

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

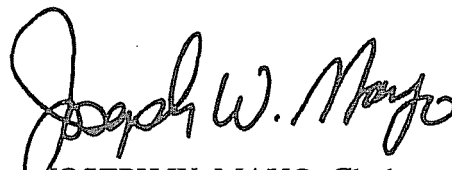
No. 762

H.P. 565

House of Representatives, March 2, 1993

An Act to Improve Child Care Services in the State.

Reference to the Committee on Human Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative PINEAU of Jay.
Cosponsored by Senator PARADIS of Aroostook and
Representatives: ADAMS of Portland, AHEARNE of Madawaska, ALIBERTI of Lewiston,
BENNETT of Norway, BOWERS of Washington, BRENNAN of Portland, BRUNO of
Raymond, CARON of Biddeford, CARROLL of Gray, CATHCART of Orono, CHONKO of
Topsham, CLARK of Millinocket, COFFMAN of Old Town, COTE of Auburn, DAGGETT of
Augusta, DORE of Auburn, DUTREMBLE of Biddeford, ERWIN of Rumford, FAIRCLOTH of
Bangor, FARNSWORTH of Hallowell, FARNUM of South Berwick, FARREN of Cherryfield,
GEAN of Alfred, GOULD of Greenville, GRAY of Sedgwick, GWADOSKY of Fairfield,
HALE of Sanford, HICHBORN of Howland, HOGLUND of Portland, HOLT of Bath, HUSSEY
of Milo, JACQUES of Waterville, JOHNSON of South Portland, JOSEPH of Waterville, KERR
of Old Orchard Beach, KONTOS of Windham, KUTASI of Bridgton, LARRIVEE of Gorham,
LEMKE of Westbrook, LIBBY of Buxton, LOOK of Jonesboro, LORD of Waterboro, MARSH
of West Gardiner, MARTIN of Van Buren, MARTIN of Eagle Lake, MELENDY of Rockland,
MICHAEL of Auburn, MICHAUD of East Millinocket, MITCHELL of Vassalboro,
MITCHELL of Freeport, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco,

Additional cosponsors on next page

O'GARA of Westbrook, PARADIS of Augusta, PFEIFFER of Brunswick, PLOURDE of Biddeford, POULIOT of Lewiston, RAND of Portland, REED of Dexter, RICHARDSON of Portland, ROWE of Portland, RUHLIN of Brewer, RYDELL of Brunswick, SIMONDS of Cape Elizabeth, SKOGLUND of St. George, ST. ONGE of Greene, STEVENS of Orono, STEVENS of Sabattus, STROUT of Corinth, SWAZEY of Bucksport, TARDY of Palmyra, TOWNSEND of Portland, TOWNSEND of Eastport, TOWNSEND of Canaan, TRACY of Rome, TREAT of Gardiner, VIGUE of Winslow, WALKER of Blue Hill, ZIRNKILTON of Mount Desert, Senators: BALDACCI of Penobscot, BERUBE of Androscoggin, BRANNIGAN of Cumberland, BUSTIN of Kennebec, CAHILL of Sagadahoc, CAREY of Kennebec, CARPENTER of York, CIANCHETTE of Somerset, CLEVELAND of Androscoggin, CONLEY of Cumberland, ESTY of Cumberland, FOSTER of Hancock, HANDY of Androscoggin, KIEFFER of Aroostook, LUTHER of Oxford, McCORMICK of Kennebec, O'DEA of Penobscot, PEARSON of Penobscot, TITCOMB of Cumberland, VOSE of Washington, WEBSTER of Franklin.

