

# SENATE BILL No. 143

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-19-3-32; IC 20-51.4.

**Synopsis:** Education matters. Requires the department of education to prepare and submit a report that includes the department's recommendations regarding the major themes and content areas that should be developed and maintained in Indiana education law. Amends the: (1) definition of "eligible student" for purposes of eligibility under the Indiana education scholarship account program (program); (2) definition of "ESA qualified expenses" under the program to include additional items; and (3) state fiscal year used to determine the annual grant amount under the program. Provides that the treasurer of state shall accept applications July 1 through June 30 of each year for the immediately following school year. (Current law requires applications to be submitted for an eligible student not later than September 1 for the immediately following school year.) Establishes requirements regarding using grants under the program for computer hardware or other technological devices. Removes the following provisions: (1) Certain program agreement requirements regarding enrollment in a school that receives tuition support. (2) References in the program provisions regarding plans developed under Section 504 of the federal Rehabilitation Act of 1973.

**Effective:** Upon passage; July 1, 2024.

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## Buchanan

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January 9, 2024, read first time and referred to Committee on Education and Career Development.

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Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

# SENATE BILL No. 143

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

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

- 1 SECTION 1. IC 20-19-3-32 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 32. (a) The department shall do the**
- 4 **following:**
- 5 **(1) Review Title 20 and other applicable state education laws**
- 6 **and prepare a report that includes the department's**
- 7 **recommendations regarding the major themes and content**
- 8 **areas that should be developed and maintained in Indiana**
- 9 **education law.**
- 10 **(2) Submit, not later than November 1, 2024, the report**
- 11 **prepared under subdivision (1) to the following in an**
- 12 **electronic format under IC 5-14-6:**
- 13 **(A) The legislative council.**
- 14 **(B) The chairperson of the senate standing committee that**
- 15 **has subject matter jurisdiction over education issues.**
- 16 **(C) The chairperson of the house of representatives**
- 17 **standing committee that has subject matter jurisdiction**



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**over education issues.**

**(b) This section expires July 1, 2025.**

SECTION 2. IC 20-51.4-2-4, AS ADDED BY P.L.165-2021, SECTION 180, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. "Eligible student" refers to an individual who:

- (1) has legal settlement in Indiana; **and**
- (2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in IC 20-33-2-7.
- (3) is a student with a disability at the time the account is established who requires special education and for whom:
  - (A) an individualized education program;
  - (B) a service plan developed under 511 IAC 7-34; or
  - (C) a choice special education plan developed under 511 IAC 7-49;
- has been developed; and
- (4) meets the annual income qualification requirement for a choice scholarship student under IC 20-51-1.

SECTION 3. IC 20-51.4-2-9, AS AMENDED BY P.L.202-2023, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. (a) "ESA qualified expenses" refers to the following expenses provided by an ESA participating entity related to the education of an eligible student for which scholarship money in an ESA account may be used:

- (1) Tuition and fees at a qualified school, public school, or other ESA participating entity.
- (2) Fees for:
  - (A) national norm referenced or criterion referenced examinations;
  - (B) advanced placement examinations, Cambridge International courses, International Baccalaureate courses, or College-Level Examination Program (CLEP) examinations; or
  - (C) statewide assessments associated with industry recognized credentials.
- (3) Educational services for an eligible student who is a student with a disability.
- (4) Payments associated with the use of paraprofessional or educational aides.
- (5) Services contracted for and provided by a school corporation, charter school, magnet school, or qualified school, including:
  - (A) individual classes;



