

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 331

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-28-9-27, AS ADDED BY P.L.165-2021, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 27. (a) As used in this section, "funding floor" means the amount a school corporation expended for **full-time** teacher salaries during a particular state fiscal year.

(b) Subject to subsections ~~(c)~~ **(d)** and ~~(d)~~; **(e)**, if the amount of state tuition support distributed to a school corporation for a particular state fiscal year is greater than the amount of state tuition support distributed to the school corporation for the preceding state fiscal year, the school corporation may not expend an amount for full-time teacher salaries during the particular state fiscal year that is less than the funding floor for the preceding state fiscal year.

(c) For purposes of this section, the amount a school corporation expends for full-time teacher salaries shall include the amount the school corporation expends for participating in a special education cooperative or a career and technical education cooperative that is directly attributable to the salaries of full-time teachers employed by the cooperative, as determined by the department.

~~(c)~~ **(d)** For purposes of this subsection, stipends paid using teacher appreciation grants under IC 20-43-10-3.5 are not considered. If a



school corporation has awarded stipends to a majority of the school corporation's teachers in each of the two (2) preceding consecutive state fiscal years, an amount equal to the lesser of the total amount of stipends awarded in each of those state fiscal years shall be added to the school corporation's funding floor for the preceding state fiscal year described under subsection (b).

~~(d)~~ (e) A school corporation may apply for a waiver from the department of the prohibition under subsection (b). The department may grant a waiver to a school corporation if the school corporation's enrollment for the school year during that particular state fiscal year is less than the enrollment in the school year during the preceding state fiscal year.

SECTION 2. IC 20-28-9-28, AS ADDED BY P.L.165-2021, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 28. (a) For each school year in a state fiscal year beginning after June 30, 2021, a school corporation shall expend an amount for full-time teacher salaries that is not less than an amount equal to forty-five percent (45%) of the state tuition support distributed to the school corporation during the state fiscal year. **For purposes of determining whether a school corporation has complied with this requirement, the amount a school corporation expends for full-time teacher salaries shall include the amount the school corporation expends for participating in a special education cooperative or a career and technical education cooperative that is directly attributable to the salaries of full-time teachers employed by the cooperative, as determined by the department.**

(b) If a school corporation determines that the school corporation cannot comply with the requirement under subsection (a) for a particular school year, the school corporation shall apply for a waiver from the department.

(c) The waiver application must include an explanation of the financial challenges, with detailed data, that preclude the school corporation from meeting the requirement under subsection (a) and describe the cost saving measures taken by the school corporation in attempting to meet the requirement in subsection (a). The waiver may also include an explanation of an innovative or efficient approach in delivering instruction that is responsible for the school corporation being unable to meet the requirement under subsection (a).

(d) If, after review, the department determines that the school corporation has exhausted all reasonable efforts in attempting to meet the requirement in subsection (a), the department may grant the school



corporation a one (1) year exception from the requirement.

(e) A school corporation that receives a waiver under this section shall work with the department to develop a plan to identify additional cost saving measures and any other steps that may be taken to allow the school corporation to meet the requirement under subsection (a).

(f) A school corporation may not receive more than three (3) waivers under this section.

(g) Before November 1, 2022, and before November 1 of each year thereafter, the department shall submit a report to the legislative council in an electronic format under IC 5-14-6 and the state budget committee that contains information as to:

- (1) the percent and amount that each school corporation expended and the statewide total expended for full-time teacher salaries;**
- (2) the percent and amount that each school corporation expended and statewide total expended for full-time teacher benefits, including health, dental, life insurance, and pension benefits;**
- (3) whether the school corporation met the requirement set forth in subsection (a); and**
- (4) whether the school corporation received a waiver under subsection (d).**

SECTION 3. IC 20-51.4-3-7, AS ADDED BY P.L.165-2021, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** For each school year, the treasurer of state shall determine, based on the amount of funds available for the program, the number of grants that the treasurer of state will award under the program. The number of applications approved and the number of grants awarded under this article by the treasurer of state for the school year may not exceed the number determined by the treasurer of state under this section.

