

MAINE STATE LEGISLATURE

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LEGISLATIVE COUNCIL

February 10, 1986

REVISED AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. SECRETARY'S REPORT
 - Minutes of February 3, 1986, Council Meeting
- IV. DIRECTOR'S REPORT
 - Recommendation to Hire Audrey-Renate Delphendahl for the position of Legislative Attorney in the Office of the Revisor of Statutes, effective immediately.
- V. REPORTS FROM COUNCIL COMMITTEES
- VI. OLD BUSINESS
- VII. NEW BUSINESS
 - Item #1: Submission of proposed legislation pursuant to study of Spruce-Fire Management Incentives from Joint Standing Committee on Energy and Natural Resources (letter from Sen. Emerson, Study Committee Chair).
 - Item #2: Submission of Report on "Tuition Costs for 'State Wards' and 'State Agency Clients'" by the Joint Standing Committee on Appropriations and Financial Affairs (letter from Sen. Pearson and Rep. Carter).

- Item #3: Request from Joint Standing Committee on Marine Resources for a no-cost extension of the contract for the Lobster Study (letter from Sen. Chalmers and Rep. Crowley).
- Item #4: Recommendation to Purchase an Additional Oxygen Tank for Emergency Medical Purposes (letter from Senators Tuttle and Diamond and Representatives Carroll and Ruhlin).
- Item #5: Legislative Apportionment: Notice of Claim by Citizens for Constitutional Apportionment to the State of Maine and the Maine Legislative Council for damages in the amount of \$25,000. (Copy of Notice)

SENATE

RONALD E. USHER, DISTRICT 28, CHAIR
JUDY C. KANY, DISTRICT 17
JEROME A. EMERSON, DISTRICT 9

DAVID ELLIOTT, LEGISLATIVE ASSISTANT
WILLIAM T. GLIDDEN, LEGISLATIVE ASSISTANT
ALICE SCHLOSSER, COMMITTEE CLERK



HOUSE

MICHAEL H. MICHAUD, EAST MILLINOCKET,
CHAIR
PAUL F. JACQUES, WATERVILLE
JAMES MITCHELL, FREEPORT
VINTON T. RIDLEY, SHAPLEIGH
JAMES REED COLES, HARPSWELL
ANNETTE M. HOGLUND, PORTLAND
EDWARD L. DEXTER, KINGFIELD
DARRYL N. BROWN, LIVERMORE FALLS
MURIEL D. HOLLOWAY, EDGECOMB
STEPHEN J. LAW, DOVER-FOXCROFT

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

January 22, 1986

Rep. John Diamond
Chair, Legislative Council
State House
Augusta, Maine 04333

Dear Chairman Diamond:

The subcommittee studying spruce-fir management incentives and the heldover bill, LD286 has unanimously recommended a new draft of LD286 for consideration by the full Energy and Natural Resources Committee. A copy of the redraft is enclosed.

The subcommittee feels strongly that it is the State's responsibility to respond quickly and responsibly to the potential economic crisis posed by the shortfall in spruce and fir expected within the next twenty years. The redraft of LD286 provides a program to test management incentives over the next few years as a prelude to a full scale effort.

Sincerely,

A handwritten signature in cursive script that reads "Jerome A. Emerson".

Sen. Jerome Emerson
Chair, Study Committee
Spruce-fir Management Incentives

cc: Sen. Usher
Rep. Michaud
4736M

ENR STUDY BILL
Glidden
1/16/86

SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY SIX

AN ACT to Promote Intensive Spruce-fir Management
(NEW DRAFT OF LD286)

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

Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(18-B) is enacted to read:

(18-B) Environment Spruce-fir Expenses Only 12 MRSA §9804
Forestry Resource
Policy Advisory
Committee

Sec. 2. 12 MRSA c. 811 is enacted to read:

CHAPTER 811

EMERGENCY SPRUCE-FIR RESOURCE REDEVELOPMENT PROGRAM

§9801. Findings and purpose

The Legislature finds that there exists a grave emergency to the future of the Maine forest. The Legislature finds as follows.

1. Uneven economic development. Various parts of the State are experiencing, and are expected to continue to experience, dramatically different rates of economic growth,

some lagging behind other regions in this regard, with adverse implications for population, standards of living, public services and quality of life for the citizens of these regions of the State.

2. Public policy. It is contrary to the best interests of the citizens of all parts of the State for major regions to lag seriously behind the rest of the State in their economic prosperity and social well-being. It is in the public interest for the State to assist in rectifying these imbalances.

3. Future of the forest. The future health and extent of the forest resource is critical to the economic development and public welfare of this State, and especially to its northern and eastern regions, where nearly half of all manufacturing employment is provided by the forest products industry and where the forest contributes substantial additional income through its recreational use.