- 1 (B) extracurricular activities or programs; or  
 2 (C) additional programs, resources, or staffing defined in the  
 3 student's education plan.  
 4 (6) Occupational therapy for a student with a disability, provided  
 5 in accordance with the eligible student's individualized education  
 6 program developed under IC 20-35 or service plan developed  
 7 under 511 IAC 7-34.  
 8 (7) Subject to IC 20-51.4-4-7, fees for transportation paid to a  
 9 fee-for-service transportation provider for the eligible student to  
 10 travel to and from an approved special education service provider.  
 11 (8) Tuition and fees to attend training programs and camps that  
 12 have a focus on:  
 13 (A) vocational skills;  
 14 (B) academic skills;  
 15 (C) life skills;  
 16 (D) independence; or  
 17 (E) soft job skills that are character traits and interpersonal  
 18 skills that characterize a person's relationships with other  
 19 people.  
 20 (9) Additional services and therapies prescribed by the eligible  
 21 student's treating physician in accordance with generally accepted  
 22 standards of care to improve outcomes for the student in addition  
 23 to any services currently being provided by the school, insurance,  
 24 or the Medicaid program.  
 25 (10) Fees for the management of the ESA account, as described  
 26 in IC 20-51.4-3-2(d).  
 27 (11) Expenses to enroll in and attend sequences, courses,  
 28 apprenticeships, and programs of study designated and approved  
 29 under IC 20-51.4-4.5-6 if the eligible student has enrolled in the  
 30 CSA program.  
 31 **(12) Curricular materials or any supplemental materials**  
 32 **other than computer hardware or other technological devices**  
 33 **that are required to:**  
 34 **(A) be used by an eligible student at a qualified school,**  
 35 **public school, or other ESA participating entity; or**  
 36 **(B) administer curriculum.**  
 37 **(13) Expenses for autism spectrum disorder sensory**  
 38 **educational tools.**  
 39 **(14) Subject to IC 20-51.4-4-7.5, computer hardware or other**  
 40 **technological devices.**  
 41 **(15) Any other expense approved by the treasurer of state.**  
 42 (b) This subsection does not apply to subsection (a)(3), (a)(6),



1 (a)(7), or (a)(8). The term includes only services that are provided in  
 2 person. The term does not include any virtual or distance learning  
 3 services.

4 SECTION 4. IC 20-51.4-4-1, AS AMENDED BY P.L.201-2023,  
 5 SECTION 220, AND AS AMENDED BY P.L.202-2023, SECTION  
 6 49, AND AS AMENDED BY THE TECHNICAL CORRECTIONS  
 7 BILL OF THE 2024 GENERAL ASSEMBLY, IS CORRECTED AND  
 8 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:  
 9 Sec. 1. (a) ~~After June 30, 2022~~, A parent of an eligible student or an  
 10 emancipated eligible student may establish an Indiana education  
 11 scholarship account for the eligible student by entering into a written  
 12 agreement with the treasurer of state on a form prepared by the  
 13 treasurer of state. **Beginning July 1, 2024**, the treasurer of state shall  
 14 establish a date by which an application to establish an *ESA* account  
 15 **accept applications July 1 through June 30 of each year for**  
 16 **participation in the ESA program** for the ~~upcoming immediately~~  
 17 **following** school year. ~~must be submitted. However, for a school year~~  
 18 ~~beginning after July 1, 2022, applications must be submitted for an~~  
 19 ~~eligible student not later than September 1 for the immediately~~  
 20 ~~following school year.~~ The *ESA* account of an eligible student shall be  
 21 made in the name of the eligible student. The treasurer of state shall  
 22 make the agreement available on the ~~Internet web site~~ *website* of the  
 23 treasurer of state. To be eligible, a parent of an eligible student or an  
 24 emancipated eligible student wishing to participate in the *ESA* program  
 25 must agree that:

26 (1) a grant deposited in the eligible student's *ESA* account under  
 27 section 2 of this chapter and any interest that may accrue in the  
 28 *ESA* account will be used only for the eligible student's *ESA*  
 29 qualified expenses;

30 (2) ~~if the eligible student participates in the CSA program, a~~  
 31 ~~grant deposited in the eligible student's ESA account under~~  
 32 ~~IC 20-51.4-4.5-3 and any interest that may accrue in the ESA~~  
 33 ~~account will be used only for the eligible student's ESA qualified~~  
 34 ~~expenses;~~