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

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Sec. 1. 5 MRSA §12004-I, sub-§35-B is enacted to read:

<u>35-B.</u>	<u>Child Care</u>	<u>Legislative</u>	<u>22 MRSA</u>
<u>Human</u>	<u>Advisory</u>	<u>Per Diem for</u>	<u>§3740</u>
<u>Services</u>	<u>Council</u>	<u>Legislative</u>	
		<u>Members Only;</u>	
		<u>\$25 Per Day</u>	
		<u>for Other</u>	
		<u>Members, Ex-</u>	
		<u>cept That No</u>	
		<u>Compensation</u>	
		<u>Is Authorized</u>	
		<u>for State Em-</u>	
		<u>ployees</u>	

Sec. 2. 5 MRSA §12004-L, sub-§7 is enacted to read:

<u>7.</u>	<u>Committee for</u>	<u>Not</u>	<u>22 MRSA §3739</u>
	<u>Child Care Coordination</u>	<u>Authorized</u>	

Sec. 3. 22 MRSA c. 1052-A is enacted to read:

CHAPTER 1052-A

CHILD CARE SERVICES

§3731. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Child care. "Child care" means a regular service of care and protection provided for compensation for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children. "Child care" also means administrative functions related to the delivery of child care services, including, but not limited to, contract management, voucher administration, licensing, training, technical assistance and referral. "Child care" does not include services provided by a nursery school as defined in section 8401, a summer camp established solely for recreational or educational purposes or a public or private school approved by the Commissioner of Education.

2. Committee. "Committee" means the Committee for Child Care Coordination established pursuant to Title 5, section 12004-L, subsection 7.

2 3. Council. "Council" means the Child Care Advisory Council
established pursuant to Title 5, section 12004-I, subsection 35-B.

4 4. Region. "Region" means a service delivery region
6 established pursuant to section 6-A.

8 §3732. Principles of child care system

10 The department shall allocate resources available under this
chapter in a manner that promotes the following principles.

12 1. Family self-sufficiency. A stable source of child care
14 is a critical ingredient to economic self-sufficiency. Child
care policies and programs must facilitate a smooth transition
16 into the work force for parents and a rich and stable environment
for children.

18 2. Investment in children. Child care is a critical
20 investment that affects a child's readiness to learn.
High-quality child care programs recognize and implement good,
22 early childhood practices, as articulated by Head Start, the
National Association for the Education of Young Children and
24 other early childhood organizations.

26 3. Consumer orientation and education. Child care policies
and programs must be responsive to the changing needs of families
28 and educate families about available options, identifying quality
programs and selecting appropriate care.

30 4. Accessibility. High-quality child care must be available
32 to any family seeking care regardless of where the family lives
or the needs of the child. A centralized place in local
34 communities must be available to facilitate parents' access to
child care.

36 5. Affordability. High-quality child care must be available
38 on a sliding scale basis, with families contributing based on
ability to pay.

40 6. Diversity. It is the goal of the State to strive
42 wherever possible to provide child care in an integrated setting,
where children with various needs and of various income levels
44 and cultures are cared for together.

46 7. Efficient, coordinated administration. Child care
programs must be coordinated to ensure the most effective use of
48 federal and state funds.

50 8. Support for infrastructure. State child care offices
and policies must support the orderly development of a
52 high-quality child care system.

2 **§3733. Designated agency**

4 To the extent permitted by federal law, the department shall
6 coordinate and administer all available federal and state child
8 care funds, including, but not limited to, those available under
10 the federal Social Security Act, Title IV, Part A and Title XX;
12 the federal Family Support Act of 1988; the federal Omnibus
14 Budget Reconciliation Act of 1990, Section 5081; and the federal
16 Child Care and Development Block Grant Act of 1990.

12 **§3734. Use of federal funds**

14 The department shall seek the advice of the council when
16 applying or reapplying for federal funds under this chapter and
18 when submitting state plans, amendments to state plans or waivers
20 for federal approval. At least 14 days before the applications,
22 reapplications, plans, amendments or waivers are submitted to the
24 Federal Government, the department shall submit copies of them to
26 the joint standing committee of the Legislature having
28 jurisdiction over human resource matters and to the Executive
30 Director of the Legislative Council.

32 The following additional provisions apply to certain federal
34 child care funds, as indicated.

36 1. Used to supplement state funds. Federal child care
38 funds must be used to supplement and may not replace existing
40 state and local child care funds.

42 2. Block grant funds encumbered. Within 6 months of
44 receiving any payment under the federal Child Care and
46 Development Block Grant Program, the department shall expend or
48 encumber 100% of the payment.

