Reprinted
February 24, 2009

SENATE BILL No. 491

DIGEST OF SB 491 (Updated February 23, 2009 6:06 pm - DI 71)

Citations Affected: 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 that a student transfer may only be denied in cases when the department finds that: (1) allowing the student to enroll would violate a court order; (2) the transferee school is at or near capacity for the applicable school year or in the near future; (3) the student wishes to enroll in the transferee school primarily for athletic reasons; (4) the student is suspended or expelled or is subject to a hearing on a pending suspension or expulsion; or (5) the student was granted a transfer in the immediately preceding two years. 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. Makes related changes.

Effective: July 1, 2009.

Kenley, Walker

January 15, 2009, read first time and referred to Committee on Education and Career Development.
February 19, 2009, amended, reported favorably — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

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February 24, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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SENATE BILL No. 491

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 20-26-11-5, AS ADDED BY P.L.89-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The parents of any student, regardless of the student's age, or the student after the student has become eighteen (18) years of age, may request a transfer from a school corporation in which the student has a legal settlement to a transferee school corporation:

(1) in Indiana **as provided under IC 20-26-11.5;**

(2) or another state if the student may be better accommodated in the public schools of the transferee corporation. Whether the student can be better accommodated depends on such matters as:

~~(1)~~ **(A)** crowded conditions of the transferee or transferor corporation; and

~~(2)~~ **(B)** curriculum offerings at the high school level that are important to the vocational or academic aspirations of the student.

(b) **This subsection applies to** the request for transfer **to a school corporation in another state. The request** must be made in writing

to the transferor corporation, which shall immediately mail a copy to the transferee corporation. The request for transfer must be made at the times provided under rules adopted by the state board. The transfer is effected if both the transferee and the transferor corporations approve the transfer not more than thirty (30) days after that mailing. If the transferor school corporation fails to act on the transfer request within thirty (30) days after the request is received, the transfer is considered approved. The transfer is denied when either school corporation mails a written denial by certified mail to the requesting parents or student at their last known address.

(c) If a request for transfer is denied under subsection (b), an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of commencing the appeal. An appeal hearing must comply with section 15 of this chapter.

SECTION 2. IC 20-26-11-13, AS AMENDED BY P.L.146-2008, SECTION 471, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) As used in this section, the following terms have the following meanings:

(1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, career and technical education, or career education.

(2) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized education program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

(3) "Student enrollment" means the following:

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(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the state board.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the state board.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) student. The state board may select a different date for counts under this subdivision. However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 6 of this chapter **or IC 20-26-11.5,** transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

(A) State tuition support distributions.

(B) Property tax levies under IC 20-45-7 and IC 20-45-8.

(C) Excise tax revenue (as defined in IC 20-43-1-12) received for deposit in the calendar year in which the school year begins.

(D) Allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana by or with the approval of the department of child services, the institution or facility shall charge the department of child services for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated

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per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

(1) capital outlay;

(2) debt service;

(3) costs of transportation;

(4) salaries of board members;

(5) contracted service for legal expenses; and

(6) any expenditure that is made from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

(1) the cost of the special equipment; divided by

(2) the product of:

(A) the useful life of the special equipment, as determined under the rules adopted by the state board; multiplied by

(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

(1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by

(2) the student enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence, the student has been

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excluded or expelled from school for the balance of the school year or for an indefinite period, or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in subsection (b) STEP TWO to a transfer student by dividing:

(1) the total amount of revenues received; by

(2) the ADM of the transferee school for the school year that ends in the calendar year in which the revenues are received.

However, for state tuition support distributions or any other state distribution computed using less than the total ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive in a calendar year by the student count used to compute the state distribution.

(h) Instead of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the transfer of students. The contract may:

(1) be entered into for a period of not more than five (5) years with an option to renew;

(2) specify a maximum number of students to be transferred; and

(3) fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) A school corporation may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

(1) be for one (1) year or longer; and

(2) fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

SECTION 3. IC 20-26-11-30, AS ADDED BY P.L.133-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. (a) This section applies to a student who resided in a school corporation where the student had legal settlement

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for at least two (2) consecutive school years immediately before moving to an adjacent school corporation.

