Reprinted
February 16, 2007

SENATE BILL No. 567

DIGEST OF SB 567 (Updated February 7, 2007 5:16 pm - DI 71)

Citations Affected: IC 20-20; IC 20-23; IC 20-24; IC 20-26; IC 20-43; noncode.

Synopsis: Full-day kindergarten. Requires school corporations and charter schools that offer kindergarten programs to offer full-day kindergarten programs for all students by the 2009-2010 school year after a phase-in beginning with programs for students who are eligible for free and reduced price lunches. Provides that a kindergarten program must meet state academic standards. Appropriates $25,000,000 to the department of education to provide monthly advances against general fund payments to school corporations and charter schools beginning or expanding full-day kindergarten programs.

Effective: July 1, 2007.

Lubbers, Alting, Sipes, Weatherwax, Rogers, Simpson, Becker, Errington, Breaux

January 23, 2007, read first time and referred to Committee on Education and Career Development.
February 8, 2007, amended, reported favorably — Do Pass.
February 15, 2007, read second time, amended, ordered engrossed.

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Reprinted
February 16, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 567

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 20-20-11-3, AS AMENDED BY P.L.2-2006, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The types of initiatives for which money appropriated to the program may be used include the following:

(1) Conducting feasibility studies concerning the following:

~~(A) Mandating full-day or half-day kindergarten programs.~~

~~(B)~~ **(A)** Choice of enrollment programs.

~~(C)~~ **(B)** Establishing magnet schools.

(2) An evaluation of P.L.390-1987(ss).

(3) Exploring different or expanded testing methods.

(4) An evaluation of the primetime program (as defined in IC 20-43-1-22).

(5) Administering pilot programs concerning school academic readiness factors of students in kindergarten and grades 1 and 2.

(6) Studying the implications of offering preschool programs for special education students.

(7) Conducting the student services programs under IC 20-20-27.

(8) The Indiana writing project.

(b) The evaluation of P.L.390-1987(ss) and the primetime program described in subsection (a)(2) and (a)(4) shall be conducted by an entity other than the department under a contract entered into by the department.

(c) The student services programs under subsection (a)(7) shall be funded under the program based upon criteria approved by the department. The programs must include a study of:

(1) the role of the public school guidance counselor; and

(2) the guidance counselor proficiency statements developed under P.L.342-1989(ss), SECTION 39, as approved by the department.

SECTION 2. IC 20-23-3-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. An educational program under this chapter must include a kindergarten program. ~~that is at least a half day program.~~

SECTION 3. IC 20-24-7-3, AS AMENDED BY P.L.2-2006, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) This section applies to a conversion charter school.

(b) Not later than the date established by the department for determining ADM and after July 2, the organizer shall submit to a governing body on a form prescribed by the department the information reported under section 2(a) of this chapter for each student who:

(1) is enrolled in the organizer's conversion charter school; and

(2) has legal settlement in the governing body's school corporation.

(c) Beginning not more than sixty (60) days after the department receives the information reported under section 2(a) of this chapter, the department shall distribute to the organizer:

(1) tuition support and other state funding for any purpose for students enrolled in the conversion charter school;

(2) a proportionate share of state and federal funds received:

(A) for students with disabilities; or

(B) staff services for students with disabilities;

enrolled in the conversion charter school; and

(3) a proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state categorical aid and are enrolled in the conversion charter school;

for the second six (6) months of the calendar year in which the conversion charter school is established. The department shall make a

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distribution under this subsection at the same time and in the same manner as the department makes a distribution to the governing body of the school corporation in which the conversion charter school is located. A distribution to the governing body of the school corporation in which the conversion charter school is located is reduced by the amount distributed to the conversion charter school. This subsection does not apply to a conversion charter school after December 31 of the calendar year in which the conversion charter school is established.

(d) This subsection applies beginning with the first property tax distribution described in IC 6-1.1-27-1 to the governing body of the school corporation in which a conversion charter school is located after the governing body receives the information reported under subsection (b). Not more than ten (10) days after the governing body receives a property tax distribution described in IC 6-1.1-27-1, the governing body shall distribute to the conversion charter school the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the quotient of:

(A) the number of students who:

(i) are enrolled in the conversion charter school; and

(ii) were counted in the ADM of the previous year for the school corporation in which the conversion charter school is located;

divided by

(B) the current ADM of the school corporation in which the conversion charter school is located.

In determining the number of students enrolled under clause (A)(i), each kindergarten student **who does not qualify as a covered kindergarten child (as defined in IC 20-43-1-9.5)** shall be counted as one-half (1/2) student, **and each kindergarten student who qualifies as a covered kindergarten child (as defined in IC 20-43-1-9.5) shall be counted as one (1) student.**

STEP TWO: Determine the total amount of the following revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established:

(A) Revenues obtained by the school corporation's:

(i) general fund property tax levy; and

(ii) excise tax revenue (as defined in IC 20-43-1-12).

(B) The school corporation's certified distribution of county adjusted gross income tax revenue under IC 6-3.5-1.1 that is to be used as property tax replacement credits.

