

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 712

H. P. 585

House of Representatives, March 3, 1977

Referred to the Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Special Education Tuition and Board.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the experiences of the past year have demonstrated that it is impossible to project accurately the number of students needing special education programs which require tuition and board expenditures; and

Whereas, based on the experience of the past year, it is impossible to project the number of state wards or the number of students who are voluntarily committed to the state's custody, who are in need of special education tuition and board placement; and

Whereas, based on the experience of the past year, it is impossible to project the number of students moving into Maine who are in need of special education programs; and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 20 MRSA § 3121, as repealed and replaced by PL 1975, c. 732, § 2, is repealed and the following enacted in its place:

§ 3121. Policy and purpose

1. **Equal educational opportunities.** It is the declared policy of the State that all children be provided with equal educational opportunities. The purpose of this chapter is to insure that all administrative units operating schools provide equal educational opportunities for all exceptional children, as defined. Educational opportunities for such children shall be provided by means of the addition of appropriate supportive assistance to regular educational programs.

2. **Least restrictive educational alternative.** It is the policy of the State that exceptional children be educated with children in regular programs to the maximum extent possible. Removal of exceptional children from the regular educational environment shall occur only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplemental aids and services, or education in self-contained classes within the regular school program, cannot be satisfactorily accomplished. Placement of exceptional children in residential schools or institutions or in private day schools or programs shall be authorized only after supporting evaluative data justifying such placement have been submitted to and approved by the commissioner.

Sec. 2. 20 MRSA § 3125, sub-§§ 1 and 2, as repealed and replaced by PL 1975, c. 732, § 2, are repealed and the following enacted in their place:

1. **Local programs; approval.** An appropriate program for exceptional children may be established by any administrative unit operating schools. The program shall be approved by the commissioner with respect to requirements for admission, qualification or certification of staff, plan of instruction, adequacy of facilities and supportive services, professional supervision and teacher-student ratio.

2. **Contractual programs; approval.** An administrative unit may arrange with or tuition to another administrative unit or any public or private school, agency or institution for the education of exceptional children. Any program for exceptional children offered by a public or private school, agency or institution shall be approved by the commissioner with respect to the components listed in subsection 1. If arrangements are effected with a public or private school, agency or institution, they shall be in accordance with guidelines and regulations established by the commissioner and shall be described in a contract which shall be subject to approval in advance by the commissioner.

Sec. 3. 20 MRSA § 3130, sub-§ 2, as enacted by PL 1975, c. 732, § 2, is repealed and the following enacted in its place:

2. **Private school tuition.** The commissioner shall approve all tuition rates charged for special education programs by private schools, agencies or institutions.

A. The tuition rates charged by private schools, agencies or institutions which serve exceptional children exclusively shall not exceed the actual per pupil cost incurred in the operation during the preceding school year. Allowable expenditures used to determine the per pupil cost shall be defined in guidelines and regulations established by the commissioner. Financial

reports detailing the allowable expenditures and the computation of the tuition rate shall be filed by July 1st of each year, in such form as the commissioner may require, by each such special purpose school, agency or institution.

Increases in the tuition rate charged by such private schools, agencies or institutions from one year to the next may not exceed 15% unless evidence is presented to the commissioner that a hardship will exist if a higher rate of increase is not approved, and such evidence is deemed sufficient by the commissioner.

Sec. 4. 20 MRSA § 3744, sub-§ 1, ¶ D, as enacted by PL 1975, c. 660, § 2, is amended to read:

D. Special education tuition and board, excluding medical costs defined as follows:

- (1) Tuition and board for pupils placed by administrative units;
- (2) Tuition and board for state wards and other pupils placed directly by the State in accordance with rules and regulations adopted by the Department of Educational and Cultural Services; and
- (3) Adjustments under section 3748, subsection 3, paragraph G.

Sec. 5. 20 MRSA § 3745, 2nd ¶, 1st and 2nd sentences, as repealed and replaced by PL 1975, c. 746, § 24-E, are repealed and the following enacted in their place:

The requested funding levels for section 3744, subsection 1, paragraph C; paragraph D, subparagraph (1); and paragraphs E and F and the requested funding level of the insured value factor and leases under paragraph G shall be computed by adding the actual costs for the first half of the year immediately prior to the year of allocation of funds to the total estimated costs that will be incurred for the 2nd half of the same year. The requested funding levels of section 3744, subsection 1, paragraph D, subparagraphs (2) and (3), shall be computed by estimating those costs in the year of allocation of funds.

