

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1083

S. P. 361

In Senate, March 2, 1981

Taken from table by the President and referred to the Committee on Education. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Gill of Cumberland.

Cosponsors: Representative Beaulieu of Portland, Representative Thompson of South Portland and Senator Bustin of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Ensure a Free and Appropriate Education for All Handicapped Children.

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

Sec. 1. 20 MRSA § 4742, sub-§ 1, as repealed and replaced by PL 1979, c. 568, § 1, is amended to read:

1. Contribution from General Fund. It is the intent of the Legislature to provide at least 50% of the cost of the basic education allocation from General Fund revenue sources or a percentage no less than that provided in the year prior to the year of allocation, whichever is greater, **excepting costs of education in residential treatment centers which shall be paid directly by the Department of Educational and Cultural Services.**

Sec. 2. 20 MRSA § 4742-A is enacted to read:

§ 4742-A. Appropriate education; residential treatment

1. Intent. It is the intent of the State that all children between the ages of 5 and 20 receive a free and appropriate public education. The State further recognizes that to ensure an education appropriate to a child's needs, the child may require placement in a structured residential setting. In order to ensure that

adequate public funds are available to meet the needs of Maine's school-age children for residential educational programs, the State shall provide funding for residential treatment jointly through the Departments of Educational and Cultural Services, Human Services and Mental Health and Corrections.

2. Department of Human Services; responsibilities. The Department of Human Services shall provide care for children who may not be abused or neglected within the meaning of Title 22, section 4002, but who require care outside their own home. Children who are eligible for such care are those who require structured residential placement as determined by a pupil evaluation team and certified by the appropriate community mental health center. The Department of Human Services shall fix rates for room and board care in the various residential treatment facilities according to accepted accounting practices which shall determine the actual cost of such care. Payments shall reflect the actual cost of care minus such other revenues as may be available to the facility for the purpose.

3. Department of Mental Health and Corrections; responsibilities. The Department of Mental Health and Corrections, Office of Children's Mental Health Services is responsible for the cost of treatment for children in need of residential treatment. Eligibility for payment of treatment costs shall be provided to those children identified by pupil evaluation teams as in need of residential treatment and certified by the appropriate community mental health center. The Office of Children's Mental Health Services shall determine the total cost of treatment in the various residential treatment facilities based upon accepted accounting procedures. Payments shall reflect the actual cost of treatment minus such other revenues as may be available to the facility for that purpose.

Sec. 3. 20 MRSA § 4743, sub-§ 18, as enacted by PL 1977, c. 625, § 8, is amended by adding at the end a new paragraph to read:

Tuition costs for children in residential treatment centers may not be included in operating costs.

Sec. 4. 20 MRSA § 4748, sub-§ 4, ¶ B, as enacted by PL 1977, c. 625, § 8, is amended by adding at the end 2 new sentences to read:

Special education tuition costs for residential treatment shall not be included in the local allocation, but shall be paid directly by the department. Special education tuition and board for state wards and other pupils not in residential treatment but placed directly by the State shall be paid by the State in the year of allocation at 100% of the actual cost.

Sec. 5. 20 MRSA § 4748, sub-§ 4, ¶ C, as amended by PL 1979, c. 670, § 21, is further amended to read:

C. An administrative unit's state subsidy for special education tuition and board, in the state's fiscal year 1980, shall be based on the amount of money which it expended for special education tuition and board in the fiscal year 1978 or the amount of money it expended for special education tuition and board in

the fiscal year 1979, whichever is less, **except for tuition costs for residential treatment which shall be paid directly by the department.**

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF		
All Other	\$1,200,000	\$1,260,000

STATEMENT OF FACT

This bill assures a full, free and appropriate education for children in the State who may require residential treatment. If a child was certified as requiring residential treatment or placement by an appropriate community mental health center the cost would be paid by the State.