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STEP THREE: Determine the product of:
(A) the STEP ONE amount; multiplied by
(B) the STEP TWO amount.

(e) Subsection (d) does not apply to a conversion charter school after the later of the following dates:

(1) December 31 of the calendar year in which the conversion charter school is established.

(2) Ten (10) days after the date on which the governing body of the school corporation in which the conversion charter school is located receives the final distribution described in IC 6-1.1-27-1 of revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established.

(f) This subsection applies during the second six (6) months of the calendar year in which a conversion charter school is established. A conversion charter school may apply for an advance from the charter school advancement account under IC 20-49-7 in the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the result under subsection (d) STEP ONE (A).

STEP TWO: Determine the difference between:
(A) the conversion charter school's current ADM; minus
(B) the STEP ONE amount.

STEP THREE: Determine the quotient of:
(A) the STEP TWO amount; divided by
(B) the conversion charter school's current ADM.

STEP FOUR: Determine the product of:
(A) the STEP THREE amount; multiplied by
(B) the quotient of:
(i) the subsection (d) STEP TWO amount; divided by
(ii) two (2).

SECTION 4. IC 20-26-11-13, AS AMENDED BY P.L.2-2006, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (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

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training, or career education.

(2) "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 education program for the child; and

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

(3) "Student 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 state board.

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

~~However,~~ A kindergarten student **who does not qualify as a covered kindergarten child (as defined in IC 20-43-1-9.5)** shall be counted under clauses (A) and (B) as one-half (1/2) student, **and a kindergarten student who qualifies as a covered kindergarten child (as defined in IC 20-43-1-9.5) shall be counted as one (1) student.** The state board may select a different date for counts under this subdivision. 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 6 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

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fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

(A) State tuition support distributions.

(B) Property tax levies.

(C) Excise tax revenue (as defined in IC 20-43-1-12) received for deposit in the calendar year in which the school year begins.

(D) 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;

(4) salaries of board members;

(5) contracted service for legal expenses; and

(6) any expenditure that 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 state board; 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

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classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student 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 student 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 student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student 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. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in 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 tuition support distributions or any other state distribution computed 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 student count used to compute the state distribution.

(h) Instead 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. The contract may:

(1) be entered into for a period of not more than five (5) years with an option to renew;

(2) specify a maximum number of students to be transferred; and

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(3) fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) ~~If the~~ **A** school corporation ~~can meet the requirements of IC 20-43-9-8, it~~ may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

(1) be for one (1) year or longer; and

(2) 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 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

(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 20-45-6-8, the school corporation may appeal for an excessive levy as provided under IC 20-45-6-8.

SECTION 5. IC 20-26-11-20, AS AMENDED BY P.L.2-2006, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) As used in sections 19 through 29 of this chapter, "class of school" refers to a classification of each school in the transferee corporation by the grades taught therein (generally denominated as elementary schools, middle schools or junior high schools, high schools, and special schools such as schools for special education, vocational training or career education). Elementary schools include schools containing kindergarten, but for purposes of this chapter, a kindergarten student **who does not qualify as a covered kindergarten child (as defined in IC 20-43-1-9.5)** shall be counted as one-half (1/2) student, **and a kindergarten student who qualifies as a covered kindergarten child (as defined in IC 20-43-1-9.5) shall be counted as one (1) student.**

(b) As used in sections 19 through 29 of this chapter, "transferee corporation" means the school corporation receiving students under a court order described in section 19 of this chapter.

(c) As used in sections 19 through 29 of this chapter, "transferor corporation" means the school corporation transferring students under a court order described in section 19 of this chapter.

(d) As used in sections 19 through 29 of this chapter, "transferred student" means any student transferred under a court order described in section 19 of this chapter.

SECTION 6. IC 20-26-16 IS ADDED TO THE INDIANA CODE

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AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 16. Kindergarten Program

Sec. 1. As used in this chapter, "program" refers to a full-day kindergarten program.

Sec. 2. If there is a specific appropriation from the general assembly to implement the program, each school corporation and charter school that offers kindergarten classes shall offer a full-day kindergarten program under this chapter.

Sec. 3. A parent may elect:

(1) not to place a child in a kindergarten program;

(2) to place a child in a half-day kindergarten program; or

(3) to place a child in a full-day kindergarten program.

Sec. 4. If there is a specific appropriation from the general assembly to implement the program, beginning with the 2007-2008 school year, each school corporation and charter school shall offer a full-day kindergarten program for each kindergarten student who is eligible to receive a free or reduced price lunch under the national school lunch program.

Sec. 5. Beginning with the 2008-2009 school year, each school corporation and charter school with a percentage of students eligible to receive free or reduced price lunches that is higher than the statewide median percentage of students eligible to receive free or reduced price lunches, as determined by the department based upon the number of students in each school corporation and charter school who are eligible to receive free or reduced price lunches under the national school lunch program during the 2006-2007 school year, shall offer a program for all kindergarten students.

Sec. 6. If there is a specific appropriation from the general assembly to implement the program, beginning with the 2009-2010 school year, each school corporation and charter school shall offer a program to all kindergarten students.

