

MAINE STATE LEGISLATURE

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L.D. 1902

Date: 4-18-18

(Filing No. H-779)

REPORT A
EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1339, L.D. 1902, Bill, "An Act To Implement Certain Recommendations of the Task Force To Identify Special Education Cost Drivers and Innovative Approaches to Services"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 20-A MRSA §2907, as amended by PL 1989, c. 700, Pt. A, §47, is further amended to read:

§2907. Nontraditional limited purpose school approval

1. Requirements. A nonprofit institution, not otherwise approved under this subchapter, may operate as an approved nontraditional limited purpose school if it demonstrates a commitment to the educational process and to the State's youth by possessing the following:

- A. An incorporated council, board of trustees, board of directors or other governing board composed of a cross section of the community served by the school;
- B. An established educational plan;
- C. A written curriculum with appropriate goals, objectives and instructional strategies;
- D. Specific instructional time commensurate with the educational activities planned;
- E. Facilities that comply with state health, safety and fire codes;
- F. An instructional staff certified by the Department of Education where appropriate and endorsement by professional boards in areas where the State does not have certification standards or professional standards agreed upon by the department and the respective institution;
- G. School health services that include a registered nurse in residence when students are in attendance or the appointment of a school or consulting physician;

COMMITTEE AMENDMENT

1 H. Established written emergency and safety procedures, including periodic fire
2 drills whenever appropriate;

3 I. The unique up-to-date equipment necessary to the services provided;

4 J. A demonstrated commitment to work cooperatively with state public schools in an
5 effort to meet the specific aspiration needs of Maine students; and

6 K. Scholarship assistance to the State's youth.

7 If approved by the commissioner to provide a special education program, a nonprofit
8 institution, not otherwise approved under this subchapter, may operate as an approved
9 nontraditional limited purpose school if, in addition to meeting the other requirements of
10 this subsection, it demonstrates compliance with all requirements of chapters 301, 303
11 and 305 and applicable federal statutes and regulations prior to the enrollment of any
12 special education student at public expense.

13 The commissioner shall ~~promulgate~~ adopt rules, pursuant to the ~~Maine Administrative~~
14 ~~Procedure Act~~, Title 5, chapter 375, which shall must incorporate the requirements set
15 forth in this subsection.

16 **2. Approval; report.** The commissioner shall base approval of a school under this
17 section on the school's ability to meet the requirements set forth in subsection 1 and on an
18 annual on-site review by the department. The institution may not operate as an approved
19 school prior to approval by the commissioner. The school shall submit to the department
20 an annual report on its activities and compliance with this section.

21 **3. Removal of basic approval.** Notwithstanding any other provision of law, the
22 commissioner may remove approval from any nontraditional limited purpose school for
23 failure to meet applicable approval requirements. Except as permitted under Title 5,
24 section 10004, the commissioner shall give a school notice and opportunity for hearing
25 before removing approval. The notice given and any hearing must conform to the
26 requirements of Title 5, chapter 375, subchapter 4.

27 **4. Ineligible for state subsidy.** A school eligible for approval under this section
28 shall is not be eligible for state subsidy.

29 **5. Credit.** High school credit for programs completed at a school approved under
30 this section may be granted to students by the school in which they are enrolled full time.
31 A school approved under this section may not award high school credit.

32 **6. Taxation.** Notwithstanding any other provision of law, the commissioner's
33 approval of an institution as a nontraditional, limited purpose school shall does not alter
34 that institution's current status for the purpose of state or local taxation.'

35 Amend the bill in section 2 in §4710 in subsection 1 in the 3rd line (page 2, line 25 in
36 L.D.) by striking out the following: "prekindergarten" and inserting the following:
37 "kindergarten"

38 Amend the bill by striking out all of sections 3 to 5.

39 Amend the bill in section 6 in the 2nd to 4th lines (page 3, lines 42 and 43 and page
40 4, line 1 in L.D.) by striking out the following: "targeted assistance through federal Title
41 I funds in order to become eligible for shared funding for the development of school-

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wide" and inserting the following: 'schoolwide status with respect to federal Title I funds in order to be able to use the funds for funding for the development of schoolwide'

Amend the bill in section 6 in the 2nd line from the end (page 4, line 7 in L.D.) by striking out the following: "targeted assistance" and inserting the following: 'schoolwide status'

Amend the bill in section 7 in the 4th line from the end (page 4, line 20 in L.D.) by striking out the following: "January 15, 2019" and inserting the following: 'April 1, 2019'

Amend the bill by striking out all of section 8.

Amend the bill by striking out all of sections 10 to 12 and inserting the following:

'Sec. 10. Review of maintenance of effort allocation component. The Department of Education shall review the maintenance of effort funding component of the essential programs and services funding formula to determine the purpose of the funding, whether it is accomplishing this purpose, why some school administrative units' expenditures are consistent with the funding formula allocation model and some are not and how to increase the equity of special education allocations across all school administrative units. The department shall invite input from state and local stakeholders and policy makers. The department shall report its findings and recommendations, including any statutory changes, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs not later than March 15, 2019. After review of the report, the committee may report out a bill related to increasing equity of special education allocations across all school administrative units.'

