January 23, 2004

HOUSE BILL No. 1234

DIGEST OF HB 1234 (Updated January 21, 2004 11:30 am - DI 51)

Citations Affected: IC 4-30; IC 20-10.1; IC 21-1; noncode.

Synopsis: Early learning trust fund. Authorizes grants and advances from the common school fund to enable school corporations to provide voluntary full day kindergarten programs and other early learning programs. Establishes an early learning trust fund and makes certain transfers and appropriations to that fund. Prohibits advances from the common school fund for school building construction, anticipated transfer tuition costs, and educational technology after June 30, 2004.

Effective: Upon passage; July 1, 2004.

Bauer, Porter

January 15, 2004, read first time and referred to Committee on Education.
January 20, 2004, reported — Do Pass; reassigned to Committee on Ways and Means pursuant to Rule 127.
January 22, 2004, reported — Do Pass.

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January 23, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1234

A BILL FOR AN ACT to amend the Indiana Code concerning education finance and to make an appropriation.

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

SECTION 1. IC 4-30-16-3, AS AMENDED BY P.L.224-2003, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The commission shall transfer the surplus revenue in the administrative trust fund as follows:

(1) Before the last business day of January, April, July, and October:

~~the commission shall transfer to the treasurer of state, for deposit in the Indiana state teachers' retirement fund (IC 21-6.1-2), before July 1, 2005, seven million five hundred thousand dollars ($7,500,000) and after June 30, 2005, an amount equal to the lesser of:~~

~~(A) seven million five hundred thousand dollars ($7,500,000); or~~

~~(B) the additional quarterly contribution needed so that the ratio of the unfunded liability of the Indiana state teachers' retirement fund compared to total active teacher payroll is as close as possible to but not greater than the ratio that existed~~

~~on the preceding July 1.~~

(A) after June 30, 2003, and before July 1, 2005, the ~~amount deposited in a state fiscal year under this subdivision~~ **commission shall transfer to the treasurer of state, for deposit** in the Indiana state teachers' retirement fund (IC 21-6.1-2) ~~shall only~~ **seven million five hundred thousand dollars ($7,500,000) that may** be used by the board **only** to reduce the employer contribution rate that school corporations would otherwise pay after June 30, 2003, and before July 1, 2005, to the Indiana state teachers' retirement fund (IC 21-6.1-2), as computed under IC 5-10.2-2 and certified under IC 21-6.1-7-12, for teachers covered by the 1996 account, including a proportionate share of administration expenses for the 1996 account; ~~On or before June 15, 2005, and June 15 of each year thereafter, the board of trustees of the Indiana state teachers' retirement fund shall submit to the treasurer of state, each member of the pension management oversight commission, and the auditor of state its estimate of the quarterly amount needed to freeze the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) as a percent of payroll. The estimate shall be based on the most recent actuarial valuation of the fund.~~

(B) after June 30, 2005, and before July 1, 2008, the commission shall transfer to the treasurer of state, for deposit in the early learning trust fund (IC 21-1-31), seven million five hundred thousand dollars ($7,500,000); and

(C) notwithstanding any other law, including any appropriations law resulting from a budget bill (as defined in IC 4-12-1-2), after June 30, ~~2005,~~ **2008,** ~~the money transferred under this subdivision shall be set aside~~ **the commission shall transfer to the treasurer of state, for deposit** in a special account **(pension stabilization fund)** to be used as a credit against the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) of the Indiana state teachers' retirement fund **an amount equal to the lesser of:**

~~(A)~~ **(i) seven million five hundred thousand dollars ($7,500,000); or**

~~(B)~~ **(ii) the additional quarterly contribution needed so that the ratio of the unfunded liability of the Indiana state teachers' retirement fund compared to total active teacher payroll is as close as possible to but not greater than the ratio that existed on the preceding July 1.**

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On or before June 15, 2008, and June 15 of each year thereafter, the board of trustees of the Indiana state teachers' retirement fund shall submit to the treasurer of state, each member of the pension management oversight commission, and the auditor of state its estimate of the quarterly amount needed to freeze the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) as a percent of payroll. The estimate shall be based on the most recent actuarial valuation of the fund. The money transferred is in addition to the appropriation needed to pay benefits for the state fiscal year.

