

99TH GENERAL ASSEMBLY State of Illinois 2015 and 2016 HB6140

Introduced 2/11/2016, by Rep. Joe Sosnowski

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	from	Ch.	122,	par.	29-5
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 2 miles (instead of one and one-half miles) or more from school. Makes related changes in provisions concerning the transportation of pupils less than that distance from school, pupils attending a charter school or nonpublic school, reimbursement by the State for transportation, and reimbursement of a custodian of a qualifying pupil for transportation expenses paid by the custodian. Effective July 1, 2016.

LRB099 15989 NHT 40306 b

FISCAL NOTE ACT MAY APPLY

1 AN ACT concerning education.

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

- Section 5. The School Code is amended by changing Sections 29-2, 29-3, 29-4, 29-5, 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 2 one and one-half miles from school. School boards may provide 8 9 transportation for pupils living less than 2 one and one-half miles as measured by the customary route of travel from the 10 school attended and may make a charge for such transportation 11 in an amount of not to exceed the cost thereof, which shall 12 13 include a reasonable allowance for depreciation of the vehicles 14 so used.
- 15 (Source: Laws 1961, p. 31.)
- 16 (105 ILCS 5/29-3) (from Ch. 122, par. 29-3)
- Sec. 29-3. Transportation in school districts. School boards of community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, optional elementary unit districts, combined high school unit districts, combined school districts if the combined district includes any district which was previously

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

For the purpose of this Act $\underline{2}$ $\underline{1}$ $\underline{1}/2$ miles distance shall be from the exit of the property where the pupil resides to the point where pupils are normally unloaded at the school attended; such distance shall be measured by determining the shortest distance on normally traveled roads or streets.

Such school board may comply with the provisions of this Section by providing free transportation for pupils to and from an assigned school and a pick-up point located not more than $\underline{2}$ one and one-half miles from the home of each pupil assigned to such point.

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

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

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

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serious safety hazard exists as alleged in the petition. The 1 2 Department of Transportation shall review the findings of the 3 school board and shall approve or disapprove the school board's determination that a serious safety hazard exists within 30 5 days after the school board submits its findings to the school board shall annually review 6 Department. 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 decisions of the Department of Transportation under this 18 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)

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

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cost, for children who attend a charter school or any school other than a public school, who reside at least 2 $\frac{1-1/2}{2}$ miles from the school attended, and who reside on or along the highway constituting the regular route of such public school bus or conveyance, such transportation to extend from some point on the regular route nearest or most easily accessible to their homes to and from the school attended, or to or from a point on such regular route which is nearest or most easily accessible to the school attended by such children. Nothing herein shall be construed to prevent high school districts from transporting public or non-public elementary school pupils on a regular route where deemed appropriate. The elementary district in which such pupils reside shall enter into a contractual agreement with the high school district providing the service, make payments accordingly, and make claims to the State in the amount of such contractual payments. The person in charge of any charter school or school other than a public school shall certify on a form to be provided by the State Superintendent of Education, the names and addresses of pupils transported and when such pupils were in attendance at the school. If any such children reside within 2 $\frac{1}{1}$ miles from the school attended, the school board shall afford such transportation to such children on the same basis as it provides transportation for its own pupils residing within that distance from the school attended.

Nothing herein shall be construed to preclude a school

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

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

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

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

Sec. 29-5. Reimbursement by State for transportation. Any school district, maintaining a school, transporting resident pupils to another school district's vocational program, offered through a joint agreement approved by the State Board of Education, as provided in Section 10-22.22 or transporting its resident pupils to a school which meets the standards for

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recognition as established by the State Board of Education which provides transportation meeting the standards of safety, comfort, convenience, efficiency and operation prescribed by State Board of Education for resident pupils kindergarten or any of grades 1 through 12 who: (a) reside at least 2 $\frac{1-1/2}{2}$ miles as measured by the customary route of travel, from the school attended; or (b) reside in areas where conditions are such that walking constitutes a hazard to the safety of the child when determined under Section 29-3; and (c) are transported to the school attended from pick-up points at the beginning of the school day and back again at the close of the school day or transported to and from their assigned attendance centers during the school day, shall be reimbursed by the State as hereinafter provided in this Section.