4. Wood supply jeopardized. Notwithstanding the importance of the forest to northern and eastern Maine, the United States Forest Service Decennial Resurvey, and the complimentary studies of the Maine Forest Service authorized by section 8424, subsection 8 and chapter 805, subchapter IV, conclude that the supply of wood, especially spruce and fir, will experience both an absolute and relative decrease in quality and quantity during the next three decades. This decrease is predicted to result in insufficient supply to meet expected demand for spruce-fir timber by the year 2020. This decline is attributable in large part to the sustained depredations of the spruce budworm and imbalanced age classes, the increased demand for wood and the lack of adequate incentives for intensive management of this resource.

5. Inadequate management of nonindustrial lands. Forest management on lands held by nonindustrial owners is hampered by inadequate access to investment capital. Management funds are frequently limited to the cash flow generated by the forest land itself. This cash flow is typically irregular and restricts effective implementation of ongoing forest management plans.

6. Government responsibility. State Government has a legitimate and vital responsibility to assist in the restoration of a healthy and productive forest to help assure that the future development will be uniformly maintained throughout the State, to the ultimate benefit of all Maine citizens.

§9802. Emergency Spruce-fir Resource Redevelopment Program

1. General. There is established an Emergency Spruce-fir Resource Redevelopment Program to operate on a pilot basis until September 30, 1989. It is the purpose of the program to encourage and assist in forestry practices which are designed

to reduce the predicted spruce-fir shortfall and assist in the development of a new and more productive forest with reduced vulnerability to budworm over the course of the next 30 years by developing and encouraging intensive forest management. It is also the purpose of the pilot program to develop, test and evaluate incentive mechanisms to achieve the purposes of this chapter.

2. Program administration. The Director of the Maine Forest Service shall appoint a program administrator. The administrator shall be the principal administrative, operational and executive employee of the program. The administrator shall not be subject to the Personnel Law, but shall serve at the pleasure of the director, with the consent of the commissioner.

3. General authority of the administrator. The administrator, with the approval of the Director of the Maine Forest Service, shall implement the pilot program to support forest management activities which are consistent with the findings and purposes of this chapter. These activities shall focus on the spruce-fir resource and efforts to alleviate the predicted supply shortfall of that resource. He may plan for and undertake activities to promote that management on behalf of the State.

4. Activities. The administrator may undertake the following activities.

A. Provide incentives for landowners to carry out intensive forest management;

B. Provide long-term forest management planning advice to landowners;

C. Cooperate with the environmental and wildlife management agencies of the State in developing and implementing management techniques consistent with maintaining the environmental quality of the State's forest;

D. Develop and evaluate methods of encouraging more intensive management of spruce-fir resources, particularly on the nonindustrial, private ownerships.

E. Recommend to the Governor and Legislature additional measures needed to assure a high priority for the development and management of a new spruce-fir forest.

5. Staff of the advisory committee. The administrator shall attend and participate in all meetings of the Spruce-fir Resource Policy Advisory Committee, but may not vote.

6. Personnel. The administrator, with the approval of the Director of the Maine Forest Service, may hire such competent, professional personnel and other staff as he deems necessary.

Any such employees shall be subject to Title 5, Chapter 57.

7. Office. The administrator, with the approval of the Director of the Maine Forest Service, may obtain office space, goods and services as required, except that staff foresters will be assigned space in state facilities throughout the area whenever feasible.

8. Management of funds. With the approval of the Director of the Maine Forest Service, the administrator may enter into agreements to secure the services of contractors and consultants and accept and expend funds from other governmental agencies and private sector sources.

9. Records. The administrator shall keep a record of all forest improvement activities performed under the auspices of this program, including research projects and incentives grants. The administrator shall monitor all projects receiving any form of funding or other assistance under this program and shall inspect a sufficient number of the projects to ensure compliance with the objectives of this chapter.

§9803 Forest Management Incentives Grants.

1. Purpose and authority. In order to encourage more intensive and productive management of the spruce-fir resource, the administrator is authorized to make management incentive grants to forest landowners subject to the provisions of this chapter. The primary objective of an incentives grant shall be to increase the supply of spruce and fir or substitute species during the years 2000 through 2030. After consulting with the Spruce-fir Resource Policy Advisory Committee, the administrator shall define, by rule, eligibility for participation, eligible management activities, cost-sharing fractions, monitoring and evaluation requirements and other grants criteria according to the provisions of this section and Title 5, c.375.

2. Eligibility. A person owning at least 100 acres of commercial forest land at least 50% stocked with spruce, fir or mixture of both or which is suitable for growing spruce, fir or substitute species may apply for incentive grants under this section.

A. For the purpose of this chapter, the term, "person" shall include any individual, firm, partnership, or corporation.

B. For the purposes of this subsection, the term "commercial forest land" shall be defined to mean land which is capable of producing at least 50 cubic feet of wood fiber per acre annually.

