

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections
5 14-7.02 and 14-7.05 as follows:

6 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

7 Sec. 14-7.02. Children attending private schools, public
8 out-of-state schools, public school residential facilities or
9 private special education facilities. The General Assembly
10 recognizes that non-public schools or special education
11 facilities provide an important service in the educational
12 system in Illinois.

13 If because of his or her disability the special education
14 program of a district is unable to meet the needs of a child
15 and the child attends a non-public school or special education
16 facility, a public out-of-state school or a special education
17 facility owned and operated by a county government unit that
18 provides special educational services required by the child
19 and is in compliance with the appropriate rules and
20 regulations of the State Superintendent of Education, the
21 school district in which the child is a resident shall pay the
22 actual cost of tuition for special education and related
23 services provided during the regular school term and during

1 the summer school term if the child's educational needs so
2 require, excluding room, board and transportation costs
3 charged the child by that non-public school or special
4 education facility, public out-of-state school or county
5 special education facility, or \$4,500 per year, whichever is
6 less, and shall provide him any necessary transportation.
7 "Nonpublic special education facility" shall include a
8 residential facility, within or without the State of Illinois,
9 which provides special education and related services to meet
10 the needs of the child by utilizing private schools or public
11 schools, whether located on the site or off the site of the
12 residential facility.

13 Prior to the placement of a child in an out-of-state
14 special education residential facility, the school district
15 must refer to the child or the child's parent or guardian the
16 option to place the child in a special education residential
17 facility located within this State, if any, that provides
18 treatment and services comparable to those provided by the
19 out-of-state special education residential facility. The
20 school district must review annually the placement of a child
21 in an out-of-state special education residential facility. As
22 a part of the review, the school district must refer to the
23 child or the child's parent or guardian the option to place the
24 child in a comparable special education residential facility
25 located within this State, if any.

26 The State Board of Education shall promulgate rules and

1 regulations for determining when placement in a private
2 special education facility is appropriate. Such rules and
3 regulations shall take into account the various types of
4 services needed by a child and the availability of such
5 services to the particular child in the public school. In
6 developing these rules and regulations the State Board of
7 Education shall consult with the Advisory Council on Education
8 of Children with Disabilities and hold public hearings to
9 secure recommendations from parents, school personnel, and
10 others concerned about this matter.

11 The State Board of Education shall also promulgate rules
12 and regulations for transportation to and from a residential
13 school. Transportation to and from home to a residential
14 school more than once each school term shall be subject to
15 prior approval by the State Superintendent in accordance with
16 the rules and regulations of the State Board.

17 A school district making tuition payments pursuant to this
18 Section is eligible for reimbursement from the State for the
19 amount of such payments actually made in excess of the
20 district per capita tuition charge for students not receiving
21 special education services. Such reimbursement shall be
22 approved in accordance with Section 14-12.01 and each district
23 shall file its claims, computed in accordance with rules
24 prescribed by the State Board of Education, on forms
25 prescribed by the State Superintendent of Education. Data used
26 as a basis of reimbursement claims shall be for the preceding

1 regular school term and summer school term. Each school
2 district shall transmit its claims to the State Board of
3 Education on or before August 15. The State Board of
4 Education, before approving any such claims, shall determine
5 their accuracy and whether they are based upon services and
6 facilities provided under approved programs. Upon approval the
7 State Board shall cause vouchers to be prepared showing the
8 amount due for payment of reimbursement claims to school
9 districts, for transmittal to the State Comptroller on the
10 30th day of September, December, and March, respectively, and
11 the final voucher, no later than June 20. If the money
12 appropriated by the General Assembly for such purpose for any
13 year is insufficient, it shall be apportioned on the basis of
14 the claims approved.

