



March 19, 2021

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# ENGROSSED HOUSE BILL No. 1438

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DIGEST OF HB 1438 (Updated March 17, 2021 3:07 pm - DI 110)

**Citations Affected:** IC 20-30.

**Synopsis:** Course access program. Provides that, not later than June 30, 2021, the department of education (department) shall implement the course access program in the manner prescribed by the state board of education (state board). Provides that the state board shall establish requirements: (1) that a course provider must meet to be eligible for authorization by the department; (2) that a course access program course must meet to be eligible for approval by the department; and (3) for a course provider to appeal a decision by the department denying or revoking authorization of a course provider or approval of a particular course access program course. Requires the department to: (1) register and authorize course providers; (2) provide advertising for the course access program; and (3) monitor course access program courses and course providers to ensure compliance with the terms of the course access program course's approval and course provider's authorization; in accordance with requirements established by the state board. Provides that a school corporation may be authorized as a course provider. Requires the department to approve a civics course access program course that meets certain requirements.

**Effective:** Upon passage; July 1, 2021.

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**Cook, Thompson, Goodrich,  
Behning**

(SENATE SPONSORS — RAATZ, CRANE)

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January 14, 2021, read first time and referred to Committee on Education.  
February 11, 2021, amended, reported — Do Pass.  
February 15, 2021, read second time, ordered engrossed. Engrossed.  
February 17, 2021, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

March 2, 2021, read first time and referred to Committee on Education and Career Development.  
March 18, 2021, amended, reported favorably — Do Pass.

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March 19, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1438

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

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

1 SECTION 1. IC 20-30-16-5, AS ADDED BY P.L.80-2017,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), an  
4 eligible student may enroll in course access program courses offered by  
5 a course provider that is authorized by the department **in accordance**  
6 **with policies adopted by the state board** under this chapter.  
7 (b) A school corporation may disapprove an eligible student's  
8 enrollment in a course access program only for the following reasons:  
9 (1) The course provided by the course provider is not in  
10 furtherance of the eligible student's graduation or certificate  
11 requirements.  
12 (2) The eligible student's enrollment in the course access program  
13 course would exceed the requirements for a normal full course  
14 load at the school corporation.  
15 (3) The course access program course is logistically infeasible.  
16 However, a school corporation may not deny enrollment of an eligible  
17 student under ~~subdivision~~ **subdivisions (2) and (3)** if the eligible

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1 student agrees to pay the cost of tuition for the applicable course access  
2 program course.

3 (c) If a school corporation denies a student's enrollment in a course  
4 access program course under subsection (b), the school corporation  
5 shall notify the student's parent or emancipated eligible student of the  
6 parent's or student's right to appeal the school corporation's decision to  
7 the department. The parent of an eligible student or an emancipated  
8 eligible student may appeal the decision of the school corporation to  
9 the department in a manner prescribed ~~by the department.~~ **by the state**  
10 **board.** The department shall review the school corporation's denial  
11 under subsection (b) and provide a final enrollment decision within  
12 seven (7) calendar days of receipt of the appeal.

13 SECTION 2. IC 20-30-16-6, AS ADDED BY P.L.80-2017,  
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 UPON PASSAGE]: Sec. 6. (a) Before June 30, 2018, the department  
16 shall establish:

- 17 (1) an authorization process for course providers; and
- 18 (2) a review process for approval of course access program  
19 courses, which must be aligned to Indiana academic standards.

20 **This subsection expires June 30, 2021.**

21 **(b) Not later than June 30, 2021, the department shall**  
22 **implement the course access program in the manner prescribed by**  
23 **the state board. The state board shall establish requirements:**

- 24 (1) that a course provider must meet to be eligible for  
25 authorization by the department under this chapter;
- 26 (2) that a course access program course must meet to be  
27 eligible for approval by the department under this chapter;  
28 and
- 29 (3) for a course provider to appeal a decision by the  
30 department denying or revoking:
  - 31 (A) authorization of a course provider; or
  - 32 (B) approval of a particular course access program course.

33 **(c) The department shall:**

- 34 (1) register and authorize course providers;
- 35 (2) provide advertising for the course access program; and
- 36 (3) monitor course access program courses and course  
37 providers to ensure compliance with the terms of the course  
38 access program course's approval and course provider's  
39 authorization;

40 **in accordance with requirements established by the state board.**

41 ~~(b)~~ **(d)** A course provider may apply for authorization or submit  
42 course access program courses for approval **to the department in a**



1 manner prescribed by the state board at any time.

