman
VP of Education and Workforce Development
Indiana Chamber of Commerce*



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ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1072 (PL 137-2012)

Title:
Tax Administration

Authors:
Espich, Welch

Sponsors:
Hershman, Kenley, Broden

Effective Date:
Multiple Effect Dates

Summary

Changes dates for budget and levy adoption actions. Changes property tax, sales tax, and income tax reporting and filing requirements. Changes the formula for applying the circuit breaker among debt and nondebt levies, permits the department of local government finance to authorize the exclusion of more than 2% of the assessed value of a taxing unit for purposes of calculating property tax rates, and changes the formula for calculating adjustments to the maximum permissible tax rate for cumulative funds and capital project funds to reflect changes in the total assessed value in a taxing unit. Provides for a loan to replace revenue lost from applying the prior adjustment formula. Expands the circumstances under which the budgets and supplemental budgets of a political subdivision with a nonelected governing body (other than a library) is subject to review by a county, city, or town fiscal body. The bill includes other provisions not specific to K-12 public education. For more information on the bill go to: <http://www.in.gov/legislative/bills/2012/HE/HE1072.1.html>

Commentary



HEA 1072 contains a most important component regarding the calculation of a political subdivision's tax rate in a fund that has a maximum property tax rate cap. For school corporations, this impacts the Capital Projects Fund. The calculation for 2012 rates reflected a decrease in the rate if assessed valuation decreased in a school corporation. This calculation was supported by the Department of Local Government Finance even though the Indiana Tax Court ruled against the calculation in a 2010 decision. HEA 1072 revises the calculation to assure that negative numbers are not used that impact the rate in times of assessed valuation decline. Secondly, the bill determines the base rate that will be used for future rate adjustments. And finally, there is a mechanism to allow a loan to school corporations to make up for the 2012 loss of CPF monies because of the use of the former calculation. This is an interest-free loan from the state's General Fund that must be paid back through the Debt Service Fund in 2013. Indiana ASBO supported these provisions in HEA 1072 and thanks the numerous legislators and staffers who assisted in getting this portion of the bill passed.

Dennis Costerison
Executive Director
Indiana Association of School Business Officials (IASBO)

Frank Bush: *Aside from the fact that the bill included a Kernan-Shepard recommendation to require appointed school boards to have the school budget approved by the town, city, or county fiscal body, this bill is positive for public schools. A Capital Projects Fund Assessed Valuation loss correction was inserted that assists impacted schools with recovering a shortfall by borrowing from the state's General Fund with an interest-free loan payable in 2013. The legislative language corrects a Department of Local Government Finance (DLGF) maneuver that reduced school corporation Capital Project Funds based on a drop in Assessed Valuation. This was extremely important for 2012 revenue and also for the potential circuit breaker impact in 2013. ISBA supported the CPF section of the bill.*

John Ellis: *The bill contains many important issues for school districts. Among many other things in its 232 pages, it corrects a revenue loss to school corporations by authorizing an adjustment in the maximum rate for a corporation's Capital Projects Funds for 2013 taxes (and beyond). It prevents maximum rates from adjusting down in years when the assessed value decreases, and provides an interest-free loan from the state's General Fund to replace lost revenue from applying the prior adjustment formula when rates had been adjusted down.*



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ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1134 (PL 140-2012)

Title:
Various Education Matters

Authors:
Speedy, DeLaney

Sponsors:
Miller, Kruse, Rogers

Effective Date:
July 1, 2012

Summary

School transportation. Provides that no fee may be charged to a parent or student for transportation to and from school if a school corporation provides transportation or contracts with an educational service center to provide transportation. Provides that parent supplemental transportation contracts do not apply to transportation provided by an educational service center. Makes a technical correction concerning school bus replacement plans.

Commentary



HB 1134 prohibits parents from being charged a fee for transportation to and from school if the school district directly provides the service or if it is contracted out to an educational service center. However, fees may be charged for transportation to and from extracurricular events. The issue for ISTA is ensuring that school districts have access to sufficient funding to provide transportation without being forced to use their general operating funds, which should be classroom-based. This bill settled the debate among school districts about whether they could charge parents fees for transportation to and from school for daily instruction (they cannot), but it remains to be seen if transportation funds around the state will be sufficient to fully fund transportation programs. For the most cash-strapped schools, HB 1192 may provide some relief, enabling certain districts to refinance existing debt.

*Gail Zeheralis
Director of Government Relations
Indiana State Teachers Association (ISTA)*



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ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1169 (PL 142-2012)

<p>Title: School Discipline</p> <p>Authors: Koch, M. Smith, Noe, Frizzell</p> <p>Sponsors: Kruse, Mrvan</p> <p>Effective Date: July 1, 2012</p>	<p><i>Summary</i></p> <p>Requests the legislative council to establish a study commission on the topic of school discipline best practices.</p>
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Commentary



IASP welcomes the opportunity to discuss school discipline best practices knowing that Indiana administrators continually seek ways to limit disruptive behavior and keep students in the classroom. IASP also appreciates the efforts of the legislators to discuss the important issue of student discipline that may occur as a result of student actions outside of the school day and school setting. Our desire is to create the best educational environment for students and staff, and this has been difficult at times when student actions involving digital electronics or mediums impact the attitudes and thoughts of fellow students. Building administrators understand the dilemma of defining what constitutes a disruption in the school due to those actions, and principals do not desire to become involved in all student activity that occurs outside of the school setting.

