



Senate

General Assembly

File No. 665

January Session, 2005

Senate Bill No. 1212

Senate, May 4, 2005

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING SPECIAL EDUCATION FUNDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 10-76d of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2005*):

4 (e) (1) Any local or regional board of education which provides
5 special education pursuant to any mandates in this section shall
6 provide transportation, to and from, but not beyond the curb of, the
7 residence of the child, unless otherwise agreed upon by the board and
8 the parent or guardian of the child, tuition, room and board and other
9 items as are necessary to the provision of such special education except
10 for children who are placed in a residential facility because of the need
11 for services other than educational services, in which case the financial
12 responsibility of the school district and payment to such district shall
13 be limited to the reasonable costs of special education instruction as
14 defined in the regulations of the State Board of Education. If a hearing

15 board, pursuant to subsection (d) of section 10-76h, rejects the
16 educational program prescribed by the local or regional board of
17 education and determines that a placement by a parent or guardian
18 was appropriate, the local or regional board of education shall
19 reimburse the parent or guardian for the reasonable costs incurred for
20 the provision of special education pursuant to this section from the
21 initiation of review procedures as provided by said section 10-76h.

22 (2) For purposes of this subdivision, "public agency" includes the
23 offices of a government of a federally recognized Native American
24 tribe. Notwithstanding any other provisions of the general statutes, for
25 the fiscal year ending June 30, 1987, and each fiscal year thereafter,
26 whenever a public agency, other than a local or regional board of
27 education, the State Board of Education or the Superior Court acting
28 pursuant to section 10-76h, places a child in a foster home, group
29 home, hospital, state institution, receiving home, custodial institution
30 or any other residential or day treatment facility, and such child
31 requires special education, the local or regional board of education
32 under whose jurisdiction the child would otherwise be attending
33 school or, if no such board can be identified, the local or regional board
34 of education of the town where the child is placed, shall provide the
35 requisite special education and related services to such child in
36 accordance with the provisions of this section. Within one business day
37 of such a placement by the Department of Children and Families or
38 offices of a government of a federally recognized Native American
39 tribe, said department or offices shall orally notify the local or regional
40 board of education responsible for providing special education and
41 related services to such child of such placement. The department or
42 offices shall provide written notification to such board of such
43 placement within two business days of the placement. Such local or
44 regional board of education shall convene a planning and placement
45 team meeting for such child within thirty days of the placement and
46 shall invite a representative of the Department of Children and
47 Families or offices of a government of a federally recognized Native
48 American tribe to participate in such meeting. (A) The local or regional
49 board of education under whose jurisdiction such child would

50 otherwise be attending school shall be financially responsible for the
51 reasonable costs of such special education and related services in an
52 amount equal to the lesser of one hundred per cent of the costs of such
53 education or the average per pupil educational costs of such board of
54 education for the prior fiscal year, determined in accordance with the
55 provisions of subsection (a) of section 10-76f. The State Board of
56 Education shall pay on a current basis, except as provided in
57 subdivision (3) of this subsection, any costs in excess of such local or
58 regional board's basic contributions paid by such board of education in
59 accordance with the provisions of this subdivision. (B) Whenever a
60 child is placed pursuant to this subdivision, on or after July 1, 1995, by
61 the Department of Children and Families and the local or regional
62 board of education under whose jurisdiction such child would
63 otherwise be attending school cannot be identified, the local or
64 regional board of education under whose jurisdiction the child
65 attended school or in whose district the child resided at the time of
66 removal from the home by said department shall be responsible for the
67 reasonable costs of special education and related services provided to
68 such child, for one calendar year or until the child is committed to the
69 state pursuant to section 46b-129 or 46b-140 or is returned to the child's
70 parent or guardian, whichever is earlier. If the child remains in such
71 placement beyond one calendar year the Department of Children and
72 Families shall be responsible for such costs. During the period the local
73 or regional board of education is responsible for the reasonable cost of
74 special education and related services pursuant to this subparagraph,
75 the board shall be responsible for such costs in an amount equal to the
76 lesser of one hundred per cent of the costs of such education and
77 related services or the average per pupil educational costs of such
78 board of education for the prior fiscal year, determined in accordance
79 with the provisions of subsection (a) of section 10-76f. The State Board
80 of Education shall pay on a current basis, except as provided in
81 subdivision (3) of this subsection, any costs in excess of such local or
82 regional board's basic contributions paid by such board of education in
83 accordance with the provisions of this subdivision. The costs for
84 services other than educational shall be paid by the state agency which

