

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DATE: 5-10-99

(Filing No. H-525)

EDUCATION AND CULTURAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1308, Bill, "An Act to Clarify Roles and Responsibilities in the Child Development Services System"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 20-A MRSA §7725, sub-§4, ¶¶C and D, as enacted by PL 1997, c. 534, §6, are repealed and the following enacted in their place:

C. For children from birth to under age 3:

(1) Developmental delays, as measured by both diagnostic instruments that are criterion-based or norm-referenced and appropriate procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; or adaptive development, with the delay being such that the child needs early intervention services; or

(2) A diagnosed physical or mental condition that has a high probability of resulting in developmental delay, with the condition being such that the child needs early intervention services; or

D. For children age 3 to under age 6, evaluated in accordance with 34 Code of Federal Regulations, 300.530-534.

COMMITTEE AMENDMENT

as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with the delay or impairment being such that the child needs special education and related services:

(1) Significant developmental delays in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or

(2) Mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; deafness and blindness; or multiple disabilities.

Sec. 2. 20-A MRSA §7725, sub-§7, as amended by PL 1993, c. 625, §3, is further amended to read:

7. Intermediate educational unit. "Intermediate educational unit," as defined means an entity that meets the definition of intermediate educational unit in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., means any 1401, (22) as in effect prior to June 4, 1997, and that is a public authority, other than a local educational agency, under the general supervision of a state educational agency, that is established for the purpose of providing free public education on a regional basis and that provides special education and related services to handicapped children within the State.

Sec. 3. 20-A MRSA §7727, sub-§2, as amended by PL 1995, c. 662, §1, is further amended to read:

2. Plan. The department shall submit the State's plan for meeting the requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., to the Federal Government. The Except as otherwise provided in this chapter, the State's plan may not require services that exceed minimum federal requirements.

Sec. 4. 20-A MRSA §7727, sub-§4, as amended by PL 1993, c. 625, §3, is further amended to read:

4. Contracts. The department may enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter.

RES

2 The department shall contract with the board of directors of a  
4 private nonprofit corporation for no fewer than 3 years and  
6 approve an annual entitlement plan with the board of directors of  
a regional intermediate educational unit for the purpose of  
ensuring coordinated service delivery in each region of the State.

8 Contracts with boards of directors of private nonprofit  
corporations or plans of regional intermediate educational units  
10 must ensure:

12 A. That screening, evaluation and referral services, at no  
cost to the family, are accessible to all children, from  
14 birth to under age 6;

16 B. That preschool children with disabilities, from age 3 to  
under age 6, have free, appropriate public education  
18 services available to them at no cost to the family; and

20 C. That infants and toddlers, from birth to under age 3,  
have early intervention services available to them by July  
22 1, 1994 through 3rd-party payment or through a system of  
payments by families, including a schedule of sliding fees.

24 The department, in a manner consistent with and with due respect  
26 for the authority of the regional site boards of directors under  
28 section 7731, shall review and approve each regional site's  
30 budget to ensure compliance with federal and state program  
requirements and to ensure that the budget is within the  
allocations of the funding formula and other anticipated revenues.

32 **Sec. 5. 20-A MRSA §7727, sub-§4-A is enacted to read:**

34 4-A. Site funding. The department shall make annual grant  
awards from available funds to regional intermediate educational  
36 units in accordance with a funding formula developed by the  
department in consultation with the regional sites and adopted by  
38 rule.

40 A. The funding formula must include consideration of the  
costs associated with the following functions:  
42 administration; childfind; case management; and provision of  
other services. The funding formula must take into  
44 consideration other factors, which may include but are not  
limited to a regional site's geographic area, the general  
46 population of children from birth under age 6, child count,  
Medicaid eligibility rate and cost containment measures.

