

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2360

S.P. 921

In Senate, February 20, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

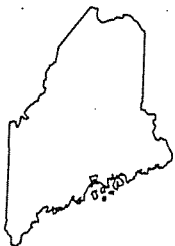
Presented by Senator ESTES of York

Cosponsored by Representative CROWLEY of Stockton Springs, Representative
CONSTANTINE of Bar Harbor and Representative RYDELL of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act Regarding Maine's Comprehensive Early Intervention System
for Infants and Children under 6 Years of Age.**



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

2
3 **Sec. 1.** 5 MRSA §12004-G, sub-§8-A, as amended by PL 1991, c.
4 622, Pt. G, §2 and affected by §33, is further amended to read:

6 **8-A.** Interde- Expenses 20-A MRSA
7 Education partmental Only §7704
8 Coordina- §7704-B
9 ting Council
10 Committee
11 for Early
12 Intervention
13 Preschool
14 Handicapped
15 Children

16 **Sec. 2.** 5 MRSA §12004-G, sub-§8-B is enacted to read:

17 **8-B.** Early Expenses 20-A MRSA
18 Education Intervention Only §7713
19 Governing
20 Committee

21 **Sec. 3.** 20-A MRSA c. 307, first 3 lines, as repealed and replaced
22 by PL 1991, c. 622, Pt. G, §5 and affected by §33, are repealed
23 and the following enacted in their place:

24 CHAPTER 307

25 EARLY INTERVENTION

26 **Sec. 4.** 20-A MRSA c. 307, sub-c. I, first 2 lines are repealed and
27 the following enacted in their place:

28 SUBCHAPTER I

29 EARLY INTERVENTION SYSTEM

30 **Sec. 5.** 20-A MRSA §7701, as repealed and replaced by PL 1991,
31 c. 622, Pt. G, §6 and affected by §33, is repealed and the
32 following enacted in its place:

33 §7701. Purpose

34 The purpose of this chapter is to establish and define a
35 coordinated statewide system for the delivery of early
36 intervention services to infants and children under 6 years of
37 age who have disabilities or are at risk of developmental delay
38 and who are not in public school.

2 **Sec. 6. 20-A MRSA §7702, sub-§1**, as amended by PL 1991, c.
622, Pt. G, §7 and affected by §33, is further amended to read:

4 **1. Allocation.** "Allocation" means state and federal funds
designated ~~to the intermediate educational unit~~ for coordination
6 of service functions ~~by a~~ at local coordinating committee sites.

8 **Sec. 7. 20-A MRSA §7702, sub-§2-A** is enacted to read:

10 **2-A. At risk of developmental delay.** "At risk of
developmental delay" means a condition of infants and children
12 under 6 years of age who are at risk of developmental delay
because of environmental risk factors defined by rule of the
14 Early Intervention Governing Committee.

16 **Sec. 8. 20-A MRSA §7702, sub-§3**, as amended by PL 1991, c.
622, Pt. G, §9 and affected by §33, is repealed and the following
18 enacted in its place:

20 **3. Child Development Services System.** "Child Development
Services System" means the management and personnel structure
22 established in section 7707 for the purpose of coordinating and
monitoring the delivery of early intervention services at the
24 local level, ensuring the provision of case management, ensuring
the accomplishment of the State's "childfind" and "childcount"
26 obligations and reporting to the Early Intervention Governing
28 Committee on the fiscal and personnel needs of the early
intervention system.

30 **Sec. 9. 20-A MRSA §7702, sub-§3-A**, as enacted by PL 1991, c.
622, Pt. G, §10 and affected by §33, is amended to read:

32 **3-A. Childfind.** "Childfind" means the identification,
34 location and evaluation, at no cost to the family, of children
ages 0 to 5 with under 6 years of age who have disabilities.

36 **Sec. 10. 20-A MRSA §7702, sub-§5**, as amended by PL 1989, c.
38 700, Pt. A, §52, is further amended to read:

40 **5. Commissioners.** "Commissioners" means the Commissioner
of Education, the Commissioner of Human Services, and the
42 Commissioner of Mental Health and Mental Retardation ~~and the~~
~~Commissioner of Corrections.~~

44 **Sec. 11. 20-A MRSA §7702, sub-§6-A** is enacted to read:

46 **6-A. Coordination contracts.** "Coordination contracts"
48 means the agreements between the local coordinating committees
and the Early Intervention Governing Committee, detailing the

2 local coordinating committee's comprehensive plan for the
3 provision, expansion and coordination of services under this
4 chapter.

5 Sec. 12. 20-A MRSA §7702, sub-§8, as amended by PL 1989, c.
6 700, Pt. A, §52, is further amended to read:

7 8. **Departments.** "Departments" means 2 or more of the
8 participating state agencies, the Department of Education, the
9 Department of Human Services, and the Department of Mental Health
10 and Mental Retardation and ~~the Department of Corrections.~~

11 Sec. 13. 20-A MRSA §7702, sub-§§8-A and 8-B, as enacted by PL
12 1991, c. 622, Pt. G, §12 and affected by §33, are repealed.

13 Sec. 14. 20-A MRSA §7702, sub-§§8-C to 8-F are enacted to read:

14 8-C. Disability. In infants and children under 6 years of
15 age who need early intervention or special education services,
16 "disability" means:

17 A. Developmental delay as measured by appropriate
18 diagnostic instruments and procedures in one or more of the
19 following areas:

20 (1) Vision;

21 (2) Hearing;

22 (3) Speech and language;

23 (4) Cerebral or perceptual functions;

24 (5) Self-help skills;

25 (6) Physical mobility functions;

26 (7) Behavior; or

27 (8) Mental development or maturation; or

28 B. A diagnosed physical or mental condition that has a high
29 probability of resulting in developmental delay.

30 8-D. Early Intervention Governing Committee. "Early
31 Intervention Governing Committee" means the committee created in
32 section 7713 to govern the early intervention system.