85 placed the child. The provisions of this subdivision shall not apply to
86 the school districts established within the Department of Children and
87 Families, pursuant to section 17a-37, the Department of Correction,
88 pursuant to section 18-99a, or the Department of Mental Retardation,
89 pursuant to section 17a-240, provided in any case in which special
90 education is being provided at a private residential institution,
91 including the residential components of regional educational service
92 centers, to a child for whom no local or regional board of education
93 can be found responsible under subsection (b) of this section, Unified
94 School District #2 shall provide the special education and related
95 services and be financially responsible for the reasonable costs of such
96 special education instruction for such children. Notwithstanding the
97 provisions of this subdivision, for the fiscal years ending June 30, 2004,
98 and June 30, 2005, the amount of the grants payable to local or regional
99 boards of education in accordance with this subdivision shall be
100 reduced proportionately if the total of such grants in such year exceeds
101 the amount appropriated for the purposes of this subdivision for such
102 year.

103 (3) Payment for children who require special education and who
104 reside on state-owned or leased property or in permanent family
105 residences as defined in section 17a-154, and who are not the
106 educational responsibility of the unified school districts established
107 pursuant to section 17a-37, section 17a-240 or section 18-99a, shall be
108 made in the following manner: The State Board of Education shall pay
109 to the school district which is responsible for providing instruction for
110 each such child pursuant to the provisions of this subsection one
111 hundred per cent of the reasonable costs of such instruction. In the
112 fiscal year following such payment, the State Board of Education shall
113 deduct from the special education grant due the local or regional board
114 of education under whose jurisdiction the child would otherwise be
115 attending school, where such board has been identified, the amount
116 for which such board would otherwise have been financially
117 responsible pursuant to the provisions of subdivision (2) of this
118 subsection. No such deduction shall be made for any school district
119 which is responsible for providing special education instruction for

120 children whose parents or legal guardians do not reside within such
121 district. The amount deducted shall be included as a net cost of special
122 education by the Department of Education for purposes of the state's
123 special education grant calculated pursuant to section 10-76g. A school
124 district otherwise eligible for reimbursement under the provisions of
125 this subdivision for the costs of education of a child residing in a
126 permanent family residence shall continue to be so eligible in the event
127 that a person providing foster care in such residence adopts the child.
128 Notwithstanding the provisions of this subdivision, for the fiscal years
129 ending June 30, 2004, and June 30, 2005, the amount of the grants
130 payable to local or regional boards of education in accordance with
131 this subdivision shall be reduced proportionately if the total of such
132 grants in such year exceeds the amount appropriated for the purposes
133 of this subdivision for such year.

134 (4) Notwithstanding any other provision of this section, the
135 Department of Mental Health and Addiction Services shall provide
136 regular education and special education and related services to eligible
137 residents in facilities operated by the department who are eighteen to
138 twenty-one years of age. In the case of a resident who requires special
139 education, the department shall provide the requisite identification
140 and evaluation of such resident in accordance with the provisions of
141 this section. The department shall be financially responsible for the
142 provision of educational services to eligible residents. The
143 Departments of Mental Health and Addiction Services, Children and
144 Families and Education shall develop and implement an interagency
145 agreement which specifies the role of each agency in ensuring the
146 provision of appropriate education services to eligible residents in
147 accordance with this section. The State Board of Education shall pay to
148 the Department of Mental Health and Addiction Services one hundred
149 per cent of the reasonable costs of such educational services provided
150 to eligible residents of such facilities. Payment shall be made by the
151 board as follows: Eighty-five per cent of the estimated cost in July and
152 the adjusted balance in May.