*Todd Bess
Associate Executive Director
Indiana Association of School Principals (IASP)*

Gail Zeheralis: *HB 1169 began as a bill to enable a student to be suspended or expelled for any activity (whether committed on or off school property) deemed to be an interference with school purposes. Existing law required the activity to be "unlawful." Rep. Koch (R-Bloomington), the bill's author, most specifically was attempting to address cyber-bullying. First Amendment advocates, including many of ISTA-member journalism teachers, opposed the broadness of the bill as it was proposed. ISTA ultimately supported the final version which called for a study committee on best practice student disciplinary measures. Additionally, the final version specifically gives ISTA the authority to nominate to the President Pro Tempore of the Senate (who will make the appointment) the teacher member to this committee. ISTA appreciates the authority it has been granted and recognizes that this level of statutory specificity in terms of member impact is rare.*

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ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1189 (PL 144-2012)

Title:
School Finance
Authors:
Thompson, Clere, Porter
Sponsors:
Charbonneau, Rogers, Simpson
Effective Date:
Multiple Effect Dates

Summary

Requires an accredited nonpublic school to provide sufficient verbal information to permit a requesting school to which a child transfers to make an appropriate placement decision when the parent of the child is in breach of a contract that conditions release of student records on the payment of outstanding tuition and other fees. Requires the Indiana State Board of Education to establish a date in February of each school year for a second count to be conducted of students enrolled in school corporations and charter schools. Expires the school funding formula on July 1, 2013. Transfers the appropriation and funding for charter school start-up grants to the appropriation for state tuition support. Increases the amount of the charter school start-up grant for charter schools that begin operation in calendar year 2012 and provides that the grant is to be paid in six installments with one installment in each of the last six months of calendar year 2012. Specifies that the amount distributed as special grants to school corporations to reflect the savings resulting from the education of students under a choice scholarship are limited only by the state fiscal year appropriation and not the calendar year cap (that limits the amount of state tuition support payable in a calendar year).

Commentary



This impacts school district revenue through two enrollment counts (September and February), and sunsets the calendar year school formula on July 1, 2013, with the intent to move to fiscal year funding for the school General Fund. This will incorporate further the General Assembly's goal to have funding dollars follow the student, and will likely have a negative impact on schools with declining enrollments. Even some growing enrollment districts may see a loss on the second count, as many lose students up to the second count date, before seeing a gain by the end of a school year. Issues such as mid-term graduations and fall staffing needs will need to be better reviewed as the bill takes effect during the 2013-14 school year.

John Ellis
Executive Director
Indiana Association of Public School Superintendents (IAPSS)

Frank Bush: *The title of the law is slightly deceiving. It should read "multiple count date." It moves the state revenue year from a calendar year to a fiscal year for schools. And it adds one more count date in February. The philosophy that the "money follows the child" is the operative definition for the law. School officials will have to adjust staffing for ADM decline as it affects the second semester annually.*

Dennis Costerison: *This bill adds a second ADM count for school corporations that will begin in February of 2013. Therefore, there will be a September count and a February count to determine the amount of tuition support each school corporation receives from the state. This continues the philosophy of "money following the child." Further, the bill sets the stage for a change in the distribution schedule for tuition support. A new school formula has always begun on a calendar year basis, but HEA 1189 would provide the framework to begin a fiscal year distribution of state support. The bill deletes the 2013 school formula as of June 30, 2013, forcing the General Assembly to begin a new formula and funding on July 1, 2013. The new formula and the impact of the new February ADM count will be determined by the 2013 General Assembly. IASBO supported HEA 1189 and will work closely with the legislature as it develops the new funding mechanism in 2013.*

(Additional commentaries on HB 1189 on next page)

Rep. Greg Porter: *The multiple average daily membership count (ADM) is a good start. Adding an additional count will provide incentives to schools to improve attendance and will ensure that schools have adequate funding for educational services for its students. I was a conferee on the bill, but was later removed because I did not support the concept of giving funding to new charter schools based on a July 1 enrollment count. This arbitrary count will provide funding to Charters when the school year does not begin until August or September. The bill is silent on how these charter schools will relinquish dollars for those students who choose not to attend the charter school.*