2 8-E. Early intervention services. "Early intervention
4 services" means services that are provided by a public agency,
6 provided under a contract or agreement with a public agency or
8 provided by an individual or corporation licensed by the State to
meet the developmental needs of infants and children under 6
years of age who have disabilities or are at risk of
developmental delay, as defined in this chapter. These services
may include, but are not limited to:

10 A. Family training, counseling or home-based services;

12 B. Special instruction;

14 C. Speech pathology and audiology;

16 D. Occupational therapy;

18 E. Psychological services;

20 F. Case management services;

22 G. Medical services for diagnostic or evaluation purposes
24 only;

26 H. Early identification, screening and assessment services;

28 I. Health services necessary to enable the child to benefit
from the other early intervention services;

30 J. Respite care services; and

32 K. Transportation.

34 8-F. Early intervention system. "Early intervention
36 system" means the overall governance, management and personnel
38 structure established in section 7714 for the coordination and
40 provision of early intervention services for infants and children
under 6 years of age who have disabilities or are at risk of
developmental delay. The term includes providers, evaluators,
managers, monitors or coordinators of early intervention services
who are:

42 A. Public agencies;

44 B. Hospitals, including prenatal and postnatal care
46 facilities;

48 C. Physicians;

50 D. Day-care programs;

- 2 E. Local educational agencies;
4 F. Public health facilities;
6 G. Other social services agencies; and
8 H. Other health care providers.

10 **Sec. 15.** 20-A MRSA §7702, sub-§9, as amended by PL 1991, c.
12 622, Pt. G, §13 and affected by §33, is further amended to read:

14 **9. Grants.** "Grants" means state or federal funds
16 designated for resource development or provision of direct
18 services by at local coordinating-committees sites. ~~The terms of~~
~~the grant must be established as a contractual agreement between~~
~~Child-Development-Services and each of the 16 local coordinating~~
~~committees.~~

20 **Sec. 16.** 20-A MRSA §7702, sub-§11, as amended by PL 1991, c.
22 622, Pt. G, §15 and affected by §33, is repealed and the
 following enacted in its place:

24 **11. Interdepartmental Coordinating Committee for Preschool**
26 **Handicapped Children.** "Interdepartmental Coordinating Committee
28 for Preschool Handicapped Children" means the committee created
30 in section 7704-B to advise and assist the departments and the
Early Intervention Governing Committee on matters related to
early intervention.

32 **Sec. 17.** 20-A MRSA §7702, sub-§12, as enacted by PL 1989, c.
34 499, §2, is amended to read:

36 **12. Intermediate Educational Unit.** "Intermediate
38 Educational Unit" as defined in United States Public Law 94-142,
40 means any public authority, other than a local educational
42 agency, under the general supervision of a state educational
 agency, that is established by state law for the purpose of
 providing free public education on a regional basis and that
 provides special education and related services to handicapped
 children with disabilities within the State.

44 **Sec. 18.** 20-A MRSA §7702, sub-§13, as repealed by PL 1991, c.
46 622, Pt. G, §16 and affected by §33, is reenacted to read:

48 **13. Local coordinating committee.** "Local coordinating
50 committee" means the committee established pursuant to section
7703 at each of the local sites to ensure interdepartmental
coordination at the local level and provide governance for the
local site operations.

2 Sec. 19. 20-A MRSA §7702, sub-§§13-A and 17 are enacted to
4 read:

6 13-A. Local site. "Local site" means a local program for
8 the provision of case management, the performance of "childfind"
10 and "childcount" activities and the coordination of other early
12 intervention services to infants and children under this chapter,
14 previously referred to as "pilot project" or "preschool
16 coordination project."

18 17. Special education. "Special education" means
20 classroom, home, hospital, institutional or other instruction;
22 educational diagnosis and evaluation; transportation and other
24 supportive assistance, services, activities or programs required
26 for preschool children with disabilities and defined by rule of
28 the Early Intervention Governing Committee. As used in this
30 chapter, the term includes but is not limited to those services
32 to which a child of regular school age with similar disabilities
34 would be entitled.

36 Sec. 20. 20-A MRSA §7703, first ¶, as amended by PL 1991, c.
38 622, Pt. G, §20 and affected by §33, is repealed and the
40 following enacted in its place:

42 The Early Intervention Governing Committee shall make grants
44 and allocations, from funds authorized to the departments, to
46 local coordinating committees established in accordance with
48 subsection 4 and to agencies and school administrative units to
50 establish local, coordinated systems to provide early
intervention services to infants and young children under 6 years
of age who have disabilities or are at risk of developmental
delay. These grants and allocations must be made pursuant to a
coordinating contract between the Early Intervention Governing
Committee and the recipient. The coordination contract must set
forth the specific responsibilities of the parties.

 Sec. 21. 20-A MRSA §7703, sub-§1, as repealed and replaced by
PL 1989, c. 499, §3, is amended to read:

1. Allocations and grants. First-time and renewal
coordination allocations to local coordinating committees may be
made on a noncompetitive basis, according to rules adopted by the
~~commissioner~~ Early Intervention Governing Committee. First-time
direct services grants shall must be made on a competitive basis,
according to rules adopted by the ~~commissioner~~ Early Intervention
Governing Committee. Renewal grants may be made on a
noncompetitive basis, according to rules adopted by the
~~commissioner~~ Early Intervention Governing Committee.

2 **Sec. 22. 20-A MRSA §7703, sub-§2**, as amended by PL 1991, c.
622, Pt. G, §21 and affected by §33, is further amended to read:

4 **2. Rules.** The commissioner shall adopt rules necessary to
implement this chapter. The rules must ensure participation at
6 the local level by agencies currently serving infants and
children, ~~ages 0 to 5, with~~ under 6 years of age who have
8 disabilities or are at risk of developmental delay. They must
require that existing resources for providing services to those
10 infants and children, ages 0 to 5, with disabilities be exhausted
prior to using grant funds to provide services. The rules must
12 be adopted in accordance with the Maine Administrative Procedure
Act. This section may not be construed to relieve the Early
14 Intervention Governing Committee or the providers of early
intervention services of the responsibility to provide a free and
16 appropriate public education in the least restrictive environment
to special-needs children 3 years of age or older and under 6
18 years of age as required under United States Public Law 99-457.