35 ~~(3)~~ (3) money in the *ESA* account when the *ESA* account is  
 36 terminated reverts to the state general fund;

37 ~~(4)~~ (4) the parent of the eligible student or the emancipated  
 38 eligible student will use part of the money in the *ESA* account:

39 (A) for the eligible student's study in the subject of reading,  
 40 grammar, mathematics, social studies, or science; or

41 (B) for use in accordance with the eligible student's:

42 (i) individualized education program;



- 1 (ii) service plan developed under 511 IAC 7-34; **or**  
 2 (iii) choice special education plan developed under 511  
 3 IAC 7-49; **or**  
 4 ~~(iv) plan developed under Section 504 of the federal~~  
 5 ~~Rehabilitation Act of 1973; 29 U.S.C. 794;~~  
 6 ~~(4) (5) the eligible student will not be enrolled in a school that~~  
 7 ~~receives tuition support under IC 20-43; and~~  
 8 ~~(5) (6) (5) the eligible student will take the statewide assessment,~~  
 9 as applicable based on the eligible student's grade level, as  
 10 provided under IC 20-32-5.1, or the assessment specified in the  
 11 eligible student's:  
 12 (A) individualized education program developed under  
 13 IC 20-35;  
 14 (B) service plan developed under 511 IAC 7-34; **or**  
 15 (C) choice special education plan developed under 511  
 16 IAC 7-49. **or**  
 17 ~~(D) plan developed under Section 504 of the federal~~  
 18 ~~Rehabilitation Act of 1973; 29 U.S.C. 794.~~  
 19 (b) A parent of an eligible student may enter into a separate  
 20 agreement under subsection (a) for each child of the parent. However,  
 21 not more than one (1) *ESA* account may be established for each eligible  
 22 student.  
 23 (c) The *ESA* account must be established under subsection (a) by a  
 24 parent of an eligible student or an emancipated eligible student for a  
 25 school year on or before a date established by the treasurer of state,  
 26 which must be at least thirty (30) days before the *fall ADM count date*  
 27 *established by the state board fall count day of ADM established* under  
 28 IC 20-43-4-3. A parent of an eligible student or an emancipated eligible  
 29 student may not enter into an agreement under this section or maintain  
 30 an *ESA* account under this chapter if the eligible student receives a  
 31 choice scholarship under IC 20-51-4 for the same school year. An  
 32 eligible student may not receive a grant under section 2 of this chapter  
 33 if the eligible student is currently included in a school corporation's  
 34 ADM count under IC 20-43-4.  
 35 (d) Except as provided in subsections (e) and (f), an agreement  
 36 made under this section is valid for one (1) school year while the  
 37 eligible student is in kindergarten through grade 12 and may be  
 38 renewed annually. Upon graduation, or receipt of a certificate of  
 39 completion under the eligible student's individualized education  
 40 program, the eligible student's *ESA* account is terminated.  
 41 (e) An agreement entered into under this section terminates  
 42 automatically for an eligible student if:



1 (1) the eligible student no longer resides in Indiana while the  
 2 eligible student is eligible to receive grants under section 2 of this  
 3 chapter; or

4 (2) the *ESA* account is not renewed within three hundred  
 5 ninety-five (395) days after the date the *ESA* account was either  
 6 established or last renewed.

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

10 (f) An agreement made under this section for an eligible student  
 11 while the eligible student is in kindergarten through grade 12 may be  
 12 terminated before the end of the school year if the parent of the eligible  
 13 student or the emancipated eligible student notifies the treasurer of  
 14 state in a manner specified by the treasurer of state.

