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SENATE FILE 2170  
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FUHRMAN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act to permit children to transfer from an accredited school  
2 located in the child's district of residence to another  
3 accredited school and providing for payment of educational  
4 expenses and appeals.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2170

1 Section 1. Section 256.15, Code 1991, is amended to read  
2 as follows:

3 256.15 NONPUBLIC SCHOOL ADVISORY COMMITTEE AGENCY.

4 A nonpublic school advisory committee agency is established  
5 as an independent agency which consists of five members, to be  
6 appointed by the governor, each of them to be a citizen of the  
7 United States and a resident of the state of Iowa. The term  
8 of the members is four years. The duties of the committee  
9 agency are to advise the state board and the director on  
10 matters affecting nonpublic schools, including but not limited  
11 to the establishment of standards for teacher certification  
12 and the establishment of standards for, and approval of, all  
13 nonpublic schools and to hear appeals from persons aggrieved  
14 by a decision of the authorities in charge of a nonpublic  
15 school under section 282.18, within thirty days of the  
16 decision. Notice of meetings of the state board shall be sent  
17 by the director to members of the committee agency. Hearings  
18 conducted by the agency shall be commenced and conducted in  
19 the same manner as appeals to the state board under chapter  
20 290 and the agency has the same powers as the state board with  
21 respect to the conducting of the hearings.

22 Committee Agency members shall be reimbursed for actual and  
23 necessary expenses incurred in performance of their duties.  
24 Members may also be eligible to receive compensation as pro-  
25 vided in section 7E.6. The expense money shall be paid from  
26 the appropriations to the department of education.

27 Sec. 2. Section 282.18, Code Supplement 1991, is amended  
28 to read as follows:

29 282.18 OPEN ENROLLMENT.

30 1. It is the goal of the general assembly to permit a wide  
31 range of educational choices for children enrolled in schools  
32 in this state and to maximize ability to use those choices.  
33 It is therefore the intent that this section be construed  
34 broadly to maximize parental choice and access to educational  
35 opportunities which are not available to children because of

1 where they live.

2 For the school year commencing July 1, 1989, and each  
3 succeeding school year, a parent or guardian residing in a  
4 school district may enroll the parent's or guardian's child in  
5 ~~a public~~ an accredited school in another school district in  
6 the manner provided in this section.

7 2. By October 30 of the preceding school year, the parent  
8 or guardian shall send notification to the district of  
9 residence and to the department of education on forms  
10 prescribed by the department of education that the parent or  
11 guardian intends to enroll the parent's or guardian's child in  
12 ~~a public~~ an accredited school in another school district. The  
13 parent or guardian shall describe the reason for enrollment in  
14 the school located in the receiving district. If a parent or  
15 guardian fails to file a notification that the parent intends  
16 to enroll the parent's or guardian's child in ~~a public~~ an  
17 accredited school in another district by the deadline of  
18 October 30 of the previous year, and good cause exists for the  
19 failure to meet the deadline or if the request is to enroll a  
20 child in kindergarten in ~~a public~~ an accredited school in  
21 another district, the parent or guardian shall be permitted to  
22 enroll the child in the school located in the other district  
23 in the same manner as if the deadline had been met.

24 The board of the district of residence shall take action on  
25 the request no later than November 30 of the preceding school  
26 year and shall transmit any approved request within five days  
27 after board action on the request. If a pupil is enrolled in  
28 an accredited nonpublic school in the district of residence  
29 the authorities in charge of the nonpublic school shall also  
30 take action on the request no later than November 30 of the  
31 preceding school year, and shall transmit any approved request  
32 to both the public school district of residence and the  
33 receiving school or school district within five days of action  
34 on the request. The parent or guardian may withdraw the  
35 request during November of the preceding school year unless

1 the board of the receiving district has or the authorities in  
2 charge of the receiving nonpublic school have acted on the  
3 request. The board of the receiving district or the  
4 authorities in charge of the receiving nonpublic school shall  
5 take action to approve or disapprove the request no later than  
6 December 31 of the preceding school year. If the request is  
7 granted, the board or authorities shall transmit a copy of the  
8 form to the school district of residence within five days  
9 after board action is taken by the board or the nonpublic  
10 school authorities.