20 **Sec. 23. 20-A MRSA §7703, sub-§§3 and 4**, as amended by PL 1991,
c. 622, Pt. G, §21 and affected by §33, are repealed and the
22 following enacted in their place:

24 **3. Fiscal services.** The Early Intervention Governing
Committee shall ensure provision of fiscal services for each
26 local site receiving a grant or allocation under this chapter as
described in rules adopted by the Early Intervention Governing
28 Committee for regulating the administration of the local sites.
Provision of fiscal services is the responsibility of the Child
30 Development Services System Central Office.

32 **4. Local coordinating committees.** Local coordinating
committees are established as intermediate educational units to
34 carry out the duties and obligations of this chapter. A local
coordinating committee organized prior to negotiation of a
36 contract for receipt of a grant or allocation is responsible for
governance of each local site and shall develop and adopt local
38 procedures that are in accordance with the statewide policies
adopted by the Early Intervention Governing Committee. A local
40 coordinating committee is responsible for hiring, supervising and
terminating the site director and for ensuring local site
42 compliance with all applicable state and federal laws,
regulations and rules.

44 **A.** Membership on a local coordinating committee must
46 include representatives of preschool programs in the region
to be served by the grant or allocation, representatives of
48 the regional offices of the Department of Human Services and
the Department of Mental Health and Mental Retardation,
50 representatives of participating school administrative

2 units, parents of infants and children who have disabilities
3 or are at risk of developmental delay and other community
4 members as determined appropriate. Membership may also
5 include one or more representatives of the appropriate
6 regional family support council appointed pursuant to Title
7 34-B, section 1804.

8 B. Terms of membership and methods of appointment for
9 election are determined by local coordinating committee
10 bylaws, subject to approval of the Early Intervention
11 Governing Committee.

12 C. Responsibilities of local coordinating committees are as
13 defined in rules adopted by the Early Intervention Governing
14 Committee.

15 D. A contract between a local coordinating committee and
16 the Early Intervention Governing Committee after the
17 effective date of this paragraph must provide for the
18 release of additional grant funds to the local coordinating
19 committee when, and to the extent that, extraordinary
20 circumstances warrant. The Early Intervention Governing
21 Committee shall develop and adopt rules governing the
22 application of this paragraph.

23 **Sec. 24. 20-A MRS §7703, sub-§6 is enacted to read:**

24 6. Site director. Each local coordinating committee shall
25 employ a site director who is responsible for the administration
26 of the local site. The site director must be an employee of the
27 Child Development Services System. Each site director:

28 A. Is responsible for hiring, supervising and terminating
29 the local site staff; and

30 B. Shall implement the policies and procedures established
31 by the Early Intervention Governing Committee.

32 **Sec. 25. 20-A MRS §7704, as repealed and replaced by PL**
33 **1991, c. 622, Pt. G, §22 and affected by §33, is repealed.**

34 **Sec. 26. 20-A MRS §7704-A, as amended by PL 1991, c. 622,**
35 **Pt. G, §23 and affected by §33, is further amended to read:**

36 **§7704-A. Conflict of interest**

37 Notwithstanding Title 5, section 18, subsection 1, paragraph
38 B, each member of the Interdepartmental Coordinating Council
39 Committee for Early-Intervention Preschool Handicapped Children,
40 each member of the Early Intervention Governing Committee and

2 each employee, contractor, agent or other representative of Child
Development--Services either committee is deemed an "executive
4 department Interdepartmental Coordinating Committee for Preschool
Handicapped Children shall provide training to Early Intervention
6 System participants to ensure compliance with conflict of
8 interest requirements. Local coordinating committees, with the
assistance of the Interdepartmental Coordinating Committee for
Preschool Handicapped Children, may develop conflict of interest
10 policies for local employees or local coordinating committee
12 members and--may--request--assistance--from--the--department--in
developing-these-policies.

14 Sec. 27. 20-A MRSA §7704-B is enacted to read:

16 **§7704-B. Interdepartmental coordination**

18 The Interdepartmental Coordinating Committee for Preschool
Handicapped Children established in Title 5, section 12004-G,
20 subsection 8-A, representing the department, the Department of
Human Services, the Department of Mental Health and Mental
22 Retardation, the Legislature and the public is appointed to work
with the departments to monitor allocations and grants, to
24 evaluate the performance of programs developed through the
applications and to develop and propose guidelines and rules for
26 consideration by the Early Intervention Governing Committee.

28 The Interdepartmental Council, established pursuant to Title
34-B, section 1214, shall encourage the coordination of policies
and programs for Maine's families and children by providing
30 advice to the Early Intervention Governing Committee, to the
Interdepartmental Coordinating Committee for Preschool
32 Handicapped Children and to the department concerning the
implementation of United States Public Law 99-457.

36 1. Membership. Membership of the Interdepartmental
Coordinating Committee for Preschool Handicapped Children may not
38 exceed 15 members at any time with representation as follows.

40 A. At least 8 of the members must represent the public,
including a minimum of 3 consumer representatives. Consumer
42 representatives may include individuals with disabilities or
parents of infants and children who have disabilities or are
44 at risk of developmental delay. In accordance with
procedures established by the Interdepartmental Coordinating
46 Committee for Preschool Handicapped Children, the local
coordinating committees must be considered for purposes of
48 this section to be 2 equal groups. The groups alternate in
submitting a slate of nominees for the public member
50 positions so that at the expiration of the term of a public

2 member nominated by a local coordinating committee from one
3 group a committee from the other group is entitled to
4 nominate a successor. Each local coordinating committee
5 within the group entitled to submit nominations in a
6 particular membership cycle may nominate up to 3 persons for
7 one of the public member positions. One of the 3 persons so
8 nominated must be selected by the Interdepartmental
9 Coordinating Committee for Preschool Handicapped Children as
10 a public member.

11 Selection of public members must ensure balanced
12 representation of professional disciplines, provider and
13 consumer perspectives and geographic distribution.

14 The Interdepartmental Coordinating Committee for Preschool
15 Handicapped Children shall select a slate of members from
16 those nominated to serve as follows. Beginning with the
17 school year 1990-91, 1/3 of the public members must be
18 appointed for one year, 1/3 for 2 years and 1/3 for 3
19 years. In subsequent years, public members serve 3-year
20 terms.