15 No child shall be placed in a special education program
16 pursuant to this Section if the tuition cost for special
17 education and related services increases more than 10 percent
18 over the tuition cost for the previous school year or exceeds
19 \$4,500 per year unless such costs have been approved by the
20 Illinois Purchased Care Review Board. The Illinois Purchased
21 Care Review Board shall consist of the following persons, or
22 their designees: the Directors of Children and Family
23 Services, Public Health, Public Aid, and the Governor's Office
24 of Management and Budget; the Secretary of Human Services; the
25 State Superintendent of Education; and such other persons as
26 the Governor may designate. The Review Board shall also

1 consist of one non-voting member who is an administrator of a
2 private, nonpublic, special education school. The Review Board
3 shall establish rules and regulations for its determination of
4 allowable costs and payments made by local school districts
5 for special education, room and board, and other related
6 services provided by non-public schools or special education
7 facilities and shall establish uniform standards and criteria
8 which it shall follow. The Review Board shall approve the
9 usual and customary rate or rates of a special education
10 program that (i) is offered by an out-of-state, non-public
11 provider of integrated autism specific educational and autism
12 specific residential services, (ii) offers 2 or more levels of
13 residential care, including at least one locked facility, and
14 (iii) serves 12 or fewer Illinois students.

15 In determining rates based on allowable costs, the Review
16 Board shall consider any wage increases awarded by the General
17 Assembly to front line personnel defined as direct support
18 persons, aides, front-line supervisors, qualified intellectual
19 disabilities professionals, nurses, and non-administrative
20 support staff working in service settings in community-based
21 settings within the State and adjust customary rates or rates
22 of a special education program to be equitable to the wage
23 increase awarded to similar staff positions in a community
24 residential setting. Any wage increase awarded by the General
25 Assembly to front line personnel defined as direct support
26 persons, aides, front-line supervisors, qualified intellectual

1 disabilities professionals, nurses, and non-administrative
2 support staff working in community-based settings within the
3 State, including the \$0.75 per hour increase contained in
4 Public Act 100-23 and the \$0.50 per hour increase included in
5 Public Act 100-23, shall also be a basis for any facility
6 covered by this Section to appeal its rate before the Review
7 Board under the process defined in Title 89, Part 900, Section
8 340 of the Illinois Administrative Code. Illinois
9 Administrative Code Title 89, Part 900, Section 342 shall be
10 updated to recognize wage increases awarded to community-based
11 settings to be a basis for appeal. However, any wage increase
12 that is captured upon appeal from a previous year shall not be
13 counted by the Review Board as revenue for the purpose of
14 calculating a facility's future rate.

15 Any definition used by the Review Board in administrative
16 rule or policy to define "related organizations" shall include
17 any and all exceptions contained in federal law or regulation
18 as it pertains to the federal definition of "related
19 organizations".

20 The Review Board shall establish uniform definitions and
21 criteria for accounting separately by special education, room
22 and board and other related services costs. The Board shall
23 also establish guidelines for the coordination of services and
24 financial assistance provided by all State agencies to assure
25 that no otherwise qualified child with a disability receiving
26 services under Article 14 shall be excluded from participation

1 in, be denied the benefits of or be subjected to
2 discrimination under any program or activity provided by any
3 State agency.

4 The Review Board shall review the costs for special
5 education and related services provided by non-public schools
6 or special education facilities and shall approve or
7 disapprove such facilities in accordance with the rules and
8 regulations established by it with respect to allowable costs.

9 The State Board of Education shall provide administrative
10 and staff support for the Review Board as deemed reasonable by
11 the State Superintendent of Education. This support shall not
12 include travel expenses or other compensation for any Review
13 Board member other than the State Superintendent of Education.

14 The Review Board shall seek the advice of the Advisory
15 Council on Education of Children with Disabilities on the
16 rules and regulations to be promulgated by it relative to
17 providing special education services.

18 If a child has been placed in a program in which the actual
19 per pupil costs of tuition for special education and related
20 services based on program enrollment, excluding room, board
21 and transportation costs, exceed \$4,500 and such costs have
22 been approved by the Review Board, the district shall pay such
23 total costs which exceed \$4,500. A district making such
24 tuition payments in excess of \$4,500 pursuant to this Section
25 shall be responsible for an amount in excess of \$4,500 equal to
26 the district per capita tuition charge and shall be eligible

1 for reimbursement from the State for the amount of such
2 payments actually made in excess of the districts per capita
3 tuition charge for students not receiving special education
4 services.

