

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1249

(Filing No. S- 274)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 466, L.D. 1249, Bill, "An Act Relating to the Education of Homeless Students"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, the education of Maine's homeless students is a priority; and

Whereas, only emergency enactment of this Act will result in school year 1991-92 tuition compensation for school units that educate homeless children; 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-A MRSA §1, sub-§13-A is enacted to read:

13-A. Homeless student. "Homeless student" means a person eligible to attend elementary or secondary school pursuant to section 5201 who:

COMMITTEE AMENDMENT "A " to S.P. 466, L.D. 1249

2 A. Lacks a fixed, regular and adequate night-time residence;

4 B. Has a primary night-time residence that is:

6 (1) A supervised publicly or privately operated
8 shelter designed to provide temporary living
 accommodations, including welfare hotels, congregate
 shelters and transitional housing for the mentally ill;

10 (2) An institution that provides a temporary residence
12 for individuals intended to be institutionalized; or

14 (3) A public or private place not designed for, or
16 ordinarily used as, a regular sleeping accommodation
 for human beings; or

18 C. Is the child of a parent or guardian to whom paragraphs
 A or B apply.

20 The term "homeless student" does not include a person housed in a
22 correctional facility, jail or detention facility.

24 Sec. 2. 20-A MRSA §261, 2nd ¶, as enacted by PL 1989, c. 415,
 §2, is amended to read:

26 The commissioner may adopt rules to implement statutory
28 policies regarding student residency, the right of a student to
30 attend school in another administrative unit, homeless students
32 and other exceptions to the general residency rules. Rules
 adopted by the commissioner pursuant to this section shall take
 precedence over any inconsistent or conflicting rules adopted by
 a school board pursuant to section 5201, subsection 4.

34 Sec. 3. 20-A MRSA §5205, sub-§7 is enacted to read:

36 7. Homeless students. Homeless students must be treated as
38 follows.

40 A. Pursuant to section 261, the commissioner may adopt
42 rules to ensure that each homeless student has unrestricted
44 access to a free public education in accordance with the
 federal Stewart B. McKinney Homeless Assistance Act, Public
 Law 100-77, Title VII, Subtitle B, as amended by the federal
 Stewart B. McKinney Homeless Assistance Amendments Act of
 1988, Public Law 100-268, Title VII, Section 702.

46 B. It is the intent of the Legislature to provide funding
48 for the education of homeless students pursuant to section
50 15613, subsection 16. The amount provided for each homeless
52 student is the approved tuition rate for the school unit or
 private school approved for tuition purposes where the
 student attends, prorated by the amount of time in

COMMITTEE AMENDMENT "A" to S.P. 466, L.D. 1249

2 attendance. Payments are made during the year of
3 attendance. The commissioner shall adopt rules to implement
4 this requirement.

5 **Sec. 4. 20-A MRSA §15613, sub-§16 is enacted to read:**

6 16. Tuition for homeless students. Beginning with school
7 year 1991-92, each school administrative unit or private school
8 is guaranteed an amount equal to the approved tuition rate for
9 the school unit or private school approved for tuition purposes
10 where the student attends, prorated by the amount of time in
11 attendance. The commissioner shall provide funding by reducing
12 the state share of the total allocation for operating costs by
13 the amount required to provide this funding and increasing the
14 local share of the total allocation for operating costs by the
15 same amount.

16 The department shall create a nonlapsing, interest-earning,
17 revolving fund to carry out the purposes of this section. Any
18 unexpended balance in the fund may not lapse but must be carried
19 forward. Money allocated to this fund and interest earned on
20 unexpended funds must be used for the designated purposes.

21 **Emergency clause.** In view of the emergency cited in the
22 preamble, this Act takes effect when approved.

23 **FISCAL NOTE**

24 This bill authorizes the Department of Education to adopt
25 rules to ensure that homeless students have unrestricted access
26 to education and for the payment of tuition. The costs
27 associated with rulemaking can be absorbed within existing
28 resources of the Department of Education. The department is also
29 required to create a revolving fund to finance homeless student
30 education costs. Funds will come from a reallocation within the
31 General Purpose Aid to Local Schools account and will not require
32 General Fund appropriations. This reallocation, however, will
33 reduce the state share allocation to school administrative units,
34 beginning in fiscal year 1991-92.'

35 **STATEMENT OF FACT**

36 This amendment replaces the bill and permits the
37 Commissioner of Education to adopt rules to ensure that each
38 homeless student has unrestricted access to a free public
39 education in accordance with the federal Stewart B. McKinney
40 Homeless Assistance Act. It requires the Legislature to provide
41 funding for each homeless student's education costs and
42 establishes the tuition rate at the school as prorated by the
43 amount of time in attendance for each student.

R. of S.
COMMITTEE AMENDMENT "A " to S.P. 466, L.D. 1249

2 The amendment also directs the Department of Education to
establish a nonlapsing, interest-earning revolving fund to
4 finance homeless student education costs. Funding will be
accomplished by reducing the state share of the total allocation
6 for operating costs statewide and increasing the local share of
the total allocation for operating costs statewide by an amount
equal to the cost of educating all Maine homeless students.

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The amendment also adds a fiscal note to the bill.

Reported by Senator Estes for the Committee on Education.
Reproduced and Distributed Pursuant to Senate Rule 12.
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