January 19, 2007

SENATE BILL No. 262

DIGEST OF SB 262 (Updated January 17, 2007 5:28 pm - DI 71)

Citations Affected: IC 6-1.1; IC 20-26; IC 20-31; noncode.

Synopsis: Public school transfers. Establishes a public school transfer program that allows the parent of a student to request a transfer for the student to enroll in: (1) a different public school in the student's base school corporation; or (2) a public school in a different school corporation. Provides an allocation of public funds for transfer students between the base school corporation and the receiving school corporation, and provides that the parent is responsible for transportation and any additional costs. Allows school corporations to enter into an interlocal agreement under which students whose legal settlement is in one school corporation may attend school in the other school corporation. Allows a student who has legal settlement in one school corporation and whose parent owns property for which the parent pays property tax in another school corporation to attend school in the latter school corporation without transfer tuition being charged. Requires a school corporation to provide notice to parents concerning the publication of the school corporation's annual performance report and concerning the right of students to transfer out of schools that fail to perform adequately.

Effective: Upon passage; July 1, 2007.

Kenley

January 8, 2007, read first time and referred to Committee on Education and Career Development.
January 18, 2007, amended, reported favorably — Do Pass.

C o p y

January 19, 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. 262

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 6-1.1-21-2, AS AMENDED BY P.L.67-2006, SECTION 4, AND AS AMENDED BY P.L.2-2006, SECTION 57, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5 is to be filed ~~*on or before March 1 of*~~ each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile

homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county) *(before its repeal);* minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 (repealed) were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially

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established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 *(before its repeal) or IC 20-46-6* for a capital projects fund; plus

(ii) IC 6-1.1-19-10 *(before its repeal) or IC 20-46-3* for a racial balance fund; plus

(iii) IC 36-12-12 for a library capital projects fund; plus

(iv) IC 36-10-13-7 for an art association fund; plus

(v) IC 21-2-17 *(before its repeal) or IC 20-46-2* for a special education preschool fund; plus

(vi) IC 21-2-11.6 *(before its repeal) or IC 20-46-1* for a referendum tax levy fund; plus

(vii) an appeal filed under IC 6-1.1-19-5.1 *(before its repeal) or IC 20-45-6-8* for an increase in a school corporation's maximum permissible ~~*general fund*~~ *tuition support* levy for certain transfer tuition costs; plus

(viii) an appeal filed under IC 6-1.1-19-5.4 *(before its repeal) or IC 20-46-4-10* for an increase in a school corporation's maximum permissible ~~*general*~~ *transportation* fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under ~~*IC 6-1.1-19*~~ *IC 6-1.1-19-4.5 (before its repeal),* including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 *(before its repeal), IC 20-45-3,* or any other law; minus

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(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE *(as effective January 1, 1990)* or IC 6-1.1-18.5-19(b) STEP THREE *(as effective January 1, 1990),* whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) *(as effective before January 1, 1989),* filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN *(as effective January 1, 1995)* for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b) *(as effective before March 16, 2004) and IC 12-19-7-4 (as effective after March 15, 2004);* and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 *(before its repeal)* that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN *(as effective January 1, 1995)* for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) *(as effective before March 16, 2004) and IC 12-19-7-4 (as effective after March 15, 2004)* for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax

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replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes ~~*which*~~ *that* each county auditor is required to prepare ~~*on or before March 1 of*~~ each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is, except as otherwise provided by law, equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year, **after the school corporation's gained student levy amount is added and the school corporation's lost student levy amount is subtracted.**

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means, except as otherwise provided by law, the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar

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year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(o) "Board" refers to the property tax replacement fund board established under section 10 of this chapter.

(p) "Gained student" means, with respect to a particular school corporation, a student:

(1) whose base school corporation is not that particular school corporation; and

(2) who transfers into that particular school corporation under IC 20-26-11.5.

(q) "Lost student" means, with respect to a particular school corporation, a student:

(1) whose base school corporation is that particular school corporation; and

(2) who transfers out of that particular school corporation under IC 20-26-11.5.

(r) "Per capita levy" for a school corporation means the total general fund levy of the school corporation divided by the ADM (as defined in IC 20-43-1-6) of the school corporation.

(s) "Gained student levy amount" means a school corporation's per capita levy multiplied by the number of gained students for the school corporation.

(t) "Lost student levy amount" means a school corporation's per capita levy multiplied by the number of lost students for the school corporation.

SECTION 2. IC 20-26-11-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. This chapter does not apply**

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to a student who under:

(1) section 30 or 31 of this chapter; or

(2) the public elementary and secondary school transfer program (IC 20-26-11.5);

attends a public school that is outside the school corporation where the student has legal settlement.

SECTION 3. IC 20-26-11-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. (a) The governing body of a school corporation may enter into an interlocal agreement under IC 36-1-7 with the governing body of another school corporation under which a student whose legal settlement is in the school corporation may attend school in the other school corporation.**

(b) If a student attends school in another school corporation under an interlocal agreement described in subsection (a):

(1) the provisions of this chapter concerning transfer tuition do not apply; and

(2) the terms of the interlocal agreement concerning the payment of costs for the student's attendance apply.

