TO:       Illinois State Board of Education
FROM: Robert E. Schiller, Superintendent
        Respicio Vazquez, General Counsel

Agenda Topic: Rules for Adoption - Part 155 (Electronic Transfer of Funds)

Materials: Recommended Amendments

Staff Contact: Gary Ey
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Purpose of Agenda Item

To present the proposed amendments for adoption.

Expected Outcome of Agenda Item

The Board’s adoption of the proposed amendments to Part 155.

Background Information

These amendments implement P.A. 92-121, which took effect on July 1, 2002, and made mandatory the electronic transfer of funds to school districts and other entities that receive payments from the State Board of Education.

Some of the changes included in this set of amendments flow directly from the establishment of the requirement to receive funds electronically. The most salient of these are the changes in Section 155.20 that make participation a requirement instead of an option and in Section 155.50, which has described how participants may terminate electronic fund transfer arrangements. Other revisions are technical in nature and reflect changes in the Comptroller’s system that must be carried over into our rules as well.

These amendments were presented for the Board’s initial review in April of this year and subsequently published in the Illinois Register to elicit public comment. The statute requires our rules to be adopted “in consultation with the regional superintendents of schools and with the advice and approval of the Comptroller.” We therefore provided an advance copy of the proposed amendments to the Comptroller’s staff for review and
sent it to all regional superintendents as well under cover of an invitation to comment. Two dozen items of correspondence were received, including five letters from regional superintendents or their staff as well as further technical comments from staff of the Comptroller. Please see the Summary and Analysis of Public Comment for a discussion of the issues raised.

The Comptroller's staff has indicated the concurrence of that office with the version of the rules being recommended for adoption at this time.

**Analysis and Implications for Policy, Budget, Legislative Action, and Communications**

*Policy Implications:* Please see above.

*Budget Implications:* This rulemaking has no budgetary implications for the agency.

*Legislative Action:* None needed.

*Communications:* Please see “Next Steps” below.

**Superintendent’s Recommendation**

Adopt the following motion:

> The State Board of Education hereby adopts the proposed rulemaking for:

> Electronic Transfer of Funds (23 Illinois Administrative Code 155),

including the changes recommended in response to public comment.

Further, the Board authorizes the State Superintendent of Education to make such technical or nonsubstantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

**Next Steps**

Notice of the adopted rules will be submitted to the Joint Committee on Administrative Rules to trigger JCAR’s review. When that process is complete, the adopted rules will be filed with the Secretary of State and disseminated as appropriate.
Section 155.20

Comment
Section 155.20(b) was the focus of the majority of comments received on this rulemaking. More than 15 commenters objected to the requirement for a school board’s direction of funds through the office of the regional superintendent to be renewed every two years (or every year, as several wrote). This provision was termed “needless, bureaucratic paper-shuffling,” and it was pointed out that school boards already have means of altering or dissolving agreements into which they have entered. It was requested that the agreements called for in this rule be permitted to continue until revoked.

Several commenters also misunderstood subsection (b) and believed that it would require boards to direct their funds through the regional offices instead of offering that option. They were opposed to such a requirement, stating that it was more efficient and advantageous for districts to receive their payments directly, both in terms of avoiding accounting errors and in terms of interest earned.

Analysis
While we originally believed that this rule would provide a welcome opportunity for school board members to review the appropriateness of these optional arrangements, we certainly would not wish to impose unnecessary processes on school officials. One commenter noted that a periodic reminder to local school boards, suggesting that they review whether to continue having the regional superintendents receive their funds, would be sufficient for this purpose. The staff is considering the feasibility of this “customer service” and agrees that it would be preferable to the burden imposed by the rule as proposed.

We have also reviewed the language of the rule that appears to have confused at least some readers and believe that slight editing might make the optional nature of subsection (b) more readily understandable.

Recommendation
Section 155.20(b) should be revised to delete the requirement for biennial renewal of agreements and clarified as shown below:

b) Upon adoption of a resolution to this effect by the At the option of the local school board, a school district may request its regional superintendent of schools to receive all payments due to the district for the next two fiscal years. Each school board that wishes payments to be directed to the regional office of education shall adopt a resolution to this effect. A school district shall make this request in writing no later than May 31 of the
preceding fiscal year preceding the fiscal year in which the arrangement is to begin and shall forward to the regional superintendent a copy of the resolution adopted by the local board.