2 (e) A school corporation may be authorized as a course provider  
3 if the school corporation meets requirements established by the  
4 state board to be eligible for authorization as a course provider  
5 under this chapter.

6 (f) Subject to section 7 of this chapter, if a course provider or  
7 course access program course meets the requirements established  
8 by the state board under subsection (b), the department shall  
9 authorize the course provider or approve the course access  
10 program course, whichever is applicable.

11 (g) If the department denies authorization to a course provider  
12 or denies approval of a course access program course of a course  
13 provider, the course provider may appeal the denial to the state  
14 board.

15 (h) A course provider authorized by the department shall ensure  
16 that each course access program course is accessible to students of all  
17 abilities, and may not discriminate on the basis of race, creed, color, or  
18 national origin.

19 (i) A course provider authorized by the department shall comply  
20 with the privacy provisions of federal law.

21 SECTION 3. IC 20-30-16-6.5 IS ADDED TO THE INDIANA  
22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
23 [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. The department in  
24 accordance with requirements established by the state board shall  
25 approve a civics course access program course that:**

26 (1) meets the requirements under IC 20-30-5-2(a); and

27 (2) is presented with special emphasis on the items listed in  
28 IC 20-30-5-5(a) and IC 20-30-5-6(b).

29 SECTION 4. IC 20-30-16-7, AS ADDED BY P.L.80-2017,  
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2021]: Sec. 7. The department may ~~disapprove~~ **deny approval**  
32 **of an authorized course provider's course access program course at any**  
33 **time if the department in accordance with requirements established**  
34 **by the state board determines that:**

35 (1) the course access program course no longer adequately aligns  
36 with state academic standards;

37 (2) the course access program course fails to deliver expected  
38 student performance outcomes, **as established by the state**  
39 **board**, as measured by course completion data and student  
40 performance; ~~as determined by the department~~; or

41 (3) the course access program course fails to meet other criteria  
42 established by the state board.



1 SECTION 5. IC 20-30-16-10, AS AMENDED BY P.L.192-2018,  
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 10. (a) Subject to subsection (c), the department  
4 and an authorized course provider shall negotiate a course access  
5 program course tuition fee for an enrolled eligible student for each  
6 course offered and all course materials. The negotiated course access  
7 program course tuition fee must be identical for every enrolled eligible  
8 student. Transfers of tuition payments for enrollment of an eligible  
9 student currently enrolled at an applicable school corporation in a  
10 course access program course shall be made to the authorized course  
11 provider by the school corporation in which the eligible student is  
12 enrolled. The amount of the tuition payment for enrollment of an  
13 eligible student in a course access program course must be paid from  
14 the total amount of state tuition support that would otherwise be  
15 received by the school corporation on account of the student. The state  
16 board shall adopt rules under IC 4-22-2 for payment of tuition  
17 payments from a school corporation to an authorized course provider  
18 for a student who is not currently enrolled in the school but enrolls in  
19 a course access program course as part of the eligible student's special  
20 education services provided by the school corporation. The department  
21 may charge the negotiated course access program course tuition fee to  
22 a student who enrolls in a course access program course from an  
23 eligible provider if the student is not currently enrolled in a school  
24 corporation or is otherwise eligible to enroll in the course access  
25 program as part of the student's special education services by the  
26 school corporation.

27 (b) A course provider may not receive any payment from the school  
28 corporation that is in addition to the tuition fee for a course access  
29 program course in which an eligible student is enrolled. Any other  
30 funds related to the student that are due to a school corporation shall be  
31 paid to the school corporation.