SECTION 4. IC 20-26-11-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 31. (a) This section applies to a student:**

(1) who has legal settlement in a school corporation; and

(2) whose parent owns property for which the parent pays property taxes in another school corporation.

(b) Not later than April 1, the parent of a student to whom this section applies may notify the school corporation referred to in subsection (a)(2) that the parent intends to enroll the student in the school corporation referred to in subsection (a)(2) for the following school year.

(c) A school corporation that receives notice under subsection (b):

(1) shall enroll the student in an appropriate school within the school corporation;

(2) may not request the payment of transfer tuition for the student from the school corporation in which the student has legal settlement or from the student's parent; and

(3) shall include the student in the school corporation's ADM;

if the principal of the appropriate school and the superintendent of the school corporation in which the school is located jointly agree to enroll the student in the school.

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(d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons.

(e) For a student to be eligible to enroll in a school in the school corporation referred to in subsection (a)(2) without the payment of transfer tuition, the property owned by the parent in the school corporation must not be owned primarily for the purpose of gaining access to the school corporation. In determining whether property is owned primarily for the purpose of gaining access to the school corporation, the following criteria shall be used:

(1) The property must be held by the parent at least one (1) year before the beginning of a school year in which the student enrolls in the school corporation.

(2) The property must be zoned for residential or commercial use.

SECTION 5. IC 20-26-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 11.5. Public Elementary and Secondary School Transfer Program

Sec. 1. As used in this chapter, "ADM" has the meaning set forth in IC 20-43-1-6.

Sec. 2. As used in this chapter, "base school corporation" means the school corporation in which a student has legal settlement.

Sec. 3. As used in this chapter, "program" refers to the public elementary and secondary school transfer program established by section 5 of this chapter.

Sec. 4. As used in this chapter, "transfer" refers to a transfer under the program.

Sec. 5. The public elementary and secondary school transfer program is established.

Sec. 6. The department shall grant transfers and renewal transfers under this chapter on a date, specified by the department, that is before the beginning of a school year.

Sec. 7. (a) The department shall grant a transfer to a student if the following requirements are met:

(1) The student's parent requests a transfer for the student.

(2) The student's parent selects a school for the student to

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attend under the program.

(3) The school is a public school in Indiana and:

(A) is in the student's base school corporation but is not the school to which the school corporation has assigned the student; or

(B) is not a school in the student's base school corporation.

(4) Except as provided in section 14(b) of this chapter, the principal of the school selected under subdivision (2) and the superintendent of the school corporation in which the school is located jointly agree to enroll the student in the school.

(b) The department shall grant a renewal transfer to a student who meets the following requirements:

(1) The student previously received a transfer in any year.

(2) The requirements of subsection (a) are met.

(c) The department may not grant a transfer to a student who wishes to enroll in a school primarily for athletic reasons. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons.

Sec. 8. (a) Not later than April 1 before the beginning of a school year for which a parent seeks enrollment of a student under the program, the student's parent must notify the superintendent of the school corporation in which the parent seeks to have the student enrolled of the parent's request to have the student enrolled.

(b) Not later than seven (7) days after receiving a request under subsection (a), the superintendent of the school corporation in which a parent seeks to enroll a student shall notify the superintendent of the student's base school corporation of the request. Upon receiving notification, the superintendent of the student's base school corporation may send a letter to:

(1) the superintendent of the school corporation in which the parent seeks to enroll the student; and

(2) the parent;

objecting to the transfer on the grounds that it is not in the best interests of the student for the transfer to be granted, along with the reasons it is not in the best interests of the student. The letter shall be made a part of the student's file.

(c) The superintendent of the school corporation in which a parent seeks to enroll a student may deny the request on the grounds that it is not in the best interests of the student.

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Sec. 9. (a) The superintendent of the school corporation in which a parent seeks enrollment of a student under the program:

(1) is not required to enroll the student; and

(2) may not enroll the student if enrollment will cause the school corporation to be out of compliance with a court order, including a court order described in IC 20-26-11-19.

(b) Subject to subsection (a), a superintendent may not refuse to enroll a student in violation of IC 20-33-1 or because the student has a disability.

(c) A superintendent shall notify a parent who makes a request under section 8 of this chapter of the superintendent's decision not later than thirty (30) days after receiving a request for enrollment under section 8 of this chapter. If a superintendent does not notify a parent of the superintendent's decision within thirty (30) days after receiving a request for enrollment, the request to enroll is considered to be granted.

(d) A superintendent who accepts a student for enrollment under the program shall notify the superintendent of the student's base corporation of the student's acceptance not later than fifteen (15) days after accepting the student.

Sec. 10. The following apply when a student transfers under this chapter to a school in the student's base school corporation:

(1) There is no monetary transfer award.

(2) There is no change in:

(A) the ADM of the school corporation; or

(B) state assistance to the school corporation.

