

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1234 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 education and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 21-1-4-1, AS AMENDED BY P.L.276-2003,
- 7 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2004]: Sec. 1. (a) It is the duty of the general assembly under
- 9 the Constitution of the State of Indiana to encourage by all suitable
- 10 means moral, intellectual, scientific, and agricultural improvement and
- 11 to provide, by law, for a general and uniform system of common
- 12 schools, wherein tuition shall be without charge, and equally open to all.
- 13 (b) It is the intent of the general assembly that:
- 14 (1) the common school fund should be used to:
- 15 (A) assist school corporations and school townships in
- 16 financing their school building construction and educational
- 17 technology programs; and
- 18 (B) assist charter schools in financing their operations;
- 19 as authorized by law and under circumstances such that the
- 20 principal of the fund remains inviolate;
- 21 (2) to the end described in subdivision (1), the common school
- 22 fund may be used to make advances to:
- 23 (A) school corporations and school townships under IC 21-1-5
- 24 **and IC 21-1-31;** and
- 25 (B) charter schools under IC 20-5.5-7-3.5(f) and
- 26 IC 20-5.5-7.5; and
- 27 (3) this chapter is in furtherance of the duties which are imposed
- 28 exclusively upon the general assembly by the Constitution of the
- 29 State of Indiana in connection with the maintenance of a general
- 30 and uniform system of common schools and the investment and

1           reinvestment of the common school fund and shall be liberally  
2           construed to carry out the purposes of the Constitution of the  
3           State of Indiana.

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

6           SECTION 2. IC 21-1-31 IS ADDED TO THE INDIANA CODE AS  
7           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
8           2004]:

9           **Chapter 31. Early Learning Program**

10          **Sec. 1. As used in this chapter, "department" refers to the**  
11          **department of education.**

12          **Sec. 2. As used in this chapter, "eligible student" refers to an**  
13          **eligible student determined under section 8 of this chapter.**

14          **Sec. 3. As used in this chapter, "fund" refers to early learning**  
15          **fund.**

16          **Sec. 4. As used in this chapter, "school" means any school**  
17          **maintained by a school corporation.**

18          **Sec. 5. As used in this chapter, "school corporation" has the**  
19          **meaning set forth in IC 21-3-1.6-1.1.**

20          **Sec. 6. The department shall establish a program to make:**

21               (1) advances from the common school fund beginning after  
22               June 30, 2004, to any school corporation that applies for an  
23               advance in the manner prescribed by the department to  
24               establish, continue, or expand voluntary kindergarten  
25               programs in one (1) or more schools in the school  
26               corporation; and

27               (2) make grants from the early learning fund beginning July  
28               1, 2005, to school corporations to provide a means of repaying  
29               the advances made under subdivision (1).

30          **Sec. 7. Subject to section 10 of this chapter, the amount of an**  
31          **advance that a school corporation is eligible to receive is equal to**  
32          **one thousand five hundred dollars (\$1,500) for each eligible**  
33          **student, as determined under section 8 of this chapter.**

34          **Sec. 8. The number of eligible students in a school corporation**  
35          **is equal to the number of students in the school corporation who**  
36          **are enrolled in full day kindergarten in the current school year,**  
37          **as determined in one (1) or more counts of students made under**  
38          **the rules adopted the department.**

39          **Sec. 9. Not more than twenty-five million dollars (\$25,000,000)**  
40          **may be advanced to school corporations under this chapter in any**  
41          **school year.**

42          **Sec. 10. (a) If in any school year, insufficient money is**  
43          **available from the amount specified in section 9 of this chapter to**  
44          **make advances for all eligible students enrolled in all applicant**

1 school corporations, money shall be awarded in the following order  
 2 until the amount available for advances under section 9 of this  
 3 chapter is exhausted:

4 (1) The amounts determined under subsection (b).

5 (2) The amounts determined under subsection (c).

6 (3) The amounts determined under subsection (d).

7 (b) The department shall first award advances for full day  
 8 kindergarten in the amount determined under STEP FIVE of the  
 9 following formula:

10 **STEP ONE:** For each school that received state funding for  
 11 full day kindergarten in the immediately previous school  
 12 year, determine the number of eligible students enrolled in  
 13 the current school year in the school.

