

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Property Tax Code is amended by changing Sections 18-15, 18-50.1, 18-92, and 18-241 as follows:

(35 ILCS 200/18-15)

Sec. 18-15. Filing of levies of taxing districts.

(a) Notwithstanding any other law to the contrary, all taxing districts, other than a school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of the School Code, shall annually certify to the county clerk, on or before the last Tuesday in December, the several amounts that they have levied.

(b) A school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of the School Code shall file a certificate of tax levy, necessary to effect the implementation of the approved financial plan and the approval of the Panel, as otherwise provided by this Section, except that the certificate must be certified to the county clerk on or before the first Tuesday in November.

(c) If a school district as specified in subsection (b) of this Section fails to certify and return the certificate of tax levy, necessary to effect the implementation of the approved

financial plan and the approval of the Financial Oversight Panel, to the county clerk on or before the first Tuesday in November, then the Financial Oversight Panel for the school district shall proceed to adopt, certify, and return a certificate of tax levy for the school district to the county clerk on or before the last Tuesday in December.

(Source: P.A. 87-17; 87-738; 87-895; 88-455.)

(35 ILCS 200/18-50.1)

Sec. 18-50.1. School Finance Authority and Financial Oversight Panel levies.

(a) Notwithstanding any other law to the contrary, any levy adopted by a School Finance Authority created under Article 1F of the School Code is valid and shall be extended by the county clerk if it is certified to the county clerk by the Authority in sufficient time to allow the county clerk to include the levy in the extension for the taxable year.

(b) Notwithstanding any other law to the contrary, any levy adopted by a Financial Oversight Panel created under Article 1H of the School Code and levied pursuant to Section 1H-75 of the School Code is valid and shall be extended by the county clerk if it is certified to the county clerk by the Panel in sufficient time to allow the county clerk to include the levy in the extension for the taxable year.

(Source: P.A. 92-855, eff. 12-6-02.)

(35 ILCS 200/18-92)

Sec. 18-92. Downstate School Finance Authority for Elementary Districts Law and Financial Oversight Panel Law.

(a) The provisions of the Truth in Taxation Law are subject to the Downstate School Finance Authority for Elementary Districts Law.

(b) A Financial Oversight Panel created under Article 1H of the School Code is subject to the provisions of the Truth in Taxation Law with respect to tax levies filed by it on behalf of a school district, as well as with respect to any tax levies it may file on its own behalf.

(Source: P.A. 95-331, eff. 8-21-07.)

(35 ILCS 200/18-241)

Sec. 18-241. School Finance Authority and Financial Oversight Panel.

(a) A School Finance Authority established under Article 1E or 1F of the School Code shall not be a taxing district for purposes of this Law. A Financial Oversight Panel established under Article 1H of the School Code shall not be a taxing district for purposes of this Law.

(b) This Law shall not apply to the extension of taxes for a school district for the levy year in which a School Finance Authority for the district is created pursuant to Article 1E or 1F of the School Code. This Law shall not apply to the extension of taxes for the purpose of repaying an emergency

financial assistance loan levied pursuant to Section 1H-65 of the School Code.

(Source: P.A. 92-547, eff. 6-13-02; 93-501, eff. 8-11-03.)

Section 10. The Illinois Pension Code is amended by changing Sections 7-105, 7-109, and 7-132 as follows:

(40 ILCS 5/7-105) (from Ch. 108 1/2, par. 7-105)

Sec. 7-105. "Municipality": A city, village, incorporated town, county, township; a Financial Oversight Panel established pursuant to Article 1H of the School Code; and any school, park, sanitary, road forest preserve, water, fire protection, public health, river conservancy, mosquito abatement, tuberculosis sanitarium, public community college district, or other local district with general continuous power to levy taxes on the property within such district; now existing or hereafter created within the State; and, for the purposes of providing annuities and benefits to its employees, the fund itself.

(Source: P.A. 84-1308.)

(40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

Sec. 7-109. Employee.

(1) "Employee" means any person who:

(a) 1. Receives earnings as payment for the performance of personal services or official duties out of the

general fund of a municipality, or out of any special fund or funds controlled by a municipality, or by an instrumentality thereof, or a participating instrumentality, including, in counties, the fees or earnings of any county fee office; and

2. Under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee with a municipality, or any instrumentality thereof, or a participating instrumentality, including aldermen, county supervisors and other persons (excepting those employed as independent contractors) who are paid compensation, fees, allowances or other emolument for official duties, and, in counties, the several county fee offices.

(b) Serves as a township treasurer appointed under the School Code, as heretofore or hereafter amended, and who receives for such services regular compensation as distinguished from per diem compensation, and any regular employee in the office of any township treasurer whether or not his earnings are paid from the income of the permanent township fund or from funds subject to distribution to the several school districts and parts of school districts as provided in the School Code, or from both such sources; or is the chief executive officer, chief educational officer, chief fiscal officer, or other employee of a Financial

Oversight Panel established pursuant to Article 1H of the School Code, other than a superintendent or certified school business official, except that such person shall not be treated as an employee under this Section if that person has negotiated with the Financial Oversight Panel, in conjunction with the school district, a contractual agreement for exclusion from this Section.

(c) Holds an elective office in a municipality, instrumentality thereof or participating instrumentality.

(2) "Employee" does not include persons who:

(a) Are eligible for inclusion under any of the following laws:

1. "An Act in relation to an Illinois State Teachers' Pension and Retirement Fund", approved May 27, 1915, as amended;

2. Articles 15 and 16 of this Code.

However, such persons shall be included as employees to the extent of earnings that are not eligible for inclusion under the foregoing laws for services not of an instructional nature of any kind.

However, any member of the armed forces who is employed as a teacher of subjects in the Reserve Officers Training Corps of any school and who is not certified under the law governing the certification of teachers shall be included as an employee.

(b) Are designated by the governing body of a

municipality in which a pension fund is required by law to be established for policemen or firemen, respectively, as performing police or fire protection duties, except that when such persons are the heads of the police or fire department and are not eligible to be included within any such pension fund, they shall be included within this Article; provided, that such persons shall not be excluded to the extent of concurrent service and earnings not designated as being for police or fire protection duties. However, (i) any head of a police department who was a participant under this Article immediately before October 1, 1977 and did not elect, under Section 3-109 of this Act, to participate in a police pension fund shall be an "employee", and (ii) any chief of police who elects to participate in this Fund under Section 3-109.1 of this Code, regardless of whether such person continues to be employed as chief of police or is employed in some other rank or capacity within the police department, shall be an employee under this Article for so long as such person is employed to perform police duties by a participating municipality and has not lawfully rescinded that election.

(3) All persons, including, without limitation, public defenders and probation officers, who receive earnings from general or special funds of a county for performance of personal services or official duties within the territorial limits of the county, are employees of the county (unless

excluded by subsection (2) of this Section) notwithstanding that they may be appointed by and are subject to the direction of a person or persons other than a county board or a county officer. It is hereby established that an employer-employee relationship under the usual common law rules exists between such employees and the county paying their salaries by reason of the fact that the county boards fix their rates of compensation, appropriate funds for payment of their earnings and otherwise exercise control over them. This finding and this amendatory Act shall apply to all such employees from the date of appointment whether such date is prior to or after the effective date of this amendatory Act and is intended to clarify existing law pertaining to their status as participating employees in the Fund.

(Source: P.A. 90-460, eff. 8-17-97.)

(40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

Sec. 7-132. Municipalities, instrumentalities and participating instrumentalities included and effective dates.

(A) Municipalities and their instrumentalities.

(a) The following described municipalities, but not including any with more than 1,000,000 inhabitants, and the instrumentalities thereof, shall be included within and be subject to this Article beginning upon the effective dates specified by the Board:

(1) Except as to the municipalities and instrumentalities thereof specifically excluded under this Article, every county shall be subject to this Article, and all cities, villages and incorporated towns having a population in excess of 5,000 inhabitants as determined by the last preceding decennial or subsequent federal census, shall be subject to this Article following publication of the census by the Bureau of the Census. Within 90 days after publication of the census, the Board shall notify any municipality that has become subject to this Article as a result of that census, and shall provide information to the corporate authorities of the municipality explaining the duties and consequences of participation. The notification shall also include a proposed date upon which participation by the municipality will commence.

However, for any city, village or incorporated town that attains a population over 5,000 inhabitants after having provided social security coverage for its employees under the Social Security Enabling Act, participation under this Article shall not be mandatory but may be elected in accordance with subparagraph (3) or (4) of this paragraph (a), whichever is applicable.

(2) School districts, other than those specifically excluded under this Article, shall be subject to this Article, without election, with respect to all employees thereof.

(3) Towns and all other bodies politic and corporate which are formed by vote of, or are subject to control by, the electors in towns and are located in towns which are not participating municipalities on the effective date of this Act, may become subject to this Article by election pursuant to Section 7-132.1.