C. The administrator may consider an application from a person owning at least 20 acres but less than 100 acres of

commercial forest land if that person otherwise meets the requirements of this subsection and can demonstrate a clear commitment to long-term forest management as evidenced by:

(1) Enrollment in the Tree Farm system administered by the American Forest Council;

(2) Participation in a federal forestry incentives program; or

(3) Other clear and convincing evidence as the administrator deems sufficient.

C. No federal, state or other governmental entity may receive an incentives grant under this chapter.

3. Cost sharing provisions. The administrator shall annually define the proportion of management costs which may be reimbursed by a management incentive grant. The administrator shall apply this cost-sharing fraction to all grants in that fiscal year. The cost-share fraction shall be at least 30% but may not exceed 75% of the appropriate standard cost established under this section. In setting the annual cost-share fraction, the administrator shall give priority to encouraging the production of spruce-fir fiber in a cost efficient manner and to developing an effective incentives program which is attractive to forest landowners.

4. Eligible management activities. The administrator may authorize grants for any of the following forest management activities, provided that the activity can be expected to increase the supply of spruce, fir or substitute species between the years 2000 and 2030 and provided that the proposed management activity is not capable of generating sufficient current revenues to cover its direct costs. Eligible activities may include:

A. Purchasing and planting of trees;

B. Integrated pest management, but not to include spraying insecticides to protect against insect and disease problems;

C. Vegetation management, including, without limitation, the application of herbicides and manual, nonchemical means;

D. Thinning and related precommercial timber stand improvements;

E. Payments for consultations with and planning by a registered professional forester; or

F. Such other measures as the director determines will alleviate the effects of the spruce-fir shortfall.

5. Standard costs. The administrator shall establish a standard cost per acre for each eligible management activity. The administrator shall base the standard cost of each activity on the use of the best available technology applied to a management unit sized to fully capture any available economies of scale. The standard costs shall be updated annually.

6. Partial repayment. The administrator may make provision for the repayment of up to 50% of a management incentives grant. The administrator shall set the date of repayment to coincide with the expected date of final harvest of the managed stand.

7. Forest management plan. The administrator may authorize grants only when the eligible activities are certified by the landowner as part of a forest management plan prepared and signed by a registered professional forester and approved by the administrator. Certification shall be made on a form provided by the administrator which notifies the signor that false statements are punishable by law pursuant to Title 17-A, section 453.

8. Application and approval. Application must be made to the administrator for consideration of an eligible project. Application must be made by the owner and must contain all pertinent information including owner's name, location of woodlot, size of woodlot, description of project, a copy of the landowner's forest management plan and a cost estimate for the proposed project prepared and signed by a registered professional forester. The administrator may make provision for counting in-kind donations of labor by the applicant to meet the cost-sharing requirements. Applications shall be processed on a first come, first serve basis. If found to be eligible, the administrator may approve the project.

9. Additional criteria. In addition to the eligibility requirements of this section, the administrator shall give preference to those applications which:

A. Make maximum use of any commercial or merchantible material on the treatment unit;

B. Have higher than average site productivity and potential for growth; or

C. Employ environmentally sound and cost effective means of enhancing forest growth.

10. Annual grants limit. The administrator may authorize a maximum of \$5,000 annually of incentive grants to any person.

11. Small landowner setaside. The administrator shall set aside 25% of the funds available for forest management incentives grants for grants exclusively to landowners with total forest land holdings less than 1000 acres and otherwise eligible under this section. Any set aside funds not obligated

by January 1, 1988 shall be available to any forest landowner otherwise eligible under this section.

12. Double-dipping prohibition. The administrator may not authorize a grant for any project receiving or expecting to receive financial assistance from another federal or state forestry incentives program. The administrator shall include in every grant agreement provisions for the recapture of an incentives grant under this chapter if he finds that the project in question is also receiving financial assistance from other federal or state programs.

13. Recapture provisions and penalties. In the event that the land is not managed in accordance with the plan as approved or is withdrawn from use for the growth of commercial forest products, then the owner of record thereof shall be liable to the administrator for an amount equal to the amount of the grant plus interest. The administrator shall determine the appropriate interest rate by adding 4% plus the the average annual rate of inflation over the period of the grant, as determined by the consumer price index.