Derek Redelman: *We supported this bill, along with a companion bill in the Senate, and we believe that the outcome is a positive step forward. However, if the goals of this bill are to match dollars to students, to eliminate the real or imagined practice of booting out kids after count day, to solve the problems of first semester funding for Indiana's various choice programs, and to increase the incentives and accountability for keeping kids in school, then those goals would be much better accomplished with monthly counts rather than twice-annual counts. Even better, perhaps Indiana ought to consider a true average daily membership – as the term ADM actually implies!*

Gail Zeheralis: *HB 1189: HB 1189 implements a second ADM count during the school year. Throughout the session, the issues on this were: (1) when the 1st and 2nd counts should be made, (2) the timetable for transitioning the funding once the second count was made, and (3) how to handle charter school start-up funding. Ultimately, HB 1189 settled on the following: (1) Requiring the state board of education to conduct a second count of students enrolled in school corporations and charter schools in February of each school year (the current September count remains in force); (2) Providing that the school funding formula expires on July 1, 2013, rather than January 1, 2014) —meaning that in future years, funding will transition to FY funding; (3) Transferring the appropriation and funding for charter school start-up grants to the appropriation for state tuition support. Increasing the amount of the charter school start-up grant for charter schools that begin operation in calendar year 2012 and providing that the grant is to be paid in six installments, with one installment in each of the last six months of calendar year 2012; (4) Specifying that the amount distributed as supplementary grants to school corporations from the voucher program are limited only by the state FY appropriation and not the CY cap that limits the amount of state tuition support payable in a CY; (5) Requiring the DOE to report to the General Assembly, using 2011-12 data, the number of students who left the public school district for a charter school, the number who left charter schools to the public school district, the number who left the public school district for a private school, and the number who received a voucher but went back to the public school district; and (6) Requiring an accredited nonpublic school to provide sufficient verbal information to permit a requesting public school to which a child transfers, to make an appropriate placement decision, when the parent of the child is in breach of a contract that conditions release of student records on the payment of outstanding tuition and other fees.*

ISTA lobbied to limit the counts to one additional count (DOE and other groups had suggested more than two dates throughout the course of the year), to ensure that the second count will be a “high water” mark for the 2nd semester, and to ensure that potential teacher layoffs are not impacted by the second count. The disruption to student learning far outweighs fiscal issues. The true impact remains to be seen, but ISTA is open to seeing how this will play itself out.

**CEEP Perspective
From Terry Spradlin**



As Indiana strives to ensure that ‘dollars follow the child’ as closely as possible, state education officials anticipate that moving to a multiple count dates mechanism will result in a more accurate representation of student enrollment fluctuations than occur throughout the school year. Advocates of multiple count dates have cited that it may also have an impact on student attrition since it provides a financial incentive to school corporations to retain students throughout the school year. The February 2013 count will likely be the first count used in the new formula for distribution of funds based on the State Fiscal Year. In earlier versions of the bill, House Bill 1189 had called for a new distribution schedule based on the two counts: February would determine funding from July 1 through December 31, and September would determine funding from January 1 through June 30. In order to project the level of impact the February count will have on district funding, the legislature will first look at the count information and compare it with the September 2012 count. Before making a final decision during the 2013 session, they will also need to consider how, when, and if adjustments to funding will occur for districts with either growing or declining enrollments during the school year. Suitable planning will be necessary for successful implementation to mitigate any negative impact on budgets, personnel, and students.



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House Bill 1192 (PL 145-2012)