(4) Any other municipality (together with its instrumentalities), other than those specifically excluded from participation and those described in paragraph (3) above, may elect to be included either by referendum under Section 7-134 or by the adoption of a resolution or ordinance by its governing body. A copy of such resolution or ordinance duly authenticated and certified by the clerk of the municipality or other appropriate official of its governing body shall constitute the required notice to the board of such action.

(b) A municipality that is about to begin participation shall submit to the Board an application to participate, in a form acceptable to the Board, not later than 90 days prior to the proposed effective date of participation. The Board shall act upon the application within 90 days, and if it finds that the application is in conformity with its requirements and the requirements of this Article, participation by the applicant shall commence on a date acceptable to the municipality and specified by the Board, but in no event more than one year from the date of application.

(c) A participating municipality which succeeds to the functions of a participating municipality which is dissolved or terminates its existence shall assume and be transferred the net accumulation balance in the municipality reserve and the municipality account receivable balance of the terminated municipality.

(d) In the case of a Veterans Assistance Commission whose employees were being treated by the Fund on January 1, 1990 as employees of the county served by the Commission, the Fund may continue to treat the employees of the Veterans Assistance Commission as county employees for the purposes of this Article, unless the Commission becomes a participating instrumentality in accordance with subsection (B) of this Section.

(B) Participating instrumentalities.

(a) The participating instrumentalities designated in paragraph (b) of this subsection shall be included within and be subject to this Article if:

(1) an application to participate, in a form acceptable to the Board and adopted by a two-thirds vote of the governing body, is presented to the Board not later than 90 days prior to the proposed effective date; and

(2) the Board finds that the application is in conformity with its requirements, that the applicant has reasonable expectation to continue as a political entity

for a period of at least 10 years and has the prospective financial capacity to meet its current and future obligations to the Fund, and that the actuarial soundness of the Fund may be reasonably expected to be unimpaired by approval of participation by the applicant.

The Board shall notify the applicant of its findings within 90 days after receiving the application, and if the Board approves the application, participation by the applicant shall commence on the effective date specified by the Board.

(b) The following participating instrumentalities, so long as they meet the requirements of Section 7-108 and the area served by them or within their jurisdiction is not located entirely within a municipality having more than one million inhabitants, may be included hereunder:

i. Township School District Trustees.

ii. Multiple County and Consolidated Health Departments created under Division 5-25 of the Counties Code or its predecessor law.

iii. Public Building Commissions created under the Public Building Commission Act, and located in counties of less than 1,000,000 inhabitants.

iv. A multitype, consolidated or cooperative library system created under the Illinois Library System Act. Any library system created under the Illinois Library System Act that has one or more predecessors that participated in the Fund may participate in the Fund upon application. The

Board shall establish procedures for implementing the transfer of rights and obligations from the predecessor system to the successor system.

v. Regional Planning Commissions created under Division 5-14 of the Counties Code or its predecessor law.

vi. Local Public Housing Authorities created under the Housing Authorities Act, located in counties of less than 1,000,000 inhabitants.

vii. Illinois Municipal League.

viii. Northeastern Illinois Metropolitan Area Planning Commission.

ix. Southwestern Illinois Metropolitan Area Planning Commission.

x. Illinois Association of Park Districts.

xi. Illinois Supervisors, County Commissioners and Superintendents of Highways Association.

xii. Tri-City Regional Port District.

xiii. An association, or not-for-profit corporation, membership in which is authorized under Section 85-15 of the Township Code.

xiv. Drainage Districts operating under the Illinois Drainage Code.

xv. Local mass transit districts created under the Local Mass Transit District Act.

xvi. Soil and water conservation districts created under the Soil and Water Conservation Districts Law.

xvii. Commissions created to provide water supply or sewer services or both under Division 135 or Division 136 of Article 11 of the Illinois Municipal Code.

xviii. Public water districts created under the Public Water District Act.

xix. Veterans Assistance Commissions established under Section 9 of the Military Veterans Assistance Act that serve counties with a population of less than 1,000,000.

xx. The governing body of an entity, other than a vocational education cooperative, created under an intergovernmental cooperative agreement established between participating municipalities under the Intergovernmental Cooperation Act, which by the terms of the agreement is the employer of the persons performing services under the agreement under the usual common law rules determining the employer-employee relationship. The governing body of such an intergovernmental cooperative entity established prior to July 1, 1988 may make participation retroactive to the effective date of the agreement and, if so, the effective date of participation shall be the date the required application is filed with the fund. If any such entity is unable to pay the required employer contributions to the fund, then the participating municipalities shall make payment of the required contributions and the payments shall be allocated as provided in the agreement or, if not so provided, equally

among them.

xxi. The Illinois Municipal Electric Agency.

xxii. The Waukegan Port District.

xxiii. The Fox Waterway Agency created under the Fox Waterway Agency Act.

xxiv. The Illinois Municipal Gas Agency.

xxv. The Kaskaskia Regional Port District.

xxvi. The Southwestern Illinois Development Authority.

xxvii. The Cairo Public Utility Company.

xxviii. Except with respect to employees who elect to participate in the State Employees' Retirement System of Illinois under Section 14-104.13 of this Code, the Chicago Metropolitan Agency for Planning created under the Regional Planning Act, provided that, with respect to the benefits payable pursuant to Sections 7-146, 7-150, and 7-164 and the requirement that eligibility for such benefits is conditional upon satisfying a minimum period of service or a minimum contribution, any employee of the Chicago Metropolitan Agency for Planning that was immediately prior to such employment an employee of the Chicago Area Transportation Study or the Northeastern Illinois Planning Commission, such employee's service at the Chicago Area Transportation Study or the Northeastern Illinois Planning Commission and contributions to the State Employees' Retirement System of Illinois established under Article 14 and the Illinois Municipal Retirement Fund

shall count towards the satisfaction of such requirements.

xxix. United Counties Council (formerly the Urban Counties Council), but only if the Council has a ruling from the United States Internal Revenue Service that it is a governmental entity.

xxx. The Will County Governmental League, but only if the League has a ruling from the United States Internal Revenue Service that it is a governmental entity.

(c) The governing boards of special education joint agreements created under Section 10-22.31 of the School Code without designation of an administrative district shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special education joint agreement in effect before September 5, 1975 shall not be subject to this Article unless the joint agreement is modified by the school districts to provide that the governing board is subject to this Article, except as otherwise provided by this Section.

The governing board of the Special Education District of Lake County shall become subject to this Article as a participating instrumentality on July 1, 1997. Notwithstanding subdivision (a)1 of Section 7-139, on the effective date of participation, employees of the governing board of the Special Education District of Lake County shall receive creditable service for their prior service with that employer, up to a

maximum of 5 years, without any employee contribution. Employees may establish creditable service for the remainder of their prior service with that employer, if any, by applying in writing and paying an employee contribution in an amount determined by the Fund, based on the employee contribution rates in effect at the time of application for the creditable service and the employee's salary rate on the effective date of participation for that employer, plus interest at the effective rate from the date of the prior service to the date of payment. Application for this creditable service must be made before July 1, 1998; the payment may be made at any time while the employee is still in service. The employer may elect to make the required contribution on behalf of the employee.

The governing board of a special education joint agreement created under Section 10-22.31 of the School Code for which an administrative district has been designated, if there are employees of the cooperative educational entity who are not employees of the administrative district, may elect to participate in the Fund and be included within this Article as a participating instrumentality, subject to such application procedures and rules as the Board may prescribe.

The Boards of Control of cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code, whether or not the Boards act as their own administrative district, shall be included within and be subject to this Article as participating instrumentalities

when the agreement establishing the cooperative or joint educational program or project becomes effective.

The governing board of a special education joint agreement entered into after June 30, 1984 and prior to September 17, 1985 which provides for representation on the governing board by less than all the participating districts shall be included within and subject to this Article as a participating instrumentality. Such participation shall be effective as of the date the joint agreement becomes effective.

The governing boards of educational service centers established under Section 2-3.62 of the School Code shall be included within and subject to this Article as participating instrumentalities. The governing boards of vocational education cooperative agreements created under the Intergovernmental Cooperation Act and approved by the State Board of Education shall be included within and be subject to this Article as participating instrumentalities. If any such governing boards or boards of control are unable to pay the required employer contributions to the fund, then the school districts served by such boards shall make payment of required contributions as provided in Section 7-172. The payments shall be allocated among the several school districts in proportion to the number of students in average daily attendance for the last full school year for each district in relation to the total number of students in average attendance for such period for all districts served. If such educational service centers,

vocational education cooperatives or cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code are dissolved, the assets and obligations shall be distributed among the districts in the same proportions unless otherwise provided.

