

Second Regular Session of the 119th General Assembly (2016)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1109

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AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 6-1.1-20.6-9.9, AS ADDED BY P.L.120-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9.9. **(a) If:**

**(1) a school corporation in 2017 or 2018 issues new bonds or enters into a new lease rental agreement for which the school corporation is imposing or will impose a debt service levy other than:**

**(A) to refinance or renew prior bond or lease rental obligations existing before January 1, 2017; or**

**(B) indebtedness that is approved in a local public question or referendum under IC 6-1.1-20 or any other law; and**

**(2) the school corporation's total debt service levy in 2017 or 2018 is greater than the school corporation's debt service levy in 2016;**

**the school corporation is not eligible to allocate credits proportionately under this section.**

**(a) Subject to subsection (a),** a school corporation is eligible to allocate credits proportionately under this section for ~~2014, 2015, or~~ 2016, **2017, or 2018** if the school corporation's percentage computed under this subsection is at least ten percent (10%) for its transportation fund levy for that year, as certified by the department of local government finance. A school corporation shall compute its percentage

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under this subsection as follows:

- (1) Compute the amount of credits granted under this chapter against the school corporation's levy for the school corporation's transportation fund.
- (2) Compute the school corporation's levy for the school corporation's transportation fund.
- (3) Divide the amount computed under subdivision (1) by the amount computed under subdivision (2) and express it as a percentage.

The computation must be made by taking into account the requirements of section 9.8 of this chapter regarding protected taxes and the impact of credits granted under this chapter on the revenue to be distributed to the school corporation's transportation fund for the particular year.

~~(b)~~ **(c)** A school corporation that desires to be an eligible school corporation under this section must, before May 1 of the year for which it wants a determination, submit a written request for a certification by the department of local government finance that the computation of the school corporation's percentage under subsection ~~(a)~~ **(b)** is correct. The department of local government finance shall, not later than June 1 of that year, determine whether the percentage computed by the school corporation is accurate and certify whether the school corporation is eligible under this section.

~~(e)~~ **(d)** For a school corporation that is certified as eligible under this section, the school corporation may allocate the effect of the credits granted under this chapter proportionately among all the school corporation's property tax funds that are not exempt under section 7.5(b) or 7.5(c) of this chapter, based on the levy for each fund and without taking into account the requirements of section 9.8 of this chapter regarding protected taxes.

SECTION 2. IC 20-40-8-19, AS AMENDED BY P.L.213-2015, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 19. Money in the fund may be used before ~~July 1, 2017~~, **January 1, 2018**, to pay for up to one hundred percent (100%) of the following costs of a school corporation:

- (1) Utility services.
- (2) Property or casualty insurance.
- (3) Both utility services and property or casualty insurance.

A school corporation's expenditures under this section may not in a calendar year exceed three and five-tenths percent (3.5%) of the school corporation's 2005 calendar year distribution.

SECTION 3. IC 20-43-4-2, AS AMENDED BY P.L.205-2013, SECTION 275, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JANUARY 1, 2017]: Sec. 2. (a) A school corporation's ADM is the number of eligible pupils enrolled in:

- (1) the school corporation; or
- (2) a transferee corporation;

on the days fixed in September and in February by the state board for a count of students under section 3 of this chapter and as subsequently adjusted not later than the date specified under the rules adopted by the state board. The state board may adjust the school's count of eligible pupils if the state board determines that the count is unrepresentative of the school corporation's enrollment. In addition, a school corporation may petition the state board to make an adjusted count of students enrolled in the school ~~corporation~~ **corporation** if the corporation has reason to believe that the count is unrepresentative of the school corporation's enrollment.

(b) Each school corporation shall, ~~in June of 2013 and in May of each year thereafter~~ **before April 1 of each year**, provide to the department an estimate of the school corporation's ADM that will result from the count of eligible pupils in the following September. The department may update and adjust the estimate as determined appropriate by the department. **In each odd-numbered year, the department shall provide the updated and adjusted estimate of the school corporation's ADM to the legislative services agency before April 10 of that year.**

SECTION 4. IC 20-43-4-9, AS AMENDED BY P.L.213-2015, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 9. (a) Subject to ~~subsection (b)~~, **subsections (b) and (c)**, this subsection applies to the calculation of state tuition support distributions that are based on the current ADM of a school corporation. The fall count of ADM, as adjusted by the state board under section 2 of this chapter, shall be used to compute state tuition support distributions made in the first six (6) months of the current state fiscal year, and the spring count of ADM, as adjusted by the state board under section 2 of this chapter, shall be used to compute state tuition support distributions made in the second six (6) months of the state fiscal year.

**(b) This subsection applies to a school corporation that does not provide the estimates required by section 2(b)(2) of this chapter before the deadline. For monthly state tuition support distributions made before the fall count of ADM is finalized, the department shall determine the distribution amount for such a school corporation for a state fiscal year of the biennium, using data that were used by the general assembly in determining the state tuition**



**support appropriation for the budget act for that state fiscal year. The department may adjust the data used under this subsection for errors.**

~~(b)~~ (c) If the state board adjusts a count of ADM after a distribution is made under this article, the adjusted count retroactively applies to the amount of state tuition support distributed to a school corporation affected by the adjusted count. The department shall settle any overpayment or underpayment of state tuition support resulting from an adjusted count of ADM on the schedule determined by the department and approved by the budget agency.

