

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:

- 1 Page 1, delete lines 1 through 17.
- 2 Page 2, delete lines 1 through 13, begin a new paragraph and insert:
- 3 "SECTION 1. IC 20-26-11-5, AS ADDED BY P.L.89-2005,
- 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 5. (a) The parents of any student, regardless of the
- 6 student's age, or the student after the student has become eighteen (18)
- 7 years of age, may request a transfer from a school corporation in which
- 8 the student has a legal settlement to a transferee school corporation:
- 9 **(1) in Indiana as provided under IC 20-26-11.5;**
- 10 **(2) or another state if the student may be better accommodated in**
- 11 the public schools of the transferee corporation. Whether the
- 12 student can be better accommodated depends on such matters as:
- 13 ~~(1)~~ **(A)** crowded conditions of the transferee or transferor
- 14 corporation; and
- 15 ~~(2)~~ **(B)** curriculum offerings at the high school level that are
- 16 important to the vocational or academic aspirations of the
- 17 student.
- 18 **(b) This subsection applies to the request for transfer to a school**
- 19 **corporation in another state. The request** must be made in writing
- 20 to the transferor corporation, which shall immediately mail a copy to

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

10 (c) If a request for transfer is denied under subsection (b), an appeal
 11 may be taken to the state board by the requesting parents or student, if
 12 commenced not more than ten (10) days after the denial. An appeal is
 13 commenced by mailing a notice of appeal by certified mail to the
 14 superintendent of each school corporation and the state board. The state
 15 superintendent shall develop forms for this purpose, and the transferor
 16 corporation shall assist the parents or student in the mechanics of
 17 commencing the appeal. An appeal hearing must comply with section
 18 15 of this chapter.

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

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

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

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

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

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

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

3 (3) "Student enrollment" means the following:

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

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

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

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

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

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

31 (A) State tuition support distributions.

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

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

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

37 STEP THREE: Determine the greater of:

38 (A) zero (0); or

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

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

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

- 15 (1) capital outlay;
- 16 (2) debt service;
- 17 (3) costs of transportation;
- 18 (4) salaries of board members;
- 19 (5) contracted service for legal expenses; and
- 20 (6) any expenditure that is made from extracurricular account
- 21 receipts;

22 for the school year.

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

- 25 (1) the cost of the special equipment; divided by
- 26 (2) the product of:
 - 27 (A) the useful life of the special equipment, as determined
 - 28 under the rules adopted by the state board; multiplied by
 - 29 (B) the number of students using the special equipment during
 - 30 at least part of the school year.

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

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

- 38 (1) the transferee school corporation's operating costs for the class

1 of school in which the transfer student is enrolled; by
2 (2) the student enrollment of the class of school in which the
3 transfer student is enrolled.

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

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

21 (1) the total amount of revenues received; by
22 (2) the ADM of the transferee school for the school year that ends
23 in the calendar year in which the revenues are received.

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

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

34 (1) be entered into for a period of not more than five (5) years
35 with an option to renew;
36 (2) specify a maximum number of students to be transferred; and
37 (3) fix a method for determining the amount of transfer tuition
38 and the time of payment, which may be different from that

1 provided in section 14 of this chapter.

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

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

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

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

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

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

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

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

25 (3) shall include the student in the school corporation's ADM;
26 if the principal and superintendent in both school corporations jointly
27 agree to enroll the student in the school.

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

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

37 **(e) Any other law or rule that would otherwise:**

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

1 **or**
 2 **(2) permit a transferor school to appeal to the department, a**
 3 **court, or another entity any aspect of a student transfer;**
 4 **under this section does not apply to a student who seeks a transfer**
 5 **under this section."**

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

7 **"(f) Any other law or rule that would otherwise:**
 8 **(1) require a transferor school to approve a student transfer;**
 9 **or**
 10 **(2) permit a transferor school to appeal to the department, a**
 11 **court, or another entity any aspect of a student transfer;**
 12 **under this section does not apply to a student who seeks a transfer**
 13 **under this section."**

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

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

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

21 **Sec. 7. The department shall grant transfers and renewal**
 22 **transfers under this chapter on a date, specified by the department,**
 23 **that is before the beginning of a school year.**

24 **Sec. 8. (a) The department shall grant a transfer to a student if**
 25 **the following requirements are met:**

26 **(1) The student's parent requests a transfer for the student by**
 27 **filing an application under section 9 of this chapter on the**
 28 **form provided by the department.**

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

31 **(A) is a public school in Indiana; and**

32 **(B) is:**

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

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

37 **(3) The transferee school or school corporation has not filed**
 38 **an objection to the transfer with the department under**

1 subsection (b).

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

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

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

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

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

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

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

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

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

33 Sec. 9. (a) Not later than April 1 before the beginning of a school
34 year for which a parent seeks enrollment of a student under the
35 program, the student's parent must file an application with the
36 superintendent of the school corporation in which the parent seeks
37 to have the student enrolled. The application must include a
38 certification by the student's parent that the student:

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

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

6 **(b) If the parent seeks enrollment in a school that is not in the**
 7 **student's base school corporation, not later than seven (7) days**
 8 **after receiving a request under subsection (a) the superintendent**
 9 **of the school corporation in which a parent seeks to enroll a**
 10 **student shall notify the superintendent of the student's base school**
 11 **corporation of the request. Upon receiving notification, the**
 12 **superintendent of the student's base school corporation may send**
 13 **a letter to:**

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

16 **(2) the parent;**

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

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

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

36 **Sec. 11. The following apply when a student transfers under this**
 37 **chapter to a school in the student's base school corporation:**

38 **(1) There is no monetary transfer award.**

- 1 **(2) There is no change in:**
- 2 **(A) the ADM of the school corporation; or**
- 3 **(B) state assistance to the school corporation.**
- 4 **(3) The school corporation is not required to provide**
- 5 **transportation for the student.**

6 **Sec. 12. The following apply when a student transfers under this**
7 **chapter to a school that is not in the student's base school**
8 **corporation:**

- 9 **(1) IC 20-35-8-1 applies to the transfer of a student with a**
10 **disability.**
- 11 **(2) The student is included in the ADM of the school**
12 **corporation into which the student transfers so long as the**
13 **student is enrolled in the school corporation.**
- 14 **(3) The school that enrolls the student shall include the**
15 **student in the school's ADM.**
- 16 **(4) The parent of the student is responsible for the actual and**
17 **provable costs of the student attending the school that exceed**
18 **the amount of the state base tuition support per ADM, but not**
19 **to exceed five hundred dollars (\$500).**
- 20 **(5) Except as provided in IC 20-35-8-2, the student's base**
21 **school corporation and the school corporation that enrolls the**
22 **student are not responsible for providing transportation for**
23 **the student.**

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

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

36 **Sec. 15. For purposes of accountability for performance and**
37 **assessing school improvement under IC 20-31, a student who**
38 **transfers to a school under the program is included as a student in**

1 the school to which the student transferred.

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

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

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

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

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

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

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

16 or

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

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

- 1 Delete pages 4 through 5.
- 2 Page 6, delete lines 1 through 34.
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 491 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 1.

Lubbers

Chairperson