The governing board of Paris Cooperative High School shall be included within and be subject to this Article as a participating instrumentality on the effective date of this amendatory Act of the 96th General Assembly. If the governing board of Paris Cooperative High School is unable to pay the required employer contributions to the fund, then the school districts served shall make payment of required contributions as provided in Section 7-172. The payments shall be allocated among the several school districts in proportion to the number of students in average daily attendance for the last full school year for each district in relation to the total number of students in average attendance for such period for all districts served. If Paris Cooperative High School is dissolved, then the assets and obligations shall be distributed among the districts in the same proportions unless otherwise provided.

Financial Oversight Panels established under Article 1H of the School Code shall be included within and be subject to this Article as a participating instrumentality on the effective date of this amendatory Act of the 97th General Assembly. If the Financial Oversight Panel is unable to pay the required

employer contributions to the fund, then the school districts served shall make payment of required contributions as provided in Section 7-172. If the Financial Oversight Panel is dissolved, then the assets and obligations shall be distributed to the district served.

(d) The governing boards of special recreation joint agreements created under Section 8-10b of the Park District Code, operating without designation of an administrative district or an administrative municipality appointed to administer the program operating under the authority of such joint agreement shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special recreation joint agreement in effect before January 1, 1980 shall not be subject to this Article unless the joint agreement is modified, by the districts and municipalities which are parties to the agreement, to provide that the governing board is subject to this Article.

If the Board returns any employer and employee contributions to any employer which erroneously submitted such contributions on behalf of a special recreation joint agreement, the Board shall include interest computed from the end of each year to the date of payment, not compounded, at the rate of 7% per annum.

(e) Each multi-township assessment district, the board of trustees of which has adopted this Article by ordinance prior

to April 1, 1982, shall be a participating instrumentality included within and subject to this Article effective December 1, 1981. The contributions required under Section 7-172 shall be included in the budget prepared under and allocated in accordance with Section 2-30 of the Property Tax Code.

(f) The Illinois Medical District Commission created under the Illinois Medical District Act may be included within and subject to this Article as a participating instrumentality, notwithstanding that the location of the District is entirely within the City of Chicago. To become a participating instrumentality, the Commission must apply to the Board in the manner set forth in paragraph (a) of this subsection (B). If the Board approves the application, under the criteria and procedures set forth in paragraph (a) and any other applicable rules, criteria, and procedures of the Board, participation by the Commission shall commence on the effective date specified by the Board.

(C) Prospective participants.

Beginning January 1, 1992, each prospective participating municipality or participating instrumentality shall pay to the Fund the cost, as determined by the Board, of a study prepared by the Fund or its actuary, detailing the prospective costs of participation in the Fund to be expected by the municipality or instrumentality.

(Source: P.A. 95-677, eff. 10-11-07; 96-211, eff. 8-10-09;

96-551, eff. 8-17-09; 96-1000, eff. 7-2-10; 96-1046, eff. 7-14-10.)

Section 15. The School Code is amended by changing Sections 1A-8, 1B-8, 8-6, 10-16.9, 10-16.11, 17-1, 17-11, 19-8, and 19-9 and by adding Sections 1B-25, 1E-165, and 1F-165 and Article 1H as follows:

(105 ILCS 5/1A-8) (from Ch. 122, par. 1A-8)

Sec. 1A-8. Powers of the Board in Assisting Districts Deemed in Financial Difficulties. To promote the financial integrity of school districts, the State Board of Education shall be provided the necessary powers to promote sound financial management and continue operation of the public schools.

(a) The State Superintendent of Education may require a school district, including any district subject to Article 34A of this Code, to share financial information relevant to a proper investigation of the district's financial condition and the delivery of appropriate State financial, technical, and consulting services to the district if the district (i) has been designated, through the State Board of Education's School District Financial Profile System, as on financial warning or financial watch status, (ii) has failed to file an annual financial report, annual budget, deficit reduction plan, or other financial information as required by law, (iii) has been

identified, through the district's annual audit or other financial and management information, as in serious financial difficulty in the current or next school year, or (iv) is determined to be likely to fail to fully meet any regularly scheduled, payroll-period obligations when due or any debt service payments when due or both. In addition to financial, technical, and consulting services provided by the State Board of Education, at the request of a school district, the State Superintendent may provide for an independent financial consultant to assist the district review its financial condition and options.

(b) The State Board of Education, after proper investigation of a district's financial condition, may certify that a district, including any district subject to Article 34A, is in financial difficulty when any of the following conditions occur:

(1) The district has issued school or teacher orders for wages as permitted in Sections 8-16, 32-7.2 and 34-76 of this Code.

(2) The district has issued tax anticipation warrants or tax anticipation notes in anticipation of a second year's taxes when warrants or notes in anticipation of current year taxes are still outstanding, as authorized by Sections 17-16, 34-23, 34-59 and 34-63 of this Code, or has issued short-term debt against 2 future revenue sources, such as, but not limited to, tax anticipation warrants and

general State Aid certificates or tax anticipation warrants and revenue anticipation notes.

(3) The district has for 2 consecutive years shown an excess of expenditures and other financing uses over revenues and other financing sources and beginning fund balances on its annual financial report for the aggregate totals of the Educational, Operations and Maintenance, Transportation, and Working Cash Funds.

(4) The district refuses to provide financial information or cooperate with the State Superintendent in an investigation of the district's financial condition.

(5) The district is likely to fail to fully meet any regularly scheduled, payroll-period obligations when due or any debt service payments when due or both.

No school district shall be certified by the State Board of Education to be in financial difficulty solely by reason of any of the above circumstances arising as a result of (i) the failure of the county to make any distribution of property tax money due the district at the time such distribution is due or (ii) the failure of this State to make timely payments of general State aid or any of the mandated categoricals; or if the district clearly demonstrates to the satisfaction of the State Board of Education at the time of its determination that such condition no longer exists. If the State Board of Education certifies that a district in a city with 500,000 inhabitants or more is in financial difficulty, the State Board

shall so notify the Governor and the Mayor of the city in which the district is located. The State Board of Education may require school districts certified in financial difficulty, except those districts subject to Article 34A, to develop, adopt and submit a financial plan within 45 days after certification of financial difficulty. The financial plan shall be developed according to guidelines presented to the district by the State Board of Education within 14 days of certification. Such guidelines shall address the specific nature of each district's financial difficulties. Any proposed budget of the district shall be consistent with the financial plan submitted to and approved by the State Board of Education.

A district certified to be in financial difficulty, other than a district subject to Article 34A, shall report to the State Board of Education at such times and in such manner as the State Board may direct, concerning the district's compliance with each financial plan. The State Board may review the district's operations, obtain budgetary data and financial statements, require the district to produce reports, and have access to any other information in the possession of the district that it deems relevant. The State Board may issue recommendations or directives within its powers to the district to assist in compliance with the financial plan. The district shall produce such budgetary data, financial statements, reports and other information and comply with such directives. If the State Board of Education determines that a district has

failed to comply with its financial plan, the State Board of Education may rescind approval of the plan and appoint a Financial Oversight Panel for the district as provided in Section 1B-4. This action shall be taken only after the district has been given notice and an opportunity to appear before the State Board of Education to discuss its failure to comply with its financial plan.

No bonds, notes, teachers orders, tax anticipation warrants or other evidences of indebtedness shall be issued or sold by a school district or be legally binding upon or enforceable against a local board of education of a district certified to be in financial difficulty unless and until the financial plan required under this Section has been approved by the State Board of Education.

Any financial profile compiled and distributed by the State Board of Education in Fiscal Year 2009 or any fiscal year thereafter shall incorporate such adjustments as may be needed in the profile scores to reflect the financial effects of the inability or refusal of the State of Illinois to make timely disbursements of any general State aid or mandated categorical aid payments due school districts or to fully reimburse school districts for mandated categorical programs pursuant to reimbursement formulas provided in this School Code.

(Source: P.A. 96-668, eff. 8-25-09; 96-1423, eff. 8-3-10.)

Sec. 1B-8. There is created in the State Treasury a special fund to be known as the School District Emergency Financial Assistance Fund (the "Fund"). The School District Emergency Financial Assistance Fund shall consist of appropriations, loan repayments, grants from the federal government, and donations from any public or private source. Moneys in the Fund may be appropriated only to the Illinois Finance Authority and the State Board for those purposes authorized under this Article and Articles Article ~~1F~~ and 1H of this Code. The appropriation may be allocated and expended by the State Board for contractual services ~~as grants~~ to provide technical assistance or consultation ~~and consulting services~~ to school districts to assess their financial condition and to Financial Oversight Panels that petition for emergency financial assistance grants. ~~The and by the~~ Illinois Finance Authority may provide ~~as~~ loans to school districts which are the subject of an approved petition for emergency financial assistance under Section 1B-4, ~~or~~ 1F-62, or 1H-65 of this Code. Neither the State Board of Education nor the Illinois Finance Authority may collect any fees for providing these services.

