



Sen. Meg Loughran Cappel

Filed: 4/16/2021

10200SB0517sam002

LRB102 15918 CMG 25263 a

1 AMENDMENT TO SENATE BILL 517

2 AMENDMENT NO. _____. Amend Senate Bill 517, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The School Code is amended by changing
6 Sections 14-1.08 and 14-7.02 and by adding Section 14-1.08a as
7 follows:

8 (105 ILCS 5/14-1.08) (from Ch. 122, par. 14-1.08)

9 Sec. 14-1.08. Special educational facilities and services.
10 "Special educational facilities and services" includes special
11 schools, special classes, special housing, including
12 residential facilities, separate public special education day
13 schools as part of the pilot program under Section 14-1.08a,
14 special instruction, special reader service, braillists and
15 typists for children with visual disabilities, sign language
16 interpreters, transportation, maintenance, instructional

1 material, therapy, professional consultant services, medical
2 services only for diagnostic and evaluation purposes provided
3 by a physician licensed to practice medicine in all its
4 branches to determine a child's need for special education and
5 related services, psychological services, school social worker
6 services, special administrative services, salaries of all
7 required special personnel, and other special educational
8 services, including special equipment for use in the
9 classroom, required by the child because of his disability if
10 such services or special equipment are approved by the State
11 Superintendent of Education and the child is eligible therefor
12 under this Article and the regulations of the State Board of
13 Education.

14 (Source: P.A. 89-397, eff. 8-20-95.)

15 (105 ILCS 5/14-1.08a new)

16 Sec. 14-1.08a. Separate public special education day
17 school. "Separate public special education day school" means a
18 separate public special education program or facility
19 established by a school district or special education
20 cooperative that is selected to participate in the pilot
21 program under this Section.

22 The State Board of Education shall select 25 applicants to
23 participate in a pilot program that allows program
24 participants to be included under Sections 14-1.08 and 14-7.02
25 during the 2021-2022 and 2022-2023 school years. A separate

1 public special education program or facility is eligible to be
2 selected as a program participant if the separate public
3 special education program or facility is established
4 exclusively to meet the needs of special education students
5 who cannot be educated in the general school environment and
6 provides services comparable to a private special education
7 school.

8 The State Board of Education shall adopt rules to
9 implement and administer this Section.

10 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

11 Sec. 14-7.02. Children attending private schools, public
12 out-of-state schools, public school residential facilities or
13 private special education facilities. The General Assembly
14 recognizes that non-public schools or special education
15 facilities provide an important service in the educational
16 system in Illinois.

17 If because of his or her disability the special education
18 program of a district is unable to meet the needs of a child
19 and the child attends a non-public school or special education
20 facility, a public out-of-state school or a special education
21 facility owned and operated by a county government unit that
22 provides special educational services required by the child
23 and is in compliance with the appropriate rules and
24 regulations of the State Superintendent of Education, the
25 school district in which the child is a resident shall pay the

1 actual cost of tuition for special education and related
2 services, including special education and related services
3 provided by a separate public special education day school as
4 part of the pilot program under Section 14-1.08a, provided
5 during the regular school term and during the summer school
6 term if the child's educational needs so require, excluding
7 room, board and transportation costs charged the child by that
8 non-public school or special education facility, public
9 out-of-state school or county special education facility, or
10 \$4,500 per year, whichever is less, and shall provide him any
11 necessary transportation. "Nonpublic special education
12 facility" shall include a residential facility, within or
13 without the State of Illinois, which provides special
14 education and related services to meet the needs of the child
15 by utilizing private schools or public schools, whether
16 located on the site or off the site of the residential
17 facility.

18 The State Board of Education shall promulgate rules and
19 regulations for determining when placement in a private
20 special education facility is appropriate. Such rules and
21 regulations shall take into account the various types of
22 services needed by a child and the availability of such
23 services to the particular child in the public school. In
24 developing these rules and regulations the State Board of
25 Education shall consult with the Advisory Council on Education
26 of Children with Disabilities and hold public hearings to

1 secure recommendations from parents, school personnel, and
2 others concerned about this matter.