5 If a child has been placed in an approved individual
6 program and the tuition costs including room and board costs
7 have been approved by the Review Board, then such room and
8 board costs shall be paid by the appropriate State agency
9 subject to the provisions of Section 14-8.01 of this Act. Room
10 and board costs not provided by a State agency other than the
11 State Board of Education shall be provided by the State Board
12 of Education on a current basis. In no event, however, shall
13 the State's liability for funding of these tuition costs begin
14 until after the legal obligations of third party payors have
15 been subtracted from such costs. If the money appropriated by
16 the General Assembly for such purpose for any year is
17 insufficient, it shall be apportioned on the basis of the
18 claims approved. Each district shall submit estimated claims
19 to the State Superintendent of Education. Upon approval of
20 such claims, the State Superintendent of Education shall
21 direct the State Comptroller to make payments on a monthly
22 basis. The frequency for submitting estimated claims and the
23 method of determining payment shall be prescribed in rules and
24 regulations adopted by the State Board of Education. Such
25 current state reimbursement shall be reduced by an amount
26 equal to the proceeds which the child or child's parents are

1 eligible to receive under any public or private insurance or
2 assistance program. Nothing in this Section shall be construed
3 as relieving an insurer or similar third party from an
4 otherwise valid obligation to provide or to pay for services
5 provided to a child with a disability.

6 If it otherwise qualifies, a school district is eligible
7 for the transportation reimbursement under Section 14-13.01
8 and for the reimbursement of tuition payments under this
9 Section whether the non-public school or special education
10 facility, public out-of-state school or county special
11 education facility, attended by a child who resides in that
12 district and requires special educational services, is within
13 or outside of the State of Illinois. However, a district is not
14 eligible to claim transportation reimbursement under this
15 Section unless the district certifies to the State
16 Superintendent of Education that the district is unable to
17 provide special educational services required by the child for
18 the current school year.

19 Nothing in this Section authorizes the reimbursement of a
20 school district for the amount paid for tuition of a child
21 attending a non-public school or special education facility,
22 public out-of-state school or county special education
23 facility unless the school district certifies to the State
24 Superintendent of Education that the special education program
25 of that district is unable to meet the needs of that child
26 because of his disability and the State Superintendent of

1 Education finds that the school district is in substantial
2 compliance with Section 14-4.01. However, if a child is
3 unilaterally placed by a State agency or any court in a
4 non-public school or special education facility, public
5 out-of-state school, or county special education facility, a
6 school district shall not be required to certify to the State
7 Superintendent of Education, for the purpose of tuition
8 reimbursement, that the special education program of that
9 district is unable to meet the needs of a child because of his
10 or her disability.

11 Any educational or related services provided, pursuant to
12 this Section in a non-public school or special education
13 facility or a special education facility owned and operated by
14 a county government unit shall be at no cost to the parent or
15 guardian of the child. However, current law and practices
16 relative to contributions by parents or guardians for costs
17 other than educational or related services are not affected by
18 this amendatory Act of 1978.

19 Reimbursement for children attending public school
20 residential facilities shall be made in accordance with the
21 provisions of this Section.

22 Notwithstanding any other provision of law, any school
23 district receiving a payment under this Section or under
24 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
25 all or a portion of the funds that it receives in a particular
26 fiscal year or from general State aid pursuant to Section

1 18-8.05 of this Code as funds received in connection with any
2 funding program for which it is entitled to receive funds from
3 the State in that fiscal year (including, without limitation,
4 any funding program referenced in this Section), regardless of
5 the source or timing of the receipt. The district may not
6 classify more funds as funds received in connection with the
7 funding program than the district is entitled to receive in
8 that fiscal year for that program. Any classification by a
9 district must be made by a resolution of its board of
10 education. The resolution must identify the amount of any
11 payments or general State aid to be classified under this
12 paragraph and must specify the funding program to which the
13 funds are to be treated as received in connection therewith.
14 This resolution is controlling as to the classification of
15 funds referenced therein. A certified copy of the resolution
16 must be sent to the State Superintendent of Education. The
17 resolution shall still take effect even though a copy of the
18 resolution has not been sent to the State Superintendent of
19 Education in a timely manner. No classification under this
20 paragraph by a district shall affect the total amount or
21 timing of money the district is entitled to receive under this
22 Code. No classification under this paragraph by a district
23 shall in any way relieve the district from or affect any
24 requirements that otherwise would apply with respect to that
25 funding program, including any accounting of funds by source,
26 reporting expenditures by original source and purpose,

1 reporting requirements, or requirements of providing services.
2 (Source: P.A. 100-587, eff. 6-4-18; 101-10, eff. 6-5-19.)