From the amount allocated to each such school district under this Article the State Board shall identify a sum sufficient to cover all approved costs of the Financial Oversight Panel established for the respective school district. If the State Board and State Superintendent of Education have not approved emergency financial assistance in

conjunction with the appointment of a Financial Oversight Panel, the Panel's approved costs shall be paid from deductions from the district's general State aid.

The Financial Oversight Panel may prepare and file with the State Superintendent a proposal for emergency financial assistance for the school district and for its operations budget. No expenditures from the Fund shall be authorized by the State Superintendent until he or she has approved the request ~~proposal~~ of the Panel, either as submitted or in such lesser amount determined by the State Superintendent.

The maximum amount of an emergency financial assistance loan which may be allocated to any school district under this Article, including moneys necessary for the operations of the Panel, shall not exceed \$4,000 times the number of pupils enrolled in the school district during the school year ending June 30 prior to the date of approval by the State Board of the petition for emergency financial assistance, as certified to the local board and the Panel by the State Superintendent. An emergency financial assistance grant shall not exceed \$1,000 times the number of such pupils. A district may receive both a loan and a grant.

The payment of an emergency State financial assistance grant or loan shall be subject to appropriation by the General Assembly. Payment of the emergency State financial assistance loan is subject to the applicable provisions of the Illinois Finance Authority Act. Emergency State financial assistance

allocated and paid to a school district under this Article may be applied to any fund or funds from which the local board of education of that district is authorized to make expenditures by law.

Any emergency financial assistance grant proposed by the Financial Oversight Panel and approved by the State Superintendent may be paid in its entirety during the initial year of the Panel's existence or spread in equal or declining amounts over a period of years not to exceed the period of the Panel's existence. An emergency financial assistance loan proposed by the Financial Oversight Panel and approved by the Illinois Finance Authority may be paid in its entirety during the initial year of the Panel's existence or spread in equal or declining amounts over a period of years not to exceed the period of the Panel's existence. All loans ~~loan payments~~ made by the Illinois Finance Authority ~~from the School District Emergency Financial Assistance Fund~~ for a school district shall be required to be repaid, with simple interest over the term of the loan at a rate equal to 50% of the one-year Constant Maturity Treasury (CMT) yield as last published by the Board of Governors of the Federal Reserve System before the date on which the district's loan is approved by the Illinois Finance Authority ~~State Board of Education~~, not later than the date the Financial Oversight Panel ceases to exist. The Panel shall establish and the Illinois Finance Authority shall approve the terms and conditions, including the schedule, of repayments.

The schedule shall provide for repayments commencing July 1 of each year or upon each fiscal year's receipt of moneys from a tax levy for emergency financial assistance. Repayment shall be incorporated into the annual budget of the school district and may be made from any fund or funds of the district in which there are moneys available. An emergency financial assistance loan to the Panel or district shall not be considered part of the calculation of a district's debt for purposes of the limitation specified in Section 19-1 of this Code. Default on repayment is subject to the Illinois Grant Funds Recovery Act. When moneys are repaid as provided herein they shall not be made available to the local board for further use as emergency financial assistance under this Article at any time thereafter. All repayments required to be made by a school district shall be received by the State Board and deposited in the School District Emergency Financial Assistance Fund.

In establishing the terms and conditions for the repayment obligation of the school district the Panel shall annually determine whether a separate local property tax levy is required. The board of any school district with a tax rate for educational purposes for the prior year of less than 120% of the maximum rate for educational purposes authorized by Section 17-2 shall provide for a separate tax levy for emergency financial assistance repayment purposes. Such tax levy shall not be subject to referendum approval. The amount of the levy shall be equal to the amount necessary to meet the annual

repayment obligations of the district as established by the Panel, or 20% of the amount levied for educational purposes for the prior year, whichever is less. However, no district shall be required to levy the tax if the district's operating tax rate as determined under Section 18-8 or 18-8.05 exceeds 200% of the district's tax rate for educational purposes for the prior year.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/1B-25 new)

Sec. 1B-25. Establishment prohibited. No school district may have a Financial Oversight Panel established pursuant to this Article after Article 1H of this Code is established.

(105 ILCS 5/1E-165 new)

Sec. 1E-165. Repeal. When the Authority established pursuant to this Article is abolished pursuant to Section 1E-155, this Article shall be repealed.

(105 ILCS 5/1F-165 new)

Sec. 1F-165. Repeal. When the Authority established pursuant to this Article is abolished pursuant to Section 1F-155, this Article shall be repealed.

(105 ILCS 5/Art. 1H heading new)

ARTICLE 1H. FINANCIAL OVERSIGHT PANELS

(105 ILCS 5/1H-1 new)

Sec. 1H-1. Short title. This Article may be cited as the Financial Oversight Panel Law.

(105 ILCS 5/1H-5 new)

Sec. 1H-5. Findings; purpose; intent.

(a) The General Assembly finds all of the following:

(1) A fundamental goal of the people of this State, as expressed in Section 1 of Article X of the Illinois Constitution, is the educational development of all persons to the limits of their capacities. When a board of education faces financial difficulties, continued operation of the public school system is threatened.

(2) A sound financial structure is essential to the continued operation of any school system. It is vital to commercial, educational, and cultural interests that public schools remain in operation. To achieve that goal, public school systems must have effective access to the private market to borrow short and long term funds.

(3) To promote the financial integrity of districts, as defined in this Article, it is necessary to provide for the creation of financial oversight panels with the powers necessary to promote sound financial management and to ensure the continued operation of the public schools.

(b) It is the purpose of this Article to provide a secure

financial basis for the continued operation of public schools. The intention of the General Assembly, in creating this Article, is to establish procedures, provide powers, and impose restrictions to ensure the financial and educational integrity of public school districts, while leaving principal responsibility for the educational policies of public schools to their boards of education, consistent with the requirements for satisfying the public policy and purpose set forth in this Article.

(105 ILCS 5/1H-10 new)

Sec. 1H-10. Definitions. As used in this Article:

"Budget" means the annual budget of the district required under Section 17-1 of this Code, as in effect from time to time.

"Chairperson" means the Chairperson of the Panel.

"District" means any school district having a population of not more than 500,000 that has had a Financial Oversight Panel established under this Article.

"Financial plan" means the financial plan of the district to be developed pursuant to this Article, as in effect from time to time.

"Fiscal year" means the fiscal year of the district.

"Obligations" means notes or other short-term debts or liabilities of the Panel.

"Panel" means a Financial Oversight Panel created under

this Article.

"State Board" means the State Board of Education.

"State Superintendent" means the State Superintendent of Education.

(105 ILCS 5/1H-15 new)

Sec. 1H-15. Establishment of Financial Oversight Panels; duties of district.

(a) A school district may petition the State Board for the establishment of a Financial Oversight Panel for the district or the State Board may establish a Panel without a petition from the district. The petition shall cite the reasons why the creation of a Financial Oversight Panel for the district is necessary. In determining whether or not to place a district under a Panel, the State Board shall consider all of the following:

(1) If a Panel is in the best educational and financial interests of the district.

(2) If a Panel is in the best interest of other schools in the area and the educational welfare of all the pupils therein.

(3) Whether the board of education has complied with the requirements of Section 1A-8 of this Code.

(b) Upon establishment of a Financial Oversight Panel, all of the following shall occur:

(1) There is established a body both corporate and

politic to be known as the "(Name of School District) Financial Oversight Panel", which in this name shall exercise all authority vested in a Panel by this Article.

(2) The powers and duties of a Financial Oversight Panel established pursuant to this Article shall include the duties and obligations of financial oversight panels established under Article 1B of this Code, in addition to any duties and obligations established under this Article. However, if there is any conflict between the provisions of this Article and the provisions of Article 1B of this Code, the provisions of this Article control.

(3) The Financial Oversight Panel, the school board, and the district superintendent or chief executive officer shall develop goals and objectives to assist the district in obtaining financial stability. The goals and objectives must be developed as part of the financial plan that the school board is required to develop, adopt, and submit to the Panel in accordance with Section 1B-12 of this Code. The goals and objectives must be formally reviewed at agreed to intervals, but at least one time per year. Review shall include progress made and recommendations and modifications needed to achieve abolition of financial oversight provided for under Section 1H-115 of this Code.

(c) Any school district having a Financial Oversight Panel established under Article 1B of this Code or any Financial Oversight Panel established under Article 1B may petition the

State Board for the establishment of a Financial Oversight Panel under this Article and concurrent dissolution of the Article 1B Panel. All records, papers, books, funds, or other assets or liabilities belonging to the dissolving Financial Oversight Panel shall be transferred to the newly established Financial Oversight Panel.

(105 ILCS 5/1H-20 new)

Sec. 1H-20. Members of Panel; meetings.

