



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3706

Introduced 2/22/2021, by Rep. Natalie A. Manley

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-1.08  
105 ILCS 5/14-7.02

from Ch. 122, par. 14-1.08  
from Ch. 122, par. 14-7.02

Amends the Children with Disabilities Article of the School Code. Includes public therapeutics programs in the definition of "special educational facilities and services". In a provision requiring a school district to pay the cost of tuition for special education and related services if a child attends a non-public school or special education facility, a public out-of-state school, or a special education facility owned and operated by a county government unit, provides that the special education and related services includes public therapeutics programs.

LRB102 10466 CMG 15795 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 14-1.08 and 14-7.02 as follows:

6 (105 ILCS 5/14-1.08) (from Ch. 122, par. 14-1.08)

7 Sec. 14-1.08. Special educational facilities and services.

8 "Special educational facilities and services" includes special  
9 schools, special classes, special housing, including  
10 residential facilities, special instruction, special reader  
11 service, braillists and typists for children with visual  
12 disabilities, sign language interpreters, transportation,  
13 maintenance, instructional material, therapy, public  
14 therapeutics programs, professional consultant services,  
15 medical services only for diagnostic and evaluation purposes  
16 provided by a physician licensed to practice medicine in all  
17 its branches to determine a child's need for special education  
18 and related services, psychological services, school social  
19 worker services, special administrative services, salaries of  
20 all required special personnel, and other special educational  
21 services, including special equipment for use in the  
22 classroom, required by the child because of his disability if  
23 such services or special equipment are approved by the State

1 Superintendent of Education and the child is eligible therefor  
2 under this Article and the regulations of the State Board of  
3 Education.

4 (Source: P.A. 89-397, eff. 8-20-95.)

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

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

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

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

11 The State Board of Education shall promulgate rules and  
12 regulations for determining when placement in a private  
13 special education facility is appropriate. Such rules and  
14 regulations shall take into account the various types of  
15 services needed by a child and the availability of such  
16 services to the particular child in the public school. In  
17 developing these rules and regulations the State Board of  
18 Education shall consult with the Advisory Council on Education  
19 of Children with Disabilities and hold public hearings to  
20 secure recommendations from parents, school personnel, and  
21 others concerned about this matter.

22 The State Board of Education shall also promulgate rules  
23 and regulations for transportation to and from a residential  
24 school. Transportation to and from home to a residential  
25 school more than once each school term shall be subject to  
26 prior approval by the State Superintendent in accordance with

1 the rules and regulations of the State Board.

2 A school district making tuition payments pursuant to this  
3 Section is eligible for reimbursement from the State for the  
4 amount of such payments actually made in excess of the  
5 district per capita tuition charge for students not receiving  
6 special education services. Such reimbursement shall be  
7 approved in accordance with Section 14-12.01 and each district  
8 shall file its claims, computed in accordance with rules  
9 prescribed by the State Board of Education, on forms  
10 prescribed by the State Superintendent of Education. Data used  
11 as a basis of reimbursement claims shall be for the preceding  
12 regular school term and summer school term. Each school  
13 district shall transmit its claims to the State Board of  
14 Education on or before August 15. The State Board of  
15 Education, before approving any such claims, shall determine  
16 their accuracy and whether they are based upon services and  
17 facilities provided under approved programs. Upon approval the  
18 State Board shall cause vouchers to be prepared showing the  
19 amount due for payment of reimbursement claims to school  
20 districts, for transmittal to the State Comptroller on the  
21 30th day of September, December, and March, respectively, and  
22 the final voucher, no later than June 20. If the money  
23 appropriated by the General Assembly for such purpose for any  
24 year is insufficient, it shall be apportioned on the basis of  
25 the claims approved.

26 No child shall be placed in a special education program

1 pursuant to this Section if the tuition cost for special  
2 education and related services increases more than 10 percent  
3 over the tuition cost for the previous school year or exceeds  
4 \$4,500 per year unless such costs have been approved by the  
5 Illinois Purchased Care Review Board. The Illinois Purchased  
6 Care Review Board shall consist of the following persons, or  
7 their designees: the Directors of Children and Family  
8 Services, Public Health, Public Aid, and the Governor's Office  
9 of Management and Budget; the Secretary of Human Services; the  
10 State Superintendent of Education; and such other persons as  
11 the Governor may designate. The Review Board shall also  
12 consist of one non-voting member who is an administrator of a  
13 private, nonpublic, special education school. The Review Board  
14 shall establish rules and regulations for its determination of  
15 allowable costs and payments made by local school districts  
16 for special education, room and board, and other related  
17 services provided by non-public schools or special education  
18 facilities and shall establish uniform standards and criteria  
19 which it shall follow. The Review Board shall approve the  
20 usual and customary rate or rates of a special education  
21 program that (i) is offered by an out-of-state, non-public  
22 provider of integrated autism specific educational and autism  
23 specific residential services, (ii) offers 2 or more levels of  
24 residential care, including at least one locked facility, and  
25 (iii) serves 12 or fewer Illinois students.