<p>Title: School Corporation and Local Government Finances</p> <p>Authors: Cherry, Speedy</p> <p>Sponsors: Miller, Charbonneau, Gard, Hume</p> <p>Effective Date: Upon Passage</p>	<p><i>Summary</i></p> <p>School corporation and local government finances. Provides that before January 1, 2014, a school corporation may use the debt restructuring statutes if the school corporation has a circuit breaker impact of at least 20%, as certified by the Department of Local Government Finance (DLGF) (rather than 30%, under current law). Requires that such a school corporation must either: (1) have the Distressed Unit Appeal Board (DUAB) approve the school corporation's financial plan for paying any refunding bonds; or (2) meet certain criteria concerning debt-ADM ratios, debt-assessed value ratios, and the amount of homestead assessed valuation in the school corporation. Provides that a school corporation that meets these requirements may restructure its debt without going through the petition and remonstrance process requirements and referendum requirements that would otherwise apply under current law. Specifies that if a school corporation restructures its debt under these provisions, any extension of the debt repayment period may not exceed 10 years after the latest maturity date for any of the bonds being retired or refunded by the school corporation.</p>
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Provides that a school corporation is eligible to obtain a loan from the rainy day fund if the school corporation is designated as distressed by the DUAB or the school corporation is otherwise approved for a loan by the DUAB. Provides that in the case of a school corporation that petitions the DUAB, the DUAB shall make a recommendation to the State Board of Finance concerning the loan. Provides that the State Board of Finance may not, after December 31, 2017, approve such loans to a school corporation from the rainy day fund. Provides that a political subdivision may file a petition with the DUAB seeking designation of the political subdivision as a distressed political subdivision, based on any one of several failures by the political subdivision to meet its financial obligations. Specifies that the DUAB may consider whether a political subdivision has exercised all of its local options. Provides that if the DUAB designates a political subdivision as a distressed political subdivision, the board shall (except in the case of a school corporation that is designated as distressed) appoint an emergency manager for the distressed political subdivision. Provides that an emergency manager of a distressed political subdivision has broad powers to effect the financial rehabilitation of the distressed political subdivision. Provides that a school corporation that is designated as distressed may not carry out certain actions without the approval of the DUAB. Provides that if a school corporation that covers its active and retired employees under a state employee health plan consolidates, reorganizes, or merges after May 1, 2012, with a school corporation that does not cover its active and retired employees under a state employee health plan, the school corporation that results from the consolidation, reorganization, or merger must allow an individual for whom the first school corporation had (as of the effective date of the consolidation, reorganization, or merger) health insurance liability under a state employee health plan to continue the individual's coverage under the state employee health plan for at least five years, as long as the individual otherwise remains eligible for coverage under the plan. Provides that a school corporation that carried out a general program in at least one school year beginning after June 30, 2010, to provide transportation to and from school for eligible students must carry out a program to provide transportation to and from school, unless the governing body of the school corporation: (1) approves the termination of the transportation program; and (2) provides public notice of the termination; at least three years before the date after which the transportation will no longer be provided. Allows the department of education to waive these requirements if the department determines that a transportation plan presented by the school corporation, with or without revisions required by the department: (1) will protect the safety of eligible students enrolled in the school corporation; and (2) is otherwise in accordance with applicable law. Provides that before January 1, 2018, costs attributable to transportation may be budgeted in and paid for from a school corporation's general fund. Provides that the DLGF may upon petition by a school corporation adjust the school corporation's levy for the school bus replacement fund to reflect the school corporation's school bus acquisition plan. Reduces (by 75% in 2013, 50% in 2014, and 25% in 2015) the amount by which a school corporation must otherwise reduce the school corporation's other levies to offset a pension debt levy if the school corporation adopts a resolution to apply such a reduction. Requires the DUAB to report to the State Budget Committee before certain dates concerning actions taken by the DUAB under the statute allowing a school corporation with a circuit breaker impact to restructure its debt. For a full description of this bill as it pertains to K-12 public education, go to: <http://www.in.gov/legislative/bills/2012/PDF/HE/HE1192.1.pdf>

(Commentaries on HB 1192 on next page)

Commentary

Prior to the adoption of the circuit breaker, the limit for a school district's indebtedness was determined largely by its ratio of debt to assessed valuation, and its patrons' tolerance for increased property taxes. Many school districts that had pushed the envelope of acceptable debt limits when property tax caps were implemented were left to struggle for financial stability amidst a set of unanticipated new rules. The legislature was aware of the impact that property tax caps would have on school districts and other governmental units with high levels of debt, as two northern Indiana counties were exempted from including debt in their circuit breaker calculations. Franklin Township Community School Corporation (FTCSC) lost 174% of its non-debt property tax levy to the circuit breaker. After struggling to survive for several years by eliminating essential services and minimizing all capital expenditures in order to pay debt, HEA 1192 has given governmental units the means to deal with losses resulting from property tax caps. While this legislation impacts local school boards' control over their transportation program, it also provides solutions for resolving their property tax cap dilemmas. Answers ranging from debt restructuring and low interest loans to intervention by a Distressed Unit Appeals Board are now available to school districts and other units of government. HEA 1192 means a future for FTCSC that includes property tax-supported transportation services and protection for the General Fund that supports an award-winning, state-leading education program. It is a long-desired and welcome change of rules.

Wally Bourke
Superintendent of Schools
Metropolitan School District of Franklin Township, Indiana

Frank Bush: ISBA supported the contents of the bill, which focuses on assisting financially distressed schools. The creation of a Distressed Unit Appeal Board and the permission to borrow up to \$5 million from the state's Rainy Day Fund by qualifying school corporations will be immensely helpful to those schools receiving revenue shortfall, especially in the future. Another component of the law that will be extremely positive for public schools is the pension stabilization mechanism that permits school bus-replacement levies to be used for pension debt reduction on a graduated scale.