§9804. Spruce-Fir Resource Policy Advisory Committee

1. Organization. There is established in the Maine Forest Service a Spruce-Fir Resource Policy Advisory Committee. The committee shall be composed of 5 members, appointed by the Commissioner of Conservation, to assist in the development, implementation and evaluation of the Emergency Spruce-fir Resource Redevelopment Program. The term of office shall be for 3 years, except that, of the initial appointees, 2 members shall serve 3-year terms, 2 shall serve 2-year terms and 1 shall serve a one-year term. Any vacancy shall be filled by an appointment for the remainder of the unexpired term. To provide the knowledge or experience necessary to carry out the duties of the committee, one person shall be appointed who is the manager of more than 5,000 acres of timberland; one person who is the manager of less than 5,000 acres; and three members of the general public with professional expertise collectively in wildlife management, silviculture and natural resource conservation.

2. Chairman. The commissioner shall appoint the chairman. The committee shall elect other officers as it deems necessary from among the membership. The committee shall meet at the call of the chairman or at the request of any 2 members. Three members shall constitute a quorum and any action shall require the affirmative vote of the greater of either a majority of those present and voting or at least 3 members. The chairman and the other officers shall serve in these capacities for a period of one year following their elections.

3. Compensation of the committee. Each public member shall be entitled to payment of necessary expenses, consistent with Title 5, section 13, for attending any meetings or

hearings of the committee or for any other expenses in connection with the official business of the committee under the authorization of the committee.

4. Conflicts of interest. In addition to the limitations of Title 5, section 18, no members of the committee may participate in any action or deliberation on any contract, grant or provision of any service to be entered into by the program, if the member has any interest individually or in any firm, partnership or corporation which may be party to the contract, grant or service. A general benefit to a sector of the economy, an industry or a class of firms, partnerships or corporations which incidentally enures to his or its benefit shall not be construed to fall within the restriction of this subsection.

§9805 Pilot Evaluation.

The Legislature shall authorize an independant evaluation of the Emergency Spruce-fir Resource Redevelopment Program to be completed no later than January 1, 1989. This evaluation will give specific attention to the effectiveness of the incentives grants program. The evaluation shall also include a financial and administrative audit of the incentives grants program. The evaluation shall include a thorough review of the scientific literature pertaining to forest management incentives programs in the public and private sector. The joint standing committee with jurisdiction over natural resources, in consultation with the Legislative Council, may retain professional consultants with expertise in forestry and economics to assist in the evaluation. The committee shall consult with the Department of Conservation in the conduct of the evaluation.

§9807 Repeal.

This chapter is repealed on September 30, 1989.

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

1986-87

CONSERVATION, DEPARTMENT OF

Emergency Spruce-fir Resource
Redevelopment Program

Positions	(1.5)
Personal Services	\$ 45,000
All Other	265,000
Total	\$310,000

Provides funds to assist in re-
search, demonstration pro-
jects and investment incen-
tives to restore and restock
the state's spruce-fir forests.
The appropriation provides funds
for a Forester II position and half a
secretarial position. The appro-
priation also provides \$250,000 for
the incentives grants program.

STATEMENT OF FACT

The purpose of this bill is to establish a three year pilot program to develop, test and evaluate effective methods of encouraging more intensive forest management of the spruce-fir resoucre owned by the nonindustrial sector.

The bill establishes a separate program within the Maine Forest Service with its own administrator and forestry staff to oversee the program. The primary mechanism of the program is to be a management incentive grant to private, nonindustrial landowners. The administrator is authorized to reimburse private landowners for a set fraction of the costs they incur in precommercial management activities. The bill defines eligible participants, the range of eligible activities, application procedures, decision criteria, and other aspects of the program. Special provision for small landowners is made through a setaside of funds available for grants.

The bill creates an advisory board to assist the administrator in the implementation and evaluation of the program.

The bill provides for an independant evaluation of the program to be conducted by a professional consultant. It is the intent of the Legislature that this evaluation be conducted under the direction of the Energy and Natural Resources Committee. The evaluation study will assess the value of the incentives grants and make recommendations to the Legislature.

4266M

REPORT OF THE JOINT STANDING COMMITTEE ON
APPROPRIATIONS AND FINANCIAL AFFAIRS

ON A STUDY OF L.D. 1284
TUITION COSTS FOR "STATE WARDS" AND "STATE AGENCY CLIENTS"

Pursuant to Legislative Council Authorization
dated June 27, 1985

January 1986

Staff

Grant T. Penoyer
Legislative Budget Analyst

Subcommittee Members

Sen. Georgette Berube

Rep. Susan Bell

Rep. Donald Carter

Rep. Laurence Connolly

Rep. Linwood Higgins

SENATE

MICHAEL D. PEARSON, DISTRICT 6, CHAIR
GEORGETTE B. BERUBE, DISTRICT 16
JAMES A. McBREARITY, DISTRICT 2

BENT SCHLOSSER, LEGISLATIVE
FINANCE OFFICE ADVISOR



STATE OF MAINE

ONE HUNDRED AND TWELFTH LEGISLATURE

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

HOUSE

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LAURENCE E. CONNOLLY, JR., PORTLAND
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LINWOOD M. HIGGINS, SCARBOROUGH
RUTH S. FOSTER, ELLSWORTH

January 31, 1986

Representative John N. Diamond, Chairman
Members of the Legislative Council
State House
Augusta, Maine 04333


Dear Representative Diamond and Members:

Enclosed please find the final report of the Joint Standing Committee on Appropriations and Financial Affairs' study of L.D. 1284, "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education, Care and Treatment of State Agency Clients". This report fulfills the obligation of this Committee pursuant to the Legislative Council's directive on June 27, 1985.

