

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 1850

S.P. 666

April 11, 2007

**An Act To Improve Efficiency and Effectiveness of Early
Intervention and Early Childhood Special Education for Children
from Birth to Eight Years of Age through Improved Oversight,
Accountability and Interagency Coordination**

Reported by Senator MITCHELL of Kennebec for the Subcommittee To Study Early
Childhood Special Education pursuant to Public Law 2005, chapter 662, Part C, section 8.

Reference to the Committee on Education and Cultural Affairs suggested and ordered
printed under Joint Rule 218.

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

JOY J. O'BRIEN
Secretary of the Senate

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-G, sub-§8-B** is enacted to read:

4 **8-B.**

5 <u>Education</u>	<u>Early Childhood</u>	<u>Expenses Only</u>	<u>20-A MRSA</u>
6	<u>Services</u>		<u>§7211</u>
7	<u>Interagency</u>		
8	<u>Coordinating</u>		
9	<u>Council</u>		

10 **Sec. A-2. 20-A MRSA §3254-A, sub-§2**, as enacted by PL 1985, c. 490, §7, is
11 amended to read:

12 **2. Preschool programs.** The commissioner may establish preschool programs for
13 ~~handicapped children between the ages of~~ with disabilities from 3 and years of age to 5
14 years of age or contract with school administrative units to provide the programs.
15 Establishment of such programs may not affect the duties and responsibilities of boards
16 of directors of Child Development Services System regional sites under section 7209,
17 subsection 8. Preschool programs under this section are required to collaborate with
18 Child Development Services System regional sites.

19 **Sec. A-3. 20-A MRSA §4252, sub-§4**, as amended by PL 1989, c. 548, §3, is
20 further amended to read:

21 **4. Programs for children 4 years of age.** Encourage the development of 2-year
22 kindergartens in conformity with section 5201, subsection 2, paragraph C and other
23 appropriate programs to address the needs of ~~4-year-old children~~ 4 years of age, as long
24 as the 2-year kindergartens and other programs to address the needs of children 4 years of
25 age are inclusive of children with disabilities;

26 **Sec. A-4. 20-A MRSA §4253**, as amended by PL 1997, c. 534, §1, is further
27 amended to read:

28 **§4253. Local early childhood programs**

29 School administrative units wishing to develop early childhood programs shall
30 submit plan proposals for approval to the department. The department shall encourage
31 broad participation and participation with regional Child Development Services System
32 sites in the program and shall provide technical assistance to local school administrative
33 units in submitting proposals. The department shall require such early childhood
34 programs to be inclusive of children with disabilities.

35 **Sec. A-5. 20-A MRSA §4255**, as enacted by PL 2005, c. 368, §1, is amended to
36 read:

1 **§4255. Coordinated early childhood programs for children 4 years of age**

2 **1. Approval process for early childhood education.** Any school administrative unit
3 that wishes to develop an early childhood program for children 4 years of age must
4 submit a proposal for approval to the department. Evaluation of the proposal must
5 include consideration of at least the following factors:

6 A. Demonstrated coordination with other early childhood programs in the
7 community to maximize resources;

8 B. Consideration of the extended child care needs of working parents; ~~and~~

9 C. Provision of public notice regarding the proposal to the community being served,
10 including the extent to which public notice has been disseminated broadly to other
11 early childhood programs in the community; and

12 D. Inclusion of children with disabilities.

13 **2. Rulemaking.** The department may adopt rules to implement this section, and any
14 rules adopted must include standards for early childhood programs for children 4 years of
15 age that are developed by school administrative units. Rules adopted pursuant to this
16 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
17 Rules adopted pursuant to this subsection must be consistent with common early
18 childhood standards adopted pursuant to section 7213, subsection 3, paragraph B and
19 section 7214.