(b) The treasurer of state may deduct the following amounts from the funds made available for the program to cover costs of managing accounts and administering the program:

- (1) For the first year of the program, not more than ten percent (10%) of the funds made available to cover the costs described in this subsection.**
- (2) For each year thereafter, not more than five percent (5%) of the funds made available to cover the costs described in this subsection.**

Any amount deducted under this subsection shall be deposited in the Indiana education scholarship account administration fund



established by IC 20-51.4-4-3.5.

SECTION 4. IC 20-51.4-4-1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) After June 30, 2022, a parent of an eligible student or an emancipated eligible student may establish an Indiana education scholarship account for the eligible student by entering into a written agreement with the treasurer of state on a form prepared by the treasurer of state. The treasurer of state shall establish a date by which an application to establish an account for the ~~2022-2023~~ **upcoming** school year must be submitted. However, for a school year beginning after July 1, 2022, applications must be submitted for an eligible student not later than ~~April~~ **September 1** for the immediately following school year. The account of an eligible student shall be made in the name of the eligible student. The treasurer of state shall make the agreement available on the Internet web site of the treasurer of state. To be eligible, a parent of an eligible student or an emancipated eligible student wishing to participate in the program must agree that:

- (1) a grant deposited in the eligible student's account under section 2 of this chapter and any interest that may accrue in the account will be used only for the eligible student's qualified expenses;
- (2) money in the account when the account is terminated reverts to the state general fund;
- (3) the parent of the eligible student or the emancipated eligible student will use part of the money in the account:
 - (A) for the eligible student's study in the subject of reading, grammar, mathematics, social studies, or science; or
 - (B) for use in accordance with the eligible student's:
 - (i) individualized education program;
 - (ii) service plan developed under 511 IAC 7-34;
 - (iii) choice special education plan developed under 511 IAC 7-49; or
 - (iv) plan developed under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794;
- (4) the eligible student will not be enrolled in a school that receives tuition support under IC 20-43; and
- (5) the eligible student will take the statewide assessment, as applicable based on the eligible student's grade level, as provided under IC 20-32-5.1, or the assessment specified in the eligible student's:



- (A) individualized education program developed under IC 20-35;
- (B) service plan developed under 511 IAC 7-34;
- (C) choice special education plan developed under 511 IAC 7-49; or
- (D) plan developed under Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794.

(b) A parent of an eligible student may enter into a separate agreement under subsection (a) for each child of the parent. However, not more than one (1) account may be established for each eligible student.

(c) The account must be established under subsection (a) by a parent of an eligible student or an emancipated eligible student for a school year on or before a date established by the treasurer of state, which must be at least thirty (30) days before the fall ADM count date established by the state board under IC 20-43-4-3. A parent of an eligible student or an emancipated eligible student may not enter into an agreement under this section or maintain an account under this chapter if the eligible student receives a choice scholarship under IC 20-51-4 for the same school year. An eligible student may not receive a grant under section 2 of this chapter if the eligible student is currently included in a school corporation's ADM count under IC 20-43-4.

(d) Except as provided in subsections (e) and (f), an agreement made under this section is valid for one (1) school year while the eligible student is in kindergarten through grade 12 and may be renewed annually. Upon graduation, or receipt of a certificate of completion under the eligible student's individualized education program, the eligible student's account is terminated.

(e) An agreement entered into under this section terminates automatically for an eligible student if:

- (1) the eligible student no longer resides in Indiana while the eligible student is eligible to receive grants under section 2 of this chapter; or
- (2) the account is not renewed within three hundred ninety-five (395) days after the date the account was either established or last renewed.

If an account is terminated under this section, money in the eligible student's account, including any interest accrued, reverts to the state general fund.

(f) An agreement made under this section for an eligible student while the eligible student is in kindergarten through grade 12 may be



terminated before the end of the school year if the parent of the eligible student or the emancipated eligible student notifies the treasurer of state in a manner specified by the treasurer of state.

(g) A distribution made to an account under ~~section 3~~ **section 2** of this chapter is considered tax exempt as long as the distribution is used for a qualified expense. The amount is subtracted from the definition of adjusted federal gross income under IC 6-3-1-3.5 to the extent the distribution used for the qualified expense is included in the taxpayer's adjusted federal gross income under the Internal Revenue Code.

(h) The department shall establish a student test number as described in IC 20-19-3-9.4 for each eligible student. The treasurer of state shall provide the department information necessary for the department to comply with this subsection.

