HOUSE BILL No. 1317

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-5-2-1.2; IC 20-8.1; IC 21-3-1.6-1.1.

Synopsis: Programs for suspended and expelled students. Requires a school corporation to provide an educational program for students who receive suspensions and expulsions. Provides that the educational program may include assignment to attend an alternative school, an alternative educational program, a homebound educational program, or an educational program that the school corporation designs. Provides that the student's absence from the educational program to which the student is assigned because of suspension or expulsion is a violation of the compulsory school attendance laws. Provides for the payment of transfer tuition for transfer students who are suspended or expelled. Includes in the ADM of a school corporation those suspended or expelled students who receive educational services.

Effective: July 1, 2000.

Liggett

January 11, 2000, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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HOUSE BILL No. 1317

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

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

SECTION 1. IC 20-5-2-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.2. (a) Each school corporation shall conduct an educational program for all children who reside within the school corporation in kindergarten and in grades 1 through 12, ~~During the 1990-91 school year, each school corporation may provide each preschool child with a disability with an appropriate special education as required under IC 20-1-6-14.1 using local or available federal funds. Beginning with the 1991-92 school year,~~ **including students receiving a suspension or an expulsion under IC 20-8.1-5.1.** Each school corporation shall provide each preschool child with a disability with an appropriate special education as required under IC 20-1-6-14.1 only if the general assembly appropriates state funds for preschool special education.

(b) Each school corporation may:

(1) conduct an educational program for adults and children over fourteen (14) years of age not attending a program under subsection (a);

(2) provide instruction in vocational, industrial, or manual training;

(3) provide libraries for the schools of the school corporation;

(4) provide public libraries open and free for the use and benefit of the residents and taxpayers of the school corporation where permitted by law;

(5) provide vacation school and recreational programs;

(6) conduct other educational or other activities as are permitted or required to be performed by law by any school corporation; and

(7) provide a school age child care program that operates during periods when school is in session for students who are enrolled in a half-day kindergarten program.

(c) Each school corporation shall develop a written policy that provides for:

(1) the implementation of a school age child care program for children who attend kindergarten through grade 6 that, at a minimum, operates after the school day and may include periods of time before school is in session or periods when school is not otherwise in session (commonly referred to as latch key programs) and is offered by the school corporation; or

(2) the availability of the school corporation's buildings or parts of the school corporation's buildings to conduct the types of programs described in subdivision (1) by nonprofit organizations or for-profit organizations.

(d) The written policy required under subsection (c) must address compliance with certain standards for reasonable care for children served under a child care program offered under this subsection, including:

(1) requiring the offering entity to acquire a particular amount of liability insurance; and

(2) establishing maximum adult to child ratios governing the overall supervision of the children being served.

If a school corporation implements the school corporation's own child care program or enters into a contract to provide these programs, the school corporation may not assess a fee for the use of the building. However, the school corporation may assess a fee to reimburse the school corporation for providing security, maintenance, utilities, school personnel, or other added costs directly attributable to the use of the buildings for the programs. In addition, if a school corporation offers the school corporation's own child care program, the school corporation may assess a fee to cover the costs attributable to implementing the program.

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(e) The powers under this section shall be construed as purposes as well as powers.

SECTION 2. IC 20-8.1-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) As used in this article, the term "expulsion" means a disciplinary or other action whereby a student **is separated from attending the student's assigned school program for:**

(1) ~~is separated from school attendance for~~ a period in excess of ten (10) school days;

(2) ~~is separated from school attendance for~~ the balance of the current semester or current year unless a student is permitted to complete required examinations in order to receive credit for courses taken in the current semester or current year; or

(3) ~~is separated from school attendance for~~ the period prescribed under IC 20-8.1-5.1-10. ~~which may include an assignment to attend an alternative school, an alternative educational program, or a homebound educational program.~~

(b) The term does not include situations when a student is:

(1) disciplined under IC 20-8.1-5.1-18;

(2) removed from school in accordance with IC 20-8.1-7-8; or

(3) removed from school for failure to comply with the immunization requirements of IC 20-8.1-7-10.1.

SECTION 3. IC 20-8.1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) As used in this article, the term "suspension" means any disciplinary action that does not constitute an expulsion under section 10 of this chapter, whereby a student is separated from **attending the student's assigned** school ~~attendance~~ **program** for a period of not more than ten (10) school days.

(b) The term does not include situations in which a student is:

(1) disciplined under IC 20-8.1-5.1-18;

(2) removed from school in accordance with IC 20-8.1-7-8; or

(3) removed from school for failure to comply with the immunization requirements of IC 20-8.1-7-10.1.