The State will pay the cost of transporting eligible pupils less the assessed valuation in a dual school district maintaining secondary grades 9 to 12 inclusive times a qualifying rate of .05%; in elementary school districts maintaining grades K to 8 times a qualifying rate of .06%; and in unit districts maintaining grades K to 12, including optional elementary unit districts and combined high school - unit districts, times a qualifying rate of .07%; provided that for optional elementary unit districts and combined high school - unit districts, assessed valuation for high school purposes, as defined in Article 11E of this Code, must be used. To be eligible to receive reimbursement in excess of 4/5 of the cost

to transport eligible pupils, a school district shall have a Transportation Fund tax rate of at least .12%. If a school district does not have a .12% Transportation Fund tax rate, the amount of its claim in excess of 4/5 of the cost of transporting pupils shall be reduced by the sum arrived at by subtracting the Transportation Fund tax rate from .12% and multiplying that amount by the districts equalized or assessed valuation, provided, that in no case shall said reduction result in reimbursement of less than 4/5 of the cost to transport eligible pupils.

The minimum amount to be received by a district is \$16 times the number of eligible pupils transported.

When calculating the reimbursement for transportation costs, the State Board of Education may not deduct the number of pupils enrolled in early education programs from the number of pupils eligible for reimbursement if the pupils enrolled in the early education programs are transported at the same time as other eligible pupils.

Any such district transporting resident pupils during the school day to an area vocational school or another school district's vocational program more than $\underline{2}$ $\frac{1-1/2}{2}$ miles from the school attended, as provided in Sections 10-22.20a and 10-22.22, shall be reimbursed by the State for 4/5 of the cost of transporting eligible pupils.

School day means that period of time which the pupil is required to be in attendance for instructional purposes.

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If a pupil is at a location within the school district other than his residence for child care purposes at the time for transportation to school, that location may be considered for purposes of determining the $\frac{2}{2}$ 1/2 miles from the school attended.

Claims for reimbursement that include children who attend any school other than a public school shall show the number of such children transported.

Claims for reimbursement under this Section shall not be paid for the transportation of pupils for whom transportation costs are claimed for payment under other Sections of this Act.

The allowable direct cost of transporting pupils for vocational, special education regular, and transportation shall be limited to the sum of the cost of physical examinations required for employment as a school bus driver; the salaries of full or part-time drivers and school maintenance personnel; employee benefits excluding bus Illinois municipal retirement payments, social security payments, unemployment insurance payments and workers' compensation insurance premiums; expenditures to independent carriers who operate school buses; payments to other school districts for pupil transportation services; pre-approved contractual expenditures for computerized bus scheduling; the cost of gasoline, oil, tires, and other supplies necessary for the operation of school buses; the cost of converting buses' gasoline engines to more fuel efficient engines or to engines

1 which use alternative energy sources; the cost of travel to 2 meetings and workshops conducted by the regional 3 superintendent or the State Superintendent of Education pursuant to the standards established by the Secretary of State 4 5 under Section 6-106 of the Illinois Vehicle Code to improve the driving skills of school bus drivers; the cost of maintenance 6 7 school buses including parts and materials used; 8 expenditures for leasing transportation vehicles, 9 interest and service charges; the cost of insurance and 10 licenses for transportation vehicles; expenditures for the 11 rental of transportation equipment; plus a depreciation 12 allowance of 20% for 5 years for school buses and vehicles 13 approved for transporting pupils to and from school and a depreciation allowance of 10% for 10 years 14 for 15 transportation equipment so used. Each school year, if a school 16 district has made expenditures to the Regional Transportation 17 Authority or any of its service boards, a mass transit 18 urban transportation district under district. or an intergovernmental agreement with the district to provide for 19 20 the transportation of pupils and if the public transit carrier received direct payment for services or passes from a school 21 22 district within its service area during the 2000-2001 school 23 year, then the allowable direct cost of transporting pupils for 24 regular, vocational, and special education 25 transportation shall also include the expenditures that the 26 district has made to the public transit carrier. In addition to

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the above allowable costs school districts shall also claim all transportation supervisory salary costs, including Illinois municipal retirement payments, and all transportation related building and building maintenance costs without limitation.

Special education allowable costs shall also include expenditures for the salaries of attendants or aides for that portion of the time they assist special education pupils while in transit and expenditures for parents and public carriers for transporting special education pupils when pre-approved by the State Superintendent of Education.

Indirect costs shall be included in the reimbursement claim for districts which own and operate their own school buses. Such indirect costs shall include administrative costs, or any costs attributable to transporting pupils from attendance centers to another school building for instructional purposes. No school district which owns and operates its own school buses may claim reimbursement for indirect costs which exceed 5% of the total allowable direct costs for pupil transportation.