SECTION 5. IC 20-51.4-4-2, AS ADDED BY P.L.165-2021, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) An eligible student who currently maintains an account is entitled to an annual grant amount for each school year until the student graduates or obtains a certificate of completion under the student's individualized education program. An eligible student may not receive a grant under this section after graduating or obtaining a certificate of completion. The annual grant amount shall be paid from the fund. The treasurer of state, with notice to the department, shall deposit the annual grant amount under this section, in quarterly deposits, into an eligible student's account in a manner established by the treasurer of state. ~~The treasurer of state may deduct an amount of not more than three percent (3%) from each quarterly distribution to accounts under this article to cover the costs of managing the accounts and administering the program.~~

(b) Except as provided in subsection (c), at the end of the year in which an account is established, the parent of an eligible student or the emancipated eligible student may roll over for use in a subsequent year a maximum of one thousand dollars (\$1,000). However, for each year thereafter, the parent of the eligible student or the emancipated eligible student may roll over one thousand dollars (\$1,000) plus any amount rolled over in a previous year.

(c) An eligible student's account shall terminate the later of:

- (1) the date the student graduates high school; or
- (2) July 1 of the year in the year which the student graduates high school.

Any money, including interest that remains in the eligible student's account when it terminates under this subsection reverts to the state general fund.



SECTION 6. IC 20-51.4-4-3, AS ADDED BY P.L.165-2021, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The Indiana education scholarship account program fund is established for the purpose of providing grants to eligible students under the program. Money appropriated to the fund during the state fiscal year beginning July 1, 2021, and ending June 30, 2022, may only be used for the administrative costs to establish the program. However, money appropriated to the fund during the state fiscal year beginning July 1, 2022, and ending June 30, 2023, may be used to provide grants under this chapter in the manner prescribed in section 2 of this chapter.

(b) The treasurer of state shall administer the fund.

(c) The fund consists of the following:

- (1) Appropriations by the general assembly.
- (2) Interest deposited in the fund under subsection (d).
- (3) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.
- (4) Amounts transferred to the fund from the Indiana education scholarship account administration fund under section 3.5(e) of this chapter.**

(d) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year reverts to the state general fund.

SECTION 7. IC 20-51.4-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) The Indiana education scholarship account administration fund is established for the purpose of accepting money for the Indiana education scholarship account program to support administration of the program.**

(b) The treasurer of state shall administer the fund.

(c) The fund consists of the following:

- (1) Administration fees deposited in the fund under IC 20-51.4-3-7(b).**
- (2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.**
- (3) Interest deposited in the fund under subsection (d).**

(d) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that



accrues from these investments shall be deposited in the fund.

(e) The treasurer of state may transfer any funds held in the fund to the Indiana education scholarship account program fund established by section 3 of this chapter at any time for the purpose of that fund.

SECTION 8. IC 20-51.4-5-2, AS ADDED BY P.L.165-2021, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The following individuals or entities may become a participating entity by submitting an application to the treasurer of state in a manner prescribed by the treasurer of state:

- (1) A qualified school.
- (2) An individual who or tutoring agency that provides private tutoring.
- (3) An individual who or entity that provides services to a student with a disability in accordance with an individualized education program developed under IC 20-35 or a service plan developed under 511 IAC 7-34 or generally accepted standards of care prescribed by the eligible student's treating physician.
- (4) An individual who or entity that offers a course or program to an eligible student.
- (5) A licensed occupational therapist.
- (6) Entities that provide assessments.

(b) The treasurer of state shall approve an application submitted under subsection (a) if the individual or entity meets the criteria to serve as a participating entity.

(c) If it is reasonably expected by the treasurer of state that a participating entity will receive, from payments made under the program, more than fifty thousand dollars (\$50,000) during a particular school year, the participating entity shall, on or before a date prescribed by the treasurer of state

- ~~(1) post a surety bond in an amount equal to the amount expected to be paid to the participating entity under the program for the particular school year; or~~
- ~~(2) provide the treasurer of state evidence, in a manner prescribed by the treasurer of state, indicating that the participating entity has unencumbered assets sufficient to pay the treasurer of state an amount equal to the amount expected to be paid to the participating entity under the program during the particular school year.~~

(d) Each participating entity that accepts payments made from an account under this article shall provide a receipt to the parent of an



eligible student or to the emancipated eligible student for each payment made.

SECTION 9. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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