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

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

26 SECTION 5. IC 20-51.4-4-4, AS AMENDED BY P.L.201-2023,  
 27 SECTION 224, AND AS AMENDED BY P.L.202-2023, SECTION  
 28 53, AND AS AMENDED BY THE TECHNICAL CORRECTIONS  
 29 BILL OF THE 2024 GENERAL ASSEMBLY, IS CORRECTED AND  
 30 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:  
 31 Sec. 4. (a) Subject to sections 5 and 10 of this chapter, the annual grant  
 32 amount under section 2 of this chapter for an eligible student equals,  
 33 subject to subsection (b), ninety percent (90%) of the amount  
 34 determined in the last STEP of the following formula:

35 STEP ONE: Determine the school corporation in which the  
 36 eligible student has legal settlement.

37 STEP TWO: Determine the amount of state tuition support that  
 38 the school corporation identified under STEP ONE is eligible to  
 39 receive under IC 20-43-6 for the state fiscal year in which the  
 40 **immediately preceding current** school year begins. The amount  
 41 does not include amounts provided for special education grants  
 42 under IC 20-43-7, career and technical education grants under



1 IC 20-43-8, ~~or~~ grants under IC 20-43-10, *or an academic*  
 2 *performance grant under IC 20-43-10.5.*

3 STEP THREE: Determine the result of:

4 (A) the STEP TWO amount; divided by

5 (B) the current ADM (as defined in IC 20-43-1-10) for the  
 6 school corporation identified under STEP ONE for the state  
 7 fiscal year used in STEP TWO.

8 (b) An eligible student may choose to receive special education  
 9 services from the school corporation required to provide the special  
 10 education services to the eligible student under 511 IAC 7-34-1.  
 11 However, if an eligible student described in subsection (a) chooses not  
 12 to receive special education or related services from a school  
 13 corporation required to provide the services to the eligible student  
 14 under 511 IAC 7-34-1, the ESA annual grant amount for the eligible  
 15 student shall, in addition to the amount described in subsection (a),  
 16 include the amount the school corporation would receive under  
 17 IC 20-43-7 for the eligible student if the eligible student attended the  
 18 school corporation.

19 (c) The ESA annual grant amounts provided in subsection (a) shall  
 20 be rounded as provided in IC 20-43-3-1(4).

21 SECTION 6. IC 20-51.4-4-7.5 IS ADDED TO THE INDIANA  
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 2024]: **Sec. 7.5. A parent of an eligible**  
 24 **student or an emancipated eligible student may purchase computer**  
 25 **hardware or one (1) technological device as described in**  
 26 **IC 20-51.4-2-9(a)(14) only:**

27 **(1) one (1) time during a three (3) year period; and**

28 **(2) if the following apply:**

29 **(A) The computer hardware or other technological device**  
 30 **is used for the eligible student's educational needs.**

31 **(B) The treasurer of state approves the purchase of the**  
 32 **computer hardware or technological device.**

33 SECTION 7. IC 20-51.4-5-3, AS AMENDED BY P.L.202-2023,  
 34 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2024]: Sec. 3. (a) Each qualified school that is an ESA  
 36 participating entity that accepts payments for tuition and fees made  
 37 from an ESA account under the ESA program shall administer to its  
 38 eligible students, for the applicable grade levels as provided under  
 39 IC 20-32-5.1, the statewide assessment unless otherwise prescribed by  
 40 the eligible student's:

41 (1) individualized education program;

42 (2) service plan developed under 511 IAC 7-34; **or**





1           (3) choice special education plan developed under 511 IAC 7-49.  
2           or  
3           ~~(4) plan developed under Section 504 of the federal Rehabilitation~~  
4           ~~Act of 1973, 29 U.S.C. 794.~~  
5           (b) Upon receipt of the statewide assessment test results, the  
6           department shall, subject to the federal Family Educational Rights and  
7           Privacy Act (20 U.S.C. 1232g) and any regulations adopted under that  
8           act:  
9           (1) aggregate the statewide assessment test results according to  
10          the grade level, gender, race, and family income level of all  
11          eligible students; and  
12          (2) make the results determined under subdivision (1) available  
13          on the department's website.  
14          **SECTION 8. An emergency is declared for this act.**