21 B. State agency members appointed by the commissioners
22 serve in up to 5 of the remaining positions. One member
23 must be maintained by each of the following: the Department
24 of Human Services, the Department of Education and the
25 Department of Mental Health and Mental Retardation.
26 Additional members may be appointed from other state
27 agencies as appropriate and timely.

28 An agency member appointed may serve for a term of up to 3
29 years expiring July 1st, or until that person terminates
30 employment or membership with the agency or group
31 represented.

32 C. One position must be held by a member of the
33 Legislature, who is appointed by the Legislative Council and
34 serves for a term of one year. The Legislative Council may
35 choose the same person to serve additional terms.

36 D. The Maine Family Support Council established in Title
37 34-B, section 1805 may select one of its members to serve as
38 a member of the Interdepartmental Coordinating Committee for
39 Preschool Handicapped Children.

40 2. Chair. The members of the Interdepartmental
41 Coordinating Committee for Preschool Handicapped Children shall
42 annually elect one member to serve as chair.
43

2 3. Compensation. The members of the Interdepartmental
3 Coordinating Committee for Preschool Handicapped Children are
4 entitled to compensation in accordance with Title 5, section
5 12004-G, subsection 8-A. Agency representatives on the committee
6 are entitled to reimbursement for expenses incurred in the
7 performance of their committee duties by the appointing agencies
8 in accordance with the provisions for state employees. Consumer
9 members are entitled to reimbursement from the Interdepartmental
10 Coordinating Committee for Preschool Handicapped Children for
11 actual and necessary expenses incurred in the performance of
12 their duties.

13 4. Staffing. The Child Development Services System Central
14 Office shall provide staffing to the Interdepartmental
15 Coordinating Committee for Preschool Handicapped Children.

16 5. Meetings. The Interdepartmental Coordinating Committee
17 for Preschool Handicapped Children shall meet at least bimonthly
18 and shall adopt rules for the conduct of its meetings.

19 6. Consensus. Any action taken by the Interdepartmental
20 Coordinating Committee for Preschool Handicapped Children must be
21 approved by a majority vote of the members present and voting.

22 7. Policies. The Interdepartmental Coordinating Committee
23 for Preschool Handicapped Children shall establish policies for
24 carrying out its duties under this chapter.

25 8. Allocation of resources. The Interdepartmental
26 Coordinating Committee for Preschool Handicapped Children shall
27 advise the member departments and the Early Intervention
28 Governing Committee concerning allocation of funds appropriated
29 to those departments under this chapter to each local
30 coordinating committee with which the Early Intervention
31 Governing Committee has a contractual relationship.

32 9. Complaint resolution. The Interdepartmental
33 Coordinating Committee for Preschool Handicapped Children shall
34 recommend to the Early Intervention Governing Committee a method
35 for local coordinating committees funded under this chapter to
36 respond to individual complaints regarding services provided by
37 or through the interdepartmental service delivery system.

38 10. Conflict resolution. The Interdepartmental
39 Coordinating Committee for Preschool Handicapped Children shall
40 identify areas of conflict for resolution by the
41 Interdepartmental Council.

42 11. Subcommittee and advisory activities. The
43 Interdepartmental Coordinating Committee for Preschool

2 Handicapped Children shall establish subcommittees and advisory
3 groups composed of parents, professionals, advocacy group
4 representatives, local directors of special education, local
5 coordinating committee representatives and local site employees
6 and shall adopt rules governing the operation of those groups.

7 **Sec. 28. 20-A MRSA §7705, first ¶, as amended by PL 1991, c.**
8 **622, Pt. G, §24 and affected by §33, is repealed.**

9 **Sec. 29. 20-A MRSA §7705, 2nd ¶, as amended by PL 1991, c.**
10 **622, Pt. G, §24 and affected by §33, is further amended to read:**

11 Additional-consultant Consultant positions may be continued
12 or established in each of the participating departments to
13 provide joint staffing and administrative support and ensure the
14 departments' participation in the coordinated service--delivery
15 system-for-infants-and-children,-ages-0-to-5,-with-disabilities
16 early intervention system.

17 **Sec. 30. 20-A MRSA §7707, as amended by PL 1991, c. 622, Pt.**
18 **G, §25 and affected by §33, is repealed and the following enacted**
19 **in its place:**

20 **§7707. Child Development Services System**

21 The Child Development Services System, known in this section
22 as the "system," is established as a body corporate and politic
23 and a public instrumentality of the State, and the exercise of
24 the powers conferred by this section is an essential governmental
25 function. The system consists of the Early Intervention
26 Governing Committee, the local coordinating committees and
27 employees at the local sites.

28 **1. Employees.** The professional and other staff of the
29 local sites funded under section 7703 are employees of the system.

30 **2. Hiring.** The authority to hire, fire and supervise the
31 staff of the local sites is reserved to the local coordinating
32 committees established under section 7703, subsection 4.

33 **3. Collective bargaining.** The system is a public employer
34 within the meaning of Title 26, section 962, subsection 7.
35 Employees of the system are public employees within the meaning
36 of Title 26, section 962, subsection 6. If system employees
37 choose to be represented by a collective bargaining agent under
38 Title 26, it is the intent of the Legislature that, in order to
39 foster meaningful collective bargaining, bargaining units be
40 structured to avoid excessive fragmentation whenever possible.
41 In accordance with this policy, bargaining units must be
42 structured on a system-wide basis with one unit for each of the
43 following occupational groups:

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- A. Supervisory staff;
- B. Professional and technical staff; and
- C. Clerical and support staff.

4. Organization and function of central office. The Child Development Services System Central Office is organized as follows and has the following factors.