SECTION 5. IC 20-43-10-3, AS AMENDED BY SEA 3-2016, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) As used in this section, "achievement test" means a:

- (1) test required by the ISTEP program; or
- (2) Core 40 end of course assessment for the following:
  - (A) Algebra I.
  - (B) English 10.
  - (C) Biology I.

(b) As used in this section, "graduation rate" means the percentage graduation rate for a high school in a school corporation as determined under IC 20-26-13-10 but adjusted to reflect the pupils who meet the requirements of graduation under subsection (d).

(c) As used in this section, "test" means either:

- (1) a test required by the ISTEP program; or
- (2) a Core 40 end of course assessment.

(d) A pupil meets the requirements of graduation for purposes of this section if the pupil successfully completed:

- (1) a sufficient number of academic credits, or the equivalent of academic credits; and
- (2) the graduation examination required under IC 20-32-3 through IC 20-32-5;

that resulted in the awarding of a high school diploma or an academic honors diploma to the pupil for the school year ending in the immediately preceding state fiscal year.

(e) Determinations for a school for a state fiscal year must be made using:

- (1) the count of tests passed compared to the count of tests taken throughout the school;
- (2) the graduation rate in the high school; and
- (3) the count of pupils graduating in the high school.

(f) In determining grants under this section, a school corporation



may qualify for the following two (2) grants each year:

- (1) One (1) grant under subsection (h), (i), or (j).
- (2) One (1) grant under subsection (k), (l), or (m).

(g) The sum of the two (2) grant amounts described in subsection (f), as determined for a school corporation under this section, constitutes an annual performance grant that is in addition to state tuition support. **After review by the budget committee**, the annual performance grant for a state fiscal year shall be distributed to the school corporation before December 5 of that state fiscal year, **unless an extension of the December 5 deadline is approved for that state fiscal year under subsection (o)**. If the:

- (1) total amount to be distributed as performance grants for a particular state fiscal year exceeds the amount appropriated by the general assembly for performance grants for that state fiscal year, the total amount to be distributed as performance grants to school corporations shall be proportionately reduced so that the total reduction equals the amount of the excess. The amount of the reduction for a particular school corporation is equal to the total amount of the excess multiplied by a fraction. The numerator of the fraction is the amount of the performance grant that the school corporation would have received if a reduction were not made under this section. The denominator of the fraction is the total amount that would be distributed as performance grants to all school corporations if a reduction were not made under this section; and
- (2) total amount to be distributed as performance grants for a particular state fiscal year is less than the amount appropriated by the general assembly for performance grants for that state fiscal year, the total amount to be distributed as performance grants to school corporations for that particular state fiscal year shall be proportionately increased so that the total amount to be distributed equals the amount of the appropriation for that particular state fiscal year.

The performance grant received by a school corporation shall be allocated among and used only to pay cash stipends to all teachers who are rated as effective or as highly effective and employed by the school corporation as of December 1. The lead school corporation or interlocal cooperative administering a cooperative or other special education program or administering a career and technical education program, including programs managed under IC 20-26-10, IC 20-35-5, IC 20-37, or IC 36-1-7, shall award performance stipends to and carry out the other responsibilities of an employing school corporation under this



section for the teachers in the special education program or career and technical education program. The amount of the distribution from an annual performance grant to an individual teacher is determined at the discretion of the governing body of the school corporation. The governing body shall differentiate between the amount of the stipend awarded to a teacher rated as a highly effective teacher and a teacher rated as an effective teacher and may differentiate between school buildings. A stipend to an individual teacher in a particular year is not subject to collective bargaining and is in addition to the minimum salary or increases in salary set under IC 20-28-9-1.5. In addition, an amount determined under the policies adopted by the governing body but not exceeding fifty percent (50%) of the amount of a stipend to an individual teacher in a particular state fiscal year beginning after June 30, 2015, becomes a permanent part of and increases the base salary of the teacher receiving the stipend for school years beginning after the state fiscal year in which the stipend is received. The addition to base salary under this section is not subject to collective bargaining, is payable from funds other than the performance grant, and is in addition to the minimum salary and increases in salary set under IC 20-28-9-1.5. ~~The school corporation shall complete the appropriation process for all stipends from a performance grant to individual teachers before December 31 of the state fiscal year in which the performance grant is distributed to the school corporation and distribute all stipends from a performance grant to individual teachers before the immediately following January 31.~~ **The school corporation shall distribute all stipends from a performance grant to individual teachers within twenty (20) business days of the date the department distributes the performance grant to the school corporation.** Any part of the performance grant not distributed as stipends to teachers before February must be returned to the department on the earlier of the date set by the department or June 30 of that state fiscal year.