11 3. During the 1990-1991 school year, if the board of the  
12 district of residence determines that transmission of the  
13 request will result in a loss of greater than five percent of  
14 the district's certified enrollment as compared with the  
15 district's certified enrollment for the 1988-1989 school year,  
16 the board of the district of residence may deny the request  
17 for the 1990-1991 school year. During the 1991-1992 school  
18 year, if the board of the district of residence determines  
19 that transmission of the request will result in a loss of  
20 greater than ten percent of the district's certified  
21 enrollment as compared to the district's certified enrollment  
22 for the 1988-1989 school year, the board of the district of  
23 residence may deny the request for the 1991-1992 school year.  
24 If, however, a failure to transmit a request will result in  
25 enrollment of pupils from the same nuclear family in different  
26 school districts, the request shall be transmitted to the  
27 receiving district for enrollment.

28 4. The board of each school district and the authorities  
29 in charge of each nonpublic school shall adopt a policy  
30 relating to the order in which requests for enrollment in and  
31 from other schools or school districts shall be considered.

32 The board of the receiving school district or the  
33 authorities in charge of the nonpublic school shall enroll the  
34 pupil in a school in the receiving school or school district  
35 for the following school year unless the receiving district or

1 school does not have classroom space for the pupil.

2 In all nonpublic schools and public school districts  
3 involved with volunteer or court-ordered desegregation,  
4 minority and nonminority pupil ratios shall be maintained  
5 according to the desegregation plan or order. The  
6 superintendent of a district or authorities in charge of a  
7 nonpublic school subject to volunteer or court-ordered  
8 desegregation may deny a request for transfer under this  
9 section if the superintendent or authority finds that  
10 enrollment or release of a pupil will adversely affect the  
11 district's or nonpublic school's implementation of the  
12 desegregation order or plan. If, however, a transfer request  
13 would facilitate a voluntary or court-ordered desegregation  
14 plan, the district or nonpublic school shall give priority to  
15 granting the request over other requests.

16 5. A parent or guardian, whose request has been denied  
17 because of a desegregation order or plan, may appeal the  
18 decision of the a superintendent to the board of the district  
19 in which the request was denied. The board may either uphold  
20 or overturn the superintendent's decision. A decision of the  
21 board to uphold the denial of the request is subject to appeal  
22 under section 290.1. A parent or guardian, whose request to  
23 transfer to a nonpublic school is denied because of a  
24 desegregation order or plan, may appeal the decision of the  
25 authorities in charge of the nonpublic school to the nonpublic  
26 school advisory agency under section 256.15 in the same manner  
27 as appeals from public school board decisions are taken under  
28 chapter 290.

29 If, however, a request to enroll a child in another  
30 district is denied by the a board of the child's district of  
31 residence for failure to show good cause for not meeting the  
32 request deadline, the parent or guardian shall be permitted to  
33 appeal the decision of the board either directly to the  
34 director of the department of education or to the state board  
35 under chapter 290, but not to both. If the matter is to be

1 heard by the director, or the director's designee, the matter  
2 shall be heard de novo in accordance with the procedures  
3 contained in chapter 17A. If a designee of the director hears  
4 the matter, the findings of the director's designee shall be  
5 reviewed by and are subject to the approval of the director.

6 6. Each school or school district shall provide  
7 notification to the parent or guardian relating to the  
8 transmission or denial of the request. A nonpublic school or  
9 district of residence shall provide for notification of  
10 transmission or denial to a parent or guardian within three  
11 days of board action or action by the authorities in charge on  
12 the request. A receiving district or receiving nonpublic  
13 school shall provide notification to a parent or guardian,  
14 within fifteen days of board or authorities' action on the  
15 request, of whether the pupil will be enrolled in that a  
16 school located in the receiving district or whether the  
17 request is to be denied.

