

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 48

H.P. 34

House of Representatives, January 10, 2017

An Act To Provide for Fairness in the Transfer of Students

(EMERGENCY)

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HIGGINS of Dover-Foxcroft.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: HANINGTON of Lincoln, KINNEY of Knox, MAREAN of Hollis, STROM
of Pittsfield, THERIAULT of China, TURNER of Burlington.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation must take effect in time for the 2017-2018 school year;
4 and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

9 **Be it enacted by the People of the State of Maine as follows:**

10 **Sec. 1. 20-A MRSA §5205, sub-§6,** as amended by PL 2015, c. 448, §10, is
11 further amended to read:

12 **6. Transfer students.** The following provisions apply to transfers of students from
13 one school administrative unit to another.

14 A. Two superintendents may approve the transfer of a student from one school
15 administrative unit to another if:

- 16 (1) They find that a transfer is in the student's best interest; and
17 (2) The student's parent approves.

18 The superintendents shall notify the commissioner of any transfer approved under
19 this paragraph. If either of the superintendents decides not to approve the transfer,
20 that superintendent shall provide to the parent of the student requesting transfer under
21 this paragraph a written description of the basis of that superintendent's
22 determination.

23 B. On the request of the parent of a student requesting transfer under paragraph A,
24 the commissioner shall review the transfer. The commissioner shall review the
25 superintendents' determinations and communicate with the superintendents and with
26 the parent of the student prior to making a decision. The commissioner may approve
27 or disapprove the transfer and shall provide to the parent of the student and to the
28 superintendents a written decision describing the basis of the commissioner's
29 determination.

30 C. The superintendents shall annually review any transfer under this subsection.

31 D. For purposes of the state school subsidy, a student transferred under this
32 subsection is considered a resident of the school administrative unit to which
33 transferred. Upon request of the superintendent of schools in the unit in which a
34 student is placed in accordance with this subsection, the state share percentage for
35 subsidized educational costs for that student is equivalent to the state share
36 percentage of the unit in which the student's parent or legal guardian resides or the
37 average state share percentage, whichever is greater. If the parent or legal guardian
38 does not reside in the State or can not be located, the subsidy is the state average
39 subsidy.

1 E. A school administrative unit may not charge tuition for a transfer approved under
2 this subsection.

3 F. If dissatisfied with the commissioner's decision, a parent of a student requesting
4 transfer or either superintendent may, within 10 calendar days of the commissioner's
5 decision, request that the state board review the transfer. The state board shall review
6 the superintendents' determinations and communicate with the commissioner, the
7 superintendents and the parent of the student. The state board may approve or
8 disapprove the transfer. The state board shall make a decision within 45 calendar
9 days of receiving the request and shall provide to the parent of the student, the
10 superintendents and the commissioner a written decision describing the basis of the
11 state board's determination. The state board's decision is final and binding.

12 G. Notwithstanding paragraph D, if the commissioner or state board approves a
13 transfer under this subsection and the student subject to the transfer is receiving
14 special education services, the state subsidy of special education costs for the
15 transferred student may not be reduced as a result of the transfer.

16 ~~A transfer under this subsection may not be made to a receiving school administrative~~
17 ~~unit that does not operate a public school that includes the grade level of the student~~
18 ~~whose parent requests the transfer, unless the superintendents of both the sending and~~
19 ~~receiving school administrative units approve the transfer. This subsection applies to a~~
20 ~~transfer involving a private school approved for tuition purposes.~~

21 **Emergency clause.** In view of the emergency cited in the preamble, this
22 legislation takes effect when approved.

23 **SUMMARY**

24 Current law provides no appeal for a student denied a request to transfer to a school
25 administrative unit that does not operate a public school that includes the grade level of
26 the student. This bill provides that the appeals process that applies to other transfer
27 students applies to such a student and explicitly makes the law regarding transfers apply
28 to a transfer involving a private school approved for tuition purposes pursuant to the
29 Maine Revised Statutes, Title 20-A, chapter 117, subchapter 2.