(b) A school corporation in which a student had legal settlement for at least two (2) consecutive years as described in subsection (a):

(1) shall allow the student to attend an appropriate school within the school corporation in which the student formerly resided;

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

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

if the principal and superintendent in both school corporations jointly agree to enroll the student in the school.

(c) If a student enrolls under this section in a school described in subsection (b)(1), the student's parent must provide for the student's transportation to school.

(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) Any other law or rule that would otherwise:

(1) require a transferor school to approve a student transfer; or

(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under this section does not apply to a student who seeks a transfer under this section.

SECTION 4. IC 20-26-11-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 32. (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 a school corporation in which the student does not have legal settlement.

(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

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(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.

(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. 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.

(f) Any other law or rule that would otherwise:

(1) require a transferor school to approve a student transfer; or

(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under this section does not apply to a student who seeks a transfer under this section.

SECTION 5. IC 20-26-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 11.5. Public Elementary and Secondary School Transfer Program

Sec. 1. As used in this chapter, "ADM" has the meaning set

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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. As used in this chapter, "transferee school" or "transferee school corporation" means the school or school corporation to which a student requests, or is granted, a transfer.

Sec. 6. The public elementary and secondary school transfer program is established.

Sec. 7. 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. 8. (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 by filing an application under section 9 of this chapter on the form provided by the department.

(2) The student's parent selects a school for the student to attend under the program that:

(A) is a public school in Indiana; and

(B) is:

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

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

(3) The transferee school or school corporation has not filed an objection to the transfer with the department under subsection (b).

(b) The department shall grant the request for a transfer of a student to enroll in a different school in the student's base school corporation or in a school that is not in the student's base school corporation unless the transferee school or school corporation files an objection with the department and the department finds that one (1) of the following conditions exists:

(1) That allowing the student to enroll in the transferee school or school corporation would cause the transferee school or school corporation to be out of compliance with a court order, including a court order described in IC 20-26-11-19.

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(2) That the student is in a suspended or expelled status or is subject to a pending hearing regarding the student's suspension or expulsion in the school the student last attended.

(3) That the student wishes to enroll in the transferee school or school corporation primarily for athletic reasons. A decision to allow a student to transfer to a school under the program is not considered a determination that the student did not enroll primarily for athletic reasons.

(4) That the superintendent of the transferee school corporation and the principal of the transferee school have both certified to the department that the transferee school is at or near capacity for the applicable school year or will be at or near capacity in the near future.

(5) That the student and parent were granted a transfer request to another school or school corporation in the immediately preceding two (2) years. In such a case, if either the principal of the transferee school or the superintendent of the transferee school corporation oppose the transfer, the department may deny the transfer request so long as the denial does not violate another law or court order.

(c) 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.

(d) The department may not refuse to enroll a student under the program in violation of IC 20-33-1 or because the student has a disability.

Sec. 9. (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 file an application with the superintendent of the school corporation in which the parent seeks to have the student enrolled. The application must include a certification by the student's parent that the student:

(1) is not in a suspended or expelled status and is not subject to a pending hearing regarding the student's suspension or expulsion in the school the student last attended; and

(2) does not wish to enroll in the transferee school primarily for athletic reasons.

(b) If the parent seeks enrollment in a school that is not in the student's base school corporation, not later than seven (7) days after receiving a request under subsection (a) the superintendent

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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;

stating whether the student is in a suspended or expelled status or is subject to a pending hearing regarding the student's suspension or expulsion in the school the student last attended or that the superintendent believes that the student wishes to enroll in the transferee school or school corporation primarily for athletic reasons.

Sec. 10. (a) The superintendent of the transferee school corporation shall notify the department and a parent who makes a request under section 9 of this chapter of the superintendent's objection to the transfer not later than thirty (30) days after receiving the request. If a superintendent does not notify the department and the parent of the superintendent's objection within thirty (30) days after receiving a request for enrollment under section 9 of this chapter, the request to enroll is considered to be granted.