14 **STEP TWO:** For each school described in STEP ONE, multiply  
 15 the number determined under STEP ONE by the amount of  
 16 the advance determined under section 7 of this chapter.

17 **STEP THREE:** Rank each school described in STEP ONE by  
 18 the percentage of eligible students eligible for a free or  
 19 reduced school lunch program, with the school with the  
 20 highest percentage ranked first and the school with the  
 21 lowest percentage ranked last.

22 **STEP FOUR:** Beginning with the school ranked first under  
 23 STEP THREE and proceeding through the school ranked last  
 24 under STEP THREE, allocate the lesser of the following to  
 25 each school:

26 (A) The amount determined for the school under STEP  
 27 TWO.

28 (B) The amount remaining from the amounts available for  
 29 full day kindergarten advances after allocating money to  
 30 each school with a higher ranking under STEP THREE.

31 **STEP FIVE:** Distribute to each school corporation the sum of  
 32 the amounts allocated under STEP FOUR for each school in  
 33 the school corporation.

34 (c) If the amount available for full day kindergarten advances  
 35 has a balance after making all of the distributions required under  
 36 subsection (b), advances shall be made in the amount determined  
 37 under STEP FIVE of the following formula:

38 **STEP ONE:** For each Title I school that did not receive state  
 39 funding for full day kindergarten in the immediately  
 40 previous school year, determine the number of eligible  
 41 students enrolled in the current school year.

42 **STEP TWO:** For each school described in STEP ONE, multiply  
 43 the number determined under STEP ONE by the amount of  
 44 the advance determined under section 7 of this chapter.

1           **STEP THREE:** Rank each school described in **STEP ONE** by  
 2           the percentage of eligible students eligible for a free or  
 3           reduced school lunch program, with the school with the  
 4           highest percentage ranked first and the school with the  
 5           lowest percentage ranked last.

6           **STEP FOUR:** Beginning with the school ranked first under  
 7           **STEP THREE** and proceeding through the school ranked last  
 8           under **STEP THREE**, allocate the lesser of the following to  
 9           each school:

10           (A) The amount determined for the school under **STEP**  
 11           **TWO.**

12           (B) The amount remaining from amounts available for full  
 13           day kindergarten advances after allocating money to each  
 14           school with a higher ranking under **STEP THREE.**

15           **STEP FIVE:** Distribute to each school corporation the sum of  
 16           the amounts allocated under **STEP FOUR** for each school in  
 17           the school corporation.

18           (d) If the amount available for full day kindergarten advances  
 19           has a balance after making all of the distributions required under  
 20           subsections (b) and (c), advances shall be distributed in the  
 21           amount determined under **STEP FIVE** of the following formula:

22           **STEP ONE:** For each school that is not described in  
 23           subsection (b) or (c), determine the number of eligible  
 24           students enrolled in the current school year in the school.

25           **STEP TWO:** For each school described in **STEP ONE**, multiply  
 26           the number determined under **STEP ONE** by the amount of  
 27           the advance determined under section 7 of this chapter.

28           **STEP THREE:** Rank each school described in **STEP ONE** by  
 29           the percentage of eligible students eligible for a free or  
 30           reduced school lunch program, with the school with the  
 31           highest percentage ranked first and the school with the  
 32           lowest percentage ranked last.

33           **STEP FOUR:** Beginning with the school ranked first under  
 34           **STEP THREE** and proceeding through the school ranked last  
 35           under **STEP THREE**, allocate the lesser of the following to  
 36           each school:

37           (A) The amount determined for the school under **STEP**  
 38           **TWO.**

39           (B) The amount remaining from amounts available for full  
 40           day kindergarten advances after allocating money to each  
 41           school with a higher ranking under **STEP THREE.**

42           **STEP FIVE:** Distribute to each school corporation the sum of  
 43           the amounts allocated under **STEP FOUR** for each school in  
 44           the school corporation.

1           **Sec. 11. The program must provide for an application**  
 2 **procedure. An application for an advance must:**

- 3           (1) be on a form prescribed by the department;  
 4           (2) be signed by the superintendent of the school corporation  
 5           applying for the advance; and  
 6           (3) include the following information:  
 7                (A) A detailed description of the proposed program or  
 8                programs.  
 9                (B) Evidence supporting the applicant's need for the  
 10               program or programs.  
 11               (C) Other pertinent information required by the  
 12               department, including evidence guaranteeing the applicant  
 13               has developed a plan to evaluate the effect and results of  
 14               the applicant's program or programs.