3 (105 ILCS 5/14-7.05)

4 Sec. 14-7.05. Placement in residential facility; payment
5 of educational costs. For any student with a disability in a
6 residential facility placement made or paid for by an Illinois
7 public State agency or made by any court in this State, the
8 school district of residence as determined pursuant to this
9 Article is responsible for the costs of educating the child
10 and shall be reimbursed for those costs in accordance with
11 this Code. Subject to this Section and relevant State
12 appropriation, the resident district's financial
13 responsibility and reimbursement must be calculated in
14 accordance with the provisions of Section 14-7.02 of this
15 Code. In those instances in which a district receives a block
16 grant pursuant to Article 1D of this Code, the district's
17 financial responsibility is limited to the actual educational
18 costs of the placement, which must be paid by the district from
19 its block grant appropriation. Resident district financial
20 responsibility and reimbursement applies for both residential
21 facilities that are approved by the State Board of Education
22 and non-approved facilities, subject to the requirements of
23 this Section. The Illinois placing agency or court remains
24 responsible for funding the residential portion of the
25 placement and for notifying the resident district prior to the

1 placement, except in emergency situations. The residential
2 facility in which the student is placed shall notify the
3 resident district of the student's enrollment as soon as
4 practicable after the placement. Failure of the placing agency
5 or court to notify the resident district prior to the
6 placement does not absolve the resident district of financial
7 responsibility for the educational costs of the placement;
8 however, the resident district shall not become financially
9 responsible unless and until it receives written notice of the
10 placement by either the placing agency, court, or residential
11 facility. The placing agency or parent shall request an
12 individualized education program (IEP) meeting from the
13 resident district if the placement would entail additional
14 educational services beyond the student's current IEP. The
15 district of residence shall retain control of the IEP process,
16 and any changes to the IEP must be done in compliance with the
17 federal Individuals with Disabilities Education Act.

18 Prior to the placement of a child in an out-of-state
19 special education residential facility, the placing agency or
20 court must refer to the child or the child's parent or guardian
21 the option to place the child in a special education
22 residential facility located within this State, if any, that
23 provides treatment and services comparable to those provided
24 by the out-of-state special education residential facility.
25 The placing agency or court must review annually the placement
26 of a child in an out-of-state special education residential

1 facility. As a part of the review, the placing agency or court
2 must refer to the child or the child's parent or guardian the
3 option to place the child in a comparable special education
4 residential facility located within this State, if any.

5 Payments shall be made by the resident district to the
6 entity providing the educational services, whether the entity
7 is the residential facility or the school district wherein the
8 facility is located, no less than once per quarter unless
9 otherwise agreed to in writing by the parties.

10 A residential facility providing educational services
11 within the facility, but not approved by the State Board of
12 Education, is required to demonstrate proof to the State Board
13 of (i) appropriate certification of teachers for the student
14 population, (ii) age-appropriate curriculum, (iii) enrollment
15 and attendance data, and (iv) the ability to implement the
16 child's IEP. A school district is under no obligation to pay
17 such a residential facility unless and until such proof is
18 provided to the State Board's satisfaction.

19 When a dispute arises over the determination of the
20 district of residence under this Section, any person or
21 entity, including without limitation a school district or
22 residential facility, may make a written request for a
23 residency decision to the State Superintendent of Education,
24 who, upon review of materials submitted and any other items of
25 information he or she may request for submission, shall issue
26 his or her decision in writing. The decision of the State

1 Superintendent of Education is final.

2 (Source: P.A. 95-844, eff. 8-15-08; 95-938, eff. 8-29-08.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.