(a) Upon establishment of a Financial Oversight Panel under Section 1H-15 of this Code, the State Superintendent shall within 15 working days thereafter appoint 5 members to serve on a Financial Oversight Panel for the district. Members appointed to the Panel shall serve at the pleasure of the State Superintendent. The State Superintendent shall designate one of the members of the Panel to serve as its Chairperson. In the event of vacancy or resignation, the State Superintendent shall, within 10 days after receiving notice, appoint a successor to serve out that member's term.

(b) Members of the Panel shall be selected primarily on the basis of their experience and education in financial management, with consideration given to persons knowledgeable in education finance. Two members of the Panel shall be residents of the school district that the Panel serves. A member of the Panel may not be a member of the district's school board or an employee of the district nor may a member

have a direct financial interest in the district.

(c) Panel members may be reimbursed by the State Board for travel and other necessary expenses incurred in the performance of their official duties. The amount reimbursed members for their expenses shall be charged to the school district as part of any emergency financial assistance and incorporated as a part of the terms and conditions for repayment of the assistance or shall be deducted from the district's general State aid as provided in Section 1H-65 of this Code.

(d) With the exception of the chairperson, who shall be designated as provided in subsection (a) of this Section, the Panel may elect such officers as it deems appropriate.

(e) The first meeting of the Panel shall be held at the call of the Chairperson. The Panel shall prescribe the times and places for its meetings and the manner in which regular and special meetings may be called and shall comply with the Open Meetings Act. The Panel shall also comply with the Freedom of Information Act.

(f) Three members of the Panel shall constitute a quorum. A majority of members present is required to pass a measure.

(105 ILCS 5/1H-25 new)

Sec. 1H-25. General powers.

(a) The purposes of the Panel shall be to exercise financial control over the district and to furnish financial assistance so that the district can provide public education

within the district's jurisdiction while permitting the district to meet its obligations to its creditors and the holders of its debt. Except as expressly limited by this Article, the Panel shall have all powers granted to a voluntary or involuntary Financial Oversight Panel and to a Financial Administrator under Article 1B of this Code and all other powers necessary to meet its responsibilities and to carry out its purposes and the purposes of this Article, including without limitation all of the following powers, provided that the Panel shall have no power to terminate an employee without following the statutory procedures for such terminations set forth in this Code:

(1) To sue and to be sued.

(2) To determine at a regular or special meeting that the district has insufficient or inadequate funds or other financial resources with respect to any contract (other than collective bargaining agreements), leases, subleases, and other instruments or agreements applicable to or binding upon the school board, and to make, cancel, modify, or execute contracts (other than collective bargaining agreements), leases, subleases, and all other instruments or agreements necessary, convenient, or otherwise beneficial to the district and consistent with the powers and functions granted by this Article or other applicable law.

(3) To lease or purchase real or personal property

necessary or convenient for its purposes; to execute and deliver deeds for real property held in its own name; and to sell, lease, or otherwise dispose of such of its property as, in the judgment of the Panel, is no longer necessary for its purposes.

(4) To employ officers, agents, and employees of the Panel, to define their duties and qualifications, and to fix their compensation and benefits.

(5) To transfer to the district such sums of money as are not required for other purposes.

(6) To borrow money, including without limitation accepting State loans, and to issue obligations pursuant to this Article; to fund, refund, or advance refund the same; to provide for the rights of the holders of its obligations; and to repay any advances.

(7) To levy all property tax levies that otherwise could be levied by the district if the district fails to certify and return the certificate of tax levy to the county clerk on or before the first Tuesday in November, and to make levies pursuant to Section 1H-65 of this Code.

(8) Subject to the provisions of any contract with or for the benefit of the holders of its obligations, to purchase or redeem its obligations.

(9) To procure all necessary goods and services for the Panel in compliance with the purchasing laws and requirements applicable to the district.

(10) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given to it by this Article.

(11) To recommend any type of reorganization of the district, in whole or in part, pursuant to Article 7 or 11E of this Code or Section 10-22.22b or 10-22.22c of this Code to the General Assembly if in the Panel's judgment the circumstances so require.

(b) Notwithstanding the provisions of subsection (a) of this Section, the Panel shall have no power to do any of the following:

(1) Unilaterally cancel or modify any collective bargaining agreement in force upon the date of creation of the Panel.

(2) Lease, sublease, buy, build, or otherwise acquire any additional school buildings or grounds for or on behalf of the district without prior approval by referendum held pursuant to Section 19-2 or 19-3 of this Code.

(3) Authorize payments for or incur any debt for any additional school buildings or grounds as specified in subdivision (2) of this subsection (b) without prior approval via referendum pursuant to the provisions of Sections 19-2 through 19-7 of this Code, the provisions of Section 10-22.36 of this Code to the contrary notwithstanding.

(105 ILCS 5/1H-30 new)

Sec. 1H-30. Employees. The Panel may employ individuals under this Section if it is so warranted. These individuals may include any of the following:

(1) A chief executive officer who shall supervise the Panel's staff, including the chief educational officer and the chief fiscal officer, and shall have ultimate responsibility for implementing the policies, procedures, directives, and decisions of the Panel. The chief executive officer shall have the authority to determine the agenda and order of business at school board meetings, as needed in order to carry forward and implement the objectives and priorities of the school board and Financial Oversight Panel in the administration and management of the district. This individual is not required to hold any certificate issued under Article 21 of this Code. The chief executive officer shall have the powers and duties as assigned by the Panel in accordance with this Code.

(2) A chief educational officer, who may be employed by the Panel if there is no superintendent in the district or if the Panel, at a regular or special meeting, finds that cause exists to cancel the contract of the district's superintendent who is serving at the time the Panel is established. Cancellation of an existing superintendent contract may be done only pursuant to the same requirements and in the same manner as the school board may cancel the

contract. A chief educational officer employed under this subdivision (2) shall have the powers and duties of a school district superintendent under this Code and such other duties as may be assigned by the Panel in accordance with this Code.

(3) A chief fiscal officer, who may be employed by the Panel. This individual shall be under the direction of the Panel or the chief executive officer employed by the Panel and shall have all of the powers and duties of the district's chief school business official and any other duties regarding budgeting, accounting, and other financial matters that are assigned by the Panel, in accordance with this Code.

(4) A superintendent, who shall be under the direction of the Panel or the chief executive officer employed by the Panel and shall have all of the powers and duties of a school district superintendent under this Code assigned by the Panel and such other duties as may be assigned by the Panel in accordance with this Code.

(5) A chief school business official, who shall have all of the powers and duties of a chief school business official under this Code assigned by the Panel and such other duties as may be assigned by the Panel in accordance with this Code.

An individual employed by the Panel as a superintendent or a chief school business official under this Section must hold

the appropriate certification for these positions. Individuals employed by the Panel as a chief executive officer, chief educational officer, or chief fiscal officer under this Section are not required to hold certification. A chief educational officer under this Section must not be employed by the Panel during a period a superintendent is employed by the district and a chief fiscal officer under this Section must not be employed by the Panel during a period a chief school business official is employed by the district.

Individuals employed under subdivision (2), (3), (4), or (5) of this Section shall report to the Panel or to the chief executive officer under this Section if there is one.

(105 ILCS 5/1H-35 new)

Sec. 1H-35. School treasurer.

(a) In Class I county school units and in each district that forms part of a Class II county school unit but that has withdrawn from the jurisdiction and authority of the trustees of schools of the township in which the district is located and from the jurisdiction and authority of the township treasurer in the Class II county school unit, the Panel may, in its discretion, remove the treasurer appointed or elected by the school board of the district and appoint a new treasurer to succeed the removed treasurer as provided in Section 8-19 of this Code.

(b) In the case of a district located in a Class II county

school unit where such district is subject to the jurisdiction and authority of township trustees and the jurisdiction and authority of the township treasurer, the Panel may require production of bank reconciliations and other reports or statements as required under Sections 8-6 and 8-13 through 8-15 of this Code.

(c) All school treasurers appointed or elected pursuant to this Section shall be subject to the provisions of Sections 8-2 through 8-20 and other applicable provisions of the School Code.

(105 ILCS 5/1H-45 new)

Sec. 1H-45. Collective bargaining agreements. In conjunction with the district, the Panel shall have the power to negotiate collective bargaining agreements with the district's employees. Upon union ratification, the district and the Panel shall execute the agreements negotiated by the Panel, and the district shall be bound by and shall administer the agreements in all respects as if the agreements had been negotiated by the district itself.

(105 ILCS 5/1H-50 new)

Sec. 1H-50. Deposits and investments.

(a) The Panel shall have the power to establish checking and whatever other banking accounts it may deem appropriate for conducting its affairs.

(b) Subject to the provisions of any contract with or for the benefit of the holders of its obligations, the Panel may invest any funds not required for immediate use or disbursement, as provided in the Public Funds Investment Act.

(105 ILCS 5/1H-55 new)

Sec. 1H-55. Cash accounts and bank accounts.