48 B. The formula may allocate a portion of total funds, not  
50 to exceed 8% of the State's general fund appropriation for

R. S.

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1308

2 the Child Development Services System, for distribution to  
3 the regional sites based on unanticipated changes in costs  
4 or amount of mandated services provided during the fiscal  
5 year. The formula may also include a provision to limit the  
6 magnitude of gain or loss of funds a site will experience  
7 from one fiscal year to the next.

8 C. The rule establishing the funding formula is a major  
9 substantive rule as defined in Title 5, chapter 375,  
10 subchapter II-A.

11 **Sec. 6. 20-A MRSA §7731, sub-§2,** as amended by PL 1995, c.  
12 662, §4, is further amended to read:

13 **2. Employees.** Employ qualified professional and other staff  
14 at the local site. The board of directors has the authority to  
15 hire, fire and supervise the staff of the regional site and to  
16 develop and adopt personnel policies and salary scales for its  
17 employees. Professional therapists may be employed as site staff  
18 when the board and the state intermediate education unit find  
19 that:

20 **A.** Site staff therapists are needed to perform evaluations  
21 of children to ensure appropriate service plans;

22 **B.** Therapists serving children on a contractual basis are  
23 unable to provide required services within timeout mandated  
24 by the federal Individuals with Disabilities Education Act,  
25 20 United States Code, Section 1400 et seq.; or

26 **C.** Site staff therapists are able to provide services  
27 comparable to those provided by contract therapists at an  
28 identifiable savings to the Child Development Services  
29 System, as determined by the commissioner;

30 **Sec. 7. 20-A MRSA §7731, sub-§6,** as amended by PL 1997, c.  
31 534, §11, is further amended to read:

32 **6. Contracts.** ~~Subject to the approval of the department,~~  
33 ~~enter~~ Enter into contracts, leases and agreements and any other  
34 instruments and arrangements that are necessary, incidental or  
35 convenient to the performance of its duties and the execution of  
36 its powers under this chapter, except that the board shall  
37 provide to the department copies of any contract for review upon  
38 the department's request and shall obtain prior department  
39 approval of the prototype for provider contracts, any multi-year  
40 leases and any memoranda of understanding with other entities.  
41 Regional site boards of directors shall consider collaboration  
42 with school administrative units that are operating or that wish  
43 to develop, pursuant to section 4253 or 7734-A, early childhood  
44 programs in the regional board's catchment area in order to:

R. 0. 8.

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1308

2 A. Maximize the benefit of state interdepartmental  
agreements and efforts;

4 B. Maximize the effective use of qualified personnel,  
6 facilities and other resources;

8 C. Ensure consistent quality of early childhood  
programming; and

10 D. Facilitate the transition process, for children and  
12 families, from the Child Development Services System to the  
14 public school system;

16 **Sec. 8. 20-A MRSA §7732-A, sub-§6,** as enacted by PL 1993, c.  
625, §10, is amended to read:

18 **6. Individual plan.** Coordinate with eligible families the  
development of individual family service plans ~~with--eligible~~  
20 families that include all federally required components of the  
individualized education program, or coordinate an individualized  
22 education program, if preferred by the parent of a child age 3 to  
under age 6;

24 **Sec. 9. 20-A MRSA §7732-A, sub-§9,** as amended by PL 1995, c.  
26 662, §5, is further amended to read:

28 **9. Medicaid cost reimbursement.** ~~Following certification-by~~  
enrollment with the Bureau of Medical Services within the  
30 Department of Human Services, seek reimbursement, ~~--whenever~~  
~~feasible,~~ for targeted case management and for other Medicaid  
32 reimbursable services provided by regional site employees; and

34 **Sec. 10. 20-A MRSA §7734-A, first ¶,** as amended by PL 1997, c.  
36 534, §16, is repealed and the following enacted in its place:

In addition to the programs authorized in this chapter,  
38 school administrative units may provide services for children who  
are disabled in a manner consistent with sections 4251 to 4254,  
40 and the cost of such services is subsidizable as special  
education costs under chapter 606.

