



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0987

Introduced 2/10/2009, by Rep. Kevin A. McCarthy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/29-2	from Ch. 122, par. 29-2
105 ILCS 5/29-3	from Ch. 122, par. 29-3
105 ILCS 5/29-4	from Ch. 122, par. 29-4
105 ILCS 5/29-5.2	from Ch. 122, par. 29-5.2

Amends the Transportation Article of the School Code. Provides that a school board shall provide free transportation for pupils residing at a distance of one mile (instead of one and one-half miles) or more from school. Makes related changes in provisions concerning transportation of pupils less than that distance from school, pupils attending a charter school or nonpublic school, and reimbursement of a custodian of a qualifying pupil for transportation expenses paid by the custodian. Effective July 1, 2009.

LRB096 08079 NHT 18185 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 29-2, 29-3, 29-4, and 29-5.2 as follows:

6 (105 ILCS 5/29-2) (from Ch. 122, par. 29-2)

7 Sec. 29-2. Transportation of pupils less than one mile ~~and~~
8 ~~one-half miles~~ from school. School boards may provide
9 transportation for pupils living less than one mile ~~and~~
10 ~~one-half miles~~ as measured by the customary route of travel
11 from the school attended and may make a charge for such
12 transportation in an amount of not to exceed the cost thereof,
13 which shall include a reasonable allowance for depreciation of
14 the vehicles so used.

15 (Source: Laws 1961, p. 31.)

16 (105 ILCS 5/29-3) (from Ch. 122, par. 29-3)

17 Sec. 29-3. Transportation in school districts. School
18 boards of community consolidated districts, community unit
19 districts, consolidated districts, consolidated high school
20 districts, optional elementary unit districts, combined high
21 school - unit districts, combined school districts if the
22 combined district includes any district which was previously

1 required to provide transportation, and any newly created
2 elementary or high school districts resulting from a high
3 school - unit conversion, a unit to dual conversion, or a
4 multi-unit conversion if the newly created district includes
5 any area that was previously required to provide transportation
6 shall provide free transportation for pupils residing at a
7 distance of one mile ~~and one-half miles~~ or more from any school
8 to which they are assigned for attendance maintained within the
9 district, except for those pupils for whom the school board
10 shall certify to the State Board of Education that adequate
11 transportation for the public is available.

12 For the purpose of this Act one mile ~~1-1/2 miles~~ distance
13 shall be from the exit of the property where the pupil resides
14 to the point where pupils are normally unloaded at the school
15 attended; such distance shall be measured by determining the
16 shortest distance on normally traveled roads or streets.

17 Such school board may comply with the provisions of this
18 Section by providing free transportation for pupils to and from
19 an assigned school and a pick-up point located not more than
20 one mile ~~and one-half miles~~ from the home of each pupil
21 assigned to such point.

22 For the purposes of this Act "adequate transportation for
23 the public" shall be assumed to exist for such pupils as can
24 reach school by walking, one way, along normally traveled roads
25 or streets less than one mile ~~1-1/2 miles~~ irrespective of the
26 distance the pupil is transported by public transportation.

1 In addition to the other requirements of this Section, each
2 school board may provide free transportation for any pupil
3 residing within one mile ~~1 1/2 miles~~ from the school attended
4 where conditions are such that walking, either to or from the
5 school to which a pupil is assigned for attendance or to or
6 from a pick-up point or bus stop, constitutes a serious hazard
7 to the safety of the pupil due to vehicular traffic or rail
8 crossings. Such transportation shall not be provided if
9 adequate transportation for the public is available.

10 The determination as to what constitutes a serious safety
11 hazard shall be made by the school board, in accordance with
12 guidelines promulgated by the Illinois Department of
13 Transportation, in consultation with the State Superintendent
14 of Education. A school board, on written petition of the parent
15 or guardian of a pupil for whom adequate transportation for the
16 public is alleged not to exist because the pupil is required to
17 walk along normally traveled roads or streets where walking is
18 alleged to constitute a serious safety hazard due to vehicular
19 traffic or rail crossings, or who is required to walk between
20 the pupil's home and assigned school or between the pupil's
21 home or assigned school and a pick-up point or bus stop along
22 roads or streets where walking is alleged to constitute a
23 serious safety hazard due to vehicular traffic or rail
24 crossings, shall conduct a study and make findings, which the
25 Department of Transportation shall review and approve or
26 disapprove as provided in this Section, to determine whether a

1 serious safety hazard exists as alleged in the petition. The
2 Department of Transportation shall review the findings of the
3 school board and shall approve or disapprove the school board's
4 determination that a serious safety hazard exists within 30
5 days after the school board submits its findings to the
6 Department. The school board shall annually review the
7 conditions and determine whether or not the hazardous
8 conditions remain unchanged. The State Superintendent of
9 Education may request that the Illinois Department of
10 Transportation verify that the conditions have not changed. No
11 action shall lie against the school board, the State
12 Superintendent of Education or the Illinois Department of
13 Transportation for decisions made in accordance with this
14 Section. The provisions of the Administrative Review Law and
15 all amendments and modifications thereof and the rules adopted
16 pursuant thereto shall apply to and govern all proceedings
17 instituted for the judicial review of final administrative
18 decisions of the Department of Transportation under this
19 Section.