The proposed bill attached to this report encompasses the Committee's recommendations, which we submit for your review and approval.

Respectfully submitted,


Michael D. Pearson
Senate Chair


Donald V. Carter
House Chair

cc: Sally Diamond, Executive Director

INTRODUCTION

During the first regular session of the 112th Legislature, the Joint Standing Committee on Appropriations and Financial Affairs could not recommend the passage of L.D. 1284, "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education, Care and Treatment of State Agency Clients." The Committee was supportive of the intent of this bill. However, due to the substantial size of and some ambiguities surrounding the bill's fiscal impact, the Committee, instead, requested that five of its members study the intent of the bill and the associated costs.

This study was approved by the Legislative Council on June 27, 1985 under the title, "Tuition Costs for 'State Wards' and 'State Agency Clients'." The sub-committee met four times during the interim between the 1st and 2nd regular sessions with the following objectives:

- a) Develop an understanding of the complex issues which led to the introduction of L.D. 1284 and its several predecessors;
- b) Determine the true costs of addressing these issues; and
- c) Develop a workable and affordable mechanism to pay these costs.

Due to the complexities of the issues involved, the sub-committee concentrated its efforts on two major issues which pertain to the placement of children for non-educational reasons by representatives of State agencies and those children in the care or custody of State agencies. The findings of this study are separated into these two issues.

FINDINGS

I. School districts and local property taxes are inappropriately burdened with the special education costs of so-called "State Agency Clients".

- Many of these children are placed for other than educational reasons. A district may have an appropriate program for the child, but because the child is removed from the home of his parents and placed in another district, the district where the child's parents reside has to pay for a similar program in the other district.
- School districts have very little or no input into the decisions regarding non-educational placements of these State Agency Clients, yet are still required to pay the costs.
- These State Agencies Clients are often placed for short periods before being moved to another district. This creates situations where a district may have had to develop a special program for the child only to have the child move a short time later and be left with the expense of the program but no child.
- The special education expenses of these children can represent a substantial portion of a local school district's budget and often are submitted or occur after the budget has been approved.
- School districts must absorb the additional costs for two years before they receive a subsidy based on a percentage of these expenditures. Some districts may not even receive a subsidy. The percentage of subsidy depends on the program costs incurred by a school district, the state valuation of the district, and the number of students within the district.
- Many districts with good special education programs often receive additional State Agency Clients because they have good programs, thereby creating a possible disincentive for providing good special education programs.
- The estimated cost statewide in the present Fiscal Year of the special education programs for these State Agency Clients is approximately \$5.2 million.

II. Many children in the care or custody of State agencies are unable to access needed services.

- Many State Agency Clients could be more appropriately served in a less restrictive placement or could use more extensive services.
- This inability to access the most appropriate services is due to unclear financial responsibility with regard to special education costs and a lack of additional funding for state agencies to provide expanded services.
- The estimated cost to expand services and provide the most appropriate and least restrictive placement for all State Agency Clients in the system this year is approximately \$4.1 million.

RECOMMENDATIONS

- Establish definitions which would clearly delineate when a child is to be considered a State Agency Client. These definitions are provided in Sections 1 and 2 of the proposed bill.
- Require the Department of Educational and Cultural Services to pay 100% of the special education costs for all State Agency Clients in the year in which they occur. This mandate is established in Section 3 and 4 of the proposed bill.
- Phase in the cost to the State of shifting financial responsibility for these special education costs of State Agency Clients over a five year period by allowing these costs to continue to be shared through the school subsidy formula. This phase in mechanism is established in Section 4(c) of the proposed bill. (See appendix B for a more detailed description of the "phase-in" mechanism and its fiscal impact.)
- Require school units to forego subsidy based on these special education expenditures in exchange for no longer having to be burdened with these costs in the future. (See appendix B for a more detailed description of the effect on local school units.)
- Authorize the Department of Mental Health and Mental Retardation and the Department of Corrections to pay for the care and treatment costs of state agency clients, but limit their liability to the amount of funds appropriated by the Legislature. The intent of this is to provide statutory authorization without committing the funds of future Legislatures. This is provided by Sections 5 through 8 of the bill.
- Establish an effective date for this legislation of July 1, 1987. This delay should be used by the departments to cooperate and gather the necessary information to carry out the intent of the proposed legislation.

