

HOUSE No. 563

The Commonwealth of Massachusetts

PRESENTED BY:

John H. Rogers

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act expanding the special education reimbursement program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>1/18/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/22/2019</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>1/30/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/31/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/31/2019</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>1/30/2019</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>1/31/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>1/31/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2019</i>

HOUSE No. 563

By Mr. Rogers of Norwood, a petition (accompanied by bill, House, No. 563) of John H. Rogers and others relative to the special education reimbursement program. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act expanding the special education reimbursement program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 5A of chapter 71B of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby stricken in its entirety and replaced with the following:

3 Section 5A. (a) There is hereby established, subject to appropriation, a special education
4 reimbursement program. Said program shall reimburse municipalities for the eligible
5 instructional costs associated with implementing individual education plans, so-called, of
6 students receiving special education services pursuant to this chapter. Said reimbursements shall
7 be in addition to amounts distributed pursuant to chapter 70 and shall not be included in the
8 calculation of base aid, as defined in said chapter 70, for any subsequent fiscal year. Charter
9 schools shall receive reimbursements under this section in the same manner as districts. The
10 department shall define, consistent with this section and in regulations it shall promulgate, those
11 instructional costs associated with implementing individual education plans for pupils that shall
12 be eligible for reimbursement under said program.

13 (b) For the purposes of this section, the following words shall have the following
14 meanings:

15 "Instructional costs", shall include only those costs directly attributable to providing the
16 special education services on the student's individual education plan, such as salary of
17 educational personnel, salary of related services personnel, costs for specialized books, materials,
18 or equipment, tuition costs, if the student is receiving services from other than the local public
19 school, consultant costs if directly attributable to the student's instructional program, and
20 instructional costs of extended day or year services if such services are a part of the individual
21 education plan. Such costs shall be prorated as appropriate to reflect group activities or costs for
22 part time services. Instructional costs shall also include transportation costs. Instructional costs
23 shall not include administrative or overhead costs, the costs of adapting classrooms or materials
24 that are used by more than one student, the costs of fringe benefits of personnel employed by the
25 school district, nor the costs associated with evaluation, development of the individual education
26 plan, or service coordination for the student with disabilities. Instructional costs for the purposes
27 of this reimbursement program also shall not include the salary of personnel providing
28 educational services when such services are not specially designed instruction for the student
29 with disabilities.

30 (c) Instructional costs eligible for reimbursement under the program shall be reported by
31 a school district to the department in a form and manner as prescribed by the commissioner. For
32 each such school district, the department shall review the report and approve those per pupil
33 instructional costs that are eligible for reimbursement pursuant to the program within 30 days of
34 submission. Based upon the approved costs, the department shall calculate the reimbursement
35 due a municipality. The costs of programs shall be reimbursed at 100 per cent of all the approved

36 costs that exceed 4 times the state average per pupil foundation budget, as defined in said chapter
37 70, for the previous fiscal year. The department shall reimburse municipalities at 100 per cent of
38 all the approved costs that exceed 3 times the state average per pupil foundation budget, for
39 students who attend educational collaboratives.

40 Notwithstanding the foregoing, the reimbursement rate for students who have no father,
41 mother, or guardian living in the commonwealth, and for any school age child placed in a school
42 district other than a home town by, or under the auspices of, the department of transitional
43 assistance or the department of children and families, shall be 100 per cent of all the approved
44 costs that exceed 4 times the state average per pupil foundation budget.

45 (d) Districts shall notify the department within 30 days of any change in previously
46 approved instructional costs, including but not limited to changes in a student's enrollment status
47 or individual educational plan.

48 (e) In preparing a budget recommendation for the subsequent fiscal year for consideration
49 by the local appropriating authority, a school district shall project special education costs and
50 enrollments, including per pupil instructional costs eligible for reimbursement under this
51 program. The school committee's budget recommendation shall exclude any such instructional
52 costs eligible for reimbursement under this program. Upon receipt of reimbursements paid under
53 this program by the municipal treasurer, in the case of local school districts, or the regional
54 district treasurer in the case of regional school districts, such amounts shall be recorded by the
55 municipality or district as additional appropriations to the school committee, without any further
56 action being required on the part of the local appropriating authority.

57 (f) Reimbursements shall be made based on the previous year's per pupil instructional
58 costs, as pursuant to subsection (c), in compliance with department of education audits and
59 procedures. Reimbursements shall be made in 4 quarterly payments to coincide with the
60 distribution of funds made available pursuant to said chapter 70. Each quarterly payment shall be
61 equal to 25 per cent of the estimated reimbursements for the previous year's submissions, subject
62 to appropriation.

63 (g) Notwithstanding the foregoing, the commonwealth shall continue to pay to approved
64 private residential schools sums authorized by this section on a direct payment basis at the
65 request of a district and the private residential school to which that district sends a student whose
66 tuition is partly reimbursable pursuant to this section.