- A. The Early Intervention Governing Committee shall employ an Executive Director of the Child Development Services System Central Office who is responsible for administering and coordinating the daily administrative and fiscal responsibilities of the central office. Employment terms and conditions for this position are as determined by the Early Intervention Governing Committee, and the associated costs must be born equally by the departments represented on the committee.
- B. The Executive Director of the Child Development Services System Central Office has the authority to hire, fire and supervise employees of the central system office. Personnel recruited to fulfill functions at the central office are covered under the system personnel policies, fringe benefits and retirement plan.
- C. The system central office shall provide staff support to the Interdepartmental Coordinating Committee for Preschool Handicapped Children. It shall also provide staff support and fiscal services to the early intervention system as the Early Intervention Governing Committee may direct. It shall also prepare and maintain information on system performance and budgetary needs as directed by the Early Intervention Governing Committee, the Interdepartmental Coordinating Committee for Preschool Handicapped Children, the commissioners representing committee member departments or the Legislature.

Sec. 31. 20-A MRS §7708-A is enacted to read:

§7708-A. Role of the Interdepartmental Coordinating Committee for Preschool Handicapped Children

The Interdepartmental Coordinating Committee for Preschool Handicapped Children is the State's so-called Part H Council and has the duties set forth in 34 United States Code of Federal Regulations Section 303.650. In its capacity as an advisory council, it shall conduct such investigations and issue such

2 reports and recommendations as may from time to time be required
3 by the Early Intervention Governing Committee, the commissioners
4 representing committee member departments or the Legislature.

5 **Sec. 32. 20-A MRSA §7710-A**, as enacted by PL 1991, c. 622,
6 Pt. G, §28 and affected by §33, is repealed.

7 **Sec. 33. 20-A MRSA §§7710-B and 7710-C** are enacted to read:

8 **§7710-B. Duties, powers and obligations of the Interdepartmental**
9 **Coordinating Committee for Preschool Handicapped**
10 **Children**

11 The Interdepartmental Coordinating Committee for Preschool
12 Handicapped Children shall:

13 1. Address issues. Address, with the advice of the local
14 coordinating committees, contemporary issues affecting
15 intervention services in the State, including, but not limited
16 to, the following:

17 A. Successful early intervention strategies;

18 B. Personnel preparation and continuing education;

19 C. "Childfind" activities and methods, as required by
20 United States Public Law 94-142;

21 D. Public awareness, as required by United States Public
22 Law 99-457; and

23 E. Contemporary research;

24 2. Recommendations. Recommend to the Early Intervention
25 Governing Committee, with the advice of the local coordinating
26 committees, legislation needed to develop further and maintain a
27 statewide system of quality intervention services;

28 3. Bylaws; seal. Develop and propose bylaws for the
29 regulation of the early intervention system's affairs and conduct
30 of its business, forward its recommendations to the Early
31 Intervention Governing Committee and develop and adopt an
32 official seal;

33 4. Assist. Assist in the development and implementation of
34 rules, through the department and through the Early Intervention
35 Governing Committee, as may be necessary to carry out the duties
36 and purposes of this chapter. Any rule of the departments or the
37 Early Intervention Governing Committee must be adopted in
38 accordance with the Maine Administrative Procedure Act;

2 5. Personnel policies. Develop personnel policies for the
4 early intervention system and recommend them to the Early
Intervention Governing Committee for adoption. The provisions of
6 Title 5, chapter 71 do not apply to the early intervention system;

8 6. Fringe benefits. Recommend to the Early Intervention
10 Governing Committee which fringe benefits to offer to employees,
dependent on cost, ease of administration and competitiveness in
recruiting and retaining qualified personnel;

12 7. Retirement plan. Recommend for adoption by the Early
14 Intervention Governing Committee a nondiscriminatory employee
retirement plan option that meets all applicable federal and
16 state requirements;

18 8. Dissemination of information. Apply the federal Family
20 Educational Rights and Privacy Act of 1974, Public Law 93-380, as
amended by Public Law 93-568, and the federal Education for All
22 Handicapped Children Act of 1975, Public Law 94-142, to the
dissemination of information about infants and children under 6
24 years of age who have disabilities or are at risk of
developmental delay who are served through the Child Development
Services System;

26 9. Rule-making role. Recommend to the Early Intervention
28 Governing Committee rules necessary to implement this chapter.
Any rule recommended by the Interdepartmental Coordinating
30 Committee for Preschool Handicapped Children and adopted by the
Early Intervention Governing Committee must be adopted in
32 accordance with the Maine Administrative Procedure Act; and

34 10. Other duties. Fulfill other duties assigned by the
36 Legislature and perform any other acts necessary or convenient to
carry out the powers expressly granted or reasonably implied by
this chapter.

38 §7710-C. Duties, powers and obligation of the Early Intervention
40 Governing Committee

42 The Early Intervention Governing Committee as governing body
of the early intervention system shall:

44 1. Address issues. Address, with the advice of the local
46 coordinating committees and the Interdepartmental Coordinating
Committee for Preschool Handicapped Children, contemporary issues
48 affecting intervention services in the State, including, but not
limited to, the following:

50 A. Successful early intervention strategies;

- 2 B. Personnel preparation and continuing education;
- 4 C. "Childfind" activities and methods, as required by
6 United States Public Law 94-142;
- 8 D. Public awareness, as required by United States Public
10 Law 99-457; and
- 12 E. Contemporary research;
- 14 2. Recommendations. Recommend to the departments
16 represented on the committee, with the advice of the local
18 coordinating committees and of the Interdepartmental Coordinating
20 Committee for Preschool Handicapped Children, legislation needed
22 to develop further and maintain a statewide system of quality
24 intervention services;
- 26 3. Bylaws. With the advice of the Interdepartmental
28 Coordinating Committee for Preschool Handicapped Children, adopt
30 bylaws for the regulation of the early intervention system's
32 affairs and conduct of its business;
- 34 4. Assist. Assist the departments represented on the
36 committee in the development and implementation of rules
38 necessary to carry out the duties and purposes of this chapter.
40 Any rule of those departments or the Early Intervention Governing
42 Committee must be adopted in accordance with the Maine
44 Administrative Procedure Act;
- 46 5. Fiscal management. Receive, expend, allocate and
48 transfer funds within the early intervention system as necessary
50 to fulfill the purpose of this chapter, in accordance with all
 other applicable federal and state laws and rules and in
 accordance with the budget as submitted by each participating
 department and approved by the Legislature and the Governor. The
 Early Intervention Governing Committee may receive and accept
 from any source, including any federal agency or governmental
 subdivision and the State or its agencies, loans, grants or
 gifts, aid or contributions of money, property, labor or other
 things of value to be held, used or applied to carry out the
 purposes of this chapter, subject to the conditions upon which
 the loans, grants and contributions may be made. The Early
 Intervention Governing Committee may also accept grants and gifts
 on behalf of local sites and pay such funds directly to those
 sites or hold or dispose of the grants or gifts on behalf of the
 local sites as the Early Intervention Governing Committee
 determines. Except as otherwise provided for in this chapter or
 other applicable federal or state law or rules, the Early
 Intervention Governing Committee may invest any funds not needed