153 (5) Application for the grant to be paid by the state for costs in

154 excess of the local or regional board of education's basic contribution
155 shall be made by such board of education by filing with the State
156 Board of Education, in such manner as prescribed by the
157 Commissioner of Education, annually on or before December first a
158 statement of the cost of providing special education, as defined in
159 subdivision (2) of this subsection, for a child of the board placed by a
160 state agency in accordance with the provisions of said subdivision or,
161 where appropriate, a statement of the cost of providing educational
162 services other than special educational services pursuant to the
163 provisions of subsection (b) of section 10-253, provided a board of
164 education may submit, not later than March first, claims for additional
165 children or costs not included in the December filing. Payment by the
166 state for such excess costs shall be made to the local or regional board
167 of education as follows: Seventy-five per cent of the cost in February
168 and the balance in May. The amount due each town pursuant to the
169 provisions of this subsection and the amount due to each town as
170 tuition from other towns pursuant to this section shall be paid to the
171 treasurer of each town entitled to such aid, provided the treasurer shall
172 treat such grant or tuition received, or a portion of such grant or
173 tuition, which relates to special education expenditures incurred
174 pursuant to subdivisions (2) and (3) of this subsection in excess of such
175 board's budgeted estimate of such expenditures, as a reduction in
176 expenditures by crediting such expenditure account, rather than town
177 revenue. The state shall notify the local or regional board of education
178 when payments are made to the treasurer of the town pursuant to this
179 subdivision.

180 Sec. 2. Subsection (a) of section 10-76g of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective July*
182 *1, 2005*):

183 (a) (1) For the fiscal year ending June 30, 1984, and each fiscal year
184 thereafter, in any case in which special education is being provided at
185 a private residential institution, including the residential components
186 of regional educational service centers, to a child for whom no local or
187 regional board of education can be found responsible under subsection

188 (b) of section 10-76d, the Department of Children and Families shall
189 pay the costs of special education to such institution pursuant to its
190 authority under sections 17a-1 to 17a-26, inclusive, 17a-28 to 17a-50,
191 inclusive, and 17a-52. (2) For the fiscal year ending June 30, 1993, and
192 each fiscal year thereafter, any local or regional board of education
193 which provides special education and related services for any child (A)
194 who is placed by a [state] public agency, including, but not limited to,
195 offices of a government of a federally recognized Native American
196 tribe, in a private residential facility or who is placed in a facility or
197 institution operated by the Department of Children and Families and
198 who receives such special education at a program operated by a
199 regional education service center or program operated by a local or
200 regional board of education, and (B) for whom no local or regional
201 board of education can be found responsible under subsection (b) of
202 section 10-76d, shall be eligible to receive one hundred per cent of the
203 reasonable costs of special education for such child as defined in the
204 regulations of the State Board of Education. Any such board eligible
205 for payment shall file with the Department of Education, in such
206 manner as prescribed by the Commissioner of Education, annually, on
207 or before December first a statement of the cost of providing special
208 education for such child, provided a board of education may submit,
209 not later than March first, claims for additional children or costs not
210 included in the December filing. Payment by the state for such costs
211 shall be made to the local or regional board of education as follows:
212 Seventy-five per cent of the cost in February and the balance in May.

213 Sec. 3. Section 10-253 of the general statutes is repealed and the
214 following is substituted in lieu thereof (*Effective July 1, 2005*):

215 (a) Children placed out by the Commissioner of Children and
216 Families or by other agencies or persons, including offices of a
217 government of a federally recognized Native American tribe, private
218 child-caring or child-placing agencies licensed by the Department of
219 Children and Families, and eligible residents of facilities operated by
220 the Department of Mental Health and Addiction Services or by the
221 Department of Public Health who are eighteen to twenty-one years of

222 age, shall be entitled to all free school privileges of the school district
223 where they then reside as a result of such placement, except as
224 provided in subdivision (4) of subsection (e) of section 10-76d. Except
225 as provided in subsection (d) of this section and subdivision (4) of
226 subsection (e) of section 10-76d, payment for such education shall be
227 made by the board of education of the school district under whose
228 jurisdiction such child would otherwise be attending school where
229 such a school district is identified.

230 (b) The board of education of the school district under whose
231 jurisdiction a child would otherwise be attending school shall be
232 financially responsible for the reasonable costs of education for a child
233 placed out by the Commissioner of Children and Families or by other
234 agencies, including, but not limited to, offices of a government of a
235 federally recognized Native American tribe, in a private residential
236 facility when such child requires educational services other than
237 special education services. Such financial responsibility shall be the
238 lesser of one hundred per cent of the costs of such education or the
239 average per pupil educational costs of such board of education for the
240 prior fiscal year, determined in accordance with subsection (a) of
241 section 10-76f. Any costs in excess of the boards' basic contribution
242 shall be paid by the State Board of Education on a current basis. The
243 costs for services other than educational shall be paid by the state
244 agency which placed the child. Application for the grant to be paid by
245 the state for costs in excess of the local or regional board of education's
246 basic contribution shall be made in accordance with the provisions of
247 subdivision (5) of subsection (e) of section 10-76d. Notwithstanding the
248 provisions of this subsection, for the fiscal years ending June 30, 2004,
249 and June 30, 2005, the amount of the grants payable to local or regional
250 boards of education in accordance with this subsection shall be
251 reduced proportionately if the total of such grants in such year exceeds
252 the amount appropriated for the purposes of this subsection for such
253 year.