3 The State Board of Education shall also promulgate rules
4 and regulations for transportation to and from a residential
5 school. Transportation to and from home to a residential
6 school more than once each school term shall be subject to
7 prior approval by the State Superintendent in accordance with
8 the rules and regulations of the State Board.

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

1 districts, for transmittal to the State Comptroller on the
2 30th day of September, December, and March, respectively, and
3 the final voucher, no later than June 20. If the money
4 appropriated by the General Assembly for such purpose for any
5 year is insufficient, it shall be apportioned on the basis of
6 the 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
15 Services, Public Health, Public Aid, and the Governor's Office
16 of 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 also
19 consist of one non-voting member who is an administrator of a
20 private, nonpublic, special education school. The Review Board
21 shall establish rules and regulations for its determination of
22 allowable costs and payments made by local school districts
23 for special education, room and board, and other related
24 services provided by non-public schools or special education
25 facilities and shall establish uniform standards and criteria
26 which it shall follow. The Review Board shall approve the

1 usual and customary rate or rates of a special education
2 program that (i) is offered by an out-of-state, non-public
3 provider of integrated autism specific educational and autism
4 specific residential services, (ii) offers 2 or more levels of
5 residential care, including at least one locked facility, and
6 (iii) serves 12 or fewer Illinois students.

7 In determining rates based on allowable costs, the Review
8 Board shall consider any wage increases awarded by the General
9 Assembly to front line personnel defined as direct support
10 persons, aides, front-line supervisors, qualified intellectual
11 disabilities professionals, nurses, and non-administrative
12 support staff working in service settings in community-based
13 settings within the State and adjust customary rates or rates
14 of a special education program to be equitable to the wage
15 increase awarded to similar staff positions in a community
16 residential setting. Any wage increase awarded by the General
17 Assembly to front line personnel defined as direct support
18 persons, aides, front-line supervisors, qualified intellectual
19 disabilities professionals, nurses, and non-administrative
20 support staff working in community-based settings within the
21 State, including the \$0.75 per hour increase contained in
22 Public Act 100-23 and the \$0.50 per hour increase included in
23 Public Act 100-23, shall also be a basis for any facility
24 covered by this Section to appeal its rate before the Review
25 Board under the process defined in Title 89, Part 900, Section
26 340 of the Illinois Administrative Code. Illinois

1 Administrative Code Title 89, Part 900, Section 342 shall be
2 updated to recognize wage increases awarded to community-based
3 settings to be a basis for appeal. However, any wage increase
4 that is captured upon appeal from a previous year shall not be
5 counted by the Review Board as revenue for the purpose of
6 calculating a facility's future rate.

7 Any definition used by the Review Board in administrative
8 rule or policy to define "related organizations" shall include
9 any and all exceptions contained in federal law or regulation
10 as it pertains to the federal definition of "related
11 organizations".

12 The Review Board shall establish uniform definitions and
13 criteria for accounting separately by special education, room
14 and board and other related services costs. The Board shall
15 also establish guidelines for the coordination of services and
16 financial assistance provided by all State agencies to assure
17 that no otherwise qualified child with a disability receiving
18 services under Article 14 shall be excluded from participation
19 in, be denied the benefits of or be subjected to
20 discrimination under any program or activity provided by any
21 State agency.

22 The Review Board shall review the costs for special
23 education and related services provided by non-public schools
24 or special education facilities and shall approve or
25 disapprove such facilities in accordance with the rules and
26 regulations established by it with respect to allowable costs.