2 for immediate use, including any funds held in reserve, in
3 property and securities in which fiduciaries in the State may
4 legally invest funds;

6 6. Personnel policies. Adopt personnel policies for the
7 early intervention system with the advice of the
8 Interdepartmental Coordinating Committee for Preschool
9 Handicapped Children. The provisions of Title 5, chapter 71 do
10 not apply to the system;

12 7. Fringe benefits. Determine, with the advice of the
13 Interdepartmental Coordinating Committee for Preschool
14 Handicapped Children, which fringe benefits are offered to
15 employees, dependent on cost, ease of administration and
16 competitiveness in recruiting and retaining qualified personnel;

18 8. Retirement plan. Select, with the advice of the
19 Interdepartmental Coordinating Committee for Preschool
20 Handicapped Children, a nondiscriminatory employee retirement
21 plan option that meets all applicable federal and state
22 requirements;

24 9. Contracts. Enter into contracts, leases and agreements
25 and any other instruments and arrangements that are necessary,
26 incidental or convenient to the performance of the early
27 intervention system's duties and the execution of its powers
28 under this chapter. The Early Intervention Governing Committee
29 may authorize the local coordinating committees to enter into
30 legal agreements on behalf of the early intervention system
31 subject to rules adopted by the Early Intervention Governing
32 Committee;

34 10. Suits. Sue and be sued in its own name. Service of
35 process in any action must be made by service upon the Executive
36 Director of the Child Development Services System Central Office,
37 either in hand or by leaving a copy of the process at the Child
38 Development Services System Central Office;

40 11. Liability. All early intervention system employees,
41 local coordinating committee members, members of the Early
42 Intervention Governing Committee and members of the
43 Interdepartmental Coordinating Committee for Preschool
44 Handicapped Children are covered by the Maine Tort Claims Act.
45 The Early Intervention Governing Committee shall secure liability
46 insurance for any employees, local coordinating committee
47 members, members of the Interdepartmental Coordinating Committee
48 for Preschool Handicapped Children or members of the Early
49 Intervention Governing Committee who are determined by an opinion
50 from the Attorney General to be not covered under the Maine Tort
Claims Act;

2 12. Acquire supplies. Acquire supplies, materials and
4 incidental services through cash purchases, sole-source purchase
 orders, bids or contracts as necessary or convenient to fulfill
 the purposes of this chapter;

6
8 13. Acquire property. Acquire by purchase, gift, lease or
 rent any property, lands, buildings, structures, facilities or
 equipment necessary to fulfill the purposes of this chapter;

10
12 14. Dissemination of information. Apply the federal Family
 Educational Rights and Privacy Act of 1974, Public Law 93-380, as
14 amended by Public Law 93-568, and the federal Education for All
 Handicapped Children Act of 1975, Public Law 94-142, to the
16 dissemination of information about infants and children under 6
 years of age who have disabilities or are at risk of
18 developmental delay who are served through the Child Development
 Services System;

20 15. Rule-making authority. Adopt rules necessary to
 implement this chapter. Any rule of the Early Intervention
22 Governing Committee must be adopted in accordance with the Maine
 Administrative Procedure Act; and

24
26 16. Other duties. Fulfill other duties assigned by the
 Legislature and delegate duties and authority, but not
28 responsibility, as necessary for the efficient operation of this
 chapter and perform any other acts necessary or convenient to
30 carry out the powers expressly granted or reasonably implied by
 this chapter.

32 Sec. 34. 20-A MRSA §7711, as repealed and replaced by PL
34 1991, c. 622, Pt. G, §29 and affected by §33, is repealed and the
 following enacted in its place:

36 §7711. Implementation of special education services

38 1. All children under 6 years of age. By July 1, 1992 the
40 Early Intervention Governing Committee shall ensure that
 screening, evaluation and referral services are accessible to all
42 children under 6 years of age at no cost to the family. The
 Interdepartmental Coordinating Committee for Preschool
44 Handicapped Children shall propose and the Early Intervention
 Governing Committee shall revise and adopt rules describing these
 services.

46
48 2. Children with disabilities. By July 1, 1992 the Early
 Intervention Governing Committee shall ensure that preschool
 children with disabilities 3 years of age or older and under 6

2 years of age have special education available to them at no cost
3 to the family.

4 A. The Interdepartmental Coordinating Committee for
5 Preschool Handicapped Children shall develop and the Early
6 Intervention Governing Committee shall adopt and implement
7 rules that address the following issues:

8 (1) Least restrictive environment;

10 (2) Nondiscrimination;

12 (3) Rights of parents;

14 (4) Free and appropriate public services;

16 (5) Eligibility criteria;

18 (6) The federal "childfind" program;

20 (7) Program development, service descriptors and
22 service delivery;

24 (8) Case management;

26 (9) The early childhood team;

28 (10) The individualized family service plan;

30 (11) Statements of assurances;

32 (12) Procedural safeguards and appeals processes;

34 (13) Due process hearings;

36 (14) Confidentiality of information;

38 (15) Data collection, reporting and utilization;

40 (16) Surrogate parents; and

42 (17) System governance.

44 3. Insurer or 3rd-party obligation. Nothing in this
45 chapter relieves an insurer or similar 3rd party from an
46 otherwise valid obligation to provide or pay for services
47 provided.

48 4. Eligibility. Eligibility for services is as follows.

50

2 A. Insofar as the services provided under this section are
4 part of a child's entitlement to a free and appropriate
6 public education, the criteria of eligibility may not be
8 drawn more narrowly than would be the case if the child were
10 of school age.