15           **Sec. 12. The department may approve an application only if the**  
 16 **department determines that the application complies with:**

- 17           (1) the requirements set forth in this chapter; and  
 18           (2) the standards established in the rules adopted by the  
 19           department.

20           **Sec. 13. The program must provide that the recipient of the**  
 21 **advance is required to enter into a written agreement with the**  
 22 **department to:**

- 23           (1) use the advance only for the purposes specified in the  
 24           agreement or an amendment to the agreement; and  
 25           (2) comply with the other terms established by the  
 26           department as a condition of receiving the advance.

27           **Sec. 14. The department shall provide the budget agency with:**

- 28           (1) a list of all approved applicants that includes the amount  
 29           approved for distribution; and  
 30           (2) a copy of each approved application.

31           **Sec. 15. (a) The agreement must provide that the advance is:**

- 32           (1) being made without interest on the outstanding balance  
 33           or any fee; and  
 34           (2) payable from grants made under this chapter on the  
 35           schedule determined by the department.

36           **(b) The agreement must include a schedule of the anticipated**  
 37 **grants that will be made to the school corporation to repay the**  
 38 **advance.**

39           **(c) The amount of the required payment in any month may not**  
 40 **exceed the amount of the anticipated grant payment for that**  
 41 **month.**

42           **Sec. 16. An agreement for an advance must include a provision**  
 43 **allowing the state to withhold any funds due to a school**  
 44 **corporation to reimburse the common school fund for an advance**

1 if repayment is not made in conformity with the terms of the  
2 agreement.

3 Sec. 17. An agreement for an advance for a full day  
4 kindergarten program must prohibit the imposition of a fee for  
5 students who participate in the program and qualify for a free or  
6 reduced lunch program.

7 Sec. 18. The department shall:

8 (1) provide for the distribution of the approved amount of an  
9 advance; and

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

12 Sec. 19. Distributions of advances under this chapter shall be  
13 made at the time and in the manner prescribed by the  
14 department.

15 Sec. 20. (a) The early learning fund is established. The early  
16 learning fund shall be administered by the department.

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

22 (c) Money in the early learning fund is annually appropriated  
23 for the purposes of the early learning fund.

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

26 Sec. 21. The department shall establish a program to make  
27 grants from the early learning fund after June 30, 2005, to school  
28 corporations that receive an advance under this chapter for the  
29 purpose of repaying the amount of the advance or advances made  
30 to the school corporation under this chapter from the common  
31 school fund.

32 Sec. 22. Grants shall be made at the times and in the manner  
33 specified in the agreements made with the recipients of advances  
34 under this chapter. Subject to the availability of money in the  
35 early learning fund, grants shall be made in the amounts  
36 necessary for a school corporation to comply with the repayment  
37 schedule imposed under the agreement entered into by the school  
38 corporation under this chapter.

39 Sec. 23. The department shall withhold the amount of the  
40 grants due to the school corporation to reimburse the common  
41 school fund for the advance or advances made to the school  
42 corporation and reduce the amount owed by the school corporation  
43 by the amount withheld.

44 SECTION 3. IC 32-34-1-34, AS ADDED BY P.L.2-2002, SECTION

1 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2 2004]: Sec. 34. (a) Except as provided in section 42(d) of this chapter,  
3 the treasurer of state shall, on order of the attorney general, pay the  
4 necessary costs of the following:

- 5 (1) Selling abandoned property.
- 6 (2) Mailing notices.
- 7 (3) Making publications required by this chapter.
- 8 (4) Paying other operating expenses and administrative expenses,  
9 including:

10 (A) salaries and wages reasonably incurred by the attorney  
11 general in the administration and enforcement of this chapter;  
12 and

13 (B) costs incurred in examining records of the holders of  
14 property and in collecting the property from the holders.