18 7. A request under this section is for a period of not  
19 less than four years unless the pupil will graduate, the  
20 pupil's family moves to another school district, or the parent  
21 or guardian petitions the receiving district or authorities in  
22 charge of the nonpublic school by October 30 of the previous  
23 school year for permission to enroll the pupil in a different  
24 school or district, which may include the district of  
25 residence or a nonpublic school located in the district of  
26 residence, within the four-year period. If the parent or  
27 guardian requests permission of the receiving school or school  
28 district to enroll the pupil in a different school or school  
29 district within the four-year period, the receiving district  
30 school board may act on the request to transfer to the other  
31 school district within five days of the receipt of the  
32 request. The new receiving district shall enroll the pupil in  
33 a school in the district unless there is insufficient  
34 classroom space in the district or unless enrollment of the  
35 pupil would adversely affect court-ordered or voluntary

1 desegregation orders affecting a district. A denial of a  
2 request to change district enrollment within the four-year  
3 period is subject to appeal under section 290.1.

4 8. A pupil participating in open enrollment shall be  
5 counted, for state school foundation aid purposes, in the  
6 pupil's district of residence. A pupil's residence, for  
7 purposes of this section, means a residence under section  
8 282.1. The board of directors of the district of residence  
9 shall pay to the a receiving district the lower district cost  
10 per pupil of the two districts, plus any moneys received for  
11 the pupil as a result of non-English speaking weighting under  
12 section 442.4, subsection 6, for each school year. The  
13 district of residence shall also transmit the phase III moneys  
14 allocated to the district for the full-time equivalent  
15 attendance of the pupil, who is the subject of the request, to  
16 the a receiving district specified in the a request for  
17 transfer. The board of directors of the district of residence  
18 shall pay to a receiving accredited nonpublic school the lower  
19 of the district cost per pupil of the resident district plus  
20 the weightings or the average cost of tuition at the receiving  
21 accredited nonpublic school.

22 9. If a request filed under this section is for a child  
23 requiring special education under chapter 281, the request to  
24 transfer to the other school or school district shall only be  
25 granted if the receiving district maintains a special  
26 education instructional program which is appropriate to meet  
27 the child's educational needs and the enrollment of the child  
28 in the receiving school or school district's program would not  
29 cause the size of the class in that special education  
30 instructional program in the receiving school or school  
31 district to exceed the maximum class size in rules adopted by  
32 the state board of education for that program. For children  
33 requiring special education, the board of directors of the  
34 district of residence shall pay to the receiving school or  
35 school district the actual costs incurred in providing the

1 appropriate special education.

2 10. If a parent or guardian of a child, who is  
3 participating in open enrollment under this section, moves to  
4 a different school district during the course of either  
5 district's academic year, the child's first district of  
6 residence shall be responsible for payment of the cost per  
7 pupil plus-weightings or other costs, the lower of either the  
8 cost per pupil plus weightings or the average cost of tuition  
9 at the nonpublic school, or special education costs to the  
10 receiving school or school district for the balance of the  
11 school year in which the move took place. The new district of  
12 residence shall be responsible for the payments during  
13 succeeding years.

14 If a request to transfer is due to a change in family  
15 residence, change in the state in which the family residence  
16 is located, a change in a child's parents' marital status, a  
17 guardianship proceeding, placement in foster care, adoption,  
18 participation in a foreign exchange program, or participation  
19 in a substance abuse or mental health treatment program, and  
20 the child, who is the subject of the request, is not currently  
21 using any provision of open enrollment, the parent or guardian  
22 of the child shall have the option to have the child remain in  
23 a school in the child's original district of residence under  
24 open enrollment with no interruption in the child's  
25 educational program. If a parent or guardian exercises this  
26 option, the child's new district of residence is not required  
27 to pay the lower of the two district costs per pupil or other  
28 costs, the lower of either the cost per pupil plus weightings  
29 or the average cost of tuition at the nonpublic school, or  
30 special education costs to the receiving district until the  
31 start of the first full year of enrollment of the child.

32 Quarterly payments shall be made to the receiving school or  
33 school district.

34 If the transfer of a pupil child from one district to a  
35 school located in another results in a transfer from one area

1 education agency to another, the sending school or school  
2 district shall forward a copy of the request to the sending  
3 school or school district's area education agency. The  
4 receiving school or school district shall forward a copy of  
5 the request to the receiving school or school district's area  
6 education agency. Any moneys received by the area education  
7 agency of the sending school or school district for the pupil  
8 child who is the subject of the request shall be forwarded to  
9 the receiving school or school district's area education  
10 agency.