50 3. At-risk child care funds. Funds received from the
52 federal At-Risk Child Care Program must be deposited into a
54 special revenue account and used only to provide child care
56 services in accordance with federal At-Risk Child Care Program
58 regulations, 45 Code of Federal Regulations, Part 257. Funds in
60 the account may not lapse, but must be carried forward from one
62 fiscal year to the next as federal law permits.

64 **§3735. Child care for aid to families with dependent children**
66 **recipients**

68 1. Information. The department shall ensure that all
70 recipients of aid to families with dependent children receive
72 information regarding child care options from caseworkers who are
74 knowledgeable about the range of child care subsidies available

2 in this State and who can explain the relative advantages of each
3 option. This may be done either through the department or
4 through a contracted agency. The department shall ensure that
5 this information is provided to all recipients of aid to families
6 with dependent children at orientation, when they begin work and
7 training programs, at reassessment and at least 30 days before
8 the recipients receive their last aid to families with dependent
9 children payments.

10 2. Transitional Child Care Program. The department shall
11 ensure that caseworkers for aid to families with dependent
12 children are knowledgeable about the federal Transitional Child
13 Care Program and shall instruct caseworkers to encourage families
14 to enroll in the program. Information regarding the program must
15 be included with a recipient's last payment of aid to families
16 with dependent children and caseworkers must contact by telephone
17 whenever possible or by personal letter any person who has
18 received the information and has not requested enrollment in the
19 program within 10 days of receiving the information. All
20 eligible families who apply for the federal Transitional Child
21 Care Program must receive assistance under the program for at
22 least one year.

24 **§3736. Eligibility**

26 1. Single application form. By October 1, 1993, the
27 department shall develop a universal application for all publicly
28 funded child care programs. By January 1, 1994, the department
29 shall require all caseworkers and contractors to use the form to
30 determine eligibility. Applicants submitting applications to
31 more than one caseworker or contractor may submit photocopies.

32 2. Eligibility decision within 30 days. The department
33 shall determine eligibility for child care programs administered
34 under this chapter within 30 days of receiving an application.
35 If a contractor determines eligibility, the department shall
36 require that the contractor determine eligibility within 30 days
37 of receiving an application.

40 **§3737. Payments to providers**

42 1. No payments to recipients. The department may not make
43 cash payments to recipients for child care services provided
44 under this chapter. Payments must be made directly to providers.

46 2. Maintenance of contract system. The percentage of
47 aggregated federal and state child care funds administered under
48 this chapter that is awarded through a contract system must be
49 the same as the percentage awarded through a contract system in
50 fiscal year 1992-93.

2 3. Quality differential. The department may pay a
4 differential rate for child care services that meet nationally
6 recognized quality standards, such as those standards required by the
8 Head Start program or required for accreditation by the
 National Association for the Education of Young Children and
 shall do so from the Child Care and Development Block Grant 25%
 Quality Set-aside funds or other acceptable federal practices.

10 §3738. Resource development centers

12 The department shall fund at least the 10 resource
14 development centers that existed on January 1, 1993 or their
16 successors. Resource development centers are responsible for the
 local coordination of application gathering, eligibility
 determination and dissemination of information to the public.

18 §3739. Committee for Child Care Coordination

20 1. Function. The Committee for Child Care Coordination is
22 established, in accordance with Title 5, section 12004-L,
24 subsection 7, to coordinate child care policy development and
26 service delivery in the State and provide education, information
 and technical assistance to citizens who use, provide or are
 otherwise interested in child care services. The committee is
 within the department.

28 2. Members. The committee is comprised of 5 program
30 managers within State Government who are responsible for child
 care policy and services on a day-to-day basis. The members are:

32 A. The director of the purchased and support service
34 division within the department, or the director's designee;

36 B. The director of the child care and licensing division
 within the department, or the director's designee;

38 C. The person responsible for child care services in the
40 Bureau of Income Maintenance within the department,
42 designated by the Director of the Bureau of Income
 Maintenance;

44 D. The person responsible for child development services in
46 the Department of Education, designated by the director of
 the special education division within the Department of
 Education; and

48 E. The person responsible for child care services in the
50 Bureau of Children with Special Needs within the Department
 of Mental Health and Mental Retardation, designated by the
 Director of the Bureau of Children with Special Needs.