(2) Before the last business day of January, April, July, and October, the commission shall transfer:

(A) two million five hundred thousand dollars ($2,500,000) of the surplus revenue to the treasurer of state for deposit in the "k" portion of the pension relief fund (IC 5-10.3-11); and

(B) five million dollars ($5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) The commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 2. IC 20-10.1-6.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The school technology advancement account is established within the common school fund. ~~On July 1 of each year, there is appropriated to the account an amount of money equal to:~~

~~(1) five million dollars ($5,000,000); minus~~

~~(2) the amount of money in the account on June 30 of the same year.~~

(b) Advancements of money from the school technology advancement account may be made **before July 1, 2004,** to a school corporation to:

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(1) purchase computer hardware and software used primarily for student instruction; and

(2) develop and implement innovative technology projects.

Advancements may not be made under this section after June 30, 2004.

(c) Money shall be advanced under this section in accordance with IC 21-1-5-5, IC 21-1-5-7, and IC 21-1-5-8.

SECTION 3. IC 21-1-4-1, AS AMENDED BY P.L.276-2003, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) It is the duty of the general assembly under the Constitution of the State of Indiana to encourage by all suitable means moral, intellectual, scientific, and agricultural improvement and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

(b) It is the intent of the general assembly that:

(1) the common school fund should be used to:

(A) assist school corporations and school townships in financing ~~their school building construction and educational technology~~ **voluntary full day kindergarten programs and other early learning** programs **under IC 21-1-31;** and

(B) assist charter schools in financing their operations;

as authorized by law and under circumstances such that the principal of the fund remains inviolate;

(2) to the end described in subdivision (1), the common school fund may be used to make advances to:

(A) school corporations and school townships under ~~IC 21-1-5,~~ **IC 21-1-31;** and

(B) charter schools under IC 20-5.5-7-3.5(f) and IC 20-5.5-7.5; and

(3) this chapter is in furtherance of the duties which are imposed exclusively upon the general assembly by the Constitution of the State of Indiana in connection with the maintenance of a general and uniform system of common schools and the investment and reinvestment of the common school fund and shall be liberally construed to carry out the purposes of the Constitution of the State of Indiana.

~~(c) In addition, the common school fund may be used to make advances under IC 21-1-5.1.~~

SECTION 4. IC 21-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The Indiana state board of education is authorized to advance money to school corporations and

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school townships from the common school fund **before July 1, 2004,** to be used for school building construction and educational technology programs as provided in this chapter. **The Indiana state board of education may not make advances from the common school fund under this section after June 30, 2004.**

(b) As used in this chapter, "school building construction program" means the purchase, lease, or financing of land, the construction and equipping of school buildings, and the remodeling, repairing, or improving of school buildings by a school corporation or school township:

(1) that sustained loss by fire, wind, cyclone, or other disaster of all or a major portion of a school building or school buildings;

(2) whose assessed valuation per pupil ADA is within the lowest forty percent (40%) of the assessed valuation per pupil ADA when compared to all school corporation or school township assessed valuation per pupil ADA; or

(3) with an advance under this chapter outstanding on July 1, 1993, that bears interest at least seven and one-half percent (7.5%).

However, as used in this chapter, the term does not include facilities used or to be used primarily for interscholastic or extracurricular activities.

(c) As used in this chapter, "educational technology program" means the purchase, lease, or financing of educational technology equipment, the operation of the educational technology equipment, and the training of teachers in the use of the educational technology equipment.

SECTION 5. IC 21-1-5.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. To assist a school corporation in providing the school corporation's educational program to a student placed in a facility or home as described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) and not later than October 1 of each school year **ending before July 1, 2004,** the Indiana state board of education may advance money from the common school fund to a school corporation in anticipation of the school corporation's receipt of transfer tuition for students described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) in an amount not to exceed the STEP TWO amount of the following formula:

STEP ONE: Estimate for the current school year the number of students described in IC 20-8.1-6.1-5(a) or IC 20-8.1-6.1-5(b) that are transferred to the school corporation.

