

MAINE STATE LEGISLATURE

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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. Pennoyer
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. McBREAIRTY, DISTRICT 2

BENT SCHLOSSER, LEGISLATIVE
FINANCE OFFICER-ADVISOR



STATE OF MAINE

ONE HUNDRED AND TWELFTH LEGISLATURE

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

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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 commission-
37 er 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 rized 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.

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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.