26 In determining rates based on allowable costs, the Review

1 Board shall consider any wage increases awarded by the General  
2 Assembly to front line personnel defined as direct support  
3 persons, aides, front-line supervisors, qualified intellectual  
4 disabilities professionals, nurses, and non-administrative  
5 support staff working in service settings in community-based  
6 settings within the State and adjust customary rates or rates  
7 of a special education program to be equitable to the wage  
8 increase awarded to similar staff positions in a community  
9 residential setting. Any wage increase awarded by the General  
10 Assembly to front line personnel defined as direct support  
11 persons, aides, front-line supervisors, qualified intellectual  
12 disabilities professionals, nurses, and non-administrative  
13 support staff working in community-based settings within the  
14 State, including the \$0.75 per hour increase contained in  
15 Public Act 100-23 and the \$0.50 per hour increase included in  
16 Public Act 100-23, shall also be a basis for any facility  
17 covered by this Section to appeal its rate before the Review  
18 Board under the process defined in Title 89, Part 900, Section  
19 340 of the Illinois Administrative Code. Illinois  
20 Administrative Code Title 89, Part 900, Section 342 shall be  
21 updated to recognize wage increases awarded to community-based  
22 settings to be a basis for appeal. However, any wage increase  
23 that is captured upon appeal from a previous year shall not be  
24 counted by the Review Board as revenue for the purpose of  
25 calculating a facility's future rate.

26 Any definition used by the Review Board in administrative

1 rule or policy to define "related organizations" shall include  
2 any and all exceptions contained in federal law or regulation  
3 as it pertains to the federal definition of "related  
4 organizations".

5 The Review Board shall establish uniform definitions and  
6 criteria for accounting separately by special education, room  
7 and board and other related services costs. The Board shall  
8 also establish guidelines for the coordination of services and  
9 financial assistance provided by all State agencies to assure  
10 that no otherwise qualified child with a disability receiving  
11 services under Article 14 shall be excluded from participation  
12 in, be denied the benefits of or be subjected to  
13 discrimination under any program or activity provided by any  
14 State agency.

15 The Review Board shall review the costs for special  
16 education and related services provided by non-public schools  
17 or special education facilities and shall approve or  
18 disapprove such facilities in accordance with the rules and  
19 regulations established by it with respect to allowable costs.

20 The State Board of Education shall provide administrative  
21 and staff support for the Review Board as deemed reasonable by  
22 the State Superintendent of Education. This support shall not  
23 include travel expenses or other compensation for any Review  
24 Board member other than the State Superintendent of Education.

25 The Review Board shall seek the advice of the Advisory  
26 Council on Education of Children with Disabilities on the



1 rules and regulations to be promulgated by it relative to  
2 providing special education services.

3 If a child has been placed in a program in which the actual  
4 per pupil costs of tuition for special education and related  
5 services based on program enrollment, excluding room, board  
6 and transportation costs, exceed \$4,500 and such costs have  
7 been approved by the Review Board, the district shall pay such  
8 total costs which exceed \$4,500. A district making such  
9 tuition payments in excess of \$4,500 pursuant to this Section  
10 shall be responsible for an amount in excess of \$4,500 equal to  
11 the district per capita tuition charge and shall be eligible  
12 for reimbursement from the State for the amount of such  
13 payments actually made in excess of the districts per capita  
14 tuition charge for students not receiving special education  
15 services.

