



February 19, 2013

HOUSE BILL No. 1342

DIGEST OF HB 1342 (Updated February 19, 2013 12:43 pm - DI 71)

Citations Affected: IC 20-18; IC 20-43; IC 20-51; noncode.

Synopsis: Choice scholarship program administration. Provides that the office of management and budget administers the choice scholarship program. (Under current law, the program is administered by the department of education.)

Effective: Upon passage; July 1, 2013.

Behning

January 17, 2013, read first time and referred to Committee on Education.
February 19, 2013, amended, reported — Do Pass.

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HB 1342—LS 7254/DI 116+



February 19, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

HOUSE BILL No. 1342

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

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

1 SECTION 1. IC 20-18-2-12.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 12.5. "OMB" refers to the office**
4 **of management and budget established by IC 4-3-22-3.**
5 SECTION 2. IC 20-43-1-1, AS AMENDED BY P.L.144-2012,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2013]: Sec. 1. This article expires ~~July 1, 2013~~: **July 1, 2015.**
8 SECTION 3. IC 20-43-2-1, AS AMENDED BY P.L.146-2008,
9 SECTION 481, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2013]: Sec. 1. The department shall distribute
11 the amount appropriated by the general assembly for distribution as
12 state tuition support in accordance with this article. **The department**
13 **shall distribute to the OMB the amount necessary for the OMB to**
14 **make distributions under IC 20-51-4.** If the appropriations for
15 distribution as state tuition support are more than required under this
16 article, any excess shall revert to the state general fund. The
17 appropriations for state tuition support shall be made each calendar

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1 year under a schedule set by the budget agency and approved by the
2 governor. However, the schedule must provide:

- 3 (1) for at least twelve (12) payments;
- 4 (2) that one (1) payment shall be made at least every forty (40)
5 days; and
- 6 (3) the total of the payments in each calendar year must equal the
7 amount required under this article.

8 SECTION 4. IC 20-51-4-0.5 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2013]: **Sec. 0.5. After June 30, 2013, the OMB shall administer
11 this chapter.**

12 SECTION 5. IC 20-51-4-1, AS ADDED BY P.L.92-2011,
13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2013]: Sec. 1. (a) Except as provided under subsections (b)
15 through (h), it is the intent of the general assembly to honor the
16 autonomy of nonpublic schools that choose to become eligible schools
17 under this chapter. A nonpublic eligible school is not an agent of the
18 state or federal government, and therefore:

- 19 (1) the ~~department~~ **OMB** or any other state agency may not in any
20 way regulate the educational program of a nonpublic eligible
21 school that accepts a choice scholarship under this chapter,
22 including the regulation of curriculum content, religious
23 instruction or activities, classroom teaching, teacher and staff
24 hiring requirements, and other activities carried out by the eligible
25 school;
- 26 (2) the creation of the choice scholarship program does not
27 expand the regulatory authority of the state, the state's officers, or
28 a school corporation to impose additional regulation of nonpublic
29 schools beyond those necessary to enforce the requirements of the
30 choice scholarship program in place on July 1, 2011; and
- 31 (3) a nonpublic eligible school shall be given the freedom to
32 provide for the educational needs of students without
33 governmental control.

34 (b) This section applies to the following writings, documents, and
35 records:

- 36 (1) The Constitution of the United States.
- 37 (2) The national motto.
- 38 (3) The national anthem.
- 39 (4) The Pledge of Allegiance.
- 40 (5) The Constitution of the State of Indiana.
- 41 (6) The Declaration of Independence.
- 42 (7) The Mayflower Compact.