Dennis Costerison: HEA 1192 contains many provisions that assist financially distressed school corporations and provisions that impact all corporations. Indiana ASBO supported all of the following components of HEA 1192:

- The bill allows more school corporations to participate in the refunding of debt provisions that were enacted in 2011 to assist school corporations most impacted by the loss of circuit breaker credits. A total of 45 corporations qualify under the HEA 1192 provisions. Further, the bill deletes the requirement to hold a petition/remonstrance or referendum to move forward with the refinancing of debt. The bill does add a section that requires a corporation to get the approval of the Distressed Unit Appeal Board to complete the refinancing provision.
- HEA 1192 reconfigures the Distressed Unit Appeal Board (DUAB) and allows a school board and superintendent to seek financial relief from the DUAB. The DUAB may hold a hearing to determine if a school corporation is a distressed political subdivision. The DUAB may recommend to the State Board of Finance that a school corporation receive a low interest loan from the state's Rainy Day Fund if the DUAB determines that the corporation cannot meet its educational duties without the loan. The loan will be the lesser of \$5 million or \$1,000 times the school corporation's ADM. A school corporation is exempt from the provisions in HEA 1192 dealing with the naming of an emergency manager to take over the financial responsibilities of a political subdivision.
- The bill requires a school corporation to carry out a program of transportation for eligible students beginning on July 1, 2012. A school board can terminate their transportation program, but the board must make that decision three years prior to the termination. Further, a corporation can ask for a waiver to end transportation from the Department of Education. This waiver will be based on the safety of students without a transportation program.
- HEA 1192 allows general fund monies to be budgeted and spent on transportation fund costs. In the past, this was not allowed.
- School corporations may appeal to the DLGF asking for an adjustment of their school bus replacement fund levy to reflect the corporation's school bus replacement plan if the DLGF has decreased the levy below the plan's required levy.
- The bill provides a phase-out of the previous approved mechanism for neutralizing the pension bond debt utilizing the school bus replacement fund. The DLGF policy on neutralization changed in 2011, and had a negative impact on numerous school corporations. HEA 1192 allows a corporation to phase out the previous mechanism by 75% in 2013, 50% in 2014, and 25% in 2015.

There were numerous legislators and staffers who assisted with HEA 1192, but IASBO would specifically praise Senator Pat Miller and Representative Bob Cherry for their efforts in getting this bill passed.

Rep. Greg Porter: I supported this bill because it helps close the fiscal gap for schools. The 1-2-3 circuit breaker credits were was good for perception, but in reality only 20% of homes statewide receive any benefit from the credits and in some counties no homes receive a credit. The circuit breakers continue to take local funding away from schools at the same time the state has also reduced funding. Schools are in a pressure cooker situation and this bill will aid in alleviating the problems before it explodes.

Gail Zeheralis: HB 1192 includes offering to certain school districts the following avenues for financial modification: (1) Debt restructuring if the school district has a circuit breaker impact of at least 20% (rather than 30%), and (2) Access to a low-interest rate loan from the state's rainy day fund if the school district is a distressed unit and state-approved (loans are available until December 31, 2017). The modifications may assist certain school districts with leveraging additional transportation funds. ISTA does note, with caution, that if a school district seeks distressed unit status and then seeks a rainy day fund loan, the state could possibly condition the granting of the loan on a number of factors, including the district's willingness to modify the terms of any contracts into which it has entered.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1205 (PL 148-2012)

<p>Title: Superintendent Contracts</p> <p>Authors: Behning, Rhoads, Wesco, Noe</p> <p>Sponsors: Kruse, Banks, Delph, Mrvan</p> <p>Effective Date: July 1, 2012</p>	<p><i>Summary</i></p> <p>School employee contracts. Requires a school corporation to give public notice and hold a public meeting pertaining to a proposed superintendent employment contract. Provides that the public meeting must occur at least seven days before a contract for employment is entered. Provides that the governing body is not required to disclose the identity of the candidate for superintendent at the public meeting. Requires that the governing body shall post the provisions of a superintendent's employment contract on the school corporation's Internet web site. Requires a school corporation to post the provisions of an employment contract with a certificated employee that is not represented by an exclusive representative on the school corporation's Internet web site. Provides that after a governing body and the certified employees' exclusive representative have reached an agreement on a contract, the governing body shall post the contract on the school corporation's Internet web site. Requires the organizer of a charter school to publish the names of the members of the charter school's governing body on the school's Internet web site.</p>
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Frank Bush: *The Association supported the bill that established a reasonable transparency standard. Other versions of the bills filed on this topic were more restrictive and therefore less able to support.*

John Ellis: *Although Charter Schools are public schools, the bill was amended in the Senate to remove the requirement that the bill include Charter School administrators and only apply to traditional public school employees. Information in regard to salaries and benefits for all certificated employees is required to be posted on each district's website. Action on new contracts taken after July 1, requires that at a public meeting, the superintendent's salary and benefits be discussed and reviewed. There is no information being released here that has not been released in the past upon request. The goal was "more transparency."*

Derek Redelman: *The origin of this bill was an unfortunate circumstance in Indianapolis-based Wayne Township Schools; but the outcome – public review and improved transparency – is good policy for all school districts. If people want to work for themselves or for another private employer, then their wages and benefits are a personal matter to be negotiated with the person or persons who are paying that tab. In this case, the persons paying the tab are taxpayers; and while it is not practical for the broad public to participate in contract negotiations, it is the right of that public to know how their tax dollars are being spent.*

Gail Zeheralis: *HB 1205 began as a bill to make transparent the particulars of school superintendents' contracts. HB 1205 was the result of a 2011 interim study committee that was the result of a contract dispute arising in Wayne Township — specifically, the granting of a contract/severance package to the retiring superintendent that, when it came to light, was viewed as excessive.*

As the session ensued, the impact of SB 1205 became broader than that, including requiring the posting of contract provisions of certified employees on the school district's website and (at one time) the posting of the salaries of the employees in a charter school in the organizer's annual performance report. ISTA's engagement with this bill was not intense for most of the session, as public sector employees were all being treated rather equally in terms of the employment contract transparency.