11 A district of residence may apply to the school budget  
12 review committee if a student child was not included in the  
13 resident district's enrollment count during the fall of the  
14 year preceding the student's child's transfer under open  
15 enrollment.

16 11. Notwithstanding section 285.1 relating to  
17 transportation of nonresident public school pupils, the parent  
18 or guardian is responsible for transporting the pupil child  
19 without reimbursement to and from a point on a regular school  
20 bus route of the receiving district. A receiving district  
21 shall not send school vehicles into the district of residence  
22 of the pupil child using the open enrollment option under this  
23 section, for the purpose of transporting the pupil child to  
24 and from school in the receiving district. If the pupil child  
25 meets the economic eligibility requirements established by the  
26 department and state board of education, the sending district  
27 is responsible for providing transportation or paying the pro  
28 rata cost of the transportation to a parent or guardian for  
29 transporting the pupil child to and from a point on a regular  
30 school bus route of a contiguous receiving district unless the  
31 cost of providing transportation or the pro rata cost of the  
32 transportation to a parent or guardian exceeds the average  
33 transportation cost per pupil transported for the previous  
34 school year in the district. If the cost exceeds the average  
35 transportation cost per pupil transported for the previous

1 school year, the sending district shall only be responsible  
2 for that average per pupil amount. A sending district which  
3 provides transportation for a pupit child to a contiguous  
4 receiving district under this subsection may withhold from the  
5 district cost per pupil amount, that is to be paid to the  
6 receiving district, an amount which represents the average or  
7 pro rata cost per pupil for transportation, whichever is less.

8 12. A pupit child, whose parent or guardian has submitted  
9 a request to enroll the pupit child in a public or accredited  
10 nonpublic school in another district, shall, if the request  
11 has resulted in the enrollment of the pupit child in the other  
12 district, attend school in the other district which is the  
13 subject of the request. This requirement does not apply,  
14 however, if the pupit's child's family moves out of the  
15 district of residence.

16 13. Every school and school district shall adopt a policy  
17 which defines the term "insufficient classroom space" for that  
18 district.

19 ~~14.--The-board-of-directors-of-a-school-district-subject-to~~  
20 ~~volunteer-or-court-ordered-desegregation-may-vote-not-to~~  
21 ~~participate-in-open-enrollment-under-this-section-during-the~~  
22 ~~school-year-commencing-July-1,1990,-and-ending-June-30,1991-~~  
23 ~~if-a-district-chooses-not-to-participate-in-open-enrollment~~  
24 ~~under-this-paragraph,-the-district-shall-develop-a-policy-for~~  
25 ~~implementation-of-open-enrollment-in-the-district-for-that~~  
26 ~~following-school-year.--The-policy-shall-contain-objective~~  
27 ~~criteria-for-determining-when-a-request-would-adversely-impact~~  
28 ~~the-desegregation-order-or-plan-and-criteria-for-prioritizing~~  
29 ~~requests-that-do-not-have-an-adverse-impact-on-the-order-or~~  
30 ~~plan-~~

31 15 14. A pupit child who participates in open enrollment  
32 for purposes of attending a grade in grades ten through twelve  
33 in a school or school district other than a school located in  
34 the child's district of residence is not eligible to  
35 participate in interscholastic athletic contests and athletic

1 competitions during the first year of enrollment under this  
2 section except the pupit child may participate in an  
3 interscholastic sport in which the school in the district of  
4 residence and the school in the other school district jointly  
5 participate, when the sport in which the pupit child wishes to  
6 participate is not offered in the school in the child's  
7 district of residence, if the pupit child chooses to use open  
8 enrollment to attend school in another school district because  
9 the district in which the student child previously attended  
10 school was dissolved and merged with one or more contiguous  
11 school districts under section 256.11, subsection 12, if the  
12 pupit child participates in open enrollment because the  
13 pupit's child's district of residence has entered into a whole  
14 grade sharing agreement with another district for the pupit's  
15 child's grade, or if the parent or guardian of the pupit child  
16 participating in open enrollment is an active member of the  
17 armed forces and resides in permanent housing on government  
18 property provided by a branch of the armed services. However,  
19 a pupit child who has paid tuition and attended school, or has  
20 attended school pursuant to a mutual agreement between the two  
21 districts, in a district other than the pupit's child's  
22 district of residence for at least one school year prior to  
23 March 10, 1989, is eligible to participate in interscholastic  
24 athletic contests and athletic competitions under this  
25 section, but only as a member of a team from a school located  
26 in the district that-pupit in which the child had attended.