STEP TWO: Multiply the STEP ONE amount by the school

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corporation's prior year per student transfer tuition amount.

The Indiana state board of education may not make an advance under this chapter after June 30, 2004.

SECTION 6. IC 21-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 31. Early Learning Trust Fund

Sec. 1. As used in this chapter, "advance" refers to an advance from the common school fund under section 25 of this chapter.

Sec. 2. As used in this chapter, "commission" refers to the early learning and school readiness commission established by section 9 of this chapter.

Sec. 3. As used in this chapter, "department" refers to the department of education.

Sec. 4. As used in this chapter, "parental education program" refers to a parental education program that qualifies as a parental education program under the rules adopted by the commission.

Sec. 5. As used in this chapter, "preschool program" refers to a preschool program that qualifies as a preschool program under the rules adopted by the commission.

Sec. 6. As used in this chapter, "school" means any school maintained by a school corporation.

Sec. 7. As used in this chapter, "reading and family literacy program" refers to a reading and family literacy program that qualifies as a reading and family literacy program under the rules adopted by the commission.

Sec. 8. As used in this chapter, "school corporation" has the meaning set forth in IC 21-3-1.6-1.1.

Sec. 9. The early learning and school readiness commission is established to carry out the purposes of this chapter.

Sec. 10. (a) The governor shall:

(1) determine the number and terms of office of; and

(2) appoint;

the members of the commission.

(b) The term of a member may not exceed four (4) years.

Sec. 11. (a) The governor shall designate a member of the commission to serve as chairperson.

(b) The commission may elect the other officers the commission considers necessary.

Sec. 12. A quorum of the commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the commission. The commission may not take an

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official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the commission.

Sec. 13. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 14. The department shall provide staff support to the commission.

Sec. 15. The commission, in consultation with the department, shall establish a program to make:

(1) advances from the common school fund to school corporations for full day kindergarten programs under section 25 of this chapter;

(2) grants from the early education trust fund to school corporations for full day kindergarten programs under section 30 of this chapter; and

(3) grants from the early learning trust fund to school corporations and other entities to establish one (1) or more pilot projects for any combination of:

(A) preschool programs;

(B) reading and family literacy programs; and

(C) parental education programs;

under section 32 of this chapter.

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Sec. 16. The program must provide for an application procedure. An application for an advance or grant must:

(1) be on a form prescribed by the department;

(2) be signed by:

(A) the superintendent of the school corporation applying for the advance or grant; or

(B) if, for an application under section 32 of this chapter, the applicant is not a school corporation, the chief executive officer of the applicant; and

(3) include the following information:

(A) A detailed description of the proposed program or programs.

(B) Evidence supporting the applicant's need for the program or programs.

(C) Other pertinent information required by the commission, including evidence guaranteeing the applicant has developed a plan to evaluate the effect and results of the applicant's program or programs.

Sec. 17. The department shall present all applications for an advance or grant under this chapter to the commission for review and approval.

Sec. 18. The commission may approve an application only if the commission determines that the application complies with:

(1) the requirements set forth in this chapter; and

(2) the standards established in the rules adopted by the commission.

Sec. 19. The program must provide that the recipient of the advance or grant is required to enter into a written agreement with the department to:

(1) use the advance or grant only for the purposes specified in the agreement or an amendment to the agreement; and

(2) comply with the other terms established by the commission as a condition of receiving the advance or grant.

Sec. 20. The commission shall provide the budget agency with:

(1) a list of all approved applicants that includes the amount approved for distribution; and

(2) a copy of each approved application.

Sec. 21. An agreement for an advance must include a provision allowing the state to withhold funds due to a school corporation to reimburse the common school fund for an advance, including interest accrued on the advance, if repayment is not made in conformity with the terms of the agreement.

