

e-Dition

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2021 Session Hits Midpoint—Your Voice Matters!

By **Terry Spradlin**, Executive Director, tspradlin@isba-ind.org



The 2021 budget session of the Indiana General Assembly has reached its midpoint with the third reading deadline of bills in the chamber of origin occurring earlier this week. The two essential duties of the state legislature will be to adopt by the end of session the 2021-2023 state budget and redistrict legislative boundaries based on the 2020 U.S. decennial census. House Bill 1001, the state biennial budget, has cleared the House of Representatives. However, no action has been taken on redistricting (look for this to be a special session matter after the regular session concludes). ISBA has been busy tracking 179 bills from the start of the session. Now, at this juncture of the session, the tracking list is down to 61 bills with the others having died in the bill process. To view the new tracking list, click [HERE](#).

The 2021 session has presented challenges to K-12 public education—such as HB 1005 that greatly expands school choice programs—as well as opportunities to support pro-public education agenda items (e.g., COVID-19 governance bills; see the column to follow from Lisa Tanselle on related topic). The Week #8

Continued on next page.

ISBA Legislative Update will provide you with a session scorecard on key bills still moving that ISBA either supports or opposes. Don't forget you can always find the library of ISBA Weekly Legislative Updates during the session on our website.

Find ISBA Weekly Legislative Updates [HERE!](#)

Your voice remains important to influence the outcomes on key legislation. We've had some victories already this session with the help of grassroots advocacy engagement by ISBA members (e.g., SB 124, First Day of School). If the K-12 public education community is to achieve greater funding increases in the budget and diminish the scope of the school choice voucher programs, your continued engagement is paramount. Every legislator needs to hear from multiple constituents throughout session on why "ESAs are Not OK" and that the voucher program does not save the state money, does not improve student achievement, lacks transparency and accountability, and is subject to less regulation and oversight than public schools. Legislators need to hear from you that public schools are "the schools of choice" and that "dollars should follow the child to school they attend (public schools!)." To learn more about ISBA's advocacy campaign "ESA Is Not OK!", see the column to follow from Adam VanOsdol and visit the toolkit <https://www.isba-ind.org/esa-is-not-ok.html>.

Will you lend your voice? Legislators are home for a three-day recess and long weekend. There is no time like the present to write, email, or call them to share your perspectives. When lawmakers hear from school board members, that gets their attention. Your voice matters!

**NO
ESA!**

#SupportINPublicSchools

**URGE LEGISLATORS TO
VOTE NO
ON VOUCHER EXPANSION IN INDIANA.**

CALL YOUR STATE LEGISLATORS TODAY.

Indiana House of Representatives: 800-382-9842 Indiana Senate: 800-382-9467

#ESAIsNotOK

Are You Mired in Minutiae?



By **Dr. Michael Adamson**, Director of Board Services, madamson@isba-ind.org

This is a common malady of school boards, especially following an election. Take a breath . . . it is not a criticism, just an observation. Until new board members learn their role from a governance oversight perspective, getting into the weeds is a natural part of that learning process. Just discovering how to actually lead as a governing unit, combining individual leadership styles, makes the board governance oversight task even more difficult to learn and board turnover makes it equally difficult to sustain.

New board members and sometimes entire boards periodically get caught up in the details of a project or a matter under consideration. It can be difficult not to. Still, uninvited incursions into administrative or day-to-day matters, however well intended, disrupts the line-of-authority, and can confuse who is actually accountable and to whom. In an ultimate authority accountability model, most often followed in traditional K-12 public education, the responsibility for success, or failure, always resides with superintendents. However, that model breaks down appreciably when board members step over the line between leadership and management.

“You are already ahead of the issue if you acknowledge it and are resolved to step back and allow the system to perform.”

An occasional foray beyond the accepted governance oversight boundary is typically easy to forgive and a gentle nudging is usually all it takes to set things right. However, when board member oversight boundaries are continually stretched, or broken altogether, a serious leadership and management situation evolves that can be much more difficult to correct. Suggesting that these breaches are harmless, what is expected, part of what board members should do, etc. are textbook misrepresentations of board member roles and responsibilities, not just here in Indiana, but across the nation.

