

# SENATE BILL No. 13

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-26; IC 20-40-9-7.

**Synopsis:** Individualized education program students. Requires public schools to provide curricular materials at no cost to students with an individualized education program who participate in a program for students with a severe disability. Makes conforming changes.

**Effective:** July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Education and Career Development.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 13

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 20-26-5-4, AS AMENDED BY P.L.244-2017,
- 2 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2019]: Sec. 4. (a) In carrying out the school purposes of a
- 4 school corporation, the governing body acting on the school
- 5 corporation's behalf has the following specific powers:
- 6 (1) In the name of the school corporation, to sue and be sued and
- 7 to enter into contracts in matters permitted by applicable law.
- 8 However, a governing body may not use funds received from the
- 9 state to bring or join in an action against the state, unless the
- 10 governing body is challenging an adverse decision by a state
- 11 agency, board, or commission.
- 12 (2) To take charge of, manage, and conduct the educational affairs
- 13 of the school corporation and to establish, locate, and provide the
- 14 necessary schools, school libraries, other libraries where
- 15 permitted by law, other buildings, facilities, property, and
- 16 equipment.
- 17 (3) To appropriate from the school corporation's general fund



1 (before January 1, 2019) or the school corporation's operations  
2 fund (after December 31, 2018) an amount, not to exceed the  
3 greater of three thousand dollars (\$3,000) per budget year or one  
4 dollar (\$1) per pupil, not to exceed twelve thousand five hundred  
5 dollars (\$12,500), based on the school corporation's ADM of the  
6 previous year (as defined in IC 20-43-1-7) to promote the best  
7 interests of the school corporation through:

8 (A) the purchase of meals, decorations, memorabilia, or  
9 awards;

10 (B) provision for expenses incurred in interviewing job  
11 applicants; or

12 (C) developing relations with other governmental units.

13 (4) To do the following:

14 (A) Acquire, construct, erect, maintain, hold, and contract for  
15 construction, erection, or maintenance of real estate, real estate  
16 improvements, or an interest in real estate or real estate  
17 improvements, as the governing body considers necessary for  
18 school purposes, including buildings, parts of buildings,  
19 additions to buildings, rooms, gymnasiums, auditoriums,  
20 playgrounds, playing and athletic fields, facilities for physical  
21 training, buildings for administrative, office, warehouse, repair  
22 activities, or housing school owned buses, landscaping, walks,  
23 drives, parking areas, roadways, easements and facilities for  
24 power, sewer, water, roadway, access, storm and surface  
25 water, drinking water, gas, electricity, other utilities and  
26 similar purposes, by purchase, either outright for cash (or  
27 under conditional sales or purchase money contracts providing  
28 for a retention of a security interest by the seller until payment  
29 is made or by notes where the contract, security retention, or  
30 note is permitted by applicable law), by exchange, by gift, by  
31 devise, by eminent domain, by lease with or without option to  
32 purchase, or by lease under IC 20-47-2, IC 20-47-3, or  
33 IC 20-47-5.

34 (B) Repair, remodel, remove, or demolish, or to contract for  
35 the repair, remodeling, removal, or demolition of the real  
36 estate, real estate improvements, or interest in the real estate  
37 or real estate improvements, as the governing body considers  
38 necessary for school purposes.

39 (C) Provide for conservation measures through utility  
40 efficiency programs or under a guaranteed savings contract as  
41 described in IC 36-1-12.5.

42 (5) To acquire personal property or an interest in personal



1 property as the governing body considers necessary for school  
 2 purposes, including buses, motor vehicles, equipment, apparatus,  
 3 appliances, books, furniture, and supplies, either by cash purchase  
 4 or under conditional sales or purchase money contracts providing  
 5 for a security interest by the seller until payment is made or by  
 6 notes where the contract, security, retention, or note is permitted  
 7 by applicable law, by gift, by devise, by loan, or by lease with or  
 8 without option to purchase and to repair, remodel, remove,  
 9 relocate, and demolish the personal property. All purchases and  
 10 contracts specified under the powers authorized under subdivision  
 11 (4) and this subdivision are subject solely to applicable law  
 12 relating to purchases and contracting by municipal corporations  
 13 in general and to the supervisory control of state agencies as  
 14 provided in section 6 of this chapter.

15 (6) To sell or exchange real or personal property or interest in real  
 16 or personal property that, in the opinion of the governing body, is  
 17 not necessary for school purposes, in accordance with IC 20-26-7,  
 18 to demolish or otherwise dispose of the property if, in the opinion  
 19 of the governing body, the property is not necessary for school  
 20 purposes and is worthless, and to pay the expenses for the  
 21 demolition or disposition.