2 3. Powers and duties. The committee shall:

4 A. Coordinate child care activities within the department
6 and with other state agencies that fund or provide child
8 care, including, but not limited to, the Department of
 Education and the Department of Mental Health and Mental
 Retardation;

10 B. Ensure that the child care system evolves in an orderly
12 fashion by coordinating the contract and voucher components;

14 C. Create and implement a sliding fee scale that is uniform
 for all child care programs administered under this chapter;

16 D. By June 1st of every even-numbered year, submit to the
18 joint standing committee of the Legislature having
20 jurisdiction over human resource matters and to the joint
22 standing committee of the Legislature having jurisdiction
24 over appropriations and financial affairs a biennial plan
26 for child care services in the State. The plan must provide
28 for continuous care of children whose parents are in
 transition from receiving public assistance to joining the
 work force by consolidating child care funding sources in a
 manner that simplifies the child care system for families
 and allows children to remain in the same child care setting
 while their families make the transition from one source of
 funding to another. In addition, the plan must include, but
 is not limited to:

30 (1) A status report regarding federal and state
32 funding sources for child care administered under this
34 chapter. The report must include the following
 information for the past biennium, the current biennium
 and the next biennium:

36 (a) A description of each source and the total
38 amount available or anticipated from each source;

40 (b) The services purchased or proposed to be
42 purchased with each source; and

44 (c) A description of how all federal set-aside
 requirements were met or are proposed to be met;

46 (2) The total number of full-time equivalent publicly
48 funded child care slots purchased under contract and
50 the total number of full-time equivalent vouchers
 available or proposed for each region in the past
 biennium, current biennium and next biennium according

2 to the type of child care provided by each slot or
3 voucher. The count may not be duplicated. The type of
4 child care may include, but is not limited to,
5 center-based care, home-based care, school-based care
6 and employer-based care; and

7 (3) Aggregate statistics regarding the income levels
8 of families receiving or expected to receive publicly
9 funded child care under this chapter.

10 By April 1st of every even-numbered year, each member of the
11 committee shall submit to the committee information
12 necessary to prepare the plan. The committee shall seek the
13 advice and assistance of the council in preparing the plan;

14 E. Ensure that consistent information is available to the
15 public in each region regarding different types,
16 availability and quality of child care;

17 F. Ensure that technical assistance is available in each
18 region to public and private sector employers, school
19 systems and community groups regarding ways that employers
20 or other sponsoring organizations may support quality child
21 care options, including, but not limited to, the development
22 of employer-based child care, flexible benefit packages and
23 flexible work schedules;

24 G. Ensure that training for child care providers is
25 continually available and affordable in each region;

26 H. Review the department's proposed child care contracts
27 prior to final approval and make recommendations to the
28 commissioner regarding whether contracts should be awarded,
29 denied or amended. The committee shall make its
30 recommendations based on whether a proposed contractor meets
31 the State's minimum quality requirements, whether the
32 contractor has performed effectively in the past and whether
33 the proposed services are consistent with the biennial plan;

34 I. Monitor the effectiveness of child care licensing rules
35 and enforcement, offer formal comments when child care rules
36 are proposed and, if needed, recommend to the commissioner
37 changes in rules or enforcement procedures; and

38 J. Meet at least monthly.

39 **§3740. Child Care Advisory Council**

40 1. Purpose. The Child Care Advisory Council is established,
41 in accordance with Title 5, section 12004-I, subsection 35-B, to
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1 advise the Legislature and the department regarding child care
2 services in the State. The council shall encourage the
3 development of child care policies that are coordinated among
4 state agencies to promote quality, uniformity and efficiency of
5 service.