(a) The Panel shall require the district or any officer of the district, including the district's treasurer, to establish and maintain separate cash accounts and separate bank accounts in accordance with such rules, standards, and procedures as the Panel may prescribe.

(b) The Panel shall have the power to assume exclusive administration of the cash accounts and bank accounts of the district, to establish and maintain whatever new cash accounts and bank accounts it may deem appropriate, and to withdraw funds from these accounts for the lawful expenditures of the district.

(105 ILCS 5/1H-60 new)

Sec. 1H-60. Financial, management, and budgetary structure. Upon direction of the Panel, the district shall reorganize the financial accounts, management, and budgetary systems of the district in a manner consistent with rules adopted by the State Board regarding accounting, budgeting, financial reporting, and auditing as the Panel deems

appropriate to remedy the conditions that led the Panel to be created and to achieve greater financial responsibility and to reduce financial inefficiency.

(105 ILCS 5/1H-65 new)

Sec. 1H-65. School district emergency financial assistance; grants and loans. The Panel may prepare and file with the State Superintendent a proposal for emergency financial assistance for the school district and for the operations budget of the Panel, in accordance with Section 1B-8 of this Code. A school district may receive both a loan and a grant.

(105 ILCS 5/1H-70 new)

Sec. 1H-70. Tax anticipation warrants, tax anticipation notes, revenue anticipation certificates or notes, general State aid anticipation certificates, and lines of credit. With the approval of the State Superintendent and provided that the district is unable to secure short-term financing after 3 attempts, a Panel shall have the same power as a district to do the following:

(1) issue tax anticipation warrants under the provisions of Section 17-16 of this Code against taxes levied by either the school board or the Panel pursuant to Section 1H-25 of this Code;

(2) issue tax anticipation notes under the provisions

of the Tax Anticipation Note Act against taxes levied by either the school board or the Panel pursuant to Section 1H-25 of this Code;

(3) issue revenue anticipation certificates or notes under the provisions of the Revenue Anticipation Act;

(4) issue general State aid anticipation certificates under the provisions of Section 18-18 of this Code; and

(5) establish and utilize lines of credit under the provisions of Section 17-17 of this Code.

Tax anticipation warrants, tax anticipation notes, revenue anticipation certificates or notes, general State aid anticipation certificates, and lines of credit are considered borrowing from sources other than the State and are subject to Section 1H-65 of this Code.

(105 ILCS 5/1H-75 new)

Sec. 1H-75. Tax for emergency Financial Oversight Panel financial aid. If the Panel is unable to secure short-term borrowing pursuant to Section 1H-70 of this Code, the Panel:

(1) based upon an original or amended budget filed by a Financial Oversight Panel and approved by the State Board of Education, may levy a one-time-only tax, in an amount not to exceed 75% of the amount expended by the school district subject to the oversight of the Panel in the immediately preceding year for educational, operations and maintenance, transportation, and municipal retirement

purposes; as reflected in the most recently filed annual financial report, and as adjusted by the CPI most recently under the Property Tax Extension Limitation Law;

(2) following approval by the State Board of Education, shall file a certificate of tax levy with the county clerk or clerks with whom the school district must file tax levies, such taxes to be extended against all the property of the school district upon the value of the taxable property within its territory, as equalized or assessed by the Department of Revenue; and

(3) may issue warrants, or may provide a fund to meet the expenses by issuing and disposing of warrants, drawn against and in anticipation of the tax levied pursuant to this Section, for the payment of the necessary expenses of the district, either for transportation, educational, or all operations and maintenance purposes or for payments to the Illinois Municipal Retirement Fund, as the case may be, to the extent of 75% of the total amount of the tax so levied. The warrants shall show upon their face that they are payable in the numerical order of their issuance solely from such taxes when collected, and shall be received by any collector of taxes in payment of the taxes against which they are issued, and such taxes shall be set apart and held for their payment; every warrant shall bear interest, payable only out of the taxes against which it is drawn, at a rate not exceeding the maximum rate authorized

by the Bond Authorization Act, as amended at the time of the making of the contract, if issued before July 1, 1971 and if issued thereafter at the rate of not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, from the date of its issuance until paid or until notice shall be given by publication in a newspaper or otherwise that the money for its payment is available and that it will be paid on presentation, unless a lower rate of interest is specified therein, in which case the interest shall be computed and paid at the lower rate.

(105 ILCS 5/1H-85 new)

Sec. 1H-85. Obligations as legal investments. The obligations issued under the provisions of this Article are hereby made securities in which all public officers and bodies of this State, all political subdivisions of this State, all persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, and savings associations (including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business), and all credit unions, pension funds, administrators, and guardians who are or may be authorized to invest in bonds or in other obligations of the State may properly and legally invest funds, including capital, in their control or belonging to them. The obligations are also hereby

made securities that may be deposited with and may be received by all public officers and bodies of the State, all political subdivisions of the State, and public corporations for any purpose for which the deposit of bonds or other obligations of the State is authorized.

(105 ILCS 5/1H-90 new)

Sec. 1H-90. Reports. The Panel, upon taking office and annually thereafter, shall prepare and submit to the State Superintendent a report that includes the audited financial statement for the preceding fiscal year prepared and audited in compliance with the provisions of Sections 3-7 and 3-15.1 of this Code, an approved financial plan, and a statement of the major steps necessary to accomplish the objectives of the financial plan. This report must be submitted annually by March 1 of each year and must detail information from the previous school year. The school board must be allowed to comment on the annual report of the Panel, and the comments of the school board shall be included as an appendix to such annual report of the Panel.

(105 ILCS 5/1H-95 new)

Sec. 1H-95. Audit of Panel. The State Superintendent may require a separate audit of the Panel, otherwise the activities of the Panel must be included in the scope of the audit of the school district. A copy of the audit report covering the Panel

must be submitted to the State Superintendent.

(105 ILCS 5/1H-100 new)

Sec. 1H-100. Assistance by State agencies, units of local government, and school districts. The district shall render such services to and permit the use of its facilities and resources by the Panel at no charge as may be requested by the Panel. Any State agency, unit of local government, or school district may, within its lawful powers and duties, render such services to the Panel as may be requested by the Panel. Upon request of the Panel, any State agency, unit of local government, or school district is authorized and empowered to loan to the Panel such officers and employees as the Panel may deem necessary in carrying out its functions and duties. Officers and employees so transferred shall not lose or forfeit their employment status or rights.

(105 ILCS 5/1H-105 new)

Sec. 1H-105. Property of Panel exempt from taxation. The property of the Panel is exempt from taxation.

(105 ILCS 5/1H-110 new)

Sec. 1H-110. Sanctions.

(a) No member, officer, employee, or agent of the district may commit the district to any contract or other obligation or incur any liability on behalf of the district for any purpose

if the amount of the contract, obligation, or liability is in excess of the amount authorized for that purpose then available under the financial plan and budget then in effect.

(b) No member, officer, employee, or agent of the district may commit the district to any contract or other obligation on behalf of the district for the payment of money for any purpose required to be approved by the Panel unless the contract or other obligation has been approved by the Panel.

(c) No member, officer, employee, or agent of the district may take any action in violation of any valid order of the Panel, may fail or refuse to take any action required by any such order, may prepare, present, certify, or report any information, including any projections or estimates, for the Panel or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, may fail promptly to advise the Panel or its agents.

(d) In addition to any penalty or liability under any other law, any member, officer, employee, or agent of the district who violates subsection (a), (b), or (c) of this Section is subject to appropriate administrative discipline as may be imposed by the Panel, including, if warranted, suspension from duty without pay, removal from office, or termination of employment.

(105 ILCS 5/1H-115 new)

Sec. 1H-115. Abolition of Panel.

(a) Except as provided in subsections (b), (c), and (d) of this Section, the Panel shall be abolished 10 years after its creation.

(b) The State Board, upon recommendation of the Panel or petition of the school board, may abolish the Panel at any time after the Panel has been in existence for 3 years if no obligations of the Panel are outstanding or remain undefeased and upon investigation and finding that:

(1) none of the factors specified in Section 1A-8 of this Code remain applicable to the district; and

(2) substantial achievement of the goals and objectives established pursuant to the financial plan and required under Section 1H-15 of this Code.

(c) The Panel of a district that otherwise meets all of the requirements for abolition of a Panel under subsection (b) of this Section except for the fact that there are outstanding financial obligations of the Panel may petition the State Board for reinstatement of all of the school boards powers and duties assumed by the Panel; and if approved by the State Board, then:

(1) the Panel shall continue in operation, but its powers and duties shall be limited to those necessary to manage and administer its outstanding obligations;

(2) the school board shall once again begin exercising all of the powers and duties otherwise allowed by statute; and

(3) the Panel shall be abolished as provided in

subsection (a) of this Section.