20 (Source: P.A. 94-439, eff. 8-4-05; 95-903, eff. 8-25-08.)

21 (105 ILCS 5/29-4) (from Ch. 122, par. 29-4)

22 Sec. 29-4. Pupils attending a charter school or nonpublic
23 school. The school board of any school district that provides
24 any school bus or conveyance for transporting pupils to and
25 from the public schools shall afford transportation, without

1 cost, for children who attend a charter school or any school
2 other than a public school, who reside at least one mile ~~1-1/2~~
3 ~~miles~~ from the school attended, and who reside on or along the
4 highway constituting the regular route of such public school
5 bus or conveyance, such transportation to extend from some
6 point on the regular route nearest or most easily accessible to
7 their homes to and from the school attended, or to or from a
8 point on such regular route which is nearest or most easily
9 accessible to the school attended by such children. Nothing
10 herein shall be construed to prevent high school districts from
11 transporting public or non-public elementary school pupils on a
12 regular route where deemed appropriate. The elementary
13 district in which such pupils reside shall enter into a
14 contractual agreement with the high school district providing
15 the service, make payments accordingly, and make claims to the
16 State in the amount of such contractual payments. The person in
17 charge of any charter school or school other than a public
18 school shall certify on a form to be provided by the State
19 Superintendent of Education, the names and addresses of pupils
20 transported and when such pupils were in attendance at the
21 school. If any such children reside within one mile ~~1-1/2 miles~~
22 from the school attended, the school board shall afford such
23 transportation to such children on the same basis as it
24 provides transportation for its own pupils residing within that
25 distance from the school attended.

26 Nothing herein shall be construed to preclude a school

1 district from operating separate regular bus routes, subject to
2 the limitations of this Section, for the benefit of children
3 who attend a charter school or any school other than a public
4 school where the operation of such routes is safer, more
5 economical and more efficient than if such school district were
6 precluded from operating separate regular bus routes.

7 If a school district is required by this Section to afford
8 transportation without cost for any child who is not a resident
9 of the district, the school district providing such
10 transportation is entitled to reimbursement from the school
11 district in which the child resides for the cost of furnishing
12 that transportation, including a reasonable allowance for
13 depreciation on each vehicle so used. The school district where
14 the child resides shall reimburse the district providing the
15 transportation for such costs, by the 10th of each month or on
16 such less frequent schedule as may be agreed to by the 2 school
17 districts.

18 (Source: P.A. 91-407, eff. 8-3-99.)

19 (105 ILCS 5/29-5.2) (from Ch. 122, par. 29-5.2)

20 Sec. 29-5.2. Reimbursement of transportation.

21 (a) Reimbursement. A custodian of a qualifying pupil shall
22 be entitled to reimbursement in accordance with procedures
23 established by the State Board of Education for qualified
24 transportation expenses paid by such custodian during the
25 school year.

1 (b) Definitions. As used in this Section:

2 (1) "Qualifying pupil" means an individual referred to in
3 subsection (c), as well as an individual who:

4 (A) is a resident of the State of Illinois; and

5 (B) is under the age of 21 at the close of the school year
6 for which reimbursement is sought; and

7 (C) during the school year for which reimbursement is
8 sought was a full-time pupil enrolled in a kindergarten through
9 12th grade educational program at a school which was a distance
10 of one mile ~~1 1/2 miles~~ or more from the residence of such
11 pupil; and

12 (D) did not live within one mile ~~1 1/2 miles~~ from the
13 school in which the pupil was enrolled or have access to
14 transportation provided entirely at public expense to and from
15 that school and a point within one mile ~~1 1/2 miles~~ of the
16 pupil's residence, measured in a manner consistent with Section
17 29-3.

18 (2) "Qualified transportation expenses" means costs
19 reasonably incurred by the custodian to transport, for the
20 purposes of attending regularly scheduled day-time classes, a
21 qualifying pupil between such qualifying pupil's residence and
22 the school at which such qualifying pupil is enrolled, as
23 limited in subsection (e) of this Section, and shall include
24 automobile expenses at the standard mileage rate allowed by the
25 United States Internal Revenue Service as reimbursement for
26 business transportation expense, as well as payments to mass

1 transit carriers, private carriers, and contractual fees for
2 transportation.

3 (3) "School" means a public or nonpublic elementary or
4 secondary school in Illinois, attendance at which satisfies the
5 requirements of Section 26-1.

6 (4) One mile ~~and one half miles~~ distance. For the purposes
7 of this Section, one mile ~~1-1/2 miles~~ distance shall be
8 measured in a manner consistent with Section 29-3.

9 (5) Custodian. The term "custodian" shall mean, with
10 respect to a qualifying pupil, an Illinois resident who is the
11 parent, or parents, or legal guardian of such qualifying pupil.