The final version of HB 1205, however, deleted the transparency provisions for charter schools and settled on simply requiring the posting of the identities of charter school governing body members on the charter schools' respective websites. Charter schools are taxpayer-funded schools. ISTA believes that the transparency provisions required of traditional public school employees should be consistent across the board.



PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1367 (PL 109-2012)

<p>Title: Deaf and Hearing Impaired Education Services</p> <p>Authors: Noe, Thompson</p> <p>Sponsors: Lawson, Herhman</p> <p>Effective Date: Multiple Effect Dates</p>	<p><i>Summary</i></p> <p>Establishes the Center for Deaf and Hard of Hearing Education to ensure that children who are deaf or hard of hearing acquire optimal communication and academic abilities. Specifies the duties of the center. Provides that before July 1, 2013, the Office of Management and Budget (OMB) shall, in consultation with the Indiana School for the Deaf, the Department of Education, the State Department of Health, and the Office of the Secretary of Family and Social Services, recommend to the General Assembly through the budget process an appropriate agency to provide support for the center. Specifies that until the center is established and operating, the Indiana School for the Deaf shall continue to provide those services that will be transferred at the time the center is established and operating. Provides that the State Board of Finance and the State Budget Agency may not transfer for use by or for the center any appropriation made to the Indiana School for the Deaf by the 2011 budget act. Transfers the outreach services and consultative services to local education agencies to assist in meeting the needs of locally enrolled students with hearing disabilities of the Indiana School for the Deaf to the center. Provides that, before October 1, 2012, the OMB (in consultation with the Indiana School for the Deaf, the Department of Education, the State Department of Health, and the Office of the Secretary of Family and Social Services) must submit a transition report to the State Budget Committee. Requires the OMB in developing the transition report to also consult with other specified entities, and to conduct two public meetings prior to submitting its transition report. Requires the OMB to post the final transition report on its Internet web site. Requires the State Budget Committee to consider the transition report in the state budget report and budget bill. Changes references throughout the Indiana Code from "hearing impaired" to "hard of hearing." Requires the State Board of Education to make recommendations before October 1, 2012, to the legislative council and to the State Budget Committee concerning the unique and appropriate methods of evaluation and accountability that should be applied to the Indiana School for the Blind and Visually Impaired and the Indiana School for the Deaf.</p>
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Gail Zeheralis: *HB 1367 would have immediately transitioned the Indiana Deaf School away from its current operation to the establishment of a new Center. As it was enacted, it provides that the Office of Management and Budget will begin making recommendations to the 2013 General Assembly as to how to fund the new Center. ISTA successfully lobbied to ensure that the current Indiana Deaf School funding remained whole even as the transition to the creation of the new Center will be accomplished in 2013.*

PERSPECTIVES

ON THE KEY K-12 EDUCATION LEGISLATION OF 2012

House Bill 1376 (PL 160-2012)

Title:
State Fiscal Matters

Authors:
Espich, Crawford

Sponsors:
Kenley, Head, Charbonneau,
Tallain

Effective Date:
Multiple Effect Dates

Summary

Multiple provisions, including: Provides that distributions to the estates of persons whose death was caused by the accident at the state fair are exempt from inheritance tax. Permits augmentation of the appropriation for full-day kindergarten. Changes the amount distributed per child. Establishes the select commission on education to study: (1) the process of adoption and content of rules adopted by the Indiana state board of education concerning categories or designations of school improvement including the matrices used for the A-F designations; and (2) proposed rules, adopted rules, and policies of the department of education and the Indiana state board of education to implement the provisions of P.L.90-2011, concerning teacher evaluations and licensing. Makes changes to the

process in which a school corporation may modify the department's model staff performance evaluation plan. Makes changes to the definition of a turnaround academy. Provides that if the state board assigns a special management team to a school, the state board shall enter into a contract with a special management team that includes: (1) a requirement that the special management team and the governing body conduct a public meeting two times each year to provide a report concerning student achievement of affected students; and the condition of the school property and to address issues related to the school property; and (2) a requirement that the student instruction must be provided by teachers licensed under IC 20-28-5. Provides that individuals employed by the special management team are entitled to participate in either PERF or TRF. Provides that employees are not required to collectively bargain. Returns IC 20-26-11-8, as amended by SEA 283-2012, to law existing before the enactment of SEA 283-2012.