It may not be an easy task to stay out of the minutiae and collectively evaluate and measure success from a perspective that distance provides, especially if your own profession or personal system for accomplishing objectives requires that your approach be hands-on. But you are already ahead of the issue if you acknowledge it and are resolved to step back and allow the system to perform. You might be amazed at how well things run without outside interference.

COVID-19 Immunity Bill Signed by Governor



By **Lisa Tanselle**, General Counsel, ltanselle@isba-ind.org

The General Assembly has reached the halfway point of the 2021 legislative session and one bill has already been signed by the governor. On February 18, 2021, Governor Holcomb signed Senate Enrolled Act 1, the legislation that provides immunity to school corporations (and several other entities) from civil tort liability for any damages arising from COVID-19, occurring on or after March 1, 2020. The legislation took effect immediately upon the governor's signature but will expire on December 31, 2024. The immunity provided in this legislation is in addition to any other immunity protection that may apply under state or federal law.

The new law defines "arising from COVID-19" as "an injury or harm caused by or resulting from (1) the actual, alleged, or possible exposure to or contraction of COVID-19; or (2) services, treatment, or other actions performed for COVID-19." Additionally, the immunity exists for any damages that occurred

(1) on the premises owned or operated by a school corporation; (2) on any premises on which the school corporation or an employee or agent of the school corporation provided property or services to another person; or (3) during an activity managed, organized, or sponsored by the school corporation. These provisions should shield school corporations from nearly any claim by a student, parent, employee, or patron that he or she was exposed to or contracted COVID-19 while on school corporation property or participating in any activity sponsored by the school corporation.

That being said, the legislation exempts from immunity any actions or omissions on the part of a school corporation that constitute "gross negligence or willful or wanton misconduct." Anyone claiming gross negligence or willful or wanton misconduct must prove this by "clear and convincing evidence." Thus, it is important and will continue to be important for school officials to make decisions that take into consideration guidance from federal, state, and local officials.

Additionally, in an effort to protect workers and their rights as employees, the new law specifies that the immunity provisions do not apply to claims filed under Indiana's laws on worker's compensation, worker's occupational diseases compensation, occupational health and safety, or unemployment compensation.

The ISBA Legislative Committee identified immunity from lawsuits related to COVID-19 as a legislative priority for this session. This legislation represents a significant effort on the part of the governor and the legislative leaders in our state to protect school corporations and their limited financial resources from such lawsuits. Please reach out to your local legislators and thank them for their support of this legislation.

Contract for Services – What Are the Statutory Procedures?

By **Julie Slavens**, Senior Counsel and Dir. of Policy Services, jslavens@isba-ind.org



The Indiana Public Purchasing law provides procedures and requirements for purchases by governmental agencies, including school corporations. (See IC 5-22) This law addresses various matters such as purchasing preferences, purchasing methods, and specific procedures governmental agencies must follow when making purchases of specific and/or certain values. It is considered to be the law to go to whenever a governmental agency wants to purchase or contract for goods and services to determine what procedures need to be followed to make the purchase legally.

While the Public Purchasing law provides for detailed procedures and in some cases restrictions when a governmental agency is purchasing goods, it does not follow this pattern for purchases or contracting for services. In fact, there are only two statutes that address the purchase of services by a governmental agency. IC 5-22-6-1 states the purchasing agent of the school board may purchase services using any procedure the school board or the purchasing agent considers appropriate. IC 5-22-6-2 provides the school board may adopt rules or a policy addressing the purchase of services.

These statutes provide the school board will greater flexibility when purchasing services vis-à-vis purchasing goods which requires more burdensome, specific procedures. The school board does not have to but may adopt a policy and/or rules or procedures for the purchase of services. There is no requirement to obtain quotes, proposals, or bids unless the school board determines such procedures should be used or other specific provisions of the public purchase law should be utilized to purchase services. A school board also has the option to delegate to its purchasing agent the responsibility to determine the appropriate method to be used when purchasing services for the school corporation.