12 (c) An individual, resident of the State of Illinois, who
13 is under the age of 21 at the close of the school year for which
14 reimbursement is sought and who, during that school year, was a
15 full time pupil enrolled in a kindergarten through 12th grade
16 educational program at a school which was within one mile ~~1-1/2~~
17 ~~miles~~ of the pupil's residence, measured in a manner consistent
18 with Section 29-3, is a "qualifying pupil" within the meaning
19 of this Section if: (i) such pupil did not have access to
20 transportation provided entirely at public expense to and from
21 that school and the pupil's residence, and (ii) conditions were
22 such that walking would have constituted a serious hazard to
23 the safety of the pupil due to vehicular traffic. The
24 determination of what constitutes a serious safety hazard
25 within the meaning of this subsection shall in each case be
26 made by the Department of Transportation in accordance with

1 guidelines which the Department, in consultation with the State
2 Superintendent of Education, shall promulgate. Each custodian
3 intending to file an application for reimbursement under
4 subsection (d) for expenditures incurred or to be incurred with
5 respect to a pupil asserted to be a qualified pupil as an
6 individual referred to in this subsection shall first file with
7 the appropriate regional superintendent, on forms provided by
8 the State Board of Education, a request for a determination
9 that a serious safety hazard within the meaning of this
10 subsection (c) exists with respect to such pupil. Custodians
11 shall file such forms with the appropriate regional
12 superintendents not later than February 1 of the school year
13 for which reimbursement will be sought for transmittal by the
14 regional superintendents to the Department of Transportation
15 not later than February 15; except that any custodian who
16 previously received a determination that a serious safety
17 hazard exists need not resubmit such a request for 4 years but
18 instead may certify on their application for reimbursement to
19 the State Board of Education referred to in subsection (d),
20 that the conditions found to be hazardous, as previously
21 determined by the Department, remain unchanged. The Department
22 shall make its determination on all requests so transmitted to
23 it within 30 days, and shall thereupon forward notice of each
24 determination which it has made to the appropriate regional
25 superintendent for immediate transmittal to the custodian
26 affected thereby. The determination of the Department relative

1 to what constitutes a serious safety hazard within the meaning
2 of subsection (c) with respect to any pupil shall be deemed an
3 "administrative decision" as defined in Section 3-101 of the
4 Administrative Review Law; and the Administrative Review Law
5 and all amendments and modifications thereof and rules adopted
6 pursuant thereto shall apply to and govern all proceedings
7 instituted for the judicial review of final administrative
8 decisions of the Department of Transportation under this
9 subsection.

10 (d) Request for reimbursement. A custodian, including a
11 custodian for a pupil asserted to be a qualified pupil as an
12 individual referred to in subsection (c), who applies in
13 accordance with procedures established by the State Board of
14 Education shall be reimbursed in accordance with the dollar
15 limits set out in this Section. Such procedures shall require
16 application no later than June 30 of each year, documentation
17 as to eligibility, and adequate evidence of expenditures;
18 except that for reimbursement sought pursuant to subsection (c)
19 for the 1985-1986 school year, such procedures shall require
20 application within 21 days after the determination of the
21 Department of Transportation with respect to that school year
22 is transmitted by the regional superintendent to the affected
23 custodian. In the absence of contemporaneous records, an
24 affidavit by the custodian may be accepted as evidence of an
25 expenditure. If the amount appropriated for such reimbursement
26 for any year is less than the amount due each custodian, it

1 shall be apportioned on the basis of the requests approved.
2 Regional Superintendents shall be reimbursed for such costs of
3 administering the program, including costs incurred in
4 administering the provisions of subsection (c), as the State
5 Board of Education determines are reasonable and necessary.

6 (e) Dollar limit on amount of reimbursement. Reimbursement
7 to custodians for transportation expenses incurred during the
8 1985-1986 school year, payable in fiscal year 1987, shall be
9 equal to the lesser of (1) the actual qualified transportation
10 expenses, or (2) \$50 per pupil. Reimbursement to custodians for
11 transportation expenses incurred during the 1986-1987 school
12 year, payable in fiscal year 1988, shall be equal to the lesser
13 of (1) the actual qualified transportation expenses, or (2)
14 \$100 per pupil. For reimbursements of qualified transportation
15 expenses incurred in 1987-1988 and thereafter, the amount of
16 reimbursement shall not exceed the prior year's State
17 reimbursement per pupil for transporting pupils as required by
18 Section 29-3 and other provisions of this Article.

19 (f) Rules and regulations. The State Board of Education
20 shall adopt rules to implement this Section.

21 (g) The provisions of this amendatory Act of 1986 shall
22 apply according to their terms to the entire 1985-1986 school
23 year, including any portion of that school year which elapses
24 prior to the effective date of this amendatory Act, and to each
25 subsequent school year.

26 (h) The chief administrative officer of each school shall

1 notify custodians of qualifying pupils that reimbursements are
2 available. Notification shall occur by the first Monday in
3 November of the school year for which reimbursement is
4 available.

5 (Source: P.A. 91-357, eff. 7-29-99.)

6 Section 99. Effective date. This Act takes effect July 1,
7 2009.