

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 Section  
5 14-7.02 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 and  
19 is in compliance with the appropriate rules and regulations of  
20 the State Superintendent of Education, the school district in  
21 which the child is a resident shall pay the actual cost of  
22 tuition for special education and related services 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  
26 non-public school or special education facility, public  
27 out-of-state school or county special education facility, or  
28 \$4,500 per year, whichever is less, and shall provide him any  
29 necessary transportation. "Nonpublic special education  
30 facility" shall include a residential facility, within or  
31 without the State of Illinois, which provides special education  
32 and related services to meet the needs of the child by

1 utilizing private schools or public schools, whether located on  
2 the site or off the site of the residential facility.

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

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

19 A school district making tuition payments pursuant to this  
20 Section is eligible for reimbursement from the State for the  
21 amount of such payments actually made in excess of the district  
22 per capita tuition charge for students not receiving special  
23 education services. Such reimbursement shall be approved in  
24 accordance with Section 14-12.01 and each district shall file  
25 its claims, computed in accordance with rules prescribed by the  
26 State Board of Education, on forms prescribed by the State  
27 Superintendent of Education. Data used as a basis of  
28 reimbursement claims shall be for the preceding regular school  
29 term and summer school term. Each school district shall  
30 transmit its claims to the State Board of Education on or  
31 before August 15. The State Board of Education, before  
32 approving any such claims, shall determine their accuracy and  
33 whether they are based upon services and facilities provided  
34 under approved programs. Upon approval the State Board shall  
35 cause vouchers to be prepared showing the amount due for  
36 payment of reimbursement claims to school districts, for

1 transmittal to the State Comptroller on the 30th day of  
2 September, December, and March, respectively, and the final  
3 voucher, no later than June 20. If the money appropriated by  
4 the General Assembly for such purpose for any year is  
5 insufficient, it shall be apportioned on the basis of the  
6 claims approved.

7 No child shall be placed in a special education program  
8 pursuant to this Section if the tuition cost for special  
9 education and related services increases more than 10 percent  
10 over the tuition cost for the previous school year or exceeds  
11 \$4,500 per year unless such costs have been approved by the  
12 Illinois Purchased Care Review Board. The Illinois Purchased  
13 Care Review Board shall consist of the following persons, or  
14 their designees: the Directors of Children and Family Services,  
15 Public Health, Public Aid, and the Governor's Office of  
16 Management and Budget; the Secretary of Human Services; the  
17 State Superintendent of Education; and such other persons as  
18 the Governor may designate. The Review Board shall establish  
19 rules and regulations for its determination of allowable costs  
20 and payments made by local school districts for special  
21 education, room and board, and other related services provided  
22 by non-public schools or special education facilities and shall  
23 establish uniform standards and criteria which it shall follow.

24 The Review Board shall establish uniform definitions and  
25 criteria for accounting separately by special education, room  
26 and board and other related services costs. The Board shall  
27 also establish guidelines for the coordination of services and  
28 financial assistance provided by all State agencies to assure  
29 that no otherwise qualified disabled child receiving services  
30 under Article 14 shall be excluded from participation in, be  
31 denied the benefits of or be subjected to discrimination under  
32 any program or activity provided by any State agency.

33 The Review Board shall review the costs for special  
34 education and related services provided by non-public schools  
35 or special education facilities and shall approve or disapprove  
36 such facilities in accordance with the rules and regulations

1 established by it with respect to allowable costs.

2 The State Board of Education shall provide administrative  
3 and staff support for the Review Board as deemed reasonable by  
4 the State Superintendent of Education. This support shall not  
5 include travel expenses or other compensation for any Review  
6 Board member other than the State Superintendent of Education.

7 The Review Board shall seek the advice of the Advisory  
8 Council on Education of Children with Disabilities on the rules  
9 and regulations to be promulgated by it relative to providing  
10 special education services.

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

23 If a child has been placed in an approved individual  
24 program and the tuition costs including room and board costs  
25 have been approved by the Review Board, then such room and  
26 board costs shall be paid by the appropriate State agency  
27 subject to the provisions of Section 14-8.01 of this Act. Room  
28 and board costs not provided by a State agency other than the  
29 State Board of Education shall be provided by the State Board  
30 of Education on a current basis. In no event, however, shall  
31 the State's liability for funding of these tuition costs begin  
32 until after the legal obligations of third party payors have  
33 been subtracted from such costs. If the money appropriated by  
34 the General Assembly for such purpose for any year is  
35 insufficient, it shall be apportioned on the basis of the  
36 claims approved. Each district shall submit estimated claims to

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

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

27 Nothing in this Section authorizes the reimbursement of a  
28 school district for the amount paid for tuition of a child  
29 attending a non-public school or special education facility,  
30 public out-of-state school or county special education  
31 facility unless the school district certifies to the State  
32 Superintendent of Education that the special education program  
33 of that district is unable to meet the needs of that child  
34 because of his disability and the State Superintendent of  
35 Education finds that the school district is in substantial  
36 compliance with Section 14-4.01. However, if a child is

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

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

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

20 Notwithstanding any other provision of law, any school  
21 district receiving a payment under this Section or under  
22 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify  
23 all or a portion of the funds that it receives in a particular  
24 fiscal year or from general State aid pursuant to Section  
25 18-8.05 of this Code as funds received in connection with any  
26 funding program for which it is entitled to receive funds from  
27 the State in that fiscal year (including, without limitation,  
28 any funding program referenced in this Section), regardless of  
29 the source or timing of the receipt. The district may not  
30 classify more funds as funds received in connection with the  
31 funding program than the district is entitled to receive in  
32 that fiscal year for that program. Any classification by a  
33 district must be made by a resolution of its board of  
34 education. The resolution must identify the amount of any  
35 payments or general State aid to be classified under this  
36 paragraph and must specify the funding program to which the

1 funds are to be treated as received in connection therewith.  
2 This resolution is controlling as to the classification of  
3 funds referenced therein. A certified copy of the resolution  
4 must be sent to the State Superintendent of Education. The  
5 resolution shall still take effect even though a copy of the  
6 resolution has not been sent to the State Superintendent of  
7 Education in a timely manner. No classification under this  
8 paragraph by a district shall affect the total amount or timing  
9 of money the district is entitled to receive under this Code.  
10 No classification under this paragraph by a district shall in  
11 any way relieve the district from or affect any requirements  
12 that otherwise would apply with respect to that funding  
13 program, including any accounting of funds by source, reporting  
14 expenditures by original source and purpose, reporting  
15 requirements, or requirements of providing services.

16 (Source: P.A. 92-568, eff. 6-26-02; 93-1022, eff. 8-24-04.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.