

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1169**

H. P. 972

House of Representatives, March 23, 1977

On motion of Mr. Lynch of Livermore Falls, referred to the Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Prescott of Hampden.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Amend the Special Education Tuition Reimbursement Law.**

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

Whereas, the present special education tuition law has created financial hardships in many administrative units in the State when pupils requiring special education services move from one community to another; and

Whereas, it is vitally necessary to reduce or eliminate these hardships and to prevent the occurrence of similar hardships in the future; and

Whereas, it is essential that the process for estimating special education needs be kept as current as possible, while at the time avoiding the possibility of incurring a funding deficit at the state level; 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**Sec. 1.** 20 MRSA § 3745, 2nd ¶, 2nd sentence, as repealed and replaced by PL 1976, c. 746, § 24-E, is amended to read:

The requested funding levels of section 3744, subsection 1, paragraph D, shall be computed by estimating the costs of special education tuition and board, excluding medical costs, **but including a contingent account as provided under**

section 3747, subsection 3, paragraph D, in the year of allocation of funds. Administrative units shall estimate costs by listing current tuition, and board payments by pupil with tuition adjusted by 15%. The commissioner shall adjust the estimates of administrative units when a student changes residence within the State at any time during the year, when a pupil moves into Maine from another State or when a newly identified pupil is approved for placement in a special education tuition program. The commissioner is authorized to make payments directly to private special purpose schools which receive pupils placed directly by the Department of Educational and Cultural Services.

Sec. 2. 20 MRSA § 3747, sub-§ 3, ¶ D, as enacted by PL 1975, c. 660, § 2, is amended to read:

D. Special education costs for tuition and board, excluding medical costs, but including:

- (1) Costs for pupils continuing in special education programs who were enrolled in those programs during the year prior to the year of allocation;
- (2) Estimated costs for pupils newly identified during the year of allocation including those who change residence to Maine from other states; and
- (3) Estimated costs for pupils who are wards of the State and who are placed directly in a special purpose boarding school by the State.

Sec. 3. 20 MRSA § 3748, sub-§ 1, ¶ D is enacted to read:

D. A unit may qualify for an adjustment in special education tuition and board reimbursement when a pupil residing within the administrative unit is newly identified and approved for placement, when a pupil previously approved for placement changes residence from one administrative unit to another or when a pupil requiring placement moves into the administrative unit from outside the State. The commissioner shall adjust the unit's allocation from the contingent account established under section 3745 or 3747. The school committees and boards of directors shall be authorized to expend funds so allocated notwithstanding any other statutes or any line item budget limitations.

Sec. 4. 20 MRSA § 3748, sub-§ 12, as enacted by PL 1975, c. 660, § 2, is amended to read:

12. **Unexpended balances.** The commissioner is authorized to apply all unexpended balances in any of the above programs to the major capital fund which shall be a nonlapsing account, except that for 1967-77 only, unexpended balances in funds appropriated for special education tuition and board may be allocated, on a prorated basis if necessary, to local administrative units that have exceeded their special education tuition and board estimates because of the placement of newly identified pupils or because of pupils changing residence from one administrative unit to another or may be allocated to private special purpose schools which receive pupils placed directly

by the Department of Educational and Cultural Services. The school committees and boards of directors shall be authorized to expend funds so allocated notwithstanding any other statutes or any line item budget limitations. Funds shall be paid to the administrative units prior to the close of the state's fiscal year on June 30, 1977.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except that sections 1, 2 and 3 shall take effect July 1, 1977.

#### STATEMENT OF FACT

The current special education tuition reimbursement law makes no provision for an administrative unit which experiences an increase in special education tuition costs beyond its estimate. When a pupil changes residence from one administrative unit to another it causes an increase in the receiving unit's tuition costs, but the present law makes no provision for that. Likewise, the present law makes no provision for reducing the estimates of the unit which loses a pupil. The present law makes no provision for newly identified pupils residing within an administrative unit, nor for pupils moving into Maine from other states. As a result, many administrative units are experiencing serious financial hardships which could be prevented by the changes proposed in this bill. In addition, the changes proposed would provide better fiscal responsibility for both the administrative units and for the Department of Educational and Cultural Services, since there would not be any necessity for administrative units to build a contingency fund into their special education tuition estimates.