Commentary



Throughout my tenure as a state legislator, I have advocated for programs and funding for early education. Children who have access to early education programs are more likely to show greater academic progress and are less likely to be retained. Our local public schools have found innovative ways to develop these programs with limited funding. This year, the state was able to take advantage of a \$320 million accounting error to provide an additional \$80 million to cover the state's share of full-day kindergarten. This additional funding only covers one year and does not fully fund the local cost to provide full-day kindergarten. Local schools still must find funding for personnel, materials, and space, and many will not have the financial ability to do so.

*The Honorable Greg Porter
Indiana State Representative*

Commentary



The final version of House Bill 1376 brought welcome news about full day kindergarten and included only a small slice of the highly controversial Senate Bill 384. A Senate Bill 384 conference committee report that was 70 pages long on March 8th was reduced on March 9th to 4 pages and inserted into HB 1376. It was the last bill to pass before the session adjourned.

The Indiana Coalition for Public Education strongly opposed language in SB 384 allowing the IDOE to farm out state accreditation to private agencies, including religious accreditation agencies. This major change in state accreditation practices was deleted from the final version.

ICPE also opposed the provisions of SB 384 that allowed for-profit corporations to make a profit running schools while requiring school districts to pay debt service and building maintenance. These provisions allowed taxpayers paying for the building absolutely no say in the operation of the school. ICPE asked: shouldn't the for-profit corporation at least pay rent to the taxpayers out of their profits? These offensive provisions about buildings also disappeared from the final version.

ICPE believes that for-profit corporations have no place in managing public schools in Indiana. The overriding question is this: What services and programs will be denied to students so that the for-profit corporation can make a bigger profit for its owners and stockholders?

*Dr. Vic Smith
Board Member, Indiana Coalition for Public Education*

Todd Bess: IASP certainly supports the augmented state funding for Full-Day Kindergarten and would urge the legislature to begin now considering the next biennial budget to insure the vital step of providing early childhood education is continued. All educators have long called for this support and know that we must continue to advocate for the needs of our early learners.

The establishment of the select commission to study A-F designations and the teacher evaluation provisions of PL 90-2011 is welcomed. Educator input has been gathered and sometimes incorporated on these issues, but often times research-based input has not been considered for its full potential to aid the language development. IASP desires to work with the legislature and the DOE to implement systems that provide opportunities for all students, teachers, and schools to be successful.

Frank Bush: The ISBA supported the education-related sections of the law, such as the creation of a Commission on Education to review the Indiana State Board of Education rules and adoptions and to assess the A-F Accountability rule. Additionally, the Association supported the one-year Full-Day Kindergarten funding that should become a permanent portion of the state budget in future bienniums.

Dennis Costerison: Indiana ASBO was involved with the fiscal elements in HEA 1376 and not the education issues that were added on the last day of the session. HEA 1376 increases the funding substantially for the full-day kindergarten grant. For the 2012-13 school year, the grant will be \$2,400 per the eligible full-day kindergarten students. That amount will not be reduced since the bill does not have a specific appropriation for the grant. The bill states that the current state appropriation for the grant will be "augmented" to reflect the new calculation. Therefore, this provision could provide between \$80 and \$100 million new dollars for full-day kindergarten. Does this mean that full-day kindergarten is fully funded for all school corporations? Probably not, but it does provide that numerous corporations will have this program fully funded. The bill also states that if a corporation applies for the grant, that it may not charge a fee for full-day kindergarten. IASBO supported this provision throughout the session, and would thank Representative Jeff Espich and Senator Luke Kenley for shepherding the bill through the legislative process.

John Ellis: The important part of the full-day kindergarten funding is that the Indiana General Assembly, by establishing an "augmented appropriation," made a real commitment to school districts to encourage growing this program. Such appropriation guarantees that districts will see \$2,400 for each full-day kindergarten student, and the amount will remain fixed regardless of how many students and schools participate.

Derek Redelman: Our primary interest in this bill is the creation of a special commission to review Indiana's new accountability rule. As we have stated publicly, we believe the new rule focuses far too much on static performance measures and we are disappointed that growth is treated only as a bonus system (rather than a core measure) and that growth is measured by peer comparisons rather than criterion-based standards. All of this runs counter to the stated goals of the last decade and to promises over the last couple of years that Indiana would transition to a "growth model." It also reverses the core goals of PL 221: to focus on improvement (or growth) and to establish criterion-based accountability rather than peer-based accountability.

Sally Sloan: It's really difficult to compartmentalize what's happening in education. There are legislative actions that interweave with State Board of Education (SBOE) actions so intricately that it's difficult, if not impossible, to follow. Such is the case with HEA 1376, the NCLB waiver, and the new A-F metric for accountability.

What became HEA 1376 had education concepts rolled into it including SB 384, parts of SB 316, and some of HB 1326 – and maybe some others.

