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FISCAL IMPACT STATEMENT

LS 6956

BILL NUMBER: HB 1380

NOTE PREPARED: Mar 5, 2024

BILL AMENDED: Mar 4, 2024

SUBJECT: Various Education Matters.

FIRST AUTHOR: Rep. Behning

FIRST SPONSOR: Sen. Raatz

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Pilot Programs:* This bill requires the Secretary of Education to prepare and submit to the General Assembly the following:

- (1) A plan to establish a pilot program concerning the use, operation, and management of school facilities to promote student learning and outcomes.
- (2) A plan to establish a pilot program concerning student transportation.

Innovation Network Provisions: The bill makes various changes to innovation network school and participating innovation network charter school provisions regarding the following:

- (1) The terms that must be included in an agreement entered into between:
 - (A) an innovation network team and the governing body of a school corporation; and
 - (B) an organizer and the governing body of a school corporation.
- (2) Restrictions on altering an agreement.
- (3) Restrictions on a school corporation charging a participating innovation network charter school for goods and services.
- (4) Required distribution of state tuition support to participating innovation network charter schools.
- (5) Restrictions regarding altering the use of a facility occupied by an innovation network school or participating innovation network charter school.

COVID-19 Relief Programs: This bill makes changes to the Student Learning Recovery Grant Program concerning the following:

- (1) The establishment of the program is subject to available funding.
- (2) The purpose for which the program was established with regard to disruption in education caused by the coronavirus disease pandemic and insufficient alternatives.

- (3) The limitation of the program to only certain state fiscal years.
- (4) Allowing the Department of Education (DOE) to require matching grant amounts.

It also repeals the following provisions regarding the Student Learning Recovery Grant Program:

- (1) The appropriation in the 2021 fiscal year.
- (2) The expiration of the program.

The bill provides that a student's Indiana Enrichment Scholarship Account terminates under conditions established by DOE (instead of October 1, 2024). It removes a provision that requires use of certain federal funds under the Indiana Student Enrichment Grant Program. It repeals a provision regarding the expiration of the Indiana Student Enrichment Grant Program.

Office of Administrative Law Proceedings: This bill provides that the Office of Administrative Law Proceedings (OALP) has jurisdiction over hearing officers authorized to conduct hearings required by the Individuals with Disabilities Education Act (IDEA). It requires the OALP to:

- (1) Determine the cost of conducting hearings; and
- (2) After July 1, 2025, assess a fee, based on the weighted ADM count, for each school corporation and charter school that is sufficient to cover the costs.

Referendums: This bill makes certain changes to the referendum time line.

Scholarship Programs: This bill amends the date by which a student has to be a certain age to be eligible to participate in a School Scholarship Program and the Indiana Education Scholarship Account Program.

Transfer Students: The bill removes a condition with regard to requiring certain school corporations to accept transferring students who do not have legal settlement in the school corporation. It also provides that a transferee corporation may not require a parent or student requesting transfer to the school corporation to pay transfer tuition or any other fee associated with the transfer of the student.

Effective Date: Upon passage; July 1, 2024.

Explanation of State Expenditures: *Independent Hearing Officers:* In FY 2023, the Department of Education (DOE) contracted with 10 independent hearing officers to conduct hearings under the federal Individuals with Disabilities Education Act (IDEA). Beginning in FY 2025, the Office of Administrative Law Proceedings (OALP) will assume jurisdiction over these hearings and the Director of Special Education will be required to oversee the training of hearing officers and establish guidelines. OALP and DOE are also required to enter into a memorandum of understanding regarding the transition to hearing officers employed by OALP. The bill's requirements represent an additional workload for these agencies and may also increase state expenditures dependent on (1) the compensation paid to independent hearing officers under OALP; (2) the compensation DOE would have paid to third-party independent hearing officers; and (3) the amount received from public schools to cover the cost for OALP to conduct hearings. Existing staffing and resource levels may be insufficient for full implementation if currently being used to capacity. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program, with new appropriations, or with IDEA funds that have been distributed to the state of Indiana. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

COVID-19 Relief Programs: Under the bill the 1008 Grant Program and Indiana Learns, two programs aimed

at reducing COVID-19 related learning loss, will no longer expire in FY 2026. This represents a workload increase for the Department of Education (DOE) who will be required to continue administering the programs, including preparing an annual report for the 1008 Grant Program. These provisions are not expected to increase total expenditures unless more funds are appropriated into the programs.

Pilot Programs: The bill requires the Secretary of Education to prepare reports by November 1, 2024, on plans to establish two pilot programs. This is a minor workload increase that will be completed with existing staff and resources. Dependent on legislative and administrative actions, future expenditure increases could occur if the pilot programs are established.

State Educational Institutions (SEIs): SEIs that received 1008 Grants to provide educational services will have additional time to expend funds that have already been obligated. [SEIs receive state funding through General Fund appropriations.]