SECTION 4. IC 20-8.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. This chapter applies to each situation which involves any of the following:

(1) A person less than eighteen (18) years of age who is domiciled in Indiana.

(2) A person less than eighteen (18) years of age who is not domiciled in Indiana and who intends to remain in Indiana for a period of time as established by rule of the Indiana state board of education.

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(3) A student:

(A) who is less than eighteen (18) years of age; **and**

(B) whose behavior has resulted in an expulsion from school. ~~and~~

~~(C) who is assigned to attend an alternative school or an alternative educational program.~~

SECTION 5. IC 20-8.1-5.1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3.5. (a) This section does not apply to a student who is expelled under section 11 of this chapter.**

(b) A school corporation shall provide an educational program for a student who receives a suspension or an expulsion under this chapter. The student's educational program may include assignment to attend the following:

(1) An alternative school.

(2) An alternative educational program.

(3) A homebound educational program.

(4) An educational program that the school corporation designs.

(c) Attendance at an educational program assigned under this section satisfies the compulsory school attendance requirements of IC 20-8.1-3.

SECTION 6. IC 20-8.1-5.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. If a student is suspended or expelled from **a** school or from any educational function under this chapter, the student's absence from ~~school~~ **the educational program to which the student is assigned** because of the suspension or expulsion is ~~not~~ a violation of IC 20-8.1-3 or any other statute relating to compulsory school attendance.

SECTION 7. IC 20-8.1-6.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) As used in this section, the following terms have the following meanings:

(1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, vocational training, or career education.

(2) "ADM" means the following:

(A) For purposes of allocating to a transfer student state distributions under IC 21-1-30 (primetime), "ADM" as

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computed under IC 21-1-30-2.

(B) For all other purposes, "ADM" as set forth in IC 21-3-1.6-1.1.

(3) "Pupil enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the Indiana state board of education.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the Indiana state board of education.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) a student.

(4) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized instruction program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

The Indiana state board of education may select a different date for counts under subdivision (3). However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 3 of this chapter, transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

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(A) The following state distributions that are computed in any part using ADM or other pupil count in which the student is included:

(i) Primetime grant under IC 21-1-30.

(ii) Tuition support for basic programs and at-risk weights under IC 21-3-1.7-8 (before January 1, 1996) and only for basic programs (after December 31, 1995).

(iii) Enrollment growth grant under IC 21-3-1.7-9.5.

(iv) At-risk grant under IC 21-3-1.7-9.7.

(v) Academic honors diploma award under IC 21-3-1.7-9.8.

(vi) Vocational education grant under IC 21-3-1.8-3.

(vii) Special education grant under IC 21-3-1.8 (repealed January 1, 1996) or IC 21-3-10.

(viii) The portion of the ADA flat grant that is available for the payment of general operating expenses under IC 21-3-4.5-2(b)(1).

(B) For school years beginning after June 30, 1997, property tax levies.

(C) For school years beginning after June 30, 1997, excise tax revenue (as defined in IC 21-3-1.7-2) received for deposit in the calendar year in which the school year begins.

(D) For school years beginning after June 30, 1997, allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana under a court order, the institution or facility shall charge the county office of the county of the student's legal settlement under IC 12-19-7 for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

(1) capital outlay;

(2) debt service;

(3) costs of transportation;

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(4) salaries of board members;

(5) contracted service for legal expenses; and

(6) any expenditure which is made out of the general fund from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

(1) the cost of the special equipment; divided by

(2) the product of:

(A) the useful life of the special equipment, as determined under the rules adopted by the Indiana state board of education; multiplied by

(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the pupil enrollment of each class in the transferee corporation compared to the total pupil enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

(1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by

(2) the pupil enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of pupil attendance, the transfer tuition shall be calculated by the portion of the school year for which the transferred student is enrolled. A school year of pupil attendance consists of the number of days school is in session for pupil attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence ~~the student has been excluded or expelled from school for the balance of the school year or for an indefinite period,~~ or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. Where an agreement cannot be reached, the amount shall be determined by the Indiana state board of education, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in

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subsection (b) STEP TWO to a transfer student by dividing:

(1) the total amount of revenues received; by

(2) the ADM of the transferee school for the school year that ends in the calendar year in which the revenues are received.

However, for state distributions under IC 21-1-30, IC 21-3-10, or any other statute that computes the amount of a state distribution using less than the total ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive in a calendar year by the pupil count used to compute the state distribution.

(h) In lieu of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the transfer of students. This contract is for a maximum period of five (5) years with an option to renew, and may specify a maximum number of pupils to be transferred and fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 9 of this chapter.