20 **Sec. A-6. 20-A MRSA §7001, sub-§1-A,** as enacted by PL 2005, c. 662, Pt. A,
21 §15, is amended to read:

22 **1-A. Child Development Services System.** "Child Development Services System"
23 means regional sites, or their successor sites, ~~and~~ the state intermediate educational unit
24 under section 7209, subsection 3, or its successor, and the Early Childhood Services
25 Interagency Coordinating Council under section 7211, or its successor, established to
26 ensure the provision of child find activities, early intervention services and free,
27 appropriate public education services to eligible children from birth until 6 years of age
28 and their families.

29 **Sec. A-7. 20-A MRSA §7001, sub-§1-D** is enacted to read:

30 **1-D. Child find.** "Child find" means a continuous process of public awareness
31 activities, screening and evaluation designed to locate, identify and refer as early as
32 possible all young children with disabilities and their families who are in need of Early
33 Intervention Program services or Preschool Special Education services under the federal
34 Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United
35 States Code, Section 1400 et seq.

36 **Sec. A-8. 20-A MRSA §7001, sub-§1-E** is enacted to read:

37 **1-E. Children's Cabinet.** "Children's Cabinet" means the Children's Cabinet
38 established in Title 5, chapter 439.

1 **Sec. A-9. 20-A MRSA §7001, sub-§1-F** is enacted to read:

2 **1-F. Council.** "Council" means the Early Childhood Services Interagency
3 Coordinating Council established in section 7211.

4 **Sec. A-10. 20-A MRSA §7005**, as amended by PL 2005, c. 662, Pt. A, §19, is
5 further amended to read:

6 **§7005. Early intervention and special education**

7 **1. Rulemaking.** The commissioner is authorized to adopt rules necessary for the
8 administration of this chapter and chapters 303 and 305. These rules are major
9 substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The department shall
10 identify in its regulatory agenda, when feasible, a proposed rule or provision of a
11 proposed rule that is anticipated to be more stringent than the federal statute or regulation,
12 if an applicable federal statute or regulation exists.

13 During the consideration of any proposed rule, when feasible, and using information
14 available to it, the department shall identify provisions of the proposed rule that the
15 department believes would impose a regulatory burden more stringent than the burden
16 imposed by the corresponding federal statute or regulation, if such a federal statute or
17 regulation exists, and explain in a separate section of the basis statement the justification
18 for the difference between the agency rule and the federal statute or regulation.

19 **2. Joint rulemaking.** The Commissioner of Health and Human Services has joint
20 rule-making authority with the commissioner as necessary for adoption of interagency
21 standards across the department and the Department of Health and Human Services and
22 for the implementation of the federal Individuals with Disabilities Education Act, Part B,
23 Section 619 and Part C, 20 United States Code, Section 1400 et seq. Rules adopted
24 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
25 subchapter 2-A. The provisions of subsection 1 regarding the regulatory agenda,
26 regulatory burden and justification of difference between rule and federal statute or
27 regulation apply to rules adopted under this subsection. This subsection does not
28 diminish any authority of the Department of Health and Human Services, the
29 Commissioner of Health and Human Services or a designee of the commissioner to enact
30 rules that are not under rule-making authority with the Commissioner of Education.

31 **Sec. A-11. 20-A MRSA §7209, sub-§1**, as enacted by PL 2005, c. 662, Pt. A,
32 §30, is amended to read:

33 **1. Department of Education.** The department shall serve as the lead agency for the
34 statewide system pursuant to 20 United States Code, Section 1435, including the
35 identification and coordination of all available resources within the State for services to
36 eligible children from birth ~~to under~~ until 3 years of age, and shall exercise general
37 supervisory authority over child find as provided in 20 United States Code, Section 1412
38 (a) (3) and the provision of a free, appropriate public education to children at least 3 years
39 of age and under 6 years of age. This subsection is subject to the provisions of 20 United
40 States Code, Section 1435(a)(10).

1 A. The commissioner or the commissioner's designee is responsible for developing
2 and adopting rules necessary to carry out the provisions of the federal Individuals
3 with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States
4 Code, Section 1400 et seq.