1) If the regional superintendent wishes to accept receipt of one or more districts’ funds for the next two fiscal years, he or she shall do so no later than June 10 of the preceding fiscal year preceding the fiscal year in which the arrangement is to begin by submitting to the State Board of Education a copy of each school board’s resolution.

Section 155.30

Comment
The comptroller’s staff requested that Section 155.30(f) be revised to provide a more accurate description of the process for a “pre-note transfer” and that a new subsection (g) be added for the same purpose.

Analysis
We have no objection to providing the additional procedural details outlined.

Recommendation
Section 155.30(f) should be amplified as shown below and additional text should be inserted as a new subsection (g).

f) After a successful pre-note transfer from the Comptroller occurs is attempted and the time period allowed for completion of the pre-note transfer has expired, all payments to the participant for programs administered by the State Board of Education will be made directed electronically unless the Comptroller receives notice from the financial institution that the pre-note transfer has failed or as may be otherwise required by law.

g) Upon receipt of notice that a pre-note transfer has failed, the Comptroller shall notify the State Board of Education. The State Board of Education shall take the actions necessary to identify the reason for the pre-note transfer’s failure and to facilitate the electronic payment to the participant.

Section 155.50

Comment
The Comptroller’s staff requested that this Section not be repealed as originally proposed, indicating that a rule would be needed allowing the State Board and the Comptroller to terminate arrangements for the electronic transfer of funds under certain circumstances.
Analysis
We agree that subsection (c) of this Section should be restored to cover instances of repeated problems or unforeseen legal requirements.

Recommendation
Section 155.50 should be amended rather than repealed. Existing subsections (a) and (b) should continue to be deleted, so that existing subsection (c) is all that remains as the text of the Section. That language should be modified as shown below:

\[c)\] The State Board of Education and the Comptroller shall have the right to terminate an arrangement for the electronic transfer of funds for repeated problems or other interruptions in the processing of electronic fund transfers, or as otherwise permitted or required by law.

Section 155.70

Comment
The Comptroller’s staff requested that Section 155.70 be modified to avoid requiring the Comptroller to issue a warrant rather than performing an electronic transfer under certain circumstances. The staff noted that the current language reflects technological limitations that were present when these rules were drafted but that no longer apply and stated that it would now be preferable to cast the provisions in question as options for the Comptroller.

Analysis
We see no reason not to acknowledge the progress in technology that has taken place in recent years and accommodate the preferences of the Comptroller’s representatives.

Recommendation
Section 155.70 should be added to this rulemaking and the following revisions incorporated:

\[d)\] The Comptroller will may issue a warrant instead of transferring funds electronically when:

1) A designated financial institution rejects a transfer attempted pursuant to this Part;

2) An amount is subject to garnishment, offset, reduction, involuntary withholding, or other collection proceeding as provided by law (any amount payable after such action will may be issued as a warrant); or

3) The transfer is rejected by the Comptroller's internal authorization system.
Comment
The Comptroller’s staff indicated that the descriptive entry referred to in several places actually consists of 38 characters instead of 40 and asked that these references be corrected.

Analysis
These corrections should be made so that the rules will reflect the materials received by participants in this system.

Recommendation
All references to 40 characters should be changed to 38 characters. This change is needed in Sections 155.30(c)(2), 155.60(c), and 155.70(b).

Miscellaneous

Comment
One commenter requested that each electronic payment to a university be sent to the correct campus and clearly identify the grant to which it should be attributed.

Analysis
Section 155.30(d)(3) of the proposed rules permits entities such as universities to establish multiple accounts so that payments will be directed correctly. Under Section 155.60(c), a code is transmitted whose purpose is to identify the source of each payment. Therefore we believe that the rules accommodate the concerns expressed by this respondent.

Recommendation
No change is needed in response to these comments.

Comment
Finally, one commenter voiced opposition to requiring the electronic transmission of funds and another stated that no rules were needed for this process.