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Sec. 22. An agreement for an advance or a grant for a voluntary full day kindergarten program must prohibit the imposition of a fee for students who participate in the program and qualify for a free or reduced lunch program.

Sec. 23. The department shall:

(1) provide for the distribution of the approved amount of an advance or a grant; and

(2) administer and enforce the agreement made with the recipient.

Sec. 24. (a) If the number of eligible students exceeds the amount of money available under this chapter for distribution in a state fiscal year, the commission shall provide for distributions to school corporations based on a ranking of schools. For purposes of subsections (b) and (c), schools shall be ranked in the following order:

(1) Schools for which a state full day kindergarten program grant or advance was received:

(A) under this chapter; or

(B) another law;

in the immediately preceding school year or calendar year, ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to all other qualified schools for which an application is made under this chapter.

(2) Schools that are not described in subdivision (1) and qualify as Title I schools under federal law, ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to other qualified schools for which an application is made under this chapter.

(3) Schools that are not described in subdivision (1) or (2), ranked from highest to lowest percentage of students eligible for free or reduced lunch enrolled in the school relative to other qualified schools for which an application is made under this chapter.

(b) Subject to the funding limitations in this subsection, the commission shall give first priority to making distributions for schools that received a state full day kindergarten grant or advance in the immediately preceding year. The amount that a school is eligible to receive under this subsection is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: For each school, determine the lesser of the following:

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(A) the number of students in the school who are enrolled in full day kindergarten in the current school year, as determined under the rules of the commission; or

(B) the number equal to the number of students in the school who were counted in the immediately preceding year for the purposes of distributing state grants or advances to the school corporation for full day kindergarten.

STEP TWO: Multiply the number determined under STEP ONE by one thousand five hundred dollars ($1,500).

STEP THREE: Determine the lesser of:

(A) the amount determined under STEP TWO: or

(B) the amount remaining under sections 26 and 31 of this chapter after making distributions for students in all qualified schools that have a higher priority ranking as determined under subsection (a).

(c) After making distributions under subsection (b), the commission shall make distributions for schools under this subsection. The amount that a school is eligible to receive under this subsection is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students enrolled in the school's full-time kindergarten program in the current school year who were not counted in making a distribution under subsection (b), as determined under the rules adopted by the commission.

STEP TWO: Multiply the STEP ONE number by one thousand five hundred dollars ($1,500).

STEP THREE: Determine the lesser of:

(A) the amount determined under STEP TWO: or

(B) the amount remaining under sections 26 and 31 of this chapter after making distributions for students in all qualified schools that have a higher priority ranking as determined under subsection (a).

(d) For the state fiscal year beginning July 1, 2004, and ending June 30, 2005, the commission shall make distributions as grants until the amount available for grants in that year under section 31 of this chapter is exhausted. After the amount under section 31 of this chapter is exhausted, the commission shall make distributions as advances under section 25 of this chapter.

Sec. 25. The commission may, after June 30, 2004, and before July 1, 2005, make an advance to a school corporation from the

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common school fund for the purpose of establishing, continuing, or expanding voluntary kindergarten programs.

Sec. 26. The total of all advances made under section 25 of this chapter may not exceed thirty-one million five hundred thousand dollars ($31,500,000).

Sec. 27. An advance to a school corporation under this section is not an obligation of the school corporation within the meaning of any constitutional limitation on or prohibition against indebtedness.

Sec. 28. (a) To ensure timely payment of an advance under this section according to the terms of the advance, the state may withhold from funds due to the school corporation to which the advance is made an amount necessary to pay the advance and the interest on the advance.

(b) If the state withholds funds under subsection (a), the state first shall withhold funds from the distribution of state tuition support to the school corporation to which the advance is made. If the tuition support distribution is unavailable or inadequate, the state may withhold funds from any other distribution of state funds to the school corporation.

(c) An agreement with the commission to collect and pay over amounts deducted from state tuition support for the benefit of another party is not a debt of the state within the meaning of any constitutional limitation on or prohibition against state indebtedness.