(3) The school corporation is not required to provide transportation for the student.

Sec. 11. Except as provided in section 12 of this chapter, the following apply when a student transfers under this chapter to a school that is not in the student's base school corporation:

(1) IC 20-35-8-1 applies to the transfer of a student with a disability.

(2) The amount of the transfer tuition is the state basic tuition support per ADM provided under IC 20-43-6 to the student's base school corporation.

(3) The student remains in the ADM of the student's base school corporation until the earlier of the following:

(A) The date the student graduates from a high school.

(B) The date of the end of the school year during which the student becomes eighteen (18) years of age.

(4) The school that enrolls the student may not include the

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student in the school's ADM.

(5) The department shall do the following:

(A) Pay the amount of the transfer tuition to the school that enrolls the student.

(B) Deduct the amount of the transfer tuition from the distribution of state aid to the student's base school corporation.

(C) Notify the department of state revenue of the number of lost students (as defined in IC 6-1.1-21-2(q)) and gained students (as defined in IC 6-1.1-21-2(p)) under this chapter in each school corporation for the department of state revenue's use under IC 6-1.1-21.

(6) The parent of the student is responsible for all costs of the student attending the school that exceed the amount of the transfer tuition.

(7) Except as provided in IC 20-35-8-2, the student's base school corporation and the school corporation that enrolls the student are not responsible for providing transportation for the student.

Sec. 12. (a) This section applies to a student who, at the time a transfer is granted, is enrolled in either an accredited or a nonaccredited nonpublic school.

(b) The school that enrolls a student to whom this section applies shall include the student in the school's ADM.

Sec. 13. Except as provided in section 14(b) of this chapter, at the end of each school year the superintendent of the school corporation that enrolls a student under the program and the principal of the school the student attends shall jointly:

(1) determine whether to enroll the student for the following school year; and

(2) inform the department of their decision.

Sec. 14. (a) The governing body of a school corporation may adopt a policy that sets guidelines to be used in determining:

(1) whether to accept a student for enrollment under the program; and

(2) whether to continue a student's enrollment under the program.

(b) Notwithstanding sections 7(a)(4) and 13 of this chapter, a policy adopted under this section may provide that the governing body shall make the determination of whether to enroll a student or to continue a student's enrollment under the program.

Sec. 15. A school corporation or school may not solicit the

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parent of a student to transfer the student to the school corporation or school.

Sec. 16. For purposes of accountability for performance and assessing school improvement under IC 20-31, a student who transfers to a school under the program is included as a student in the school to which the student transferred.

Sec. 17. The department shall establish procedures to administer this chapter.

Sec. 18. The state board may adopt rules under IC 4-22-2 to implement and administer the program.

SECTION 6. IC 20-31-9-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) This section applies to a school that has been placed in the lowest performance category for a third or subsequent year under this chapter.**

(b) Before March 1 of each year, the school shall notify the parent of each student in the school of the parent's right to request a transfer for the student for the following school year to a different school within the same school corporation or in another school corporation under IC 20-26-11.5.

(c) The notice provided under this section must set forth in an easily understood format a parent's transfer options for a student, including a list of schools in the student's current school corporation:

(1) that are in a higher performance category; and

(2) to which the student's parents may request a transfer for the student.

(d) If:

(1) a school corporation is unable to comply with the transfer request under IC 20-26-11.5 of the parent of a student enrolled in a school to which this section applies; or

(2) the parent requests additional transfer options for the student;

the superintendent of the school corporation that is unable to comply with the transfer request shall meet with the parent to discuss options for the student.

SECTION 7. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "department" refers to the department of education established by IC 20-19-3-1.**

(b) As used in this SECTION, "school year" has the meaning set forth in IC 20-18-2-17.

(c) The department shall grant transfers under IC 20-26-11.5,

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as added by this act, beginning with the 2008-2009 school year.

(d) This SECTION expires July 1, 2010.

SECTION 8. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 262, 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 7, line 39, delete "ADM." and insert "**ADM;**
if the principal of the appropriate school and the superintendent of the school corporation in which the school is located jointly agree to enroll the student in the school.".

Page 9, line 18, after "8." insert "**(a)**".

Page 9, between lines 23 and 24, begin a new paragraph and insert:

"**(b) Not later than seven (7) days after receiving a request under subsection (a), the superintendent of the school corporation in which a parent seeks to enroll a student shall notify the superintendent of the student's base school corporation of the request. Upon receiving notification, the superintendent of the student's base school corporation may send a letter to:**

(1) the superintendent of the school corporation in which the parent seeks to enroll the student; and

(2) the parent;

objecting to the transfer on the grounds that it is not in the best interests of the student for the transfer to be granted, along with the reasons it is not in the best interests of the student. The letter shall be made a part of the student's file.

(c) The superintendent of the school corporation in which a parent seeks to enroll a student may deny the request on the grounds that it is not in the best interests of the student.".

and when so amended that said bill do pass.

(Reference is to SB 262 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 7, Nays 3.

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