Sec. 6. 20 MRSA § 3747, sub-§ 3, ¶ D, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

D. Special education tuition and board, excluding medical costs defined as follows:

- (1) Tuition and board for pupils placed by administrative units;
- (2) Tuition and board for state wards and other pupils placed directly by the State in accordance with rules and regulations adopted by the Department of Educational and Cultural Services; and
- (3) Adjustments under section 3748, subsection 3, paragraph G.

Sec. 7. 20 MRSA § 3747, sub-§ 6, last sentence, as repealed and replaced by PL 1975, c. 754, § 2, is repealed and the following enacted in its place:

The Legislature shall appropriate 90% of the amounts established for subsection 3, paragraph C; paragraph D, subparagraphs (1) and (3); paragraph F, subparagraph (1) and subsection 4. The Legislature shall appropriate 100% of the amounts established for subsection 3, paragraph D, subparagraph (2).

Sec. 8. 20 MRSA § 3748, sub-§ 1, ¶ C, sub-¶ (1), 2nd ¶, 2nd sentence, as repealed and replaced by PL 1975, c. 746, § 24-H, is amended to read:

Special education tuition and board ~~shall be reimbursed in the year of allocation~~ for state wards and other pupils placed directly by the State shall be paid by the State in the year of allocation at 100% of the actual cost.

Sec. 9. 20 MRSA § 3748, sub-§ 1, ¶ C, sub-¶ (1), 2nd ¶, as last repealed and replaced by PL 1975, c. 746, § 24-H, is amended by adding at the end the following new sentence:

In the state's fiscal year 1978, an administrative unit's state subsidy for special education tuition and board shall be based on the number of special education students which that unit was responsible for in fiscal year 1977, or the number of such students which that unit is responsible for in fiscal year 1978, or whichever number is less.

Sec. 10. 20 MRSA § 3748, sub-§ 3, ¶ G, is enacted to read:

G. If the parents of a special education pupil change residence within the State at any time during the year, then the commissioner shall adjust the special education tuition and board estimates of the affected administrative units. If a unit petitions the commissioner and demonstrates that the tuition or board payments to a special education facility for the initial placement of an exceptional child by an administrative unit will cause that unit to exceed its total budgetary limitation, the commissioner may adjust the unit's allocation to include up to 90% of the amount of the tuition and board payments. The funds for such adjustment shall be limited to the amount appropriated by the Legislature under section 3747, subsection 6. School committees and boards of school directors shall be authorized to expend the funds allocated, notwithstanding any other statute. The commissioner is authorized, notwithstanding any other statute, to obtain expenditures and estimates of expenditures from the administrative units for the purpose of making necessary adjustments to the special education cost estimates for the state's fiscal year 1977.

Sec. 11. 20 MRSA § 3748, sub-§ 13 is enacted to read:

13. Reimbursement for special education. The commissioner is authorized to make tuition and board payments directly to private special education boarding schools which receive state wards or other pupils placed directly by the State.

Sec. 12. Appropriation. There is appropriated from the General Fund to the Department of Educational and Cultural Services for the fiscal years ending June 30, 1978, and June 30, 1979, the sum of \$128,000 to fund the necessary costs of approving, evaluating and monitoring special education programs as required by Title 20, section 3125 and 3126. The breakdown shall be as follows:

	1977-78	1978-79
EDUCATIONAL AND CULTURAL SERVICES,		
DEPARTMENT OF		
Division of Special Education		
Personal Services	(3) \$48,000	(3) \$50,000
All Other	15,000	15,000
	<hr/>	<hr/>
Total	\$63,000	\$65,000

STATEMENT OF FACT

This bill authorizes the commissioner to reimburse a local administrative unit for up to 90% of all of its special education costs incurred in the year prior to the year of allocation, including special education tuition and board costs. Also, this bill authorizes the commissioner to make direct payments to private, special education, boarding schools for state wards placed there by the State in the year of allocation and to reimburse local administrative units for up to 90% of their special education costs for special education tuition students identified in the year of allocation.

This bill redefines the state's policy regarding the education of exceptional children and where they shall be educated. It also authorizes the Department of Educational and Cultural Services to approve special education programs at public and private schools. Finally, it appropriates the moneys needed to fund the cost of evaluating, approving and monitoring these programs.

It is estimated that \$300,000 will be necessary for tuition and board payments for state wards and other students placed directly by the State, and for students who are newly identified, who require special education tuition and board placement.

An appropriation of \$63,000 for the fiscal year ending June 30, 1978, and of \$65,000 for the fiscal year ending June 30, 1979, is necessary to provide the additional personnel needed to evaluate, approve and monitor special education programs at public and private schools.

Since the Department of Educational and Cultural Services' certification for special education tuition and board costs for fiscal year 1978 is \$1,119,600 more than the corresponding 1977 allocation, the net reduction as a result of this bill will be approximately \$756,600.