32 (c) Payment in full of a tuition fee for a course access program  
33 course must be based in part on student success in the course access  
34 program course. The department may negotiate with the course  
35 provider to determine the manner in which the course provider is paid.  
36 However, the course provider may not receive less than fifty percent  
37 (50%) of the tuition fee upon an eligible student's enrollment in a  
38 course access program course. The course provider shall receive the  
39 remaining amount if the measured student outcomes for the course  
40 access program course meet requirements set by the ~~department~~ **state**  
41 **board**. Measured student outcomes may include:

42 (1) course access program course completion by enrolled



- 1 students;
  - 2 (2) student growth to proficiency;
  - 3 (3) student results from state and nationally accepted assessments;
  - 4 (4) student receipt of credentials that are recognized in an
  - 5 industry;
  - 6 (5) postsecondary credits received by a student; and
  - 7 (6) other validated measures approved by the state board.
- 8 SECTION 6. IC 20-30-16-11, AS ADDED BY P.L.80-2017,  
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2021]: Sec. 11. A course provider shall provide an annual  
11 report to the department in a manner and form prescribed by the  
12 department. The report must include:
- 13 (1) student enrollment data;
  - 14 (2) student outcome measurements as determined by the
  - 15 ~~department;~~ **state board;**
  - 16 (3) student completion data; and
  - 17 (4) any feedback received from students and parents related to
  - 18 overall satisfaction and quality of each course access program
  - 19 course.
- 20 SECTION 7. **An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1438, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-30-16-2, AS ADDED BY P.L.80-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. As used in this chapter, "course provider" means, **subject to section 6(e) of this chapter**, a provider that offers course access program courses that provide for the delivery of instruction through any method, including use of online technologies."

Page 1, line 5, after "department" insert **"in accordance with policies adopted by the state board"**.

Page 2, line 9, strike "by the department." and insert **"by the state board."**

Page 2, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 3. IC 20-30-16-6, AS ADDED BY P.L.80-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Before June 30, 2018, the department shall establish:

- (1) an authorization process for course providers; and
- (2) a review process for approval of course access program courses, which must be aligned to Indiana academic standards.

**This subsection expires June 30, 2021.**

**(b) Not later than June 30, 2021, the department shall implement the course access program in the manner prescribed by the state board. The state board shall establish requirements:**

- (1) that a course provider must meet to be eligible for authorization by the department under this chapter;**
- (2) that a course access program course must meet to be eligible for approval by the department under this chapter;**
- and**
- (3) for a course provider to appeal a decision by the department denying or revoking authorization of a particular course access program course.**

**(c) The department is responsible for:**

- (1) registering and authorizing course access providers;**
- (2) providing advertising for the course access program; and**
- (3) monitoring course access courses and providers to ensure**





**compliance with the terms of the course access course's authorization;  
in accordance with requirements established by the state board.**

**(b) (d)** A course provider may apply for authorization or submit course access program courses for approval **to the department in a manner prescribed by the state board** at any time.

**(e)** A school corporation may be considered a course provider if the school corporation meets criteria established by the state board for school corporations to qualify as course providers.

**(f)** Subject to section 7 of this chapter, if a course provider or course access program course meets the requirements established by the state board under subsection (b), the department shall authorize the course provider or approve the course access program course, whichever is applicable.

**(g)** If the department denies authorization to a course provider or denies approval of a course access program course of a course provider, the course provider may appeal the denial to the state board.

**(c) (h)** A course provider authorized by the department shall ensure that each course access program course is accessible to students of all abilities, and may not discriminate on the basis of race, creed, color, or national origin.

**(d) (i)** A course provider authorized by the department shall comply with the privacy provisions of federal law."

Page 3, delete line 1.

Page 3, line 4, after "department" insert **"in accordance with requirements established by the state board"**.

Page 3, line 13, after "department" insert **"in accordance with requirements established by the state board"**.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1438 as introduced.)

BEHNING

Committee Vote: yeas 13, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career

**EH 1438—LS 6914/DI 110**



Development, to which was referred House Bill No. 1438, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 6.

Page 2, line 36, delete "revoking authorization of a particular" and insert "**revoking:**

**(A) authorization of a course provider; or**

**(B) approval of a particular course access program course.**

**(c) The department shall:**

**(1) register and authorize course providers;**

**(2) provide advertising for the course access program; and**

**(3) monitor course access program courses and course providers to ensure compliance with the terms of the course access program course's approval and course provider's authorization;**

**in accordance with requirements established by the state board."**

Page 2, delete lines 37 through 42.

Page 3, delete lines 1 through 2.

Page 3, delete lines 6 through 8, begin a new paragraph and insert:

**"(e) A school corporation may be authorized as a course provider if the school corporation meets requirements established by the state board to be eligible for authorization as a course provider under this chapter."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1438 as printed February 11, 2021.)

RAATZ, Chairperson

Committee Vote: Yeas 11, Nays 2.