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

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

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

1 subject to the provisions of Section 14-8.01 of this Act. Room
2 and board costs not provided by a State agency other than the
3 State Board of Education shall be provided by the State Board
4 of Education on a current basis. In no event, however, shall
5 the State's liability for funding of these tuition costs begin
6 until after the legal obligations of third party payors have
7 been subtracted from such costs. If the money appropriated by
8 the General Assembly for such purpose for any year is
9 insufficient, it shall be apportioned on the basis of the
10 claims approved. Each district shall submit estimated claims
11 to the State Superintendent of Education. Upon approval of
12 such claims, the State Superintendent of Education shall
13 direct the State Comptroller to make payments on a monthly
14 basis. The frequency for submitting estimated claims and the
15 method of determining payment shall be prescribed in rules and
16 regulations adopted by the State Board of Education. Such
17 current state reimbursement shall be reduced by an amount
18 equal to the proceeds which the child or child's parents are
19 eligible to receive under any public or private insurance or
20 assistance program. Nothing in this Section shall be construed
21 as relieving an insurer or similar third party from an
22 otherwise valid obligation to provide or to pay for services
23 provided to a child with a disability.

24 If it otherwise qualifies, a school district is eligible
25 for the transportation reimbursement under Section 14-13.01
26 and for the reimbursement of tuition payments under this

1 Section whether the non-public school or special education
2 facility, public out-of-state school or county special
3 education facility, attended by a child who resides in that
4 district and requires special educational services, is within
5 or outside of the State of Illinois. However, a district is not
6 eligible to claim transportation reimbursement under this
7 Section unless the district certifies to the State
8 Superintendent of Education that the district is unable to
9 provide special educational services required by the child for
10 the current school year.

11 Nothing in this Section authorizes the reimbursement of a
12 school district for the amount paid for tuition of a child
13 attending a non-public school or special education facility,
14 public out-of-state school or county special education
15 facility unless the school district certifies to the State
16 Superintendent of Education that the special education program
17 of that district is unable to meet the needs of that child
18 because of his disability and the State Superintendent of
19 Education finds that the school district is in substantial
20 compliance with Section 14-4.01. However, if a child is
21 unilaterally placed by a State agency or any court in a
22 non-public school or special education facility, public
23 out-of-state school, or county special education facility, a
24 school district shall not be required to certify to the State
25 Superintendent of Education, for the purpose of tuition
26 reimbursement, that the special education program of that

1 district is unable to meet the needs of a child because of his
2 or her disability.

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

11 Reimbursement for children attending public school
12 residential facilities shall be made in accordance with the
13 provisions of this Section.

14 Notwithstanding any other provision of law, any school
15 district receiving a payment under this Section or under
16 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
17 all or a portion of the funds that it receives in a particular
18 fiscal year or from general State aid pursuant to Section
19 18-8.05 of this Code as funds received in connection with any
20 funding program for which it is entitled to receive funds from
21 the State in that fiscal year (including, without limitation,
22 any funding program referenced in this Section), regardless of
23 the source or timing of the receipt. The district may not
24 classify more funds as funds received in connection with the
25 funding program than the district is entitled to receive in
26 that fiscal year for that program. Any classification by a

1 district must be made by a resolution of its board of
2 education. The resolution must identify the amount of any
3 payments or general State aid to be classified under this
4 paragraph and must specify the funding program to which the
5 funds are to be treated as received in connection therewith.
6 This resolution is controlling as to the classification of
7 funds referenced therein. A certified copy of the resolution
8 must be sent to the State Superintendent of Education. The
9 resolution shall still take effect even though a copy of the
10 resolution has not been sent to the State Superintendent of
11 Education in a timely manner. No classification under this
12 paragraph by a district shall affect the total amount or
13 timing of money the district is entitled to receive under this
14 Code. No classification under this paragraph by a district
15 shall in any way relieve the district from or affect any
16 requirements that otherwise would apply with respect to that
17 funding program, including any accounting of funds by source,
18 reporting expenditures by original source and purpose,
19 reporting requirements, or requirements of providing services.
20 (Source: P.A. 100-587, eff. 6-4-18; 101-10, eff. 6-5-19.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."