The State Board of Education shall prescribe uniform regulations for determining the above standards and shall prescribe forms of cost accounting and standards of determining reasonable depreciation. Such depreciation shall include the cost of equipping school buses with the safety features required by law or by the rules, regulations and standards promulgated by the State Board of Education, and the Department

of Transportation for the safety and construction of school buses provided, however, any equipment cost reimbursed by the Department of Transportation for equipping school buses with such safety equipment shall be deducted from the allowable cost in the computation of reimbursement under this Section in the same percentage as the cost of the equipment is depreciated.

On or before August 15, annually, the chief school administrator for the district shall certify to the State Superintendent of Education the district's claim for reimbursement for the school year ending on June 30 next preceding. The State Superintendent of Education shall check and approve the claims and prepare the vouchers showing the amounts due for district reimbursement claims. Each fiscal year, the State Superintendent of Education shall prepare and transmit the first 3 vouchers to the Comptroller on the 30th day of September, December and March, respectively, and the final voucher, no later than June 20.

If the amount appropriated for transportation reimbursement is insufficient to fund total claims for any fiscal year, the State Board of Education shall reduce each school district's allowable costs and flat grant amount proportionately to make total adjusted claims equal the total amount appropriated.

For purposes of calculating claims for reimbursement under this Section for any school year beginning July 1, 1998, or thereafter, the equalized assessed valuation for a school

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district used to compute reimbursement shall be computed in the same manner as it is computed under paragraph (2) of subsection (G) of Section 18-8.05.

All reimbursements received from the State shall be deposited into the district's transportation fund or into the fund from which the allowable expenditures were made.

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

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

Any school district with a population of not more than 500,000 must deposit all funds received under this Article into the transportation fund and use those funds for the provision of transportation services.

17 (Source: P.A. 95-903, eff. 8-25-08; 96-1264, eff. 1-1-11.)

- 18 (105 ILCS 5/29-5.2) (from Ch. 122, par. 29-5.2)
- 19 Sec. 29-5.2. Reimbursement of transportation.
- 20 (a) Reimbursement. A custodian of a qualifying pupil shall
 21 be entitled to reimbursement in accordance with procedures
 22 established by the State Board of Education for qualified
 23 transportation expenses paid by such custodian during the
 24 school year.
- 25 (b) Definitions. As used in this Section:

1		(1) " Qual:	ifying	pupil"	means	an	individ	dual	referred	to
2	in	subsection	(c), a	as well	as an	indi	ividual	who:		

- (A) is a resident of the State of Illinois; and
- (B) is under the age of 21 at the close of the school year for which reimbursement is sought; and
- (C) during the school year for which reimbursement is sought was a full-time pupil enrolled in a kindergarten through 12th grade educational program at a school which was a distance of $\frac{2}{2} + \frac{1}{2}$ miles or more from the residence of such pupil; and
- (D) did not live within $\frac{2}{1} \cdot \frac{1}{2}$ miles from the school in which the pupil was enrolled or have access to transportation provided entirely at public expense to and from that school and a point within $\frac{2}{1} \cdot \frac{1}{2}$ miles of the pupil's residence, measured in a manner consistent with Section 29-3.
- (2) "Qualified transportation expenses" means costs reasonably incurred by the custodian to transport, for the purposes of attending regularly scheduled day-time classes, a qualifying pupil between such qualifying pupil's residence and the school at which such qualifying pupil is enrolled, as limited in subsection (e) of this Section, and shall include automobile expenses at the standard mileage rate allowed by the United States Internal Revenue Service as reimbursement for business transportation expense, as well as payments to mass transit

- carriers, private carriers, and contractual fees for transportation.
 - (3) "School" means a public or nonpublic elementary or secondary school in Illinois, attendance at which satisfies the requirements of Section 26-1.
 - (4) Two One and one half miles distance. For the purposes of this Section, $\underline{2}$ 1 1/2 miles distance shall be measured in a manner consistent with Section 29-3.
 - (5) Custodian. The term "custodian" shall mean, with respect to a qualifying pupil, an Illinois resident who is the parent, or parents, or legal guardian of such qualifying pupil.
 - (c) An individual, resident of the State of Illinois, who is under the age of 21 at the close of the school year for which reimbursement is sought and who, during that school year, was a full time pupil enrolled in a kindergarten through 12th grade educational program at a school which was within 2 1 1/2 miles of the pupil's residence, measured in a manner consistent with Section 29-3, is a "qualifying pupil" within the meaning of this Section if (i) such pupil attends public school in a school district organized under Article 34 of this Code and must walk or otherwise travel along a safe passage route, as designated by the school board, to reach school or return home or (ii) such pupil did not have access to transportation provided entirely at public expense to and from that school and the pupil's residence and conditions were such that walking