27 16 15. If a pupit child, for which a request to transfer  
28 has been filed with a school or school district, has been  
29 suspended or expelled in the school or school district, the  
30 child shall not be permitted to transfer until the pupit child  
31 has been reinstated in the sending school or school district.  
32 Once the child has been reinstated, however, the child shall  
33 be permitted to transfer in the same manner as if the child  
34 had not been suspended or expelled by the sending school or  
35 school district. ~~if-a-child,-for-whom-a-request-to-transfer~~

1 has-been-filed-with-a-district, is expelled in the district,  
2 the child shall be permitted to transfer to a receiving  
3 district under this section if the child applies for and is  
4 reinstated in the sending district. However, if the child  
5 applies for reinstatement but is not reinstated in the sending  
6 school or school district, the receiving school or school  
7 district may deny the request to transfer. The parent or  
8 guardian of the child shall be permitted to appeal the  
9 decision of the receiving school or school district to the  
10 director of the department of education. If the director  
11 rules in favor of permitting the transfer, the child shall be  
12 permitted to transfer, but the transfer shall be conditioned  
13 upon the expiration of the expulsion period without the  
14 student child incurring a new violation.

15 17 16. If a request under this section is for transfer to  
16 a laboratory school, as described in chapter 265, the student  
17 child, who is the subject of the request, shall not be  
18 included in the basic enrollment of the student's child's  
19 district of residence, and the laboratory school shall report  
20 the enrollment of the student child directly to the department  
21 of education, unless the number of students children from the  
22 district attending the laboratory school during the current  
23 school year, as a result of open enrollment under this  
24 section, exceeds the number of students children enrolled in  
25 the laboratory school from that district during the 1989-1990  
26 school year. If the number of students children enrolled in  
27 the laboratory school from a district during the current year  
28 exceeds the number of students children enrolled from that  
29 district during the 1989-1990 school year, those students  
30 children who represent the difference between the current and  
31 the 1988-1989 school year enrollment figures shall be included  
32 in the basic enrollment of the students' children's districts  
33 of residence and the districts shall retain any moneys  
34 received as a result of the inclusion of the student child in  
35 the district enrollment. The total number of students

1 children enrolled at a laboratory school during a school year  
2 shall not exceed six hundred seventy ~~students~~ children. The  
3 regents' institution operating the laboratory school and the  
4 board of directors of the school district in the community in  
5 which the regents' institution is located shall develop a  
6 student transfer policy designed to protect and promote the  
7 quality and integrity of the teacher education program at the  
8 laboratory school, the viability of the education program of  
9 the local school district in which the regents' institution is  
10 located, and to indicate the order in which and reasons why  
11 requests to transfer to a laboratory school shall be  
12 considered. A laboratory school may deny a request for  
13 transfer under the policy. A denial of a request to transfer  
14 under this paragraph is not subject to appeal under section  
15 290.1.

16 ~~18~~ 17. For purposes of this section, "good cause" means a  
17 change in a child's residence due to a change in family  
18 residence, a change in the state in which the family residence  
19 is located, a change in a child's parents' marital status, a  
20 guardianship proceeding, placement in foster care, adoption,  
21 participation in a foreign exchange program, or participation  
22 in a substance abuse or mental health treatment program, or a  
23 similar set of circumstances consistent with the definition of  
24 good cause; a change in the status of a child's resident  
25 district, such as the failure of negotiations for a whole-  
26 grade sharing, reorganization, or dissolution agreement or the  
27 rejection of a current whole-grade sharing agreement; or  
28 reorganization plan, or a similar set of circumstances  
29 consistent with the definition of good cause. If the good  
30 cause relates to a change in status of a child's school  
31 district of residence, however, action by a parent or guardian  
32 must be taken to file the notification within forty-five days  
33 of the last board action or within thirty days of the  
34 certification of the election, whichever is applicable to the  
35 circumstances.