Educational Scholarship Account (ESA): Beginning in FY 2025, the bill moves the date by which a student must be at least five years old in order to be eligible for an ESA from August 1 to October 1. Moving the date will have a minimal increase on enrollments. The impact on state expenditures from the increased enrollment in the program is dependent upon where those students would have attended school without the eligibility changes provided by the bill. Students who would have attended a public school who switch to the program would decrease state expenditures while students who would have been homeschooled, attended a nonpublic school without a Choice Scholarship, or not enrolled in a school at all, would increase state expenditures.

Transfer Students - Some school corporations that currently receive transfer students from other school corporations and charge those students transfer tuition may choose to not accept transfer students if they can no longer collect transfer tuition or other similar fees. Those students would likely find another public school to attend or may choose to attend a nonpublic school. Impacted students who transfer to a nonpublic school would decrease state expenditures. This may be offset by other provisions in the bill that would allow certain nonpublic school students transfer to a public school. The impact to state expenditures is indeterminable, and dependent on the movement of impacted students.

Additional information -

Independent Hearing Officers: Due process hearings are currently heard by independent hearing officers contracted by DOE. Of the 114 due process hearings that were requested in FY 2023, 104 hearings were dismissed, 4 hearings received a decision, and 6 hearings are still pending. Cases that went to hearing and received a decision cost approximately \$12,300 per case and the hearings that were dismissed cost approximately \$1,400 per case. [These costs do not include travel expenses paid at a rate of \$50 per hour, training costs, or state per diem for meals, mileage, and lodging.]

Explanation of State Revenues: *SEIs:* If additional funds are appropriated to the 1008 Grant Program, SEIs may have additional funding opportunities to receive grants from the program.

Explanation of Local Expenditures: *IDEA Hearings:* Beginning in FY 2026, OALP will assess a fee onto every public school that will sufficiently cover the costs for the agency to conduct IDEA hearings. The fee will be weighted based on a public school's ADM count.

COVID-19 Relief Programs: Public schools who receive 1008 Grants to provide educational services will have additional time to expend funds that have already been obligated. Public schools are also no longer

required to provide matching federal funds as a requirement to receive 1008 Grants, which may decrease public school expenditures in the future.

Explanation of Local Revenues: *Summary* - The bill's impact on public schools is indeterminable and impacts on a given public school will vary dependent upon the following:

1. Whether a school is an approved learning partner with the Indiana Learns program;
2. The amount, if any, appropriated to certain COVID-19 Relief Programs;
3. Whether a school is, or has an agreement with, an innovation network charter school;
4. How much, if any, transfer tuition revenue the school corporation would receive under current law that it would not be able to receive under the bill;
5. Whether schools adopt a policy to deny enrolling certain transfer students, and if so, where students transferring out of a public school choose to enroll instead;
6. The number of students gained from the bill's provision regarding students who previously attended an accredited nonpublic school; and
7. The number of students lost, if any, due to the bill's ESA provision.

Additional Information - COVID-19 Relief Programs: Indiana Learns is a statewide grant program that awards \$1,000 to qualifying families to provide approved high-dosage tutoring to certain elementary students. Under the bill, the program will no longer expire in FY 2026. To the extent this allows more students to participate in a tutoring program through an approved public school, school revenue may increase. Public schools may also have additional funding opportunities if additional funds are appropriated to the 1008 Grant Program or Indiana Learns.

Innovation Network Provisions: The following provisions are effective upon passage of the bill and may impact how money is distributed within school corporations that have innovation network charter schools, but the total revenue received by the school corporation as a whole would not be impacted:

- 1) Innovation network charter schools are required to receive at least 100% of the state tuition support dollars their schools generate; and
- 2) Unless an agreement entered into before FY 2025 states otherwise, school corporations may not charge an innovation network charter school for goods and services if the amount charged is greater than the operations fund property tax levy received by the charter school. [Current statute requires the property tax levy in four counties to be shared with certain charter schools beginning on January 1, 2025.]

Transfer Students: Schools may receive additional state tuition support revenue if provisions in the bill allow additional nonpublic school students to transfer to a school corporation. However statewide school corporation revenue is also estimated to decrease by \$4.5 M due to provisions in the bill prohibiting school corporations from charging transfer tuition or other similar fees to students. If school corporations choose to no longer accept transferring students, public school revenue may further be reduced if impacted students transfer to a nonpublic school instead. [See *Explanation of State Expenditures.*]

ESA Enrollment Increase: If more students transfer from public schools to the ESA program, public school revenue from state tuition support will decrease. [See *Explanation of State Expenditures.*]

State Agencies Affected: Department of Education; state educational institutions; Office of Administrative Law Judges.

Local Agencies Affected: Public schools.

Information Sources: Department of Education, 2023 Student Learning Recovery Grant Report.
https://s3.us-east-2.amazonaws.com/iga-publications/agency_report/2023-11-02T15-39-58.912Z-2023%20-%20Student%20Learning%20Recovery%20Grant%20Report.pdf;

Indiana Learns, <https://www.indianalearns.org/>;

<https://www.in.gov/doe/students/special-education/special-education-due-process-hearing-511-iac-7-45-3-through-7-45-7/>

LSA Education Database.

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