22 (7) **Except as provided in IC 20-26-12-1(c)**, to lease any school  
 23 property for a rental that the governing body considers reasonable  
 24 or to permit the free use of school property for:

- 25 (A) civic or public purposes; or  
 26 (B) the operation of a school age child care program for  
 27 children who are at least five (5) years of age and less than  
 28 fifteen (15) years of age that operates before or after the school  
 29 day, or both, and during periods when school is not in session;  
 30 if the property is not needed for school purposes. Under this  
 31 subdivision, the governing body may enter into a long term lease  
 32 with a nonprofit corporation, community service organization, or  
 33 other governmental entity, if the corporation, organization, or  
 34 other governmental entity will use the property to be leased for  
 35 civic or public purposes or for a school age child care program.  
 36 However, if payment for the property subject to a long term lease  
 37 is made from money in the school corporation's debt service fund,  
 38 all proceeds from the long term lease must be deposited in the  
 39 school corporation's debt service fund so long as payment for the  
 40 property has not been made. The governing body may, at the  
 41 governing body's option, use the procedure specified in  
 42 IC 36-1-11-10 in leasing property under this subdivision.



1 (8) To do the following:

2 (A) Employ, contract for, and discharge superintendents,  
 3 supervisors, principals, teachers, librarians, athletic coaches  
 4 (whether or not they are otherwise employed by the school  
 5 corporation and whether or not they are licensed under  
 6 IC 20-28-5), business managers, superintendents of buildings  
 7 and grounds, janitors, engineers, architects, physicians,  
 8 dentists, nurses, accountants, teacher aides performing  
 9 noninstructional duties, educational and other professional  
 10 consultants, data processing and computer service for school  
 11 purposes, including the making of schedules, the keeping and  
 12 analyzing of grades and other student data, the keeping and  
 13 preparing of warrants, payroll, and similar data where  
 14 approved by the state board of accounts as provided below,  
 15 and other personnel or services as the governing body  
 16 considers necessary for school purposes.

17 (B) Fix and pay the salaries and compensation of persons and  
 18 services described in this subdivision that are consistent with  
 19 IC 20-28-9-1.5.

20 (C) Classify persons or services described in this subdivision  
 21 and to adopt a compensation plan with a salary range that is  
 22 consistent with IC 20-28-9-1.5.

23 (D) Determine the number of the persons or the amount of the  
 24 services employed or contracted for as provided in this  
 25 subdivision.

26 (E) Determine the nature and extent of the duties of the  
 27 persons described in this subdivision.

28 The compensation, terms of employment, and discharge of  
 29 teachers are, however, subject to and governed by the laws  
 30 relating to employment, contracting, compensation, and discharge  
 31 of teachers. The compensation, terms of employment, and  
 32 discharge of bus drivers are subject to and governed by laws  
 33 relating to employment, contracting, compensation, and discharge  
 34 of bus drivers.

35 (9) Notwithstanding the appropriation limitation in subdivision  
 36 (3), when the governing body by resolution considers a trip by an  
 37 employee of the school corporation or by a member of the  
 38 governing body to be in the interest of the school corporation,  
 39 including attending meetings, conferences, or examining  
 40 equipment, buildings, and installation in other areas, to permit the  
 41 employee to be absent in connection with the trip without any loss  
 42 in pay and to reimburse the employee or the member the



- 1 employee's or member's reasonable lodging and meal expenses  
 2 and necessary transportation expenses. To pay teaching personnel  
 3 for time spent in sponsoring and working with school related trips  
 4 or activities.
- 5 (10) Subject to IC 20-27-13, to transport children to and from  
 6 school, when in the opinion of the governing body the  
 7 transportation is necessary, including considerations for the safety  
 8 of the children. The transportation must be otherwise in  
 9 accordance with applicable law.
- 10 (11) To provide a lunch program for a part or all of the students  
 11 attending the schools of the school corporation, including the  
 12 establishment of kitchens, kitchen facilities, kitchen equipment,  
 13 lunch rooms, the hiring of the necessary personnel to operate the  
 14 lunch program, and the purchase of material and supplies for the  
 15 lunch program, charging students for the operational costs of the  
 16 lunch program, fixing the price per meal or per food item. To  
 17 operate the lunch program as an extracurricular activity, subject  
 18 to the supervision of the governing body. To participate in a  
 19 surplus commodity or lunch aid program.
- 20 (12) **Except as provided in IC 20-26-12-1(c)**, to purchase  
 21 curricular materials, to furnish curricular materials without cost  
 22 or to rent curricular materials to students, and to participate in a  
 23 curricular materials aid program, all in accordance with  
 24 applicable law.
- 25 (13) To accept students transferred from other school corporations  
 26 and to transfer students to other school corporations in accordance  
 27 with applicable law.
- 28 (14) To make budgets, to appropriate funds, and to disburse the  
 29 money of the school corporation in accordance with applicable  
 30 law. To borrow money against current tax collections and  
 31 otherwise to borrow money, in accordance with IC 20-48-1.
- 32 (15) To purchase insurance or to establish and maintain a  
 33 program of self-insurance relating to the liability of the school  
 34 corporation or the school corporation's employees in connection  
 35 with motor vehicles or property and for additional coverage to the  
 36 extent permitted and in accordance with IC 34-13-3-20. To  
 37 purchase additional insurance or to establish and maintain a  
 38 program of self-insurance protecting the school corporation and  
 39 members of the governing body, employees, contractors, or agents  
 40 of the school corporation from liability, risk, accident, or loss  
 41 related to school property, school contract, school or school  
 42 related activity, including the purchase of insurance or the