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- 1 (8) The Federalist Papers.
 2 (9) "Common Sense" by Thomas Paine.
 3 (10) The writings, speeches, documents, and proclamations of the
 4 founding fathers and presidents of the United States.
 5 (11) United States Supreme Court decisions.
 6 (12) Executive orders of the presidents of the United States.
 7 (13) Frederick Douglas' Speech at Rochester, New York, on July
 8 5, 1852, entitled "What to a Slave is the Fourth of July?".
 9 (14) Appeal by David Walker.
 10 (15) Chief Seattle's letter to the United States government in 1852
 11 in response to the United States government's inquiry regarding
 12 the purchase of tribal lands.
- 13 (c) An eligible school may allow a principal or teacher in the
 14 eligible school to read or post in the school building or classroom or at
 15 a school event any excerpt or part of a writing, document, or record
 16 listed in subsection (b).
- 17 (d) An eligible school may not permit the content based censorship
 18 of American history or heritage based on religious references in a
 19 writing, document, or record listed in subsection (b).
- 20 (e) A library, a media center, or an equivalent facility that an
 21 eligible school maintains for student use must contain in the facility's
 22 permanent collection at least one (1) copy of each writing or document
 23 listed in subsection (b)(1) through (b)(9).
- 24 (f) An eligible school shall do the following:
- 25 (1) Allow a student to include a reference to a writing, document,
 26 or record listed in subsection (b) in a report or other work product.
 27 (2) May not punish the student in any way, including a reduction
 28 in grade, for using the reference.
 29 (3) Display the United States flag in each classroom.
 30 (4) Provide a daily opportunity for students to voluntarily recite
 31 the Pledge of Allegiance in each classroom or on school grounds.
 32 A student is exempt from participation in the Pledge of
 33 Allegiance and may not be required to participate in the Pledge of
 34 Allegiance if:
 35 (A) the student chooses to not participate; or
 36 (B) the student's parent chooses to have the student not
 37 participate.
 38 (5) Provide instruction on the constitutions of:
 39 (A) Indiana; and
 40 (B) the United States.
 41 (6) For an eligible school that enrolls students in grades 6 through
 42 12, provide within the two (2) weeks preceding a general election

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- 1 five (5) full recitation periods of class discussion concerning:
 2 (A) the system of government in Indiana and in the United
 3 States;
 4 (B) methods of voting;
 5 (C) party structures;
 6 (D) election laws; and
 7 (E) the responsibilities of citizen participation in government
 8 and in elections.
 9 (7) Require that each teacher employed by the eligible school
 10 present instruction with special emphasis on:
 11 (A) honesty;
 12 (B) morality;
 13 (C) courtesy;
 14 (D) obedience to law;
 15 (E) respect for the national flag and the Constitution of the
 16 State of Indiana and the Constitution of the United States;
 17 (F) respect for parents and the home;
 18 (G) the dignity and necessity of honest labor; and
 19 (H) other lessons of a steadying influence that tend to promote
 20 and develop an upright and desirable citizenry.
 21 (8) Provide good citizenship instruction that stresses the nature
 22 and importance of the following:
 23 (A) Being honest and truthful.
 24 (B) Respecting authority.
 25 (C) Respecting the property of others.
 26 (D) Always doing the student's personal best.
 27 (E) Not stealing.
 28 (F) Possessing the skills (including methods of conflict
 29 resolution) necessary to live peaceably in society and not
 30 resorting to violence to settle disputes.
 31 (G) Taking personal responsibility for obligations to family
 32 and community.
 33 (H) Taking personal responsibility for earning a livelihood.
 34 (I) Treating others the way the student would want to be
 35 treated.
 36 (J) Respecting the national flag, the Constitution of the United
 37 States, and the Constitution of the State of Indiana.
 38 (K) Respecting the student's parents and home.
 39 (L) Respecting the student's self.
 40 (M) Respecting the rights of others to have their own views
 41 and religious beliefs.
 42 (9) Provide instruction in the following studies:

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1 (A) Language arts, including:
 2 (i) English;
 3 (ii) grammar;
 4 (iii) composition;
 5 (iv) speech; and
 6 (v) second languages.
 7 (B) Mathematics.
 8 (C) Social studies and citizenship, including the:
 9 (i) constitutions;
 10 (ii) governmental systems; and
 11 (iii) histories;
 12 of Indiana and the United States, including a study of the
 13 Holocaust and the role religious extremism played in the
 14 events of September 11, 2001, in each high school United
 15 States history course.
 16 (D) Sciences.
 17 (E) Fine arts, including music and art.
 18 (F) Health education, physical fitness, safety, and the effects
 19 of alcohol, tobacco, drugs, and other substances on the human
 20 body.
 21 (g) An eligible school, charter school, or public school shall not
 22 teach the violent overthrow of the government of the United States.
 23 (h) Nothing in this section shall be construed to limit the
 24 requirements of IC 20-30-5.
 25 SECTION 6. IC 20-51-4-2, AS ADDED BY P.L.92-2011,
 26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2013]: Sec. 2. (a) Subject to subsection (b), an eligible
 28 individual is entitled to a choice scholarship under this chapter for each
 29 school year beginning after June 30, 2011, that the eligible student
 30 enrolls in an eligible school.
 31 (b) The ~~department~~ **OMB** may not award more than:
 32 (1) seven thousand five hundred (7,500) choice scholarships for
 33 the school year beginning July 1, 2011, and ending June 30, 2012;
 34 and
 35 (2) fifteen thousand (15,000) choice scholarships for the school
 36 year beginning July 1, 2012, and ending June 30, 2013.
 37 The ~~department~~ **OMB** shall establish the standards used to allocate
 38 choice scholarships among eligible students.
 39 SECTION 7. IC 20-51-4-3, AS AMENDED BY P.L.6-2012,
 40 SECTION 144, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An eligible school may not
 42 discriminate on the basis of race, color, or national origin.

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1 (b) An eligible school shall abide by the school's written admission
2 policy fairly and without discrimination with regard to students who:

3 (1) apply for; or

4 (2) are awarded;

5 scholarships under this chapter.

6 (c) If the number of applicants for enrollment in an eligible school
7 under a choice scholarship exceeds the number of choice scholarships
8 available to the eligible school, the eligible school must draw at
9 random in a public meeting the applications of applicants who are
10 entitled to a choice scholarship from among the applicants who meet
11 the requirements for admission to the eligible school.

12 (d) The ~~department~~ **OMB** shall make random visits to at least five
13 percent (5%) of eligible schools and charter schools to verify that the
14 eligible school or charter school complies with the provisions of this
15 chapter and the Constitutions of the state of Indiana and the United
16 States.

17 (e) Each eligible school, public school, and charter school shall
18 grant the ~~department~~ **OMB** reasonable access to its premises, including
19 access to the school's grounds, buildings, and property.

20 (f) Each year the principal of each eligible school shall certify under
21 penalties of perjury to the ~~department~~ **OMB** that the eligible school is
22 complying with the requirements of this chapter. The ~~department~~ **OMB**
23 shall develop a process for eligible schools to follow to make
24 certifications.

25 SECTION 8. IC 20-51-4-7, AS ADDED BY P.L.92-2011,
26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2013]: Sec. 7. (a) The ~~department~~ **OMB** shall administer this
28 chapter.

29 (b) The ~~department~~ **OMB** shall adopt rules under IC 4-22-2 to
30 implement this chapter.

31 (c) The ~~department~~ **OMB** may adopt emergency rules under
32 IC 4-22-2-37.1 to implement this chapter.

33 SECTION 9. IC 20-51-4-8, AS ADDED BY P.L.92-2011,
34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2013]: Sec. 8. The ~~department~~ **OMB** may prescribe forms and
36 methods for demonstrating eligibility for a choice scholarship under
37 this chapter.

38 SECTION 10. IC 20-51-4-9, AS ADDED BY P.L.92-2011,
39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013]: Sec. 9. (a) The ~~department~~ **OMB** shall enforce the
41 following consequences for an eligible school that is nonpublic:

42 (1) If the school is placed in either of the lowest two (2)

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1 categories or designations under IC 20-31-8-3 for two (2)
 2 consecutive years, the ~~department~~ **OMB** shall suspend choice
 3 scholarship payments for one (1) year for new students who
 4 would otherwise use a choice scholarship to attend the school.