5 B. During the period from July 1, 2006 to September 30, ~~2007~~ 2008, the department,
6 in a manner consistent with the authority of the board of directors of an intermediate
7 educational unit, ~~shall only~~ may approve the annual entitlement plan and the budget
8 for an intermediate educational unit pursuant to subsection 6 or 6-A, as appropriate,
9 only in accordance with the following.

10 (1) The department shall approve the entitlement plan and the budget if the
11 provisions of the entitlement plan and the budget are in compliance with the
12 statewide standards established by the state intermediate educational unit
13 pursuant to subsection 3 for the purpose of ensuring coordinated service delivery
14 in each region of the State.

15 (2) In the event that the department determines that the provisions of the annual
16 entitlement plan and the budget presented by a board of directors of an
17 intermediate educational unit are not in compliance with the statewide standards
18 established pursuant to subsection 3, the department shall require the board of
19 directors of the intermediate educational unit to revise and resubmit the annual
20 entitlement plan and the budget in a reasonable amount of time as determined by
21 the commissioner.

22 (3) In the event the provisions of the resubmitted annual entitlement plan and the
23 budget are not in compliance with the statewide standards established pursuant to
24 subsection 3, the department is authorized to determine and approve an
25 appropriate, final annual entitlement plan and a budget for the intermediate
26 educational unit that is in compliance with the statewide standards established
27 pursuant to subsection 3.

28 This paragraph is repealed September 30, ~~2007~~ 2008.

29 C. The commissioner or the commissioner's designee is responsible for ensuring
30 legal and policy compliance throughout the early childhood special education
31 program by reviewing or performing regular audits of program records.

32 D. The commissioner or the commissioner's designee is responsible for ensuring
33 fiscal compliance throughout the early childhood special education program by
34 reviewing or performing regular audits of program records.

35 E. The department, in consultation with regional sites, shall develop an action plan
36 with timelines to achieve compliance with federal or state law. The department may
37 assume temporary ~~responsibilities~~ responsibility for operations at a regional site that
38 fails to meet compliance requirements. The department shall report at least quarterly
39 to the council, to the state-level advisory committee established in subsection 2 and to
40 other advisory or oversight bodies that may be appropriate about individual sites that
41 are under an action plan and about individual sites for whose operations the
42 department has taken temporary responsibility. These reports must describe any
43 progress or slippage by individual sites in meeting compliance requirements. For an
44 individual site under an action plan, the reports must describe how long the

1 department expects the site to remain under an action plan. For an individual site for
2 whose operation the department has taken temporary responsibility, the reports must
3 describe when the department expects to return responsibility to the site.

4 This paragraph is repealed September 30, 2008.

5 E-1. The department, in consultation with regional sites, shall develop an action plan
6 with timelines to achieve compliance with federal or state law. The department may
7 assume temporary responsibility for operations at a regional site that fails to meet
8 compliance requirements. The department shall report at least quarterly to the
9 council and to other advisory or oversight bodies that may be appropriate about
10 individual sites that are under an action plan and about individual sites for whose
11 operations the department has taken temporary responsibility. These reports must
12 describe any progress or slippage by individual sites in meeting compliance
13 requirements. For an individual site for whose operations the department has taken
14 temporary responsibility, the reports must describe when the department expects to
15 return responsibility to the site.

16 This paragraph takes effect September 30, 2008.

17 F. The department shall make annual grant allocations from available funds to Child
18 Development Services System regional sites in accordance with a funding formula
19 developed by the department in consultation with the regional sites and adopted by
20 rule.

21 (1) The funding formula must include consideration of the costs associated with
22 administration and organization of the Child Development Services System, child
23 find, case management and provision of other services. The funding formula
24 must take into consideration other factors, which may include but are not limited
25 to a regional site's geographic area, the general population of children from birth
26 until 6 years of age, the number of such children served in the previous year, the
27 number of such children included in the child count over a 3-year period, the
28 average Medicaid enrollment rate, poverty indices, the average rate at which
29 families access private insurance in defrayment of costs for services provided by
30 the Child Development Services System, the extent to which families have a
31 choice of service providers, and cost containment measures.