It is good that the state's portion for full-day kindergarten grants is now fully funded. Unfortunately what the general public hears is "this administration is providing full-day kindergarten for all kids." That simply is not the case. The money finally provided this year funds the state's portion of the FDK grant. Schools must make up the difference and make room for FDK. We're thankful for the positive steps for FDK. We'll keep working towards full funding.

Turnaround academies may be dealt with more in the NCLB waiver proposal than in final legislative action. IFT sees these academies as effectively becoming private schools under private management. Some curious last minute tweaks now include "a requirement that the student instruction must be provided by teachers licensed under IC 20-28-3." There is a requirement for two public meetings each year to report on student achievement and school property issues. There is no provision for turnaround academies to ever return to the public domain.

One provision in SB 384 as it passed out of the House addressed one of the consequences of total state-supported tuition for schools. Many districts are taking advantage of their neighbor districts through open enrollment possibilities by enticing students exhibiting certain qualities into their districts. This cherry picking skims easier-to-educate, often higher achieving students, while leaving the hardest, more expensive students in the district. Rep. Porter offered an amendment to SB 384 that would prohibit cherry picking. The amendment passed 81-11. This overwhelmingly popular anti-cherry picking language didn't see the light of day when 384 met 1376.

Finally, much legislation of the last two sessions has been pushed through in such a hurry that there are errors in timelines, language, and end results. Sadly, legislators, apparently under the influence of Superintendent Bennett and Governor Daniels, have been reluctant to slow down or fix any of the problems. From our perspective, these problems, if left unaddressed by legislators, will produce litigation to determine an outcome – a process that is costly both in valuable time and money. Even then the results may not come until after damage has been done.

(Sally Sloan commentary continued on next page)

(Continuation of Sally Sloan commentary)

Perhaps one bold step was taken when legislators created an oversight commission to monitor SBOE action through November. Early in the session, public school advocates began independently decrying a State Board of Education gone rogue. The best example to us was the rule hearing on A-F grading for schools. In a room of stakeholders, not one supported the new A-F rule proposed by the SBOE. Of the 50-some who gave testimony, none supported the rule. Public school advocates, private school advocates, and business advocates all objected to the new rule. The State Board held the hearing presumably to listen and respond to testimony, yet it voted to pass the new flawed accountability measure.

Gail Zeheralis: It would be hard to talk about education bills from the 2012 session without first mentioning HB 1376. HB 1376 evolved into an "omnibus" bill and ISTA worked hard to impact three of its key parts:

- **Additional Funding for FDK:** ISTA certainly supported the effort to add significant funding for FDK. As a state that has put K-12 issues at the fore, starting children off educationally with our collective best effort is critical to ensuring that all children have a fair chance at reaching Indiana's academic standards. The \$80+ million additional dollars (\$2,400/student) should significantly grow FDK in Indiana. While the funding does not cover the costs of additional classroom space (should that be the local need) and while the prohibition on assessing parental fees may affect local decision-making in certain cases, it must be said that the new funding should give many districts that could not afford to "put their toes in the FDK water" a chance to seriously now consider it and, for those that had already found a way to "take the plunge," some meaningful funding relief. Legislators should be applauded for not allowing a "short, non-budget" session to get in their way.
- **Select Commission On Education:** ISTA had spent a considerable amount of time and attention this session in dealing with a myriad of issues surrounding the implementation of the 2011 education reforms. Most of the concern and attention dealt with not only what the SBOE and DOE were proposing and moving forward on with regard to the A-F school grading policy — which triggers state takeover, teacher evaluations, and teacher licensure changes — but also how these agencies were going about it. ISTA places great stock in the creation of this unprecedented Select Commission of legislators who will now take time out of their interim to serve as both an unfiltered sounding board and also provide a fair forum for K-12 practitioners and the public to contribute to the reforms in meaningful ways. ISTA views this new commission as an opportunity and will work hard to ensure that the Select Commission reaches its potential.
- **State Takeover:** HB 1376 provided some additions to the takeover language of 2011. The new laws clearly enable the SBOE to contract with the special management teams (SMTs). That seems to be the core statutory authority that the proponents of the takeovers wanted or needed. Additionally, though, some "quality control" protections were added: (1) at least 2 public meetings each year must occur between the school district and the SMT (fostering connections between the entities), (2) the teachers in the takeover school must be licensed, (3) employees shall participate in TRF or PERF, and (4) the employees may organize and bargain collectively. After a short session filled with accelerated takeovers, parent triggers, independent schools, entire school district takeovers, hiring of unlicensed independent contractors, and seemingly unbridled SBOE authority, including the authority to levy fines on school districts, these few new takeover provisions and the added statutory protections are another indication that legislators are interested in reviewing where we are with this program before haphazardly expanding this particular accountability consequence.



PERSPECTIVES

ON THE KEY K-12 EDUCATION
LEGISLATION OF 2012

**For more information regarding the legislation,
please go to the General Assembly web site at:
www.in.gov/legislative**

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