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7 2. Membership. The council has 19 members, appointed as
8 follows:

9
10 A. Two members of the Senate, appointed by the President of
11 the Senate;

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13 B. Three members of the House of Representatives, appointed
14 by the Speaker of the House of Representatives;

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16 C. One employee of the Bureau of Income Maintenance who is
17 responsible for child care services, appointed by the
18 Governor;

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20 D. One employee of the Bureau of Child and Family Services
21 who is responsible for child care services, appointed by the
22 Governor;

23
24 E. One parent who receives a child care subsidy at the time
25 of that parent's appointment, appointed by the Governor;

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27 F. One employee of the Department of Mental Health and
28 Mental Retardation, Bureau of Children with Special Needs,
29 appointed by the Governor;

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31 G. One employee of the Department of Education, appointed by
32 the Governor;

33
34 H. One employee who coordinates the state Head Start
35 program, appointed by the Governor;

36
37 I. Four additional members appointed by the President of the
38 Senate, one being a parent with a child in child care, one
39 representing family day-care providers, one representing
40 consumers of subsidized child care services and one
41 representing business interests; and

42
43 J. Four additional members appointed by the Speaker of the
44 House of Representatives, one being a parent with a child in
45 child care, one representing providers of center-based child
46 care, one representing resource development centers and one
47 representing Head Start providers.

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49 Senators and members of the House of Representatives serve for
50 the duration of the legislative terms that they are serving when

2 appointed. All other members serve 2-year terms, may continue to
4 serve beyond their terms until their successors are appointed and
6 may be appointed to subsequent terms. If a vacancy occurs before
8 a term has expired, the vacancy must be filled for the remainder
of the unexpired term by the authority who made the original
appointment. If a member is absent for 2 consecutive meetings
and has not been excused by the chair from either meeting, the
council may remove the member by majority vote.

10 3. Meetings; chair. The commissioner shall call the first
12 meeting of the council by October 15, 1993. At the first
14 meeting, the council shall select by majority vote a chair from
16 among its members to serve a term of one year. A chair may be
reelected to subsequent terms. The chair shall call subsequent
meetings. The council may meet as often as funding permits, but
must meet at least 4 times per year.

18 4. Powers. The council must have access to all departmental
20 records regarding child care programs administered under this
22 chapter, except that the council may not have access to
information that identifies individuals who receive assistance
under this chapter.

24 5. Duties. The council shall:

26 A. Advise the committee regarding development of the
28 biennial child care services plan required pursuant to
section 3739, subsection 3, paragraph D;

30 B. Advise the department regarding the preparation of any
32 application, amendment, waiver request, plan or other
34 document submitted by the department to the Federal
Government regarding child care funding and recommend
changes to the submission when appropriate;

36 C. Establish a subcommittee that includes licensing
38 officials, public health and safety representatives, early
40 childhood educators and others considered necessary by the
42 council to review the current system of licensing and
44 registration and recommend a uniform regulatory system for
family day-care homes. By January 30, 1994, the council
shall submit its recommendations, along with implementing
legislation, if needed, to the joint standing committee of
the Legislature having jurisdiction over human resource
matters;

46 D. Examine the role and funding of resource development
48 centers;

50 E. Determine how the State can better use child care funds
available under the federal Social Security Act, Title IV,

2 Part A, particularly those funds available through the
3 federal Transitional Child Care Program, and develop a
4 proposal to use federal and state funds to supplement the
5 earned income disregard for families receiving aid to
6 families with dependent children;

7 F. Explore ways in which child care services may be better
8 integrated into a system of comprehensive services for
9 children and families; and

10 G. Examine any other relevant child care issues and make
11 recommendations as needed.

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14 6. Reports. By June 1st, the council shall submit an annual
15 report to the joint standing committee of the Legislature having
16 jurisdiction over human resource matters. The report must
17 describe the council's activities for the year regarding its
18 duties specified in subsection 5 and must outline policy changes
19 recommended by the council. If the council objects to any part
20 of the biennial plan submitted by the committee, the report must
21 indicate the areas of disagreement.

22
23 In addition to the annual report, the council shall submit an ad
24 hoc report to the joint standing committee of the Legislature
25 having jurisdiction over human resource matters whenever a
26 majority of the council members objects to a proposed
27 departmental submission reviewed pursuant to subsection 5,
28 paragraph B.

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30 7. Staff. The committee shall provide staff and office
31 supplies to the council within the committee's existing
32 resources. The council may refuse these services and supplies
33 and may accept and expend private funds to carry out its duties
34 under this chapter.