(d) If the Panel of a district that otherwise meets all of the requirements for abolition of a Panel under subsection (b) of this Section, except for outstanding obligations of the Panel, then the district may petition the State Board for abolition of the Panel if the district:

(1) establishes an irrevocable trust fund, the purpose of which is to provide moneys to defease the outstanding obligations of the Panel; and

(2) issues funding bonds pursuant to the provisions of Section 19-8 and 19-9 of this Code.

A district with a Panel that falls under these provisions shall be abolished as provided in subsection (a) of this Section.

(105 ILCS 5/1H-120 new)

Sec. 1H-120. Indemnification; legal representation; limitations of actions after abolition.

(a) The Panel may indemnify any member, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she was a member, officer, employee, or agent of the Panel, against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by

him or her in connection with the action, suit, or proceeding) if he or she acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Panel and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Panel and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

To the extent that a member, officer, employee, or agent of the Panel has been successful, on the merits or otherwise, in the defense of any such action, suit, or proceeding referred to in this subsection (b) or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection therewith. Any such indemnification shall be made by the Panel only as authorized in the specific case, upon a determination that indemnification of the member, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct. The determination shall be made (i) by the Panel by a majority vote of a quorum consisting of members who are not

parties to the action, suit, or proceeding or (ii) if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested members so directs, by independent legal counsel in a written opinion.

Reasonable expenses incurred in defending an action, suit, or proceeding shall be paid by the Panel in advance of the final disposition of the action, suit, or proceeding, as authorized by the Panel in the specific case, upon receipt of an undertaking by or on behalf of the member, officer, employee, or agent to repay the amount, unless it is ultimately determined that he or she is entitled to be indemnified by the Panel as authorized in this Section.

Any member, officer, employee, or agent against whom any action, suit, or proceeding is brought may employ his or her own attorney to appear on his or her behalf.

The right to indemnification accorded by this Section shall not limit any other right to indemnification to which the member, officer, employee, or agent may be entitled. Any rights under this Section shall inure to the benefit of the heirs, executors, and administrators of any member, officer, employee, or agent of the Panel.

The Panel may purchase and maintain insurance on behalf of any person who is or was a member, officer, employee, or agent of the Panel against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Panel could

have the power to indemnify him or her against liability under the provisions of this Section.

(b) The Panel shall be considered a State agency for purposes of receiving representation by the Attorney General. Members, officers, employees, and agents of the Panel shall be entitled to representation and indemnification under the State Employee Indemnification Act.

(c) Abolition of the Panel pursuant to Section 1H-115 of this Code shall bar any remedy available against the Panel, its members, employees, or agents for any right or claim existing or any liability incurred prior to the abolition, unless the action or other proceeding is commenced prior to the expiration of 2 years after the date of the abolition.

(105 ILCS 5/8-6) (from Ch. 122, par. 8-6)

Sec. 8-6. Custody of school funds.

The school treasurer shall have custody of the school funds and shall keep in a cash book separate cash balances. In the cash book he shall enter in separate accounts the balance, total of all moneys received in each fund, and the total of the orders countersigned or checks signed with respect to each fund and extend the balances and the aggregate cash balance for all funds balance at least monthly. The treasurer ~~and~~ shall reconcile such balances ~~balance~~ with the accounting or bookkeeping department of the district in conformity with a template provided by the State Board of Education monthly.

School districts on the financial watch or warning list that are required to submit deficit reduction plans in accordance with Section 17-1 of this Code or that are certified in financial difficulty in accordance with Section 1-A8 of this Code must transmit the cash balances as required pursuant to this Section 8-6 of this Code to the State Board of Education quarterly from the treasurer.

(Source: Laws 1961, p. 31.)

(105 ILCS 5/10-16.9 new)

Sec. 10-16.9. Bank reconciliation reports. School districts on the financial watch or warning list that are required to submit deficit reduction plans pursuant to Section 17-1 of this Code or that are certified in financial difficulty must transmit the bank reconciliation reports from the school treasurer as required pursuant to Section 8-6 of this Code to the State Board of Education quarterly. The State Board of Education shall establish the dates by which the reconciliation reports must be submitted and provide a template for those districts to utilize.

(105 ILCS 5/10-16.11 new)

Sec. 10-16.11. Payment of outstanding obligations of a Financial Oversight Panel. The school board of a district subject to a Financial Oversight Panel pursuant to Article 1H of this Code that, except for the existence of outstanding

financial obligations of the Financial Oversight Panel, would be able to seek abolition of the Panel pursuant to Section 1H-115 of this Code may: (1) spend surplus district funds in an amount sufficient to liquidate the outstanding obligations of the Financial Oversight Panel or (2) issue funding bonds for such purpose as authorized by Sections 19-8 and 19-9 of this Code.

(105 ILCS 5/17-1) (from Ch. 122, par. 17-1)

Sec. 17-1. Annual Budget. The board of education of each school district under 500,000 inhabitants shall, within or before the first quarter of each fiscal year, adopt and file with the State Board of Education an annual balanced budget which it deems necessary to defray all necessary expenses and liabilities of the district, and in such annual budget shall specify the objects and purposes of each item and amount needed for each object or purpose.

The budget shall be entered upon a School District Budget form prepared and provided by the State Board of Education and therein shall contain a statement of the cash on hand at the beginning of the fiscal year, an estimate of the cash expected to be received during such fiscal year from all sources, an estimate of the expenditures contemplated for such fiscal year, and a statement of the estimated cash expected to be on hand at the end of such year. The estimate of taxes to be received may be based upon the amount of actual cash receipts that may

reasonably be expected by the district during such fiscal year, estimated from the experience of the district in prior years and with due regard for other circumstances that may substantially affect such receipts. Nothing in this Section shall be construed as requiring any district to change or preventing any district from changing from a cash basis of financing to a surplus or deficit basis of financing; or as requiring any district to change or preventing any district from changing its system of accounting.

To the extent that a school district's budget is not balanced, the district shall also adopt and file with the State Board of Education a deficit reduction plan to balance the district's budget within 3 years. The deficit reduction plan must be filed at the same time as the budget, but the State Superintendent of Education may extend this deadline if the situation warrants.

If, as the result of an audit performed in compliance with Section 3-7 of this Code, the resulting Annual Financial Report required to be submitted pursuant to Section 3-15.1 of this Code reflects a deficit as defined for purposes of the preceding paragraph, then the district shall, within 30 days after acceptance of such audit report, submit a deficit reduction plan.

The board of education of each district shall fix a fiscal year therefor. If the beginning of the fiscal year of a district is subsequent to the time that the tax levy due to be

made in such fiscal year shall be made, then such annual budget shall be adopted prior to the time such tax levy shall be made. The failure by a board of education of any district to adopt an annual budget, or to comply in any respect with the provisions of this Section, shall not affect the validity of any tax levy of the district otherwise in conformity with the law. With respect to taxes levied either before, on, or after the effective date of this amendatory Act of the 91st General Assembly, (i) a tax levy is made for the fiscal year in which the levy is due to be made regardless of which fiscal year the proceeds of the levy are expended or are intended to be expended, and (ii) except as otherwise provided by law, a board of education's adoption of an annual budget in conformity with this Section is not a prerequisite to the adoption of a valid tax levy and is not a limit on the amount of the levy.

Such budget shall be prepared in tentative form by some person or persons designated by the board, and in such tentative form shall be made conveniently available to public inspection for at least 30 days prior to final action thereon. At least 1 public hearing shall be held as to such budget prior to final action thereon. Notice of availability for public inspection and of such public hearing shall be given by publication in a newspaper published in such district, at least 30 days prior to the time of such hearing. If there is no newspaper published in such district, notice of such public hearing shall be given by posting notices thereof in 5 of the

most public places in such district. It shall be the duty of the secretary of such board to make such tentative budget available to public inspection, and to arrange for such public hearing. The board may from time to time make transfers between the various items in any fund not exceeding in the aggregate 10% of the total of such fund as set forth in the budget. The board may from time to time amend such budget by the same procedure as is herein provided for its original adoption.

Beginning July 1, 1976, the board of education, or regional superintendent, or governing board responsible for the administration of a joint agreement shall, by September 1 of each fiscal year thereafter, adopt an annual budget for the joint agreement in the same manner and subject to the same requirements as are provided in this Section.

The State Board of Education shall exercise powers and duties relating to budgets as provided in Section 2-3.27 of this Code and shall require school districts to submit their annual budgets, deficit reduction plans, and other financial information, including revenue and expenditure reports and borrowing and interfund transfer plans, in such form and within the timelines designated by the State Board of Education.

By fiscal year 1982 all school districts shall use the Program Budget Accounting System.

In the case of a school district receiving emergency State financial assistance under Article 1B, the school board shall also be subject to the requirements established under Article

1B with respect to the annual budget.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/17-11) (from Ch. 122, par. 17-11)

Sec. 17-11. Certificate of tax levy.