APPENDIX A
COPY OF PROPOSED LEGISLATION

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ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document No.

H.P. House of Representatives,

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Define Eligibility for School
Purposes and to Determine Financial
Responsibility for the Education, Care
and Treatment of State Agency Clients.

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

Sec. 1. 20-A MRSA §1, sub-§24-A is enacted to read:

24-A. Residential placement. "Residential placement" includes the placement in any children's home licensed pursuant to Title 22, chapter 1669, including:

A. An "emergency shelter," which is a facility operated by a corporation and licensed for the purpose of providing board and care to no more than 10 children over the age of 12 years, who may be runaways or abused children or whose well-being is jeopardized by some other crisis or

1 emergency, and providing services to a child for
2 not more than 21 consecutive days, except with
3 special permission;

4 B. A "foster home," which is a private home oc-
5 cupied and operated by the owner and licensed to
6 provide 24-hour care for no more than 6
7 nonrelated children;

8 C. A "specialized children's home," which is a
9 facility licensed to provide care to no more
10 than 4 moderately to severely handicapped chil-
11 dren by a caretaker who is specifically educated
12 and trained to provide for the particular needs
13 of each child placed; and

14 D. A "residential child care facility," which
15 provides board and care for one or more children
16 on a regular, 24-hours-a-day, residential basis.
17 A residential child care facility does not mean
18 family foster home, specialized children's home
19 or an emergency shelter facility. The term in-
20 cludes, but is not limited to:

21 (1) A "group home," which is a residential
22 child care facility operated by a corpora-
23 tion and licensed for the purpose of provid-
24 ing board and care for up to 10 children;

25 (2) A "residential agency," which is a res-
26 idential child care facility operated by a
27 corporation and licensed for the purpose of
28 providing board and care to more than 10
29 children;

30 (3) A "residential treatment center," which
31 is a residential child care facility oper-
32 ated by a corporation and licensed for the
33 purpose of providing therapeutically-
34 planned, group living situations within
35 which educational, recreational, medical and
36 sociopsychotherapeutic components are
37 intergrated for children whose present hand-
38 icaps preclude community outpatient treat-
39 ment;

1 (4) A "residential treatment facility,"
2 which is a residential child care facility
3 operated by a corporation and licensed for
4 the purpose of providing board, care and
5 treatment for more than 10 moderately to se-
6 verely handicapped children and which does
7 not contain an educational component; and

8 (5) A "therapeutic group home," which is a
9 residential child care facility operated by
10 a corporation and licensed for the purpose
11 of providing board, care and treatment for
12 up to 10 moderately to severely handicapped
13 children.

14 Sec. 2. 20-A MRSA §1, sub-§34-A is enacted to
15 read:

16 34-A. State agency client. "State agency client"
17 means a child of eligible school age who is:

18 A. In the care or custody, or both, of the De-
19 partment of Human Services, the Department of
20 Mental Health and Mental Retardation or the De-
21 partment of Corrections;

22 B. Placed, with the recommendation of a Bureau
23 of Mental Retardation case manager or an employee
24 of the Office of Children's Services, Department
25 of Mental Health and Mental Retardation, with a
26 person who is not the child's parent, legal
27 guardian or relative;

28 C. On entrustment or absent-with-leave status
29 from the Maine Youth Center; or

30 D. Attending a public or private school while
31 still a resident of a state-operated institution.

32 Sec. 3. 20-A MRSA §5202, sub-§2, as amended by
33 PL 1983, c. 806, §57, is further amended to read:

34 2. General rule. Persons shall be considered
35 residents of the school administrative unit where
36 their parents reside. A person is eligible to attend
37 schools in the school administrative unit where the
38 person's parent resides, where the person resides

1 upon reaching the age of 18 years or upon becoming an
2 emancipated minor. A federal installation shall be
3 considered part of the school administrative unit in
4 which it is located.

5 Sec. 4. 20-A MRSA §15613, sub-§5, as enacted by
6 PL 1983, c. 859, Pt. G, §§2 and 4, is repealed and
7 the following enacted in its place:

8 5. Payment of state agency client costs. Pay-
9 ment of state agency client costs shall be as fol-
10 lows.

11 A. For the purposes of this subsection, "state
12 agency client" is defined in section 1, subsec-
13 tion 34-A.

14 B. The commissioner shall approve special educa-
15 tion costs for all state agency clients placed in
16 residential placements by an authorized agent of
17 a state agency.