42 **Sec. 11. Pilot projects.** Notwithstanding the Maine Revised  
44 Statutes, Title 20-A, chapter 307-A, the Commissioner of  
Education, after consultation with adjoining regional sites and  
46 providing opportunity for public comment, may approve up to 10  
pilot projects to operate year-round under which a school  
48 administrative unit may assume any of the obligations listed in  
Title 20-A, section 7732-A within its geographic area. In  
50 approving pilot projects, the commissioner may authorize the

# COMMITTEE AMENDMENT

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1308

2 provision of services to children from 3 years of age to under 6  
3 by the school administrative unit and may grant federal and state  
4 funds to the school administrative unit in amounts proportionate  
5 to and consistent with amounts allocated to regional sites under  
6 the funding formula adopted pursuant to Title 20-A, section 7727,  
7 subsection 4-A.

8 A parent whose child is receiving services when a pilot  
9 project is approved under this section may request that service  
10 providers continue to serve the child. The unit shall respond to  
11 the request within 14 days; the decision of the unit is final.  
12 The commissioner shall report to the joint standing committee of  
13 the Legislature having jurisdiction over educational matters on  
14 the implementation of the pilot projects not later than December  
15 1st in any year in which a pilot project is in operation.

16 **Sec. 12. Adoption of funding formula.** The major substantive  
17 rule adopting the funding formula, pursuant to the Maine Revised  
18 Statutes, Title 20-A, section 7727, subsection 4-A must be  
19 presented by the Department of Education for legislative review  
20 in the First Regular Session of the 120th Legislature, except  
21 that the Commissioner of Education may adopt by rule a funding  
22 formula for each of the state fiscal years 1999-00 and 2000-01 as  
23 an emergency rule pursuant to Title 5, section 8073. The  
24 commissioner shall report to the Joint Standing Committee on  
25 Education and Cultural Affairs by February 15, 2000 on the  
26 funding formula for fiscal year 1999-00.'

27 Further amend the bill by inserting at the end before the  
28 summary the following:  
29

32 **'FISCAL NOTE**

34 The bill authorizes the Department of Education to approve  
35 up to 10 pilot projects under which a school administrative unit  
36 would assume the provision of services to children from 3 years  
37 of age to under 6 years of age. If any such projects are  
38 approved, funding within the preschool handicapped program would  
39 be granted to the school administrative units rather than to the  
40 regional sites within the Child Development Services System.

42 The additional costs associated with adopting rules  
43 implementing a funding formula for the Child Development Services  
44 System can be absorbed by the Department of Education utilizing  
45 existing budgeted resources.'

48 **SUMMARY**

50 This amendment replaces the bill. The amendment:

R. O. S.

COMMITTEE AMENDMENT "A" to H.P. 931, L.D. 1308

- 2           1. Revises the definitions of disability to identify the  
4 appropriate diagnostic instruments to be used to measure  
developmental delays;
- 6           2. Changes the definition of intermediate educational unit  
8 to conform to federal law;
- 10          3. Clarifies that the state plan to provide early  
12 intervention and public education services to eligible children  
may not exceed federal minimum requirements, except as authorized  
in state law;
- 14          4. Provides for establishment by the Department of  
16 Education of a funding formula for regional Child Development  
18 Services System sites, including a reserve fund for adjustments  
to each site's allocation to reflect changes in costs or levels  
of mandated services;
- 20          5. Specifically authorizes Child Development Services  
22 System sites to establish staff salary scales;
- 24          6. Grants greater autonomy to the sites in their  
administrative activities;
- 26          7. Authorizes the Commissioner of Education to establish up  
28 to 10 pilot sites for public schools to provide services to  
eligible 3- to 6-year-olds year-round;
- 30          8. Requires sites to seek Medicaid reimbursement for  
32 eligible services provided by site staff; and
9. Adds a fiscal note to the bill.