5 (2) If the school is placed in either of the lowest two (2)
 6 categories or designations under IC 20-31-8-3 for three (3)
 7 consecutive years, the ~~department~~ **OMB** shall suspend choice
 8 scholarship payments for new students who would otherwise use
 9 a choice scholarship to attend the school until the school is placed
 10 in the middle category or higher category or designation, for two
 11 (2) consecutive years.

12 (3) If the school is placed in the lowest category or designation
 13 under IC 20-31-8-3 for three (3) consecutive years, the
 14 ~~department~~ **OMB** shall suspend choice scholarship payments for
 15 new students who would otherwise use a choice scholarship to
 16 attend the school until the school is placed in the middle category
 17 or higher category or designation, for three (3) consecutive years.

18 (4) Students who:

19 (A) are currently enrolled at a school described in subdivision
 20 (1), (2), or (3); and

21 (B) qualify for a choice scholarship for the upcoming school
 22 year;

23 may continue to receive a choice scholarship at the school.

24 (b) This section may not be construed to prevent a student enrolled
 25 in a school subject to this section from applying for a choice
 26 scholarship in the future at another participating school.

27 SECTION 11. IC 20-51-4-10, AS ADDED BY P.L.92-2011,
 28 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2013]: Sec. 10. (a) The ~~department~~ **OMB** may distribute any
 30 part of a choice scholarship to the eligible individual (or the parent of
 31 the eligible individual) for the purpose of paying the educational costs
 32 described in section 4(1) of this chapter. For the distribution to be
 33 valid, the distribution must be endorsed by both the eligible individual
 34 (or the parent of the eligible individual) and the eligible school
 35 providing educational services to the eligible individual.

36 (b) **The OMB shall provide in a timely manner to the**
 37 **department the information necessary for the department to**
 38 **distribute state tuition support under IC 20-43-2-1 necessary to**
 39 **make distributions under this chapter.**

40 SECTION 12. IC 20-51-4-12 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) **This section applies after**

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- 1 **June 30, 2013.**
- 2 **(b) The OMB shall provide any information that is necessary for**
- 3 **the department to administer IC 20-43. If the department or the**
- 4 **OMB have conflicting data as to whether an eligible student may**
- 5 **be included in a school corporation's ADM under IC 20-43-4, the**
- 6 **OMB, in consultation with the department, shall resolve the issue.**
- 7 **(c) The OMB may request from the department, and the**
- 8 **department shall provide, student data regarding a student's**
- 9 **participation in the free and reduced lunch program in order for**
- 10 **the OMB to verify student eligibility for an award under section 4**
- 11 **of this chapter. The data may not be used in a manner that would**
- 12 **violate any federal or state privacy laws.**
- 13 **SECTION 13. [EFFECTIVE JULY 1, 2013] (a) Rules that were**
- 14 **adopted by the department of education under IC 20-51-4-7 or**
- 15 **IC 20-51-4-8, both as amended by this act, prior to July 1, 2013,**
- 16 **shall be treated as though the rules were adopted by the office of**
- 17 **management and budget established by IC 4-3-22-3 until the office**
- 18 **of management and budget adopts rules under IC 4-22-2 to**
- 19 **implement IC 20-51-4, as amended by this act.**
- 20 **(b) All powers and duties of the department of education**
- 21 **relating to the administration of IC 20-51-4, as amended by this**
- 22 **act, are transferred to the office of management and budget as**
- 23 **established by IC 4-3-22-3.**
- 24 **(c) This SECTION expires July 1, 2014.**
- 25 **SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The definitions**
- 26 **in IC 20-51-1 apply throughout this SECTION.**
- 27 **(b) After June 30, 2013, the administration of the choice**
- 28 **scholarship program under IC 20-51-4, as amended by this act,**
- 29 **shall be administered by the office of management and budget**
- 30 **established by IC 4-3-22-3.**
- 31 **(c) After June 30, 2013, the office of management and budget is**
- 32 **responsible for collecting payments from an eligible student under**
- 33 **IC 20-51-4-6 if an eligible student enrolls in an eligible institution**
- 34 **for less than an entire school year.**
- 35 **(d) The department of education shall provide any necessary**
- 36 **support to transfer the duties and responsibilities of the**
- 37 **department of education to the office of management and budget**
- 38 **to administer IC 20-51-4 by July 1, 2013.**
- 39 **(e) This SECTION expires January 1, 2014.**
- 40 **SECTION 15. 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 1342, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-18-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 12.5. "OMB" refers to the office of management and budget established by IC 4-3-22-3.**"