254 (c) No board of education shall be required to provide school
255 accommodations for any child whose legal residence is in another state

256 unless the board has entered into an agreement concerning the
257 provision of educational services and programs with the state or local
258 educational agency of such state responsible for educating the child,
259 the facility where the child is placed or the parent or guardian placing
260 such child, and provided that a bond, in a sum equal to the tuition
261 payable for such child, issued by a surety company authorized to do
262 business in this state and conditioned upon the payment of tuition at
263 the rate established by the board, shall be filed with the treasurer of the
264 school district in which such child is attending school by the parent or
265 guardian or other person or organization in control of such child.

266 (d) Children residing with relatives or nonrelatives, when it is the
267 intention of such relatives or nonrelatives and of the children or their
268 parents or guardians that such residence is to be permanent, provided
269 without pay and not for the sole purpose of obtaining school
270 accommodations, and, for the fiscal year commencing July 1, 1981, and
271 each fiscal year thereafter, children not requiring special education
272 who are residing in any facility or home as a result of a placement by a
273 public agency, including, but not limited to, offices of a government of
274 a federally recognized Native American tribe, other than a local or
275 regional board of education, and except as provided by subsection (b)
276 of this section, shall be entitled to all free school privileges accorded to
277 resident children of the school district in which they then reside. A
278 local or regional board of education may require documentation from
279 the parent or guardian, the relative or nonrelative, emancipated minor
280 or pupil eighteen years of age or older that the residence is to be
281 permanent, provided without pay and not for the sole purpose of
282 obtaining school accommodations provided by the school district.
283 Such documentation may include affidavits, provided that prior to any
284 request for documentation of a child's residency from the child's
285 parent or guardian, relative or nonrelative, or emancipated minor or
286 pupil eighteen years of age or older, the board of education shall
287 provide the parent or guardian, relative or nonrelative, emancipated
288 minor or pupil eighteen years of age or older with a written statement
289 specifying the basis upon which the board has reason to believe that
290 such child, emancipated minor or pupil eighteen years of age or older

291 is not entitled to school accommodations.

292 (e) (1) For purposes of this subsection:

293 (A) "Temporary shelters" means facilities which provide emergency
294 shelter for a specified, limited period of time, and

295 (B) "Educational costs" means the reasonable costs of providing
296 regular or, except as otherwise provided, special education, but in no
297 event shall such costs exceed the average per pupil cost for regular
298 education students or the actual cost of providing special education for
299 special education students.

300 (2) Children in temporary shelters shall be entitled to free school
301 privileges from either the school district in which the shelter is located
302 or the school district in which the child would otherwise reside, if not
303 for the need for temporary shelter. Upon notification from the school
304 district in which the temporary shelter is located, the school district in
305 which the child would otherwise reside, if identified, shall either pay
306 tuition to the school district in which the temporary shelter is located
307 for the child to attend school in that district or shall continue to
308 provide educational services, including transportation, to such child. If
309 the school district where the child would otherwise reside cannot be
310 identified, the school district in which the temporary shelter is located
311 shall be financially responsible for the educational costs for such child,
312 except that in the case of a child who requires special education and
313 related services and is placed by the Department of Children and
314 Families in a temporary shelter on or after July 1, 1995, the school
315 district in which the child resided immediately prior to such placement
316 or the Department of Children and Families shall be responsible for the
317 cost of such special education and related services, to the extent such
318 board or department is responsible for such costs under subparagraph
319 (B) of subdivision (2) of subsection (e) of section 10-76d. If the school
320 district where the child would otherwise reside declines to provide
321 free school privileges, the school district where the temporary shelter is
322 located shall provide free school privileges and may recover tuition
323 from the school district where the child would otherwise reside. In the

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Education, Dept.	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
Local and Regional School Districts	Revenue Gain	Potential	Potential
Local and Regional School Districts	Revenue Loss	Potential Minimal	Potential Minimal

Explanation

This bill results in a potential revenue gain to local and regional school districts as it would treat students placed by offices of a government of a federally recognized Native American tribe in the same manner as students placed by the Department of Children and Families with regard to special education reimbursements. This would reduce the local share of special education costs for these children to one times the local per pupil expenditure rather than the current five times or scheduled four-and-one-half times.