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36 Sec. 4. 22 MRSA §5311, as amended by PL 1989, c. 400, §§12
37 and 14, is repealed.

38
39 Sec. 5. 22 MRSA §8304, as amended by PL 1989, c. 502, Pt. A,
40 §86, is repealed.

41
42 Sec. 6. 22 MRSA §8304-A is enacted to read:

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44 §8304-A. Fire safety

45
46 1. Inspection required. As an ongoing condition of
47 licensure or registration, a day care facility must provide
48 annually to the department a written statement that the day care
49 facility complies with applicable fire safety rules adopted
50 pursuant to Title 25, section 2452. The statement must be

2 provided on a standard form furnished by the State Fire Marshal
3 and must be signed by one of the following officials:

4 A. The State Fire Marshal;

6 B. An inspector of buildings, appointed pursuant to Title
7 25, section 2351;

8 C. A fire ward, appointed pursuant to Title 25, section
10 2391;

12 D. A fire chief, appointed pursuant to Title 30-A, section
13 3153; or

14 E. A firefighter designated by that firefighter's fire
16 chief.

18 2. Facility changes. Inspection and certification are
19 required under this section whenever a day care facility changes
20 or augments a heating system or makes major structural
21 alterations to the facility.

22 3. Fees. The department shall establish and pay a
23 reasonable fee to the State Fire Marshal or municipal official
24 who provides a statement under this section.

26 Sec. 7. 22 MRSA §8305, sub-§1, ¶D, as repealed and replaced by
27 PL 1985, c. 358, §1, is repealed.

30 Sec. 8. 22 MRSA §8305, sub-§1, ¶D-1 is enacted to read:

32 D-1. The home has met the requirements of section 8304-A;

34 Sec. 9. Transition. Staff of the Office of Child Care
35 Coordination are hereby transferred to the Committee for Child
36 Care Coordination and retain all of their benefits, rights and
37 privileges. Office space formerly designated to the Office of
38 Child Care Coordination is hereby designated to the Committee for
39 Child Care Coordination unless the Commissioner of Human Services
40 designates different office space. All financial and other
41 resources allocated to the former Office of Child Care
42 Coordination are hereby transferred to the Committee for Child
43 Care Coordination.

44 Sec. 10. Automation. The Department of Human Services shall
45 develop an automated child care eligibility and data base
46 system. The department shall seek the advice of the Child Care
47 Advisory Council in designing the system. By January 30, 1994,
48 the department shall submit a report to the Joint Standing
49 Committee on Human Resources that describes its progress under
50 this section.

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STATEMENT OF FACT

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This bill does the following to enhance the coordination, efficiency and quality of day care in the State.

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1. Principles are established in the Maine Revised Statutes to guide the development of the State's child care system.

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2. The Office of Child Care Coordination is abolished and its staff reallocated to a newly created Child Care Coordination Committee, comprised of 5 program managers who administer state and federal child care funds. In addition to the former duties of the Office of Child Care Coordination, the committee is required to submit a biennial child care plan that outlines how state and federal funds will be used. The plan would be submitted for consideration by the Legislature in conjunction with the biennial budget.

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3. The Child Care Advisory Council is established to advise the Department of Human Services and the Legislature regarding allocation of child care resources, licensing levels and the role of the resource development centers.

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4. The Department of Human Services is designated as the state agency that administers child care funds in the State.

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5. The Department of Human Services is required to provide child care information and assistance to recipients of aid to families with dependent children, or AFDC, to ease the transition from AFDC to work.

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6. The Department of Human Services is required to develop a uniform application form for all subsidized child care programs and to implement it by January 1, 1994.

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7. A prohibition against paying parents directly in cash for child care is enacted. Payments would be made directly to providers in all instances with the exception of use of the income disregard.

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8. The Department of Human Services is required to continue funding the 10 child care resource development centers that existed on January 1, 1993.

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9. The Department of Human Services is required to develop an automated eligibility and data base system for child care programs and to report to the Legislature on its progress by January 30, 1994.

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10. Fire inspections are made more readily available by allowing local fire chiefs, firefighters designated by fire chiefs, fire wards and building inspectors to inspect and certify child care facilities.