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 12.

Page 5, line 21, after "to the" delete "OAI" and insert "**OMB**".

Page 5, line 21, after "for the" delete "OAI" and insert "**OMB**".

Page 5, line 35, delete "OAI" and insert "**OMB**".

Page 6, line 2, delete "OAI" and insert "**OMB**".

Page 9, line 14, delete "OAI" and insert "**OMB**".

Page 9, line 20, delete "OAI" and insert "**OMB**".

Page 9, line 37, delete "OAI" and insert "**OMB**".

Page 10, line 1, delete "OAI" and insert "**OMB**".

Page 10, line 4, delete "OAI" and insert "**OMB**".

Page 10, line 5, delete "OAI" and insert "**OMB**".

Page 10, line 10, delete "OAI" and insert "**OMB**".

Page 10, line 12, delete "OAI" and insert "**OMB**".

Page 10, line 14, delete "OAI" and insert "**OMB**".

Page 10, line 18, delete "OAI" and insert "**OMB**".

Page 10, line 23, delete "OAI" and insert "**OMB**".

Page 10, line 27, delete "OAI" and insert "**OMB**".

Page 10, line 32, delete "OAI" and insert "**OMB**".

Page 10, line 39, delete "OAI" and insert "**OMB**".

Page 11, line 12, delete "OAI" and insert "**OMB**".

Page 11, line 19, delete "OAI" and insert "**OMB**".

Page 11, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 12. IC 20-51-4-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 12. (a) This section applies after June 30, 2013.**

(b) The OMB shall provide any information that is necessary for the department to administer IC 20-43. If the department or the

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OMB have conflicting data as to whether an eligible student may be included in a school corporation's ADM under IC 20-43-4, the OMB, in consultation with the department, shall resolve the issue.

(c) The OMB may request from the department, and the department shall provide, student data regarding a student's participation in the free and reduced lunch program in order for the OMB to verify student eligibility for an award under section 4 of this chapter. The data may not be used in a manner that would violate any federal or state privacy laws."

Page 11, line 26, after "office of" insert "management and budget established by IC 4-3-22-3 until the office of management and budget".

Page 11, delete lines 27 through 28.

Page 11, run in lines 26 through 29.

Page 11, line 33, delete "accountability and innovation" and insert "management and budget".

Page 11, line 34, delete "IC 20-19-4.5-3, as added by this act." and insert "IC 4-3-22-3".

Page 11, after line 35, begin a new paragraph and insert:

"SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 20-51-1 apply throughout this SECTION.

(b) After June 30, 2013, the administration of the choice scholarship program under IC 20-51-4, as amended by this act, shall be administered by the office of management and budget established by IC 4-3-22-3.

(c) After June 30, 2013, the office of management and budget is responsible for collecting payments from an eligible student under IC 20-51-4-6 if an eligible student enrolls in an eligible institution for less than an entire school year.

(d) The department of education shall provide any necessary support to transfer the duties and responsibilities of the department of education to the office of management and budget to administer IC 20-51-4 by July 1, 2013.

(e) This SECTION expires January 1, 2014.

SECTION 17. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1342 as introduced.)

BEHNING, Chair

Committee Vote: yeas 7, nays 4.

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