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

Sec. 11. 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. 12. 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 student is included in the ADM of the school corporation into which the student transfers so long as the

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student is enrolled in the school corporation.

(3) The school that enrolls the student shall include the student in the school's ADM.

(4) The parent of the student is responsible for the actual and provable costs of the student attending the school that exceed the amount of the state base tuition support per ADM, but not to exceed five hundred dollars ($500).

(5) 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. 13. If a request for transfer is denied under this chapter, an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of commencing the appeal. An appeal hearing must comply with IC 26-20-11-15.

Sec. 14. A school corporation or school may not solicit the parent of a student to transfer the student to the school corporation or school.

Sec. 15. 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. 16. (a) The department shall establish procedures to administer this chapter.

(b) The department shall create a standard form to serve as an application for transfer under this chapter and make this form available on the department's web site for printing.

(c) The department shall revise and make available to school corporations a revised transfer tuition statement that is consistent with the requirements of this chapter.

Sec. 17. The state board may adopt rules under IC 4-22-2 to implement and administer the program.

Sec. 18. (a) IC 26-20-11 does not apply to a student who, under the program, attends a public school in this state.

(b) Any other law or rule that would otherwise:

(1) require a transferor school to approve a student transfer; or

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(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under the program does not apply to a student who seeks a transfer under 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, 2009]: **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, 2009] **(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, as added by this act, beginning with the 2010-2011 school year.

(d) This SECTION expires July 1, 2012.

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 491, 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 1, delete lines 1 through 17.

Page 2, delete lines 1 through 13, begin a new paragraph and insert:

"SECTION 1. IC 20-26-11-5, AS ADDED BY P.L.89-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The parents of any student, regardless of the student's age, or the student after the student has become eighteen (18) years of age, may request a transfer from a school corporation in which the student has a legal settlement to a transferee school corporation:

(1) in Indiana **as provided under IC 20-26-11.5;**

(2) or another state if the student may be better accommodated in the public schools of the transferee corporation. Whether the student can be better accommodated depends on such matters as:

~~(1)~~ **(A)** crowded conditions of the transferee or transferor corporation; and

~~(2)~~ **(B)** curriculum offerings at the high school level that are important to the vocational or academic aspirations of the student.

(b) **This subsection applies to** the request for transfer **to a school corporation in another state. The request** must be made in writing to the transferor corporation, which shall immediately mail a copy to the transferee corporation. The request for transfer must be made at the times provided under rules adopted by the state board. The transfer is effected if both the transferee and the transferor corporations approve the transfer not more than thirty (30) days after that mailing. If the transferor school corporation fails to act on the transfer request within thirty (30) days after the request is received, the transfer is considered approved. The transfer is denied when either school corporation mails a written denial by certified mail to the requesting parents or student at their last known address.

(c) If a request for transfer is denied under subsection (b), an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of

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commencing the appeal. An appeal hearing must comply with section 15 of this chapter.

SECTION 2. IC 20-26-11-13, AS AMENDED BY P.L.146-2008, SECTION 471, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) As used in this section, the following terms have the following meanings:

(1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, career and technical education, or career education.

(2) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized education program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

(3) "Student enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the state board.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the state board.

However, a kindergarten student shall be counted under clauses (A) and (B) as one-half (1/2) student. The state board may select a different date for counts under this subdivision. However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 6 of this chapter **or IC 20-26-11.5,** transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

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STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

(A) State tuition support distributions.

(B) Property tax levies under IC 20-45-7 and IC 20-45-8.

(C) Excise tax revenue (as defined in IC 20-43-1-12) received for deposit in the calendar year in which the school year begins.