Sec. 29. (a) The early learning trust fund is established. The early learning trust fund shall be administered by the department.

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

(c) Money in the early learning trust fund is annually appropriated to the purposes of the early learning trust fund.

(d) Money in the early learning trust fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 30. The commission may, after June 30, 2004, make a grant to a school corporation from the early learning trust fund for the purpose of establishing, continuing, or expanding voluntary kindergarten programs.

Sec. 31. The total of all grants made under section 30 of this chapter may not exceed the following:

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(1) Eight million five hundred thousand dollars ($8,500,000) during the state fiscal year beginning July 1, 2004, and ending June 30, 2005.

(2) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(3) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 32. The commission may, after June 30, 2005, and before July 1, 2007, make a grant to a school corporation or another entity from the fund to implement pilot projects for any combination of the following:

(1) Preschool programs.

(2) Reading and family literacy programs.

(3) Parental education programs.

Sec. 33. The total of all grants made under section 32 of this chapter may not exceed the following:

(1) Eight million dollars ($8,000,000) during the state fiscal year beginning July 1, 2005, and ending June 30, 2006.

(2) Twelve million dollars ($12,000,000) during the state fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 34. The applications selected for grants under section 32 of this chapter must, to the extent possible, do the following:

(1) Represent a geographic balance throughout Indiana and include urban, suburban, and rural providers.

(2) Reward school corporations and other entities that propose programs that demonstrate the greatest potential for replication and implementation in Indiana.

Sec. 35. The commission may adopt rules under IC 4-22-2 to implement this chapter, including rules establishing standards that must be met by voluntary full day kindergarten programs, preschool programs, reading and family literacy programs, and parental education programs in order to be eligible for grants or advances under this chapter.

SECTION 7. [EFFECTIVE JULY 1, 2004] **(a) The appropriation of eight million five hundred thousand dollars ($8,500,000) made to the department of education for total operating expense for full day kindergarten by P.L.224-2003, SECTION 9, for the state fiscal year beginning July 1, 2004, and ending June 30, 2005, is canceled.**

(b) There is appropriated to the early learning trust fund from the state general fund eight million five hundred thousand dollars ($8,500,000) for use in carrying out the purposes of IC 21-1-31, as added by this act, during the state fiscal year beginning July 1,

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2004, and ending June 30, 2005.

(c) This SECTION expires July 1, 2006.

SECTION 8. [EFFECTIVE JULY 1, 2004] **(a) Notwithstanding IC 32-34-1-34, after June 30, 2005, and before July 1, 2006, the treasurer of state shall transfer nine million five hundred thousand dollars ($9,500,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31, as added by this act.**

(b) Notwithstanding IC 32-34-1-34, after June 30, 2006, and before July 1, 2007, the treasurer of state shall transfer thirteen million five hundred thousand dollars ($13,500,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31, as added by this act.

(c) Notwithstanding IC 32-34-1-34, after June 30, 2007, and before July 1, 2008, the treasurer of state shall transfer eleven million five hundred thousand dollars ($11,500,000) from the abandoned property fund to the early learning trust fund established by IC 21-1-31, as added by this act.

(d) The treasurer of state shall make twenty-five hundredths (0.25) of the amount of a transfer required under subsection (a), (b), or (c) on a quarterly basis in the state fiscal year in which the transfer is required. If insufficient money is available in the abandoned property fund to make the required transfer, the treasurer of state shall make the required transfer as soon as practicable after money becomes available in the fund.

(e) This SECTION expires July 1, 2008.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) The early learning and school readiness commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 21-1-31, as added by this act. A temporary rule adopted under this subsection expires on the earliest of the following:**

(1) The date that another temporary rule adopted under this subsection supersedes the prior temporary rule.

(2) The date that permanent rules adopted under IC 4-22-2 supersede the temporary rule.

(3) January 1, 2006.

(b) This SECTION expires January 1, 2006.

SECTION 10. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1234, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 10, nays 4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1234, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 17, nays 11.

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