1 establishment and maintenance of a self-insurance program  
 2 protecting persons described in this subdivision against false  
 3 imprisonment, false arrest, libel, or slander for acts committed in  
 4 the course of the persons' employment, protecting the school  
 5 corporation for fire and extended coverage and other casualty  
 6 risks to the extent of replacement cost, loss of use, and other  
 7 insurable risks relating to property owned, leased, or held by the  
 8 school corporation. In accordance with IC 20-26-17, to:

9 (A) participate in a state employee health plan under  
 10 IC 5-10-8-6.7;

11 (B) purchase insurance; or

12 (C) establish and maintain a program of self-insurance;  
 13 to benefit school corporation employees, including accident,  
 14 sickness, health, or dental coverage, provided that a plan of  
 15 self-insurance must include an aggregate stop-loss provision.

16 (16) To make all applications, to enter into all contracts, and to  
 17 sign all documents necessary for the receipt of aid, money, or  
 18 property from the state, the federal government, or from any other  
 19 source.

20 (17) To defend a member of the governing body or any employee  
 21 of the school corporation in any suit arising out of the  
 22 performance of the member's or employee's duties for or  
 23 employment with, the school corporation, if the governing body  
 24 by resolution determined that the action was taken in good faith.  
 25 To save any member or employee harmless from any liability,  
 26 cost, or damage in connection with the performance, including the  
 27 payment of legal fees, except where the liability, cost, or damage  
 28 is predicated on or arises out of the bad faith of the member or  
 29 employee, or is a claim or judgment based on the member's or  
 30 employee's malfeasance in office or employment.

31 (18) To prepare, make, enforce, amend, or repeal rules,  
 32 regulations, and procedures:

33 (A) for the government and management of the schools,  
 34 property, facilities, and activities of the school corporation, the  
 35 school corporation's agents, employees, and pupils and for the  
 36 operation of the governing body; and

37 (B) that may be designated by an appropriate title such as  
 38 "policy handbook", "bylaws", or "rules and regulations".

39 (19) To ratify and approve any action taken by a member of the  
 40 governing body, an officer of the governing body, or an employee  
 41 of the school corporation after the action is taken, if the action  
 42 could have been approved in advance, and in connection with the



1 action to pay the expense or compensation permitted under  
 2 IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and  
 3 IC 20-48-1 or any other law.

4 (20) To exercise any other power and make any expenditure in  
 5 carrying out the governing body's general powers and purposes  
 6 provided in this chapter or in carrying out the powers delineated  
 7 in this section which is reasonable from a business or educational  
 8 standpoint in carrying out school purposes of the school  
 9 corporation, including the acquisition of property or the  
 10 employment or contracting for services, even though the power or  
 11 expenditure is not specifically set out in this chapter. The specific  
 12 powers set out in this section do not limit the general grant of  
 13 powers provided in this chapter except where a limitation is set  
 14 out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, **IC 20-26-12-1**,  
 15 IC 20-40-12, IC 20-40-18 (after December 31, 2018), and  
 16 IC 20-48-1 by specific language or by reference to other law.

17 (b) A superintendent hired under subsection (a)(8):

18 (1) is not required to hold a teacher's license under IC 20-28-5;  
 19 and

20 (2) is required to have obtained at least a master's degree from an  
 21 accredited postsecondary educational institution.

22 SECTION 2. IC 20-26-12-1, AS AMENDED BY P.L.233-2015,  
 23 SECTION 150, IS AMENDED TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Except as provided in  
 25 ~~subsection~~ **subsections (b) and (c)** and notwithstanding any other law,  
 26 each governing body shall purchase from a publisher, either  
 27 individually or through a purchasing cooperative of school  
 28 corporations, the curricular materials selected by the proper local  
 29 officials, and shall rent the curricular materials to each student enrolled  
 30 in a public school that is:

31 (1) in compliance with the minimum certification standards of the  
 32 state board; and

33 (2) located within the attendance unit served by the governing  
 34 body.