(D) Allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana by or with the approval of the department of child services, the institution or facility shall charge the department of child services for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

(1) capital outlay;

(2) debt service;

(3) costs of transportation;

(4) salaries of board members;

(5) contracted service for legal expenses; and

(6) any expenditure that is made from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

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(1) the cost of the special equipment; divided by

(2) the product of:

(A) the useful life of the special equipment, as determined under the rules adopted by the state board; multiplied by

(B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the student enrollment of each class in the transferee corporation compared with the total student enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

(1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by

(2) the student enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of student attendance, the transfer tuition shall be calculated by the part of the school year for which the transferred student is enrolled. A school year of student attendance consists of the number of days school is in session for student attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence, the student has been excluded or expelled from school for the balance of the school year or for an indefinite period, or the student has been confirmed to have withdrawn from school. The transferor and the transferee corporation may enter into written agreements concerning the amount of transfer tuition due in any school year. If an agreement cannot be reached, the amount shall be determined by the state board, and costs may be established, when in dispute, by the state board of accounts.

(g) A transferee school shall allocate revenues described in subsection (b) STEP TWO to a transfer student by dividing:

(1) the total amount of revenues received; by

(2) the ADM of the transferee school for the school year that ends in the calendar year in which the revenues are received.

However, for state tuition support distributions or any other state distribution computed using less than the total ADM of the transferee school, the transferee school shall allocate the revenues to the transfer student by dividing the revenues that the transferee school is eligible to receive in a calendar year by the student count used to compute the

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state distribution.

(h) Instead of the payments provided in subsection (b), the transferor corporation or state owing transfer tuition may enter into a long term contract with the transferee corporation governing the transfer of students. The contract may:

(1) be entered into for a period of not more than five (5) years with an option to renew;

(2) specify a maximum number of students to be transferred; and

(3) fix a method for determining the amount of transfer tuition and the time of payment, which may be different from that provided in section 14 of this chapter.

(i) A school corporation may negotiate transfer tuition agreements with a neighboring school corporation that can accommodate additional students. Agreements under this section may:

(1) be for one (1) year or longer; and

(2) fix a method for determining the amount of transfer tuition or time of payment that is different from the method, amount, or time of payment that is provided in this section or section 14 of this chapter.

A school corporation may not transfer a student under this section without the prior approval of the child's parent.

SECTION 3. IC 20-26-11-30, AS ADDED BY P.L.133-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 30. (a) This section applies to a student who resided in a school corporation where the student had legal settlement for at least two (2) consecutive school years immediately before moving to an adjacent school corporation.

(b) A school corporation in which a student had legal settlement for at least two (2) consecutive years as described in subsection (a):

(1) shall allow the student to attend an appropriate school within the school corporation in which the student formerly resided;

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

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

if the principal and superintendent in both school corporations jointly agree to enroll the student in the school.

(c) If a student enrolls under this section in a school described in subsection (b)(1), the student's parent must provide for the student's transportation to school.

(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

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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) Any other law or rule that would otherwise:

(1) require a transferor school to approve a student transfer; or

(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under this section does not apply to a student who seeks a transfer under this section.".

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"**(f) Any other law or rule that would otherwise:**

(1) require a transferor school to approve a student transfer; or

(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under this section does not apply to a student who seeks a transfer under this section.".

Page 3, delete lines 29 through 42, begin a new paragraph and insert:

"**Sec. 5. As used in this chapter, "transferee school" or "transferee school corporation" means the school or school corporation to which a student requests, or is granted, a transfer.**

Sec. 6. The public elementary and secondary school transfer program is established.

Sec. 7. 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. 8. (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 by filing an application under section 9 of this chapter on the form provided by the department.

(2) The student's parent selects a school for the student to attend under the program that:

(A) is a public school in Indiana; and

(B) is:

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

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

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(3) The transferee school or school corporation has not filed an objection to the transfer with the department under subsection (b).

(b) The department shall grant the request for a transfer of a student to enroll in a different school in the student's base school corporation or in a school that is not in the student's base school corporation unless the transferee school or school corporation files an objection with the department and the department finds that one (1) of the following conditions exists:

(1) That allowing the student to enroll in the transferee school or school corporation would cause the transferee school or school corporation to be out of compliance with a court order, including a court order described in IC 20-26-11-19.