(h) Except as provided in subsection (n), a school qualifies for a grant under this subsection if the school has more than ~~seventy-five~~ **seventy-two and five-tenths percent (72.5%)** but less than ninety percent (90%) of the tests taken in the school year ending in the immediately preceding state fiscal year that receive passing scores. The grant amount for the state fiscal year is:

- (1) the count of the school's passing scores on tests in the school year ending in the immediately preceding state fiscal year; multiplied by
- (2) twenty-three dollars and fifty cents (\$23.50).

(i) Except as provided in subsection (n), a school qualifies for a



grant under this subsection if the school has at least ninety percent (90%) of the tests taken in the school year ending in the immediately preceding state fiscal year that receive passing scores. The grant amount for the state fiscal year is:

(1) the count of the school's passing scores on tests in the school year ending in the immediately preceding state fiscal year; multiplied by

(2) forty-seven dollars (\$47).

(j) This subsection does not apply to a school corporation in its first year of operation or to a school corporation that is entitled to a distribution under subsection (h) or (i). Except as provided in subsection (n), a school qualifies for a grant under this subsection if the school's school year over school year percentage growth rate of achievement tests receiving passing scores was at least ~~one five~~ percent (~~1%~~), (**5%**), comparing the school year ending in the immediately preceding state fiscal year to the school year immediately preceding that school year. The grant amount for the state fiscal year is:

(1) the count of the school corporation's pupils who had a passing score on their achievement test in the school year ending in the immediately preceding state fiscal year; multiplied by

(2) ~~one hundred sixty dollars (\$160)~~; **forty-seven dollars (\$47)**.

(k) A school qualifies for a grant under this subsection if the school had a graduation rate of ninety percent (90%) or more for the school year ending in the immediately preceding state fiscal year. The grant amount for the state fiscal year is:

(1) the count of the school corporation's pupils who met the requirements for graduation for the school year ending in the immediately preceding state fiscal year; multiplied by

(2) one hundred seventy-six dollars (\$176).

(l) A school qualifies for a grant under this subsection if the school had a graduation rate greater than seventy-five percent (75%) but less than ninety percent (90%) for the school year ending in the immediately preceding state fiscal year. The grant amount for the state fiscal year is:

(1) the count of the school corporation's pupils who met the requirements for graduation for the school year ending in the immediately preceding state fiscal year; multiplied by

(2) eighty-eight dollars (\$88).

(m) This subsection does not apply to a school in its first year of operation or to a school corporation that is entitled to a distribution under subsection (k) or (l). A school qualifies for a grant under this subsection if the school's school year over school year percentage



growth in its graduation rate is at least ~~one~~ **five** percent (~~1%~~), (**5%**), comparing the graduation rate for the school year ending in the immediately preceding state fiscal year to the graduation rate for the school year immediately preceding that school year. The grant amount for the state fiscal year is:

- (1) the count of the school corporation's pupils who met the requirements for graduation in the school year ending in the immediately preceding state fiscal year; multiplied by
- (2) ~~one thousand dollars (\$1,000)~~: **one hundred seventy-six dollars (\$176)**.

(n) This subsection applies to the state fiscal year beginning July 1, 2015, and ending June 30, 2016. Notwithstanding subsection (h), (i), or (j), the amount of the grant described in subsection (h), (i), or (j) shall be calculated using the higher of:

- (1) the percentage of passing scores on ISTEP program tests for the school for the 2013-2014 school year; or
- (2) the percentage of passing scores on ISTEP program tests for the school for the 2014-2015 school year.

If a grant amount for a school is calculated using the percentage described in subdivision (1), the ISTEP data from the 2013-2014 school year shall be used in the calculation of the grant amount, and the grant amount may not exceed the grant amount that the school received for the state fiscal year beginning July 1, 2014, and ending June 30, 2015, or in the case of a currently eligible school that was ineligible for a grant in the state fiscal year beginning July 1, 2014, and ending June 30, 2015, because the school had not completed the required teacher evaluations, the grant amount that the school would have been entitled to receive for the state fiscal year beginning July 1, 2014, and ending June 30, 2015, if the school had been eligible. ~~Notwithstanding subsection (g)~~; The school corporation shall distribute all stipends from a performance grant to individual teachers within twenty (20) business days of the date the department distributes the performance grant to the school corporation.

**(o) The department, after review by the budget committee, may waive the December 5 deadline to distribute an annual performance grant to the school corporation under subsection (g) for that state fiscal year and approve an extension of that deadline to a later date within that state fiscal year, if the department determines that a waiver and extension of the deadline is in the public interest.**

~~(p)~~ **(p)** This section expires June 30, 2017.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) The**





**appropriation in P.L.213-2015 (HEA 1001-2015) of two million dollars (\$2,000,000) for excellence in performance grants does not revert to the state general fund on June 30, 2016, but remains available for allotment if the state board of education approves the grants before July 1, 2016.**

**(b) This SECTION expires June 30, 2017.**

**SECTION 7. An emergency is declared for this act.**



\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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