16 If a child has been placed in an approved individual  
17 program and the tuition costs including room and board costs  
18 have been approved by the Review Board, then such room and  
19 board costs shall be paid by the appropriate State agency  
20 subject to the provisions of Section 14-8.01 of this Act. Room  
21 and board costs not provided by a State agency other than the  
22 State Board of Education shall be provided by the State Board  
23 of Education on a current basis. In no event, however, shall  
24 the State's liability for funding of these tuition costs begin  
25 until after the legal obligations of third party payors have  
26 been subtracted from such costs. If the money appropriated by

1 the General Assembly for such purpose for any year is  
2 insufficient, it shall be apportioned on the basis of the  
3 claims approved. Each district shall submit estimated claims  
4 to the State Superintendent of Education. Upon approval of  
5 such claims, the State Superintendent of Education shall  
6 direct the State Comptroller to make payments on a monthly  
7 basis. The frequency for submitting estimated claims and the  
8 method of determining payment shall be prescribed in rules and  
9 regulations adopted by the State Board of Education. Such  
10 current state reimbursement shall be reduced by an amount  
11 equal to the proceeds which the child or child's parents are  
12 eligible to receive under any public or private insurance or  
13 assistance program. Nothing in this Section shall be construed  
14 as relieving an insurer or similar third party from an  
15 otherwise valid obligation to provide or to pay for services  
16 provided to a child with a disability.

17 If it otherwise qualifies, a school district is eligible  
18 for the transportation reimbursement under Section 14-13.01  
19 and for the reimbursement of tuition payments under this  
20 Section whether the non-public school or special education  
21 facility, public out-of-state school or county special  
22 education facility, attended by a child who resides in that  
23 district and requires special educational services, is within  
24 or outside of the State of Illinois. However, a district is not  
25 eligible to claim transportation reimbursement under this  
26 Section unless the district certifies to the State

1 Superintendent of Education that the district is unable to  
2 provide special educational services required by the child for  
3 the current school year.

4 Nothing in this Section authorizes the reimbursement of a  
5 school district for the amount paid for tuition of a child  
6 attending a non-public school or special education facility,  
7 public out-of-state school or county special education  
8 facility unless the school district certifies to the State  
9 Superintendent of Education that the special education program  
10 of that district is unable to meet the needs of that child  
11 because of his disability and the State Superintendent of  
12 Education finds that the school district is in substantial  
13 compliance with Section 14-4.01. However, if a child is  
14 unilaterally placed by a State agency or any court in a  
15 non-public school or special education facility, public  
16 out-of-state school, or county special education facility, a  
17 school district shall not be required to certify to the State  
18 Superintendent of Education, for the purpose of tuition  
19 reimbursement, that the special education program of that  
20 district is unable to meet the needs of a child because of his  
21 or her disability.

22 Any educational or related services provided, pursuant to  
23 this Section in a non-public school or special education  
24 facility or a special education facility owned and operated by  
25 a county government unit shall be at no cost to the parent or  
26 guardian of the child. However, current law and practices

1 relative to contributions by parents or guardians for costs  
2 other than educational or related services are not affected by  
3 this amendatory Act of 1978.

4 Reimbursement for children attending public school  
5 residential facilities shall be made in accordance with the  
6 provisions of this Section.

7 Notwithstanding any other provision of law, any school  
8 district receiving a payment under this Section or under  
9 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify  
10 all or a portion of the funds that it receives in a particular  
11 fiscal year or from general State aid pursuant to Section  
12 18-8.05 of this Code as funds received in connection with any  
13 funding program for which it is entitled to receive funds from  
14 the State in that fiscal year (including, without limitation,  
15 any funding program referenced in this Section), regardless of  
16 the source or timing of the receipt. The district may not  
17 classify more funds as funds received in connection with the  
18 funding program than the district is entitled to receive in  
19 that fiscal year for that program. Any classification by a  
20 district must be made by a resolution of its board of  
21 education. The resolution must identify the amount of any  
22 payments or general State aid to be classified under this  
23 paragraph and must specify the funding program to which the  
24 funds are to be treated as received in connection therewith.  
25 This resolution is controlling as to the classification of  
26 funds referenced therein. A certified copy of the resolution

1 must be sent to the State Superintendent of Education. The  
2 resolution shall still take effect even though a copy of the  
3 resolution has not been sent to the State Superintendent of  
4 Education in a timely manner. No classification under this  
5 paragraph by a district shall affect the total amount or  
6 timing of money the district is entitled to receive under this  
7 Code. No classification under this paragraph by a district  
8 shall in any way relieve the district from or affect any  
9 requirements that otherwise would apply with respect to that  
10 funding program, including any accounting of funds by source,  
11 reporting expenditures by original source and purpose,  
12 reporting requirements, or requirements of providing services.  
13 (Source: P.A. 100-587, eff. 6-4-18; 101-10, eff. 6-5-19.)