12 B. No service and no client may be excluded if the service
14 would have been available or the client would have been
16 eligible under special education rules or regulations.

18 C. The Early Intervention Governing Committee shall ensure
20 that children with disabilities under 5 years of age receive
22 services and programs that are equivalent in frequency,
24 intensity, duration and monetary value to the services and
26 programs available to school-age children with disabilities.

28 D. Eligibility criteria must ensure that no child is
30 excluded from eligibility solely because of the lack of a
32 standardized statistical measure of deficit. This
34 restriction must be reviewed annually by the Department of
36 Education and the Commissioner of Education may propose
38 legislation to the Legislature to create an exception in the
40 case of any standardized instrument that has been shown to
42 have a predictive ability equivalent to that of the
44 instruments ordinarily used for such determinations in the
46 school-age population of children with disabilities.

48 **Sec. 35. 20-A MRSA §7712**, as amended by PL 1991, c. 622, Pt.
50 G, §30 and affected by §33, is further amended to read:

§7712. Annual report

The department, ~~in conjunction with the~~ Interdepartmental
Coordinating Council Committee for Early Intervention, Preschool
Handicapped Children and representatives of the local
coordinating committees shall report annually by March 1st to the
joint standing committee of the Legislature having jurisdiction
over education matters on the implementation of this subchapter.

Sec. 36. 20-A MRSA §§7713 and 7714 are enacted to read:

§7713. Early Intervention Governing Committee

Governing authority over the early intervention system is
vested in the Early Intervention Governing Committee, referred to
in this section as the "committee," established in Title 5,
section 12004-G, subsection 8-A.

1. Membership. The Early Intervention Governing Committee
consists of not fewer than 9 nor more than 10 members at any
time, with representation as follows.

2 A. Three of the members are the Commissioner of Education,
4 the Commissioner of Mental Health and Mental Retardation and
the Commissioner of Human Services.

6 (1) A commissioner may designate a member of that
8 commissioner's department to represent the commissioner
on the Early Intervention Governing Committee. The
10 representative so designated must be given full
12 authority to act in the commissioner's name in any
matters within the purview of the Early Intervention
Governing Committee.

14 B. No fewer than 3 nor more than 4 members may be consumer
16 representatives. Consumer representatives may include
individuals who have disabilities and parents of infants and
18 children who have disabilities or are at risk of
developmental delay. Each local coordinating committee may
20 nominate up to 3 persons for one of the consumer
representative positions and the Interdepartmental
22 Coordinating Committee for Preschool Handicapped Children
may make an additional 3 nominations. Final selection of
24 the consumer representatives is by vote of the Early
Intervention Governing Committee, according to such rules
26 and bylaws as it may adopt, except that the initial
selection at the time of establishment of the committee is
28 by gubernatorial appointment.

30 C. Three members must be representatives of the community
of service providers including those described in section
32 7702, subsection 8-F, paragraphs A to H, except that not
more than one may represent a public agency. These members
34 must be selected by the committee from nominations submitted
by the local coordinating committees and by the
36 Interdepartmental Coordinating Committee for Preschool
Handicapped Children, each of which is entitled to submit a
38 total of no more than 3 nominations. At the time of initial
establishment of the committee, selection of these members
40 is by gubernatorial appointment.

42 2. Chair. The members of the Early Intervention Governing
Committee shall annually elect one member to serve as chair.

44 3. Compensation. The members of the Early Intervention
46 Governing Committee are entitled to compensation in accordance
with Title 5, section 12004-G, subsection 8-B. Agency
48 representatives are entitled to reimbursement for expenses
incurred in the performance of their committee duties by their
50 employing agencies in accordance with the provisions of law.
Consumer representatives are entitled to reimbursement from the

2 Early Intervention Governing Committee for actual and necessary
3 expenses incurred in the performance of their duties.

4 4. Staff. The Executive Director of the Child Development
5 Services System Central Office, hired by the Early Intervention
6 Governing Committee in accordance with section 7707, subsection
7 4, paragraph A, is responsible for the provision of staff support
8 to the Early Intervention Governing Committee. The 3 departments
9 whose commissioners are committee members shall share equally the
10 responsibility of providing other necessary staff and support to
11 the committee upon its request. Staffing levels and duties are
12 as the committee may direct.

14 5. Meetings. The Early Intervention Committee shall meet
15 at least monthly for at least 11 months of each calendar year and
16 shall adopt rules for the conduct of its meetings. A quorum
17 consists of 7 members. Any meeting at which a quorum is not
18 present may not be counted as one of the required meetings under
19 this section. When a quorum is not present at a regularly
20 scheduled meeting, the meeting must be rescheduled for exactly
21 one week later unless the full membership of the committee
22 unanimously chooses another date. The rules adopted by the
23 committee for conduct of its affairs must require the chair to
24 discharge any member who is absent from 3 consecutive meetings.
25 In the event of such a discharge, the committee shall immediately
26 appoint another member to replace the member so discharged.

28 6. Consensus. Any action taken by the Early Intervention
29 Governing Committee must be approved by a majority of the members
30 present and voting.

32 7. Policies. The Early Intervention Governing Committee
33 shall establish policies for carrying out its duties under this
34 chapter.

36 8. Allocation of resources. The Early Intervention
37 Governing Committee shall direct the departments represented on
38 the committee to allocate funds appropriated to those departments
39 under this chapter to each local coordinating committee with
40 which the Early Intervention Governing Committee has a
41 coordination contract.

42 9. Complaint resolution. The Early Intervention Governing
43 Committee shall adopt procedures for local coordinating
44 committees funded under this chapter to respond to individual
45 complaints regarding services provided by or through the early
46 intervention system. The Interdepartmental Coordinating
47 Committee for Preschool Handicapped Children may make
48 recommendations concerning such procedures to the Early
49 Intervention Governing Committee.
50

2 10. Conflict resolution. The Early Intervention Governing
4 Committee shall identify and resolve conflicts within the early
 intervention system and shall report its actions to the
 Interdepartmental Council.