15 (b) If the balance of the principal of the abandoned property fund  
16 established by section 33 of this chapter exceeds five hundred thousand  
17 dollars (\$500,000), the treasurer of state:

18 **(1) shall, after June 30, 2005, transfer in each state fiscal**  
19 **year the lesser of:**

20 **(A) the balance in the fund exceeding five hundred**  
21 **thousand dollars (\$500,000); or**

22 **(B) twenty-five million dollars (\$25,000,000);**

23 **from the abandoned property fund to the early learning fund**  
24 **established under IC 21-1-31 in quarterly installments; and**

25 **(2) may, and at least once each state fiscal year, shall, transfer to**  
26 **the common school fund of the state the balance of the principal**  
27 **of the abandoned property fund that exceeds the sum of the**  
28 **amount transferred under subdivision (1) and five hundred**  
29 **thousand dollars (\$500,000).**

30 (c) If a claim is allowed or a refund is ordered under this chapter  
31 that is more than five hundred thousand dollars (\$500,000), the  
32 treasurer of state shall transfer from the state general fund sufficient  
33 money to make prompt payment of the claim. There is annually  
34 appropriated to the treasurer of state from the state general fund the  
35 amount of money sufficient to implement this subsection.

36 (d) Before making a deposit into the abandoned property fund, the  
37 attorney general shall record the following:

- 38 (1) The name and last known address of each person appearing  
39 from the holder's reports to be entitled to the abandoned property.
- 40 (2) The name and last known address of each insured person or  
41 annuitant.
- 42 (3) The number, the name of the corporation, and the amount due  
43 concerning any policy or contract listed in the report of a life  
44 insurance company.

45 (e) Except as provided in subsection (f), earnings on the property  
46 custody fund and the abandoned property fund shall be credited to each

1 fund.

2 (f) On July 1 of each year, the interest balance in the property  
3 custody fund established by section 32 of this chapter and the interest  
4 balance in the abandoned property fund shall be transferred to the state  
5 general fund.

6 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **The definitions**  
7 **in IC 21-1-31, as added by this act, apply throughout this**  
8 **SECTION.**

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

14 (c) **There is appropriated to the early learning trust fund from**  
15 **the state general fund eight million five hundred thousand dollars**  
16 **(\$8,500,000) for use in carrying out the purposes of this SECTION**  
17 **during the state fiscal year beginning July 1, 2004, and ending**  
18 **June 30, 2005.**

19 (d) **In addition to advances made under IC 21-1-31, as added by**  
20 **this act, the department of education shall make grants to school**  
21 **corporations for full day kindergarten programs under this**  
22 **SECTION. A school corporation may apply for a grant in the**  
23 **manner and on the forms prescribed by the department of**  
24 **education. The amount of a grant to an applicant school**  
25 **corporation is the amount specified under IC 21-1-31-7, as added**  
26 **by this act, for an advance. If insufficient money is available from**  
27 **the amount appropriated under this SECTION to make grants for**  
28 **all eligible students enrolled in all applicant school corporations,**  
29 **money shall be awarded to schools on the same priority basis as**  
30 **advances are to be awarded under IC 21-1-31-10, as added by this**  
31 **act. If a school is eligible for a grant under this SECTION and an**  
32 **advance under IC 21-1-31, as added by this act, the department of**  
33 **education shall award grants until the amount appropriated under**  
34 **this SECTION is exhausted and then award an advance to cover**  
35 **any remaining amount to which the school is eligible.**

36 (e) **A school corporation that is awarded a grant must provide**  
37 **to the department of education a financial report stating how the**  
38 **funds were spent. Any unspent funds on July 1, 2005, must be**  
39 **returned to the state by the school corporation.**

40 (f) **The department of education may adopt temporary rules in**  
41 **the manner provided for the adoption of emergency rules under**  
42 **IC 4-22-2-37.1 to implement this SECTION and IC 21-1-31, as**  
43 **added by this act. A temporary rule adopted under this subsection**  
44 **expires on the earliest of the following:**



- 1           **(1) The date that another temporary rule adopted under this**
- 2           **subsection supersedes the prior temporary rule.**
- 3           **(2) The date that permanent rules adopted under IC 4-22-2**
- 4           **supersede the temporary rule.**
- 5           **(3) July 1, 2005.**
- 6           **(g) This SECTION expires July 1, 2005."**
- 7           Renumber all SECTIONS consecutively.  
(Reference is to EHB 1234 as printed February 13, 2004.)

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Senator SIPES