(i) If the school corporation can meet the requirements of IC 21-1-30-5, it may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may be for one (1) year or longer and may fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 9 of this chapter. A school corporation may not transfer a student under this section without the prior approval of the child's parent or guardian.

(j) If a school corporation experiences a net financial impact with regard to transfer tuition that is negative for a particular school year as described in IC 6-1.1-19-5.1, the school corporation may appeal for an excessive levy as provided under IC 6-1.1-19-5.1.

SECTION 8. IC 20-8.1-6.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. ~~Transfer Tuition.~~ (a) The transferee corporation shall be entitled to receive from the transferor corporation transfer tuition for each transferred student for each school year calculated in two (2) parts: operating cost and capital cost. These shall be allocated on a per student basis separately for each class of school.

(b) The operating cost for each class of school shall be based on the total expenditures of the transferee corporation for such class from its general fund expenditures as set out on the classified budget forms prescribed by the state board of accounts, excluding from such

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calculation capital outlay, debt service, costs of transportation, salaries of board members, contracted service for legal expenses and any expenditure which is made out of the general fund from extracurricular account receipts, for the school year.

(c) The capital cost for each class of school shall consist of the lesser of the following two (2) alternatives: Alternative one shall be based on an amount equal to five percent (5%) of the cost of transferee corporation's physical plant, equipment and all appurtenances thereto (including but not limited to buildings, additions and remodeling thereof, except ordinary maintenance, on-site and off-site improvements such as walks, sewers, waterlines, drives, and playgrounds) theretofore paid or obligated to be paid in the future out of the general fund, capital projects fund, or debt service fund, including but not limited to principal and interest and lease rental payments (or out of funds which were legal predecessors to these funds). Where any item of physical plant, equipment appurtenances, or portion thereof is more than twenty (20) years old at the beginning of the school year, the capital cost thereof shall be disregarded in making such computation. Alternate two shall be based on the amount budgeted from the general fund for capital outlay for physical plant, equipment and appurtenances and the amounts levied for the debt service fund and the capital projects fund, for the calendar year in which the school year ends.

(d) Where an item of expense or cost cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the ADM of each class in the transferee corporation compared to the total ADM therein.

(e) The transfer tuition for each student transferred for each school year shall be calculated by dividing the transferee school corporation's total operating costs and the total capital costs for the class of school in which the student is enrolled by the ADM of students therein. Where a transferred student is enrolled in a transferee corporation for less than the full school year the transfer tuition shall be calculated by the proportion of such school year for which the transferred student is enrolled. A school year for this purpose shall consist of the number of days school is in session for pupil attendance. A student shall be enrolled in a transferee school, whether or not ~~he~~ **the student** is in attendance, unless ~~his~~ **the student's** residence is outside the area of students transferred to the transferee corporation or ~~he has been excluded or expelled from school or~~ **the student** has been confirmed as a school dropout. The transferor and transferee corporations may enter into written agreements concerning the amount of transfer tuition.

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Where an agreement cannot be reached the amount shall be determined by the superintendent of public instruction, with costs to be established, where in dispute, by the state board of accounts.

(f) The transferor corporation shall also pay the transferee corporation, when billed, the amount of book rental due from transferred students who are unable to pay the amount thereof. The transferor corporation shall be entitled to collect the amount of such book rental from the appropriate township trustee, from its own funds, or from any other source, in the amounts and manner provided by applicable law.

SECTION 9. IC 21-3-1.6-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law.

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education. Such day shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on the particular day thus fixed, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes, which occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the adjusted count to the budget committee before February 5 of the following year. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. "Current ADM" of a school corporation used in

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computing its state distribution in a calendar year means the ADM of the school year ending in the calendar year. "ADM of the previous year" or "ADM of the prior year" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school corporation for the school year ending in the preceding calendar year.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter and as determined at the times for calculating ADM. "Current additional count" means the additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the additional count of the school corporation for the school year ending in the preceding calendar year.

(f) "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the state board of tax commissioners to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss).

(g) "General fund" means a school corporation fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

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(j) "Eligible pupil" means a pupil enrolled in a school corporation, **including a pupil who has received a suspension or an expulsion under IC 20-8.1-5.1 and is receiving educational services under IC 20-8.1-5.1-3.5,** if:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-8.1-6.1, because the pupil is transferred for education to another school corporation (the "transferee corporation");

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-8.1-6.1-3 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-8.1-6.1; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

(i) by or with the consent of the division of family and children;

(ii) by a court order; or

(iii) by a child placing agency licensed by the division of family and children.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the state board of tax commissioners and used by the state board of tax commissioners in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11.

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