35 (b) This section does not prohibit a governing body from suspending  
 36 the operation of this section under a contract entered into under  
 37 IC 20-26-15.

38 **(c) Each governing body shall provide curricular materials at no**  
 39 **cost to each student with an individualized education program who**  
 40 **participates in a program that is listed in IC 20-43-7-2(a) for**  
 41 **students with a severe disability and who is enrolled in a public**  
 42 **school that is:**





1           **(1) in compliance with the minimum certification standards of**  
 2           **the state board; and**

3           **(2) located within the attendance unit served by the governing**  
 4           **body.**

5           SECTION 3. IC 20-26-12-2, AS AMENDED BY P.L.233-2015,  
 6           SECTION 151, IS AMENDED TO READ AS FOLLOWS  
 7           [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A governing body may  
 8           purchase from a publisher any curricular material selected by the  
 9           proper local officials. **Except as provided in section 1(c) of this**  
 10          **chapter**, the governing body may rent the curricular materials to  
 11          students enrolled in any public or nonpublic school that is:

12           (1) in compliance with the minimum certification standards of the  
 13           state board; and

14           (2) located within the attendance unit served by the governing  
 15           body.

16          The annual rental rate may not exceed twenty-five percent (25%) of the  
 17          retail price of the curricular materials.

18          (b) Notwithstanding subsection (a), the governing body may not  
 19          assess a rental fee of more than twenty-five percent (25%) of the retail  
 20          price of curricular materials that have been:

21           (1) extended for usage by students under section 24(e) of this  
 22           chapter; and

23           (2) paid for through rental fees previously collected.

24          (c) This section does not limit other laws.

25          SECTION 4. IC 20-26-15-5, AS AMENDED BY P.L.140-2018,  
 26          SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27          JULY 1, 2019]: Sec. 5. Notwithstanding any other law, the operation  
 28          of the following is suspended for a freeway school corporation or a  
 29          freeway school if the governing body of the school corporation elects  
 30          to have the specific statute or rule suspended in the contract:

31           (1) The following statutes and rules concerning curriculum and  
 32           instructional time:

33           IC 20-30-2-7

34           IC 20-30-5-8

35           IC 20-30-5-9

36           IC 20-30-5-11

37           511 IAC 6-7-6

38           511 IAC 6.1-5-0.5

39           511 IAC 6.1-5-1

40           511 IAC 6.1-5-2.5

41           511 IAC 6.1-5-3.5

42           511 IAC 6.1-5-4.



- 1 (2) The following rule concerning pupil/teacher ratios:  
 2 511 IAC 6.1-4-1.
- 3 (3) The following statutes and rules concerning curricular  
 4 materials:  
 5 IC 20-26-12-24  
 6 IC 20-26-12-26  
 7 IC 20-26-12-1, **except for the provision of curricular**  
 8 **materials at no cost to a student with an individualized**  
 9 **education program who participates in a program that is**  
 10 **listed in IC 20-43-7-2(a) for students with a severe**  
 11 **disability.**  
 12 IC 20-26-12-2  
 13 511 IAC 6.1-5-5.
- 14 (4) 511 IAC 6-7, concerning graduation requirements.
- 15 (5) IC 20-31-4, concerning the performance based accreditation  
 16 system.
- 17 (6) IC 20-32-5 (before its expiration on July 1, 2018), concerning  
 18 the ISTEP program established under IC 20-32-5-15, if an  
 19 alternative locally adopted assessment program is adopted under  
 20 section 6(4) of this chapter.
- 21 SECTION 5. IC 20-40-9-7, AS AMENDED BY P.L.140-2018,  
 22 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2019]: Sec. 7. (a) Money in the fund may be used for payment  
 24 of all unreimbursed costs of curricular materials for the school  
 25 corporation's students who:  
 26 **(1) were eligible for free or reduced price lunches; or**  
 27 **(2) had an individualized education program and who**  
 28 **participated in a program that is listed in IC 20-43-7-2(a) for**  
 29 **students with a severe disability;**  
 30 in the previous school year.
- 31 (b) Money in the fund may not be used for payment of debt service,  
 32 lease payments, or similar obligations for a controlled project that is  
 33 approved by the voters in a referendum under IC 6-1.1-20.
- 34 (c) The governing body may transfer the amount levied to cover  
 35 unreimbursed costs of curricular materials under this section to the  
 36 curricular materials rental fund, the extracurricular account, or the  
 37 education fund.