Sec. 7. A school corporation or charter school that determines there is inadequate space to offer a program in the school corporation's or charter school's existing facilities may offer the program in any suitable space located within the geographic boundaries of the school corporation or, in the case of a charter school, a location that is in the general vicinity of the charter school's existing facilities.

Sec. 8. A program offered by a school corporation or charter school must meet the academic standards and other requirements

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of this title.

Sec. 9. The state board and department shall provide support to school corporations and charter schools in the development and implementation of child centered and learning focused programs using the following methods:

(1) Targeting professional development funds to provide teachers in kindergarten through grade 3 education in:

(A) scientifically proven methods of teaching reading;

(B) the use of data to guide instruction; and

(C) the use of age appropriate literacy and mathematics assessments.

(2) Making uniform, predictively valid, observational assessments that:

(A) provide frequent information concerning the student's progress to the student's teacher; and

(B) measure the student's progress in literacy;

available to teachers in kindergarten through grade 3. Teachers shall monitor students participating in a program, and the school corporation or charter school shall report the results of the assessments to the parents of a child completing an assessment and to the department.

(3) Undertaking a longitudinal study of students in programs in Indiana to determine the achievement levels of the students in kindergarten and later grades.

SECTION 7. IC 20-43-1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9.5. "Covered kindergarten child" means a student who:**

(1) is enrolled in a full-day kindergarten program in a school year in which the student is counted in the current ADM of a school corporation or charter school; and

(2) on:

(A) the initial fall ADM count date that occurs in 2007, is eligible to receive free or reduced price lunches under the national school lunch program;

(B) the initial fall ADM count date that occurs in 2008, is either:

(i) eligible to receive free or reduced price lunches under the national school lunch program; or

(ii) enrolled in a school corporation or charter school with a percentage of students eligible to receive free or reduced price lunches under the national school lunch

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program that is higher than the statewide median percentage of students eligible to receive free or reduced priced lunches under the national school lunch program, as determined by the department; or

(C) the initial fall ADM count date that occurs in a year after 2008, is enrolled in any school corporation or charter school.

SECTION 8. IC 20-43-4-5, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. In determining ADM, each kindergarten pupil **who:**

(1) does not qualify as a covered kindergarten child shall be counted as one-half (1/2) pupil; **and**

(2) qualifies as a covered kindergarten child shall be counted as one (1) pupil.

If 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.

SECTION 9. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION:**

(1) "department" refers to the department of education established by IC 20-19-3-1; and

(2) "state board" refers to the Indiana state board of education established by IC 20-19-2-2.

(b) If there is a specific appropriation from the general assembly for conducting the review, the state board and department shall contract with experts in early childhood education academic standards to conduct a review of current kindergarten standards to ensure the standards:

(1) are adequate for full-day kindergarten programs;

(2) align with state standards through grade 3; and

(3) ensure success in subsequent grades.

(c) Until a school corporation or charter school is required to provide a full-day kindergarten program to all students, the school corporation or charter school may use any funds otherwise allowable under state and federal law, including the school corporation's general fund, any funds available to the charter school, or voluntary parent fees, to provide full-day kindergarten programs.

(d) The department may discontinue providing funding that a school corporation or charter school receives for a full-day kindergarten program that is in existence during the academic year 2006-2007 only after the department's funding for the

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1 **program is replaced by funding in the school funding formula.**
2 **(e) This SECTION expires July 1, 2010.**

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SENATE MOTION

Madam President: I move that Senators Alting, Sipes, Weatherwax, Rogers, Simpson and Becker be added as coauthors of Senate Bill 567.

LUBBERS

SENATE MOTION

Madam President: I move that Senators Errington and Breaux be added as coauthors of Senate Bill 567.

LUBBERS

COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 567, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 11, line 31, delete "fund or" and insert "**fund,**".

Page 11, line 32, after "school," insert "**or voluntary parent fees,**".

and when so amended that said bill do pass.

(Reference is to SB 567 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 567 be amended to read as follows:

Page 11, line 36, after "existence" delete "on June 30, 2007," and insert "**during the academic year 2006-2007**".

(Reference is to SB 567 as printed February 9, 2007.)

LUBBERS

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SENATE MOTION

Madam President: I move that Senate Bill 567 be amended to read as follows:

Delete the title and insert the following:

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

Page 9, line 6, delete "Each" and insert "**If there is a specific appropriation from the general assembly to implement the program, each**".

Page 9, line 13, delete "4 Beginning" and insert "**4. If there is a specific appropriation from the general assembly to implement the program, beginning**".

Page 9, line 28, delete "Beginning" and insert "**If there is a specific appropriation from the general assembly to implement the program, beginning**".

Page 11, line 21, delete "The" and insert "**If there is a specific appropriation from the general assembly for conducting the review, the**".

Page 11, delete lines 40 through 42.

Delete page 12.

Renumber all SECTIONS consecutively.

(Reference is to SB 567 as printed February 9, 2007.)

MEEKS

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