18 C. Special education costs authorized by this
19 subsection for state agency clients shall be paid
20 by the department in the year of allocation at
21 100% of actual costs. In the fiscal year begin-
22 ning July 1, 1987, 75% of those payments shall be
23 considered part of the State's share of the total
24 allocation in meeting the requirements of section
25 15602, subsection 1. For each fiscal year there-
26 after, the percentage of those payments, which
27 shall be considered part of the State's share of
28 the total allocation in meeting the requirements
29 of section 15602, subsection 1, shall be reduced
30 by 15% each year until the fiscal year beginning
31 July 1, 1992. Beginning July 1, 1992, these pay-
32 ments shall no longer be considered part of the
33 State's share of the total allocation in meeting
34 the requirements of section 15602, subsection 1.

35 D. In the fiscal year beginning July 1, 1987,
36 and every fiscal year thereafter, the commissioner
37 shall pay only approved special education
38 costs authorized by this subsection for state
39 agency clients and shall not allocate for those
40 costs incurred by the administrative unit for
41 state agency clients in the base years starting
42 July 1, 1985, and every base year thereafter.

1 Sec. 5. 34-A MRSA §1206, sub-§1, ¶F is enacted
2 to read:

3 F. "State agency client" means the same as set
4 out in Title 20-A, section 1, subsection 34-A.

5 Sec. 6. 34-A MRSA §1206, sub-§4 is enacted to
6 read:

7 4. Payment for state agency clients. The com-
8 missioner shall authorize payment of approved board,
9 care and mental health treatment costs for all state
10 agency clients in the care or custody of the depart-
11 ment who are in residential placements, as defined in
12 Title 20-A, section 1, subsection 24-A, to the extent
13 of funds appropriated by the Legislature for this
14 purpose. In no event may those payments be autho-
15 riized in excess of funds appropriated for those
16 costs.

17 Sec. 7. 34-B MRSA §1208, sub-§1, ¶G is enacted
18 to read:

19 G. "State agency client" has the same meaning as
20 in Title 20-A, section 1, subsection 34-A.

21 Sec. 8. 34-B MRSA §1208, sub-§4 is enacted to
22 read:

23 4. Payment for state agency clients. The com-
24 missioner shall authorize payment of approved mental
25 health treatment costs for state agency clients who
26 are placed for educational purposes with the recom-
27 mendation of a Bureau of Mental Retardation case man-
28 ager or an employee of the Office of Children's Ser-
29 vices in an in-state residential treatment center, as
30 identified in Title 20-A, section 1, subsection 24-A,
31 paragraph D, subparagraph (3), to the extent of the
32 amount of funds appropriated by the Legislature for
33 this purpose; and may authorize payment of mental
34 health treatment costs for similar placements in out-
35 of-state residential placements on a case-by-case
36 basis, within the limits of available funds. The
37 commissioner shall further authorize payment of ap-
38 proved board and care and mental health treatment
39 costs for state agency clients who are placed for
40 other than educational purposes with the recommenda-

1 This bill provides a mechanism which reduces the
2 initial cost to the State by allowing a percentage of
3 the special education expenditures of these state
4 agency clients to continue to be shared through the
5 school subsidy formula.

6

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APPENDIX B
SUMMARY OF FISCAL IMPACT OF
OF PROPOSED LEGISLATION

IMPACT ON STATE FUNDS

The effective date of the proposed legislation is July 1, 1987. Therefore, there will be no fiscal impact in this biennium. However, beginning in Fiscal Year 1987-88, this legislation will require the Department of Educational and Cultural Services to make direct payments for special education programs for state agency clients. In that year, these direct payments are expected to amount to approximately \$6 million.

The net additional appropriations needed to meet these direct payments will be approximately one-half of this \$6 million due to the fact that the State would have subsidized the other half through the school subsidy formula. The remaining cost to the State will be phased in over a five-year period.

Beginning July 1, 1987, 75% of the State's expenditures for these state agency clients will continue to be included in the school subsidy formula and shared 55% State to 45% Local. Each year the percentage of expenditures included in the formula will be decreased by 15%. After July 1, 1992, these costs will no longer be shared. The initial cost to the State of this phase-in mechanism will be minor. The cost will increase over the five year period until the State will bear the full burden of these costs, approximately \$3 million plus any inflation or program expansion costs.

This bill would also authorize the Department of Mental Health and Mental Retardation and the Department of Corrections to pay board, care and treatment costs for State Agency Clients in residential placements. The State's liability to provide additional services and placement opportunities will be limited to the amount of funds appropriated by future Legislatures. The estimated cost of fully funding these programs will be approximately \$5 million.

IMPACT ON LOCAL SCHOOL UNITS

The cumulative impact on local school units will initially be a minor increase in the mill rate used to determine the subsidy received. This will result in a minor reduction in the subsidy that school units would have received otherwise. After the first year mill, rates will decrease as local property taxes are relieved of the burden of the special education costs of state agency clients.