Amend the bill in section 13 in the last paragraph in the 3rd line from the end (page 6, line 25 in L.D.) by striking out the following: "January 15, 2019" and inserting the following: 'January 15, 2020'

Amend the bill in section 13 in the last paragraph in the last line (page 6, line 27 in L.D.) by striking out the following: "First" and inserting the following: 'Second'

Amend the bill by striking out all of section 14 and inserting in its place the following:

'Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Special Services Team Z080

Initiative: Provides one-time funds for the pilot program to review and improve MaineCare billing systems and procedures as they relate to school administrative units' billing for medically necessary services.

| | | |
|---------------------|----------------|----------------|
| GENERAL FUND | 2017-18 | 2018-19 |
| All Other | \$0 | \$150,000 |
| | <hr/> | <hr/> |

COMMITTEE AMENDMENT

1 GENERAL FUND TOTAL \$0 \$150,000

2 **Special Services Team Z080**

3 Initiative: Provides funds for one Public Service Coordinator position and 2 Education
 4 Specialist III positions and related All Other costs to provide technical assistance,
 5 administration and monitoring of the tiered system of support for response to intervention
 6 systems.

| | | | |
|----|-------------------------------|----------------|----------------|
| 7 | GENERAL FUND | 2017-18 | 2018-19 |
| 8 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.000 |
| 9 | Personal Services | \$0 | \$265,542 |
| 10 | All Other | \$0 | \$19,593 |
| 11 | | | |
| 12 | GENERAL FUND TOTAL | \$0 | \$285,135 |

| | | | |
|----|-------------------------------------|----------------|------------------|
| 13 | EDUCATION, DEPARTMENT OF | | |
| 14 | DEPARTMENT TOTALS | 2017-18 | 2018-19 |
| 15 | | | |
| 16 | GENERAL FUND | \$0 | \$435,135 |
| 17 | | | |
| 18 | DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$435,135 |
| 19 | | | |

20 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 21 section number to read consecutively.

22 **SUMMARY**

23 This amendment, which is the majority report of the committee, narrows the focus of
 24 the bill to the addition of response to intervention systems to ensure an all-encompassing,
 25 tiered system of support for general and special education students; collaboration between
 26 general education and special education, including a clarification that the Department of
 27 Education is required to facilitate a process to help schools apply for schoolwide status
 28 with respect to federal Title I funds; promotion of dual certification programs by the
 29 Department of Education and the State Board of Education; recodification of the Maine
 30 Revised Statutes, Title 20-A, Part 4, subpart 1, concerning special education, by the
 31 Office of Policy and Legal Analysis and the Office of the Revisor of Statutes; a review of
 32 the purpose of the maintenance of effort component of the essential programs and
 33 services funding formula and whether it is accomplishing this purpose and how to
 34 increase equity among all school administrative units; and a review and improvement of
 35 MaineCare billing systems and procedures through a pilot program through the
 36 Department of Education in collaboration with the Department of Health and Human
 37 Services. The amendment also adds 4 provisions to the statute regarding nontraditional
 38 limited purpose schools that were part of Department of Education rule, Chapter 250,

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which has been repealed. The amendment also delays the reporting dates to ensure adequate time for review. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 1902

LR 2942(02)

An Act To Implement Certain Recommendations of the Task Force To Identify Special Education Cost Drivers and Innovative Approaches to Services

Fiscal Note for Bill as Amended by Committee Amendment *A(CH-719)*
Committee: Education and Cultural Affairs
Fiscal Note Required: Yes

Fiscal Note

Potential State Mandate - Unfunded

| | FY 2017-18 | FY 2018-19 | Projections FY 2019-20 | Projections FY 2020-21 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$0 | \$435,135 | \$323,759 | \$338,967 |
| Appropriations/Allocations | | | | |
| General Fund | \$0 | \$435,135 | \$323,759 | \$338,967 |

State Mandates

Required Activity

Requires all school administrative units to enhance and upgrade the system of response to intervention for kindergarten to grade 12 to become an all-encompassing, tiered system of support for all general and special education students who are not progressing towards meeting the content standards of the parameters for essential instruction and graduation requirements.

Unit Affected

School

Local Cost

Significant statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

Fiscal Detail and Notes

This bill includes General Fund appropriations totaling \$435,135 in fiscal year 2018-19 to the Special Services Team program within the Department of Education for the costs associated with enhancing and upgrading the system of response to intervention and a review of the MaineCare billing systems and procedures as it relates to school administrative units (SAU's) billing for medically necessary services.

CA (A-779)

Of this amount, \$285,135 is provided to establish one Public Service Coordinator position and 2 Education Specialist III positions and related All Other costs associated with the upgrading and enhancing of the response to intervention systems including administration and monitoring as well as providing technical assistance to SAU's. Additionally, \$150,000 is provided in fiscal year 2018-19 only for the review of the MaineCare billing systems and processes as it relates to SAU's billing for medically necessary services.

Any additional costs to the Department of Health and Human Services to take part in the working group to address problems in the current MaineCare billing system and processes for medically necessary services are expected to be minor and can be absorbed within existing budgeted resources. The additional costs to the Legislature for recodification of statutes concerning special education can be absorbed utilizing existing budgeted staff resources assuming this work is completed during the interim periods between legislative sessions.