(2) That the student is in a suspended or expelled status or is subject to a pending hearing regarding the student's suspension or expulsion in the school the student last attended.

(3) That the student wishes to enroll in the transferee school or school corporation primarily for athletic reasons. A decision to allow a student to transfer to a school under the program is not considered a determination that the student did not enroll primarily for athletic reasons.

(4) That the superintendent of the transferee school corporation and the principal of the transferee school have both certified to the department that the transferee school is at or near capacity for the applicable school year or will be at or near capacity in the near future.

(c) 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.

(d) The department may not refuse to enroll a student under the program in violation of IC 20-33-1 or because the student has a disability.

Sec. 9. (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 file an application with the superintendent of the school corporation in which the parent seeks to have the student enrolled. The application must include a certification by the student's parent that the student:

(1) is not in a suspended or expelled status and is not subject to a pending hearing regarding the student's suspension or

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expulsion in the school the student last attended; and

(2) does not wish to enroll in the transferee school primarily for athletic reasons.

(b) If the parent seeks enrollment in a school that is not in the student's base school corporation, 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;

stating whether the student is in a suspended or expelled status or is subject to a pending hearing regarding the student's suspension or expulsion in the school the student last attended or that the superintendent believes that the student wishes to enroll in the transferee school or school corporation primarily for athletic reasons.

Sec. 10. (a) The superintendent of the transferee school corporation shall notify the department and a parent who makes a request under section 9 of this chapter of the superintendent's objection to the transfer not later than thirty (30) days after receiving the request. If a superintendent does not notify the department and the parent of the superintendent's objection within thirty (30) days after receiving a request for enrollment under section 9 of this chapter, the request to enroll is considered to be granted.

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

Sec. 11. 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. 12. The following apply when a student transfers under this

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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 student is included in the ADM of the school corporation into which the student transfers so long as the student is enrolled in the school corporation.

(3) The school that enrolls the student shall include the student in the school's ADM.

(4) The parent of the student is responsible for the actual and provable costs of the student attending the school that exceed the amount of the state base tuition support per ADM, but not to exceed five hundred dollars ($500).

(5) 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. 13. If a request for transfer is denied under this chapter, an appeal may be taken to the state board by the requesting parents or student, if commenced not more than ten (10) days after the denial. An appeal is commenced by mailing a notice of appeal by certified mail to the superintendent of each school corporation and the state board. The state superintendent shall develop forms for this purpose, and the transferor corporation shall assist the parents or student in the mechanics of commencing the appeal. An appeal hearing must comply with IC 26-20-11-15.

Sec. 14. A school corporation or school may not solicit the parent of a student to transfer the student to the school corporation or school.

Sec. 15. 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. 16. (a) The department shall establish procedures to administer this chapter.

(b) The department shall create a standard form to serve as an application for transfer under this chapter and make this form available on the department's web site for printing.

(c) The department shall revise and make available to school corporations a revised transfer tuition statement that is consistent with the requirements of this chapter.

Sec. 17. The state board may adopt rules under IC 4-22-2 to

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implement and administer the program.

Sec. 18. (a) IC 26-20-11 does not apply to a student who, under the program, attends a public school in this state.

(b) Any other law or rule that would otherwise:

(1) require a transferor school to approve a student transfer; or

(2) permit a transferor school to appeal to the department, a court, or another entity any aspect of a student transfer;

under the program does not apply to a student who seeks a transfer under the program.".

Delete pages 4 through 5.

Page 6, delete lines 1 through 34.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 491 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 7, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 491 be amended to read as follows:

Page 9, between lines 14 and 15, begin a new line block indented and insert:

"**(5) That the student and parent were granted a transfer request to another school or school corporation in the immediately preceding two (2) years. In such a case, if either the principal of the transferee school or the superintendent of the transferee school corporation oppose the transfer, the department may deny the transfer request so long as the denial does not violate another law or court order.**".

(Reference is to SB 491 as printed February 20, 2009.)

KENLEY

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