If the special education excess cost grant were full funded this would result in an increased cost to the state however this grant has not been fully funded in recent years and is not anticipated to be fully funded in the biennium therefore there is no increased cost to the state. The potential increase in revenue to towns educating such children would be borne by minimal decreases in aid to towns not educating these children. Based on a projected two or three children falling under the bill’s provisions the potential revenue gain to school districts would be approximately \$90,000 to \$140,000 while the potential

revenue loss to the other districts would be between \$500 to \$800.

OLR Bill Analysis

SB 1212

AN ACT CONCERNING SPECIAL EDUCATION FUNDING**SUMMARY:**

This bill requires the state to reimburse school districts for the costs associated with educating a child placed by a tribal government in the same way it reimburses for those placed by state agencies. It does this by amending the definition of an "agency" to include tribal agencies in certain sections of the education statutes.

EFFECTIVE DATE: July 1, 2005

SPECIAL EDUCATION SERVICES***Placements in General***

Whenever a public agency, other than a board of education, the State Board of Education, or the Superior Court places a child requiring special education in a foster home, group home, hospital, state institution, receiving home, custodial institution, or any other residential or day treatment facility, the board that oversees the district where the child would normally attend school must provide the special education and related services. If that board cannot be identified (no-nexus situation), the board where the child is placed must do so.

The board that oversees the district where the child would normally attend school is financially responsible for paying to educate the child in an amount equal to the lesser of 100% of the costs or the educating board's average per pupil education expenditure in the preceding year. When that school cannot be identified the board where the child last attended or was eligible to attend is responsible. However, boards are only responsible for no-nexus children for one year, at which point the Department of Children and Families becomes responsible for the entire cost. For special education students whose home district can be identified, the state pays only the costs that exceed five times the school district's average per pupil expenditure in the preceding year,

with the home district paying the remainder.

The bill provides that a “public agency” includes the offices of a federally recognized Native American tribe. Thus it requires the state to pay for no-nexus children placed by tribal agencies for costs that exceed the district’s average per pupil expenditure. Under current law, the state pays only for costs that exceed five times this amount.

As under current law for other public agencies, the bill requires a tribal agency making such a placement to orally notify the board responsible for providing services within one business day of making the placement and provide written notice within two business days. The board must then, within 30 days, convene a planning and placement team meeting and invite a representative from the tribal agency.

No-Nexus Children Placed in Private Residential Facilities

Under current law, the school district providing special education services (usually where the child is placed) is eligible for state reimbursement for 100% of the reasonable costs of special education, as defined in SBE regulations, when a child requiring such services (1) is placed by a state agency in a private residential facility or a DCF operated institution, (2) receives special education at a program operated by a regional education service center or board of education program, and (3) no board of education can be found responsible for the child’s education. The bill extends this state reimbursement rate if the child is placed by a public agency, including a tribal agency.

REGULAR EDUCATION SERVICES FOR AGENCY-PLACED CHILDREN

Placements in General

Generally, children that are placed by an agency, including private DCF-licensed child-caring or child-placing agencies, and eligible mental health and addiction services facility residents between the ages of 18 and 21 are entitled to school privileges in the school district where they reside as a result of the placement. A board providing educational services can require documentation verifying that the residence is permanent, provided without pay, and not for the sole purpose of obtaining school accommodations provided by the school district. Generally, the district where the child would normally attend school is responsible for the full costs or its average per-pupil

expenditure for the prior year, whichever is less. The State Department of Education must pay any additional costs. The bill adds tribal agencies to the list of child placement agencies, thus making districts educating tribal-placed children eligible for the same state excess cost reimbursement as they receive for agency placements.

Private Facility Placements

When a child is placed in a private residential facility by the children and families commissioner or by other agencies, the board of education governing the district where the student would have otherwise attended is responsible for the costs of educating the child in an amount equal to the lesser of 100% or the average per pupil education costs of the board in the preceding year, with the state paying the remainder. The placing agency is responsible for the non-educational costs. The bill adds tribal agencies to the list of placing agencies.

COMMITTEE ACTION

Education Committee

Joint Favorable Change of Reference
Yea 26 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 51 Nay 0