After July 1, 1987, local school units will no longer be required to pay for the special education costs of state agency clients. However, school units will be required to forego subsidy on their special education expenditures for state agency clients incurred during Fiscal Years 1985-86 and 1986-87. This could negatively impact some units. At this time, it would be impossible to determine how an individual school district will be affected in the short run. In the long run, all school units will benefit by no longer being burdened with the special education costs of these placements for non-educational reasons.

SENATE

JEAN B. CHALMERS, DISTRICT 21, CHAIR
LARRY M. BROWN, DISTRICT 7
MELVIN A. SHUTE, DISTRICT 14

WILLIAM T. GLIDDEN, LEGISLATIVE ASSISTANT
JANET BRIGGS, COMMITTEE CLERK



HOUSE

NATHANIEL J. CROWLEY, SR., STOCKTON
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SALLY R. RICE, STONINGTON

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON MARINE RESOURCES

February 8, 1986

Rep. John Diamond
Chair, Legislative Council
State House
Augusta, Maine 04333

Dear Rep. Diamond:

The Lobster Study subcommittee of the Marine Resources Committee has received the first draft of its study report from Botsford & Associates. The draft is currently under review and revision. We expect to present the final report to the full committee at a public information meeting on February 27th.

We request that the Council approve a no-cost extension of the contract (currently scheduled to terminate on February 15th) for a period of one month to March 15th. This will allow time for the presentation and any final revisions that may be necessary. We would be happy to answer any questions you may have.

We appreciate your attention to this matter.

Sincerely,

Sen. Jean Chalmers
Senate Chair

Rep. Nat Crowley
House Chair

cc: Sally Diamond
Helen Ginder

4923M



HOUSE OF REPRESENTATIVES

STATE HOUSE AUGUSTA 04333

289-1400

Richard P. Ruhlin
115 Elm Street
Brewer, Maine 04412

February 3, 1986

TO: The Honorable Members of the Legislative Council

We, the undersigned emergency medical personnel respectfully point out the need for at least a second emergency oxygen system. While it may not be needed for some time, it is the nature of emergency medical procedures that at any time when that need is present - that need is critical.

We estimate the cost of this item at \$400.00, and urge you to give this need a very high priority, as it may be needed to save a life.

Sincerely,


Sen. William Diamond


Sen. John Tuttle


Rep. Donnell Carroll


Rep. Richard Ruhlin

RR/pmu

District 120 Part of Brewer

NOTICE OF CLAIM
PURSUANT TO 14 M.R.S.A. § 8107

TO: The State of Maine; James E. Tierney, Attorney General;
Maine Legislative Council

Pursuant to 14 M.R.S.A. §8107, the Claimants, N. Laurence Willey, Jr., Walter Birt, Alan Baker and Douglas I. Hodgkin, duly organized as Citizens for Constitutional Apportionment, by and through their attorneys, FERRIS, DEARBORN & WILLEY, give to the State of Maine and to members of the Maine Legislative Council this Notice of Claim.

A. Name and address of claimant.

Citizens for Constitutional Apportionment
P.O. Box H, Brewer, Maine 04412

Name and address of claimants' attorney.

Richard D. Violette, Jr., Esq., P.O. Box H,
Brewer, Maine 04412

B. Statement of basis of claim.

Claimants will be filing suit against the State of Maine and the Maine Legislative Council for damages sustained by them as a result of their denial of equal protection of law. The State of Maine, acting through the Legislative Council, paid the legal fees incurred by a private group, the Maine Democratic State Committee, Barry Hobbins, Chairman and a private individual, Edward C. Kelleher, as a result of their participation as intervenors in In re 1983 Legislative Apportionment of House, Senate and Congressional Districts, 469 A.2d 819 (Me. 1983). Claimants, who were also parties to said litigation, requested the State of Maine to pay their legal fees at least up to the amount paid in behalf of the Maine Democratic State Committee and Edward C. Kelleher. On November 20, 1985 the Maine Legislative Council denied claimants' request thus necessitating this action.

C. Governmental employees involved.

The State of Maine; Maine Legislative Council,
John Diamond, Chairman

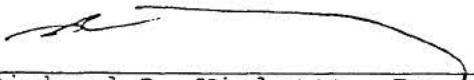
D. Statement of injury.

Claimants have been denied the equal protection of the law as a result of the Maine Legislative Council's disparate treatment of private citizens appearing as parties in reapportionment litigation. They have also incurred additional legal fees in attempting to pursue their claim before the Legislative Council.

E. Damages.

Claimants have been damaged in the amount of
Twenty-five Thousand Dollars (\$25,000.00).

Dated at Brewer, Maine
February 4, 1986


Richard D. Violette, Jr., Esq.
Attorney for the Claimants
A Member of the Firm of
FERRIS, DEARBORN & WILLEY
P.O. Box H - 120 North Main St.
Brewer, Maine 04412