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would have constituted a serious hazard to the safety of the pupil due to vehicular traffic. The determination of what constitutes a serious safety hazard within the meaning of this subsection shall in each case be made by the Department of Transportation in accordance with guidelines which the Department, in consultation with the State Superintendent of Education, shall promulgate. Each custodian intending to file an application for reimbursement under subsection (d) expenditures incurred or to be incurred with respect to a pupil asserted to be a qualified pupil as an individual referred to in this subsection shall first file with the appropriate regional superintendent, on forms provided by the State Board of Education, a request for a determination that a serious safety hazard within the meaning of this subsection (c) exists with respect to such pupil. Custodians shall file such forms with the appropriate regional superintendents not later than February 1 of the school year for which reimbursement will be sought for transmittal by the regional superintendents to the Department of Transportation not later than February 15; except that any custodian who previously received a determination that a serious safety hazard exists need not resubmit such a request for 4 years but instead may certify on their application for reimbursement to the State Board of Education referred to in subsection (d), that the conditions found to be hazardous, as previously determined by the Department, remain unchanged. The Department shall make its determination on all requests so

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transmitted to it within 30 days, and shall thereupon forward notice of each determination which it has made to the appropriate regional superintendent for immediate transmittal to the custodian affected thereby. The determination of the Department relative to what constitutes a serious safety hazard within the meaning of subsection (c) with respect to any pupil shall be deemed an "administrative decision" as defined in Section 3-101 of the Administrative Review Law; and the Administrative Review Law and all amendments and modifications thereof and rules adopted pursuant thereto shall apply to and govern all proceedings instituted for the judicial review of final administrative decisions of the Department of Transportation under this subsection.

(d) Request for reimbursement. A custodian, including a custodian for a pupil asserted to be a qualified pupil as an individual referred to in subsection (c), who applies in accordance with procedures established by the State Board of Education shall be reimbursed in accordance with the dollar limits set out in this Section. Such procedures shall require application no later than June 30 of each year, documentation as to eligibility, and adequate evidence of expenditures; except that for reimbursement sought pursuant to subsection (c) for the 1985-1986 school year, such procedures shall require application within 21 days after the determination of the Department of Transportation with respect to that school year is transmitted by the regional superintendent to the affected

- custodian. In the absence of contemporaneous records, an affidavit by the custodian may be accepted as evidence of an expenditure. If the amount appropriated for such reimbursement for any year is less than the amount due each custodian, it shall be apportioned on the basis of the requests approved. Regional Superintendents shall be reimbursed for such costs of administering the program, including costs incurred in administering the provisions of subsection (c), as the State Board of Education determines are reasonable and necessary.
 - (e) Dollar limit on amount of reimbursement. Reimbursement to custodians for transportation expenses incurred during the 1985-1986 school year, payable in fiscal year 1987, shall be equal to the lesser of (1) the actual qualified transportation expenses, or (2) \$50 per pupil. Reimbursement to custodians for transportation expenses incurred during the 1986-1987 school year, payable in fiscal year 1988, shall be equal to the lesser of (1) the actual qualified transportation expenses, or (2) \$100 per pupil. For reimbursements of qualified transportation expenses incurred in 1987-1988 and thereafter, the amount of reimbursement shall not exceed the prior year's State reimbursement per pupil for transporting pupils as required by Section 29-3 and other provisions of this Article.
 - (f) Rules and regulations. The State Board of Education shall adopt rules to implement this Section.
 - (g) The provisions of this amendatory Act of 1986 shall apply according to their terms to the entire 1985-1986 school

- 1 year, including any portion of that school year which elapses
- 2 prior to the effective date of this amendatory Act, and to each
- 3 subsequent school year.
- 4 (h) The chief administrative officer of each school shall
- 5 notify custodians of qualifying pupils that reimbursements are
- 6 available. Notification shall occur by the first Monday in
- 7 November of the school year for which reimbursement is
- 8 available.
- 9 (Source: P.A. 98-1057, eff. 1-1-15.)
- 10 Section 99. Effective date. This Act takes effect July 1,
- 11 2016.