(a) The school board of each district, other than a school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of this Code, shall ascertain, as near as practicable, annually, how much money must be raised by special tax for transportation purposes if any and for educational and for operations and maintenance purposes for the next ensuing year. In school districts with a population of less than 500,000, these amounts shall be certified and returned to each county clerk on or before the last Tuesday in December, annually. The certificate shall be signed by the president and clerk or secretary, and may be in the following form:

CERTIFICATE OF TAX LEVY

We hereby certify that we require the sum of dollars, to be levied as a special tax for transportation purposes and the sum of dollars to be levied as a special tax for educational purposes, and the sum dollars to be levied as a special tax for operations and maintenance purposes, and the sum of to be levied as a special tax for a working cash fund, on the equalized assessed value of the taxable property of our district, for the year

(insert year).

Signed on (insert date).

A B, President

C D....., Clerk (Secretary)

Dist. No., County

(b) A failure by the school board to file the certificate with the county clerk in the time required shall not vitiate the assessment.

(c) A school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of this Code shall file a certificate of tax levy as otherwise provided by this Section, except that such certificate shall be certified and returned to each county clerk on or before the first Tuesday in November annually. If, for whatever reason, the district fails to certify and return the certificate of tax levy to each county clerk on or before the first Tuesday in November annually, then the Financial Oversight Panel for such school district shall proceed to adopt, certify, and return a certificate of tax levy for such school district to each county clerk on or before the last Tuesday in December annually.

(Source: P.A. 91-357, eff. 7-29-99.)

(105 ILCS 5/19-8) (from Ch. 122, par. 19-8)

Sec. 19-8. Bonds to pay claims. Any school district or non-high district operating under general law or special

charter having a population of 500,000 or less is authorized to issue bonds for the purpose of paying orders issued for the wages of teachers, ~~or~~ for the payment of claims against any such district, or for providing funds to effect liquidation or defeasance of the obligations of a Financial Oversight Panel pursuant to the provisions of Section 1H-115 of this Code.

Such bonds may be issued in an amount, including existing indebtedness, in excess of any statutory limitation as to debt. (Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/19-9) (from Ch. 122, par. 19-9)

Sec. 19-9. Resolution to issue bonds - Submission to voters. Before any district as described in Section 19-8 shall avail itself of the provisions of that section the governing body thereof shall examine and consider the several teachers' orders or claims or liabilities of a Financial Oversight Panel established pursuant to Article 1H of this Code, or any or all of these, or both, proposed to be paid and if it appears that they were authorized and allowed for proper school purposes it shall adopt a resolution so declaring and set forth and describe in detail such teachers' orders and claims and liabilities of a Financial Oversight Panel established pursuant to Article 1H of this Code and the adoption of the resolution shall establish the validity thereof, notwithstanding the amount of such orders and claims and liabilities of a Financial Oversight Panel established

pursuant to Article 1H of this Code may exceed in whole or in part any applicable statutory debt limit in force at the time the indebtedness evidenced by such orders and claims and liabilities of a Financial Oversight Panel established pursuant to Article 1H of this Code was incurred. The resolution shall also declare the intention of the district to issue bonds for the purpose of paying such teachers' orders or claims or liabilities of a Financial Oversight Panel established pursuant to Article 1H of this Code, ~~or both,~~ and direct that notice of such intention be published at least once in a newspaper published within the district and if there be no newspaper published within the district then notice shall be published in a newspaper having general circulation within the district. The notice shall set forth (1) the time within which a petition may be filed requesting the submission of the proposition to issue the bonds as hereinafter in this Section provided; (2) the specific number of voters required to sign the petition; and the date of the prospective referendum. The recording officer of the district shall provide a petition form to any individual requesting one. If within 30 days after such publication of such notice a petition is filed with the recording officer of the district, signed by the voters of the district equal to 10% or more of the registered voters of the district requesting that the proposition to issue bonds as authorized by Section 19-8 be submitted to the voters thereof, then the district shall not be authorized to issue bonds as

provided by Section 19-8 until the proposition has been submitted to and approved by a majority of the voters voting on the proposition at a regular scheduled election. The board shall certify the proposition to the proper election authorities for submission in accordance with the general election law. If no such petition with the requisite number of signatures is filed within said 30 days, or if any and all petitions filed are invalid, then the district shall thereafter be authorized to issue bonds for the purposes and as provided in Section 19-8.

(Source: P.A. 87-767.)

Section 20. The Illinois Educational Labor Relations Act is amended by changing Section 2 as follows:

(115 ILCS 5/2) (from Ch. 48, par. 1702)

Sec. 2. Definitions. As used in this Act:

(a) "Educational employer" or "employer" means the governing body of a public school district, including the governing body of a charter school established under Article 27A of the School Code or of a contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, combination of public school districts, including the governing body of joint agreements of any type formed by 2 or more school districts, public community college district or State college or university, a

subcontractor of instructional services of a school district (other than a school district organized under Article 34 of the School Code), combination of school districts, charter school established under Article 27A of the School Code, or contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, and any State agency whose major function is providing educational services. "Educational employer" or "employer" does not include (1) a Financial Oversight Panel created pursuant to Section 1A-8 of the School Code due to a district violating a financial plan or (2) an approved nonpublic special education facility that contracts with a school district or combination of school districts to provide special education services pursuant to Section 14-7.02 of the School Code, but does include a School Finance Authority created under Article 1E or 1F of the School Code and a Financial Oversight Panel created under Article 1B or 1H of the School Code. The change made by this amendatory Act of the 96th General Assembly to this paragraph (a) to make clear that the governing body of a charter school is an "educational employer" is declaratory of existing law.

(b) "Educational employee" or "employee" means any individual, excluding supervisors, managerial, confidential, short term employees, student, and part-time academic employees of community colleges employed full or part time by an educational employer, but shall not include elected officials and appointees of the Governor with the advice and

consent of the Senate, firefighters as defined by subsection (g-1) of Section 3 of the Illinois Public Labor Relations Act, and peace officers employed by a State university. For the purposes of this Act, part-time academic employees of community colleges shall be defined as those employees who provide less than 3 credit hours of instruction per academic semester. In this subsection (b), the term "student" includes graduate students who are research assistants primarily performing duties that involve research or graduate assistants primarily performing duties that are pre-professional, but excludes graduate students who are teaching assistants primarily performing duties that involve the delivery and support of instruction and all other graduate assistants.

(c) "Employee organization" or "labor organization" means an organization of any kind in which membership includes educational employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, age, gender, national origin or political affiliation.

(d) "Exclusive representative" means the labor organization which has been designated by the Illinois Educational Labor Relations Board as the representative of the majority of educational employees in an appropriate unit, or

recognized by an educational employer prior to January 1, 1984 as the exclusive representative of the employees in an appropriate unit or, after January 1, 1984, recognized by an employer upon evidence that the employee organization has been designated as the exclusive representative by a majority of the employees in an appropriate unit.

(e) "Board" means the Illinois Educational Labor Relations Board.

(f) "Regional Superintendent" means the regional superintendent of schools provided for in Articles 3 and 3A of The School Code.

(g) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, reward or discipline other employees within the appropriate bargaining unit and adjust their grievances, or to effectively recommend such action if the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The term "supervisor" includes only those individuals who devote a preponderance of their employment time to such exercising authority.

(h) "Unfair labor practice" or "unfair practice" means any practice prohibited by Section 14 of this Act.

(i) "Person" includes an individual, educational employee, educational employer, legal representative, or employee organization.

(j) "Wages" means salaries or other forms of compensation for services rendered.

(k) "Professional employee" means, in the case of a public community college, State college or university, State agency whose major function is providing educational services, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired, (1) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (2) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (1) of this subsection, and (ii) is performing related work under the supervision of a professional person to qualify himself or herself to become a professional as defined in paragraph (1).

(1) "Professional employee" means, in the case of any

public school district, or combination of school districts pursuant to joint agreement, any employee who has a certificate issued under Article 21 or Section 34-83 of the School Code, as now or hereafter amended.

(m) "Unit" or "bargaining unit" means any group of employees for which an exclusive representative is selected.

(n) "Confidential employee" means an employee, who (i) in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to labor relations or who (ii) in the regular course of his or her duties has access to information relating to the effectuation or review of the employer's collective bargaining policies.

(o) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices.

(p) "Craft employee" means a skilled journeyman, craft person, and his or her apprentice or helper.

(q) "Short-term employee" is an employee who is employed for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that he or she will be rehired by the same employer for the same service in a subsequent calendar year. Nothing in this subsection shall affect the employee status of individuals who were covered by a collective bargaining agreement on the effective date of this

Public Act 097-0429

SB2149 Enrolled

LRB097 10095 NHT 50275 b

amendatory Act of 1991.

(Source: P.A. 95-331, eff. 8-21-07; 96-104, eff. 1-1-10.)

Section 99. Effective date. This Act takes effect upon becoming law.