32 (2) The rule establishing the funding formula is a major substantive rule as
33 defined in Title 5, chapter 375, subchapter 2-A.

34 **Sec. A-12. 20-A MRSA §7209, sub-§2**, as enacted by PL 2005, c. 662, Pt. A,
35 §30, is amended to read:

36 **2. State-level advisory committee.** The state-level advisory committee is
37 established for the period from July 1, 2006 to September 30, ~~2007~~ 2008 to advise on the
38 provisions of this section. Members of the state-level advisory committee are appointed
39 by the commissioner and must include representatives from each board of directors of a
40 regional site described in subsection 5, the early childhood education consultant and the
41 director of early childhood special education within the department. This subsection is
42 repealed September 30, ~~2007~~ 2008.

1 **Sec. A-13. 20-A MRSA §7209, sub-§3**, as enacted by PL 2005, c. 662, Pt. A,
2 §30, is amended to read:

3 **3. State intermediate educational unit.** The commissioner shall establish and
4 supervise the state intermediate educational unit. The state intermediate educational unit
5 is established as a body corporate and politic and as a public instrumentality of the State
6 for the purpose of conducting child find activities as provided in 20 United States Code,
7 Section 1412 (a) (3) for children from birth ~~to under~~ until 6 years of age, ensuring the
8 provision of early intervention services for eligible children from birth ~~to under~~ until 3
9 years of age and ensuring a free, appropriate public education for eligible children at least
10 3 years of age and under 6 years of age. For the period from July 1, 2006 to September
11 30, ~~2007~~ 2008, the state intermediate educational unit shall perform the following
12 statewide coordination and administration functions:

13 A. Establish standard policies and procedures for a statewide salary and benefits
14 administration system, including personnel classifications, position descriptions and
15 salary ranges, and a standard package of health, retirement and other fringe benefits
16 for Child Development Services System personnel, which must be included in the
17 annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

18 B. Develop a statewide salary and benefits administration system and perform the
19 payroll functions for Child Development Services System personnel;

20 C. Establish a centralized system for statewide fiscal administration to be
21 implemented by September 1, ~~2006~~ 2007. The state intermediate educational unit
22 shall establish internal controls and implement accounting policies and procedures in
23 accordance with standards set forth by the State Controller;

24 D. Develop and implement a centralized data management system to be fully
25 operational beginning July 1, 2007;

26 E. Establish a standard, statewide template for regional site contracts with
27 therapeutic service providers, including policies and procedures for the review of
28 contracts, that must be included in the annual entitlement plan described in subsection
29 1, beginning in fiscal year 2006-07;

30 F. Refine program accountability standards for compliance with federal mandates
31 that must be included in the annual entitlement plan described in subsection 1,
32 including the development of a performance review system to monitor and improve
33 regional site performance through the use of efficiency ratings aligned with the
34 accountability standards and through a compliance plan that requires the regional site
35 to address the unmet needs of eligible children in accordance with specific targets and
36 time frames;

37 G. Design and implement a statewide plan to provide professional development and
38 training to Child Development Services System personnel; and

39 H. Employ professional and other personnel, including those necessary to ensure the
40 implementation of the centralized fiscal and data management systems. All state
41 intermediate educational unit employees are employees for the purposes of the Maine
42 Tort Claims Act.

1 **Sec. A-14. 20-A MRSA §7209, sub-§4**, as enacted by PL 2005, c. 662, Pt. A,
2 §30, is amended to read:

3 **4. Director of early childhood special education.** The commissioner shall appoint
4 and supervise a director of early childhood special education. The director shall
5 collaborate with the state-level advisory committee established under subsection 2, the
6 Commissioner of Health and Human Services and the council in a manner consistent with
7 this chapter and 20 United States Code, Section 1441. Beginning September 30, 2008,
8 the director shall collaborate with the Commissioner of Health and Human Services and
9 with the council in a manner consistent with this chapter and 20 United States Code,
10 Section 1441. The director has the following powers and duties:

11 A. To administer the state intermediate educational unit established under subsection
12 3. The director, in collaboration with the council, shall ~~develop~~ ensure the
13 development of operating policies and ~~establish~~ establishment of organizational and
14 operational procedures that include supervision, monitoring, data and accountability
15 structures and the assignment of financial responsibility in accordance with the
16 interagency agreements under section 7213 and state and federal law and regulation;

17 B. To ~~develop~~ ensure, in collaboration with the council, the development of
18 statewide policies and procedures for carrying out federal and state laws and rules
19 relating to child find, early intervention services and the provision of a free,
20 appropriate public education to children from birth ~~to under~~ until 6 years of age; and

21 C. To ~~provide~~ ensure the provision of training in federal and state laws, regulations,
22 rules and policies relating to child find as provided in 20 United States Code, Section
23 1412 (a) (3), early intervention services and the provision of a free, appropriate public
24 education to children from birth ~~to under~~ until 6 years of age and to conduct regular
25 file reviews to determine compliance with federal and state laws, regulations, rules
26 and policies and conduct training and provide technical assistance where deficiencies
27 are found;

28 D. To ensure the monitoring and supervision of support and services provided to
29 eligible children and their families, timelines, personnel qualifications and
30 compliance with state and federal laws and regulations; and

31 E. To report annually to the council and to the joint standing committee of the
32 Legislature having jurisdiction over education and cultural affairs and to the joint
33 standing committee of the Legislature having jurisdiction over health and human
34 services matters on the performance of the Child Development Services System.
35 This report must include information on any expansions of the connections of child
36 find and service delivery with school administrative units, with the Department of
37 Health and Human Services and with medical providers. This report may include
38 information on any expansion of the connection of child find with nurse midwives.
39 This report must include information on the number of children screened in the
40 programs in Title 22, sections 1532, 8824 and 8943, the number of such children
41 referred to the Child Development Services System who were found eligible for early
42 intervention and the number of such children referred to the Child Development
43 Services System who were found ineligible for early intervention. This report must
44 also include information on annual performance over at least a 5-year period of each

1 individual regional site and of the entire Child Development Services System; must
2 benchmark performance against state and national standards; must include
3 information about performance in child find, service delivery, service coordination,
4 eligibility and exit data for children leaving the Child Development Services System;
5 and must describe strategies that the Child Development Services System has
6 undertaken to maximize the usage of a broad base of community resources including
7 private providers, public schools, resources from other agencies and other available
8 resources serving children and families. The report must include a copy of the
9 interagency agreements under section 7213. The report must be publicly posted on
10 the website of the department.

11 **Sec. A-15. 20-A MRSA §7209, sub-§6**, as enacted by PL 2005, c. 662, Pt. A,
12 §30, is amended to read:

13 **6. Regional site board of directors; annual entitlement plan; site budget**
14 **approval.** A board of directors of a regional site is entitled to receive annual grant award
15 allocations that are approved by the department in accordance with the approval
16 provisions for the annual entitlement plan and the budget for a regional site pursuant to
17 subsection 1, paragraph B. This subsection is repealed ~~September 30, 2007~~ July 1, 2008.

18 **Sec. A-16. 20-A MRSA §7209, sub-§6-A** is enacted to read:

19 **6-A. Regional site board of directors; annual entitlement plan; site budget**
20 **approval; July 1, 2008 to September 30, 2008.** A board of directors of a regional site is
21 entitled to receive annual grant award allocations in accordance with the funding formula
22 described in subsection 1, paragraph F that are also approved by the department in
23 accordance with the approval provisions for the annual entitlement plan and the budget
24 for a regional site pursuant to subsection 1, paragraph B. This subsection takes effect
25 July 1, 2008. This subsection is repealed September 30, 2008.

26 **Sec. A-17. 20-A MRSA §7209, sub-§6-B** is enacted to read:

27 **6-B. Regional site board of directors; annual entitlement plan; site budget**
28 **approval; effective September 30, 2008.** A board of directors of a regional site is
29 entitled to receive annual grant award allocations in accordance with the funding formula
30 described in subsection 1, paragraph F. This subsection takes effect September 30, 2008.

31 **Sec. A-18. 20-A MRSA §7209, sub-§8**, as enacted by PL 2005, c. 662, Pt. A,
32 §30, is amended to read:

33 **8. Regional site; duties and obligations.** A The board of directors of a regional site
34 ~~shall~~ has the duty and responsibility to:

35 A. Ensure provision of child find activities as required by the federal Individuals
36 with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

37 B. Ensure provision of ~~child count~~ child count activities as required by the federal
38 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et
39 seq.;

1 C. Ensure appropriate data collection, training, staff development and direct service
2 provision to eligible children with disabilities, from birth ~~to under~~ until 3 years of
3 age, in accordance with Part C of the federal Individuals with Disabilities Education
4 Act, 20 United States Code, Section 1400 et seq.;

5 D. Ensure that eligible children with disabilities, from birth ~~to under~~ until 3 years of
6 age, receive early intervention services, including service coordination, in accordance
7 with the payment provisions established by the State;

8 E. Ensure that eligible children with disabilities, from 3 years of age ~~to under~~ until 6
9 years of age, receive free, appropriate public education services, ~~in collaboration~~
10 including service coordination, with the regional site collaborating with school
11 administrative units when possible;

12 F. Coordinate with eligible families the development of individualized family service
13 plans for children with disabilities from birth to 2 years of age or coordinate an
14 individualized education program for a child from 3 years of age ~~to under~~ until 6
15 years of age unless an individualized family service plan is preferred; ~~and~~

16 G. Designate local personnel for training to commit funds for free, appropriate public
17 education. Personnel who commit funds for free, appropriate public education must
18 be trained and certified by the state intermediate educational unit established under
19 subsection 3. The board of directors of a regional site shall determine and designate
20 which trained and certified personnel may commit funds; ~~and~~

21 H. Ensure, in accordance with major substantive rules adopted by the commissioner
22 under section 7005, subsection 1, that children from birth until 6 years of age who are
23 referred to the Child Development Services System also receive appropriate referrals
24 for support outside of the system, including appropriate public and private resources,
25 regardless of the child's eligibility for early intervention or free, appropriate public
26 education.

27 **Sec. A-19. 20-A MRSA §7210**, as enacted by PL 2005, c. 662, Pt. A, §30, is
28 amended to read:

29 **§7210. Conflict of interest**

30 Notwithstanding Title 5, section 18, subsection 1, paragraph B, all members of the
31 state-level advisory committee established under section 7209, subsection 2, all members
32 of the council established under section 7211 and all employees, contractors, agents and
33 other representatives of the state intermediate educational unit are deemed executive
34 employees solely for purposes of Title 5, section 18. The department shall provide
35 training to participants to ensure compliance with conflict of interest requirements.

36 This section is repealed September 30, 2008.

37 **Sec. A-20. 20-A MRSA §7210-A** is enacted to read:

38 **§7210-A. Conflict of interest**

39 Notwithstanding Title 5, section 18, subsection 1, paragraph B, all members of the
40 council established under section 7211 and all employees, contractors, agents and other

1 representatives of the state intermediate educational unit are deemed executive employees
2 solely for purposes of Title 5, section 18. The department shall provide training to
3 participants to ensure compliance with conflict of interest requirements.

4 This section takes effect September 30, 2008.

5 **Sec. A-21. 20-A MRSA §7211** is enacted to read:

6 **§7211. Early Childhood Services Interagency Coordinating Council**

7 The Early Childhood Services Interagency Coordinating Council, as established in
8 Title 5, section 12004-G, subsection 8-B, is established as an advisory body to the State
9 regarding the coordination of policies and programs aimed at implementing the federal
10 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.
11 The membership of the council must meet the requirements of this section and must also
12 be in keeping with the federal requirements for a state interagency coordinating council in
13 the federal Individuals with Disabilities Education Act, 20 United States Code, Section
14 1441. Appointments to the council must be made by the Governor for terms defined in
15 rules adopted by the commissioner under section 7005, subsection 1. In making
16 appointments to the