6
8 11. Subcommittee and advisory activities. The Early
10 Intervention Governing committee may establish subcommittees and
 advisory groups necessary to provide advice and to explore issues
12 affecting delivery of early intervention services. The Early
 Intervention Governing Committee may refer issues to the
14 Interdepartmental Coordinating Committee for Preschool
 Handicapped Children for discussion and recommendation. Nothing
16 in this section relieves the Early Intervention Governing
 Committee of its responsibility to govern the early intervention
 system.

18 12. Use of Child Development Services System name. The
20 Early Intervention Governing Committee is authorized to utilize
 the name of the Child Development Services System established in
22 section 7707 in any manner it sees fit, including as payor on
 payroll and other checks. The Early Intervention Governing
24 Committee is responsible for all obligations and actions taken
 under the name of the Child Development Services System.

26 §7714. Early intervention system

28 1. Composition. The early intervention system consists of
30 the Child Development Services System, which includes the Early
 Intervention Governing Committee established in section 7714, the
32 local coordinating committees and local sites established in
 section 7703 and the other members listed in section 7702,
 subsection 8-F, paragraphs A to H.

34
36 2. Structure of authority. The Early Intervention
 Governing Committee is the governing authority of the early
38 intervention system and shall adopt rules and standards for the
 conduct of that system. The local coordinating committees are
40 responsible for developing and implementing procedures at the
 local level that comply with the rules and standards adopted and
42 are responsible for all aspects of management of the local
 sites. All other members of the early intervention system as
44 defined in section 7702 are responsible for knowing and complying
 with the rules and standards adopted by the Early Intervention
46 Governing Committee and the procedures developed and adopted by
 the local coordinating committees.

48 3. Compliance with federal law. The Early Intervention
50 Governing Committee bears ultimate responsibility for the State's
 compliance with federal laws and regulations. To the extent that

2 the early intervention services provided under this chapter are
3 required components of a child's entitlement to free and
4 appropriate public education, the Early Intervention Governing
5 Committee may delegate its authority, but not its responsibility,
6 to the Commissioner of Education and to the Division of Special
7 Education within the Department of Education. Furthermore, the
8 rules and standards adopted by the Early Intervention Governing
9 Committee must be as consistent as possible with the special
10 education rules of the Department of Education.

11 4. Local school administrative units. Nothing in this
12 chapter prohibits a local school administrative unit from
13 undertaking the responsibilities of a local coordinating
14 committee within its jurisdiction. The Early Intervention
15 Governing Committee, the commissioner or any local coordinating
16 committee may contract with any local school administrative units
17 for the provision, coordination or management of any early
18 intervention services under this chapter.

19 5. Financial structure. The Early Intervention Governing
20 Committee, in the exercise of the fiscal authority granted to it
21 in section 7710-C, shall receive, expend, allocate and transfer
22 funds within the early intervention system. Each local
23 coordinating committee has oversight and review authority over
24 the budgets of state-funded early intervention system programs
25 and participants in its region and shall use the information made
26 available to form a budget recommendation and a recommendation
27 for the specific distribution of service and program
28 responsibilities within its region, which must be forwarded to
29 the Early Intervention Governing Committee for action. The Early
30 Intervention Governing Committee, with the assistance of each
31 local coordinating committee, shall then prepare a coordination
32 contract that sets forth the responsibilities of the early
33 intervention system participants in the region, including the
34 budget for the activities of the local site.

35 Sec. 37. 20-A MRSA §7722, first ¶, as amended by PL 1989, c.
36 499, §11, is further amended to read:

37 In addition to the programs authorized in subchapter I, the
38 commissioner may authorize expenditures to school administrative
39 units for services for infants and children, ~~ages 0 through 5,~~
40 ~~under 6 years of age who are handicapped have disabilities or~~
41 ~~at-risk-fer~~ are at risk of developmental delay.

42 Sec. 38. 20-A MRSA §7722, sub-§§5 and 6, as enacted by PL 1989,
43 c. 499, §11, are amended to read:

44 5. Dedication of funds. Funds generated under the school
45 subsidy formula through expenditures for programs for infants and
46 47
48 49
50 50

2 children, ~~ages--0--through--5,~~ under 6 years of age who are
handicapped have disabilities or ~~at-risk--for~~ are at risk of
4 developmental delay shall must be committed to continue to fund
programs and services for the target population at the local
6 level.

8 **6. Coordination of services and resource development**
activities. School administrative units shall coordinate their
10 program and service activities for infants and children, ~~ages--0~~
~~through--5,~~ under 6 years of age who are ~~handicapped~~ have
12 disabilities or ~~at-risk--for~~ are at risk of developmental delay
with their local site to avoid duplication, maximize the use of
14 available funds and resources, and to ensure compliance with
rules as ~~promulgated~~ adopted by the ~~Interdepartmental~~
~~Coordinating--Committee--for--Preschool--Handicapped--Children~~ Early
16 Intervention Governing Committee.

18 STATEMENT OF FACT

20 The bill modifies Maine's early intervention system, a
22 system for identifying children between birth and 6 years of age
who have disabilities and for providing services for those
24 children in an efficient, coordinated and cost-effective manner.
The bill also addresses the federal mandate under Public Law
26 99-457, the Individuals with Disabilities Education Act, which
requires that children 3 years of age and older and under 6 years
28 of age with disabilities be afforded a free and appropriate
public education in the least restrictive environment.

30 This bill sets forth a definition of Maine's early
32 intervention system and clarifies the statutorily assigned
responsibility for its governance.

34 The bill recreates the Interdepartmental Coordinating
36 Committee for Preschool Handicapped Children and designates it as
Maine's so-called Part H Council, with the duties set forth in 34
38 Code of Federal Regulations 303.650.

40 The bill establishes a new Early Intervention Governing
committee and empowers that committee to direct the participating
42 state agencies in allocating funds for purposes related to early
intervention.

44 The bill details and clarifies the responsibilities and
46 organization of the local coordinating committees and specifies
the scope of authority of the child development services site
48 directors and of the Child Development Services System Central
Office. The bill also establishes fiscal management policies.
50

2 The bill clarifies the early intervention system's
responsibilities with respect to case management, provision of
4 free and appropriate public education and "childfind" activities
and establishes guidelines for any necessary revision of
6 eligibility requirements for early intervention services.