The next question is what qualifies as a service? The statute defines services to mean “the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.” (See IC 5-22-2-30) In the case of the service including equipment such as a contract for telephone services, which generally includes the telephonic equipment in order to provide the telephone services or services for repairs where the service provider will provide equipment or supplies to do the contracted service, the purchase or contract for services will need to be analyzed to determine if the equipment is incidental to the services performed. If this is the case, the purchase may be treated as a purchase for services. To avoid any ambiguity, a school board has the option to adopt a policy or rule that states if any purchase of a service involves equipment the purchase should be treated as a purchase for goods under the Indiana Public Purchasing law.

An Overview of the ESA Is Not OK Toolkit



By **Adam VanOsdol**, Communications Specialist/Content Strategist, avanosdol@isba-ind.org

The Indiana School Boards Association on February 2 rolled out an online toolkit of resources for school boards to use against the voucher expansion bills, which received their first hearing the following day in the House and Senate education committees.

The resources include talking points, fast facts, a sample school board resolution, social media graphics, and legislator contact information, all developed to make it easier for school boards to engage in the defense of public education.

Your response so far has been nothing short of inspiring!

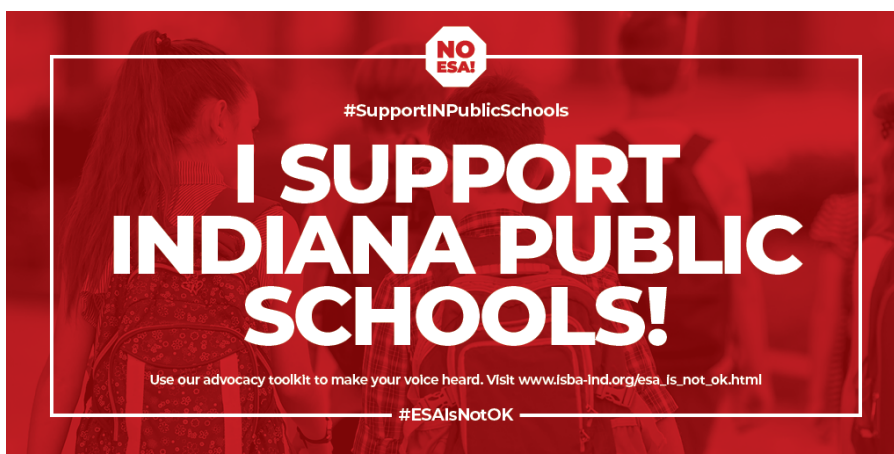
ISBA members, school administrators, and associations are using the talking points to elevate the public discourse. Newspapers are using the facts and figures we compiled to sharpen their editorials. School boards are adopting and customizing the sample resolution, and social media users are helping spread the message to a wider and broader audience.

The collective impact of your advocacy efforts is truly making a difference. That's especially true in the Senate, which held SB 412 on education savings accounts and significantly watered down SB 413 expanding voucher eligibility. The House embedded its version of school choice expansion into the state budget bill at a price tag of approximately \$144M.

With your help, we're making headway, but there's so much work left to be done. Please call or email (and tag on social media) your area legislators and share your objections to the choice expansion measures. They need to hear from constituents that these proposals are not okay.

ISBA continues to refine the toolkit on a near-daily basis with fiscal updates, positive media coverage, and school board resolutions.

The "ESA Is Not OK" toolkit is available at www.isba-ind.org/esa-is-not-ok.html.





The banner features a large, stylized 'n' in blue and orange on the left. In the center, the text 'nsba 2021' is displayed in a bold, sans-serif font, with '2021' in orange and 'nsba' in blue. Below this, 'ONLINE EXPERIENCE' is written in a smaller, blue font. To the right, the text 'The Conference for Public Education Leaders' is in a dark blue font, followed by a red horizontal line and 'APRIL 8-10'. In the top right corner, an orange circle contains the text 'Early Bird Savings End February 26'. At the bottom right, 'REGISTER NOW' is in a large, bold, dark blue font, with 'nsba.org/NSBA2021' in a smaller, red font below it.

nsba
2021
ONLINE EXPERIENCE

The Conference for
Public Education Leaders

APRIL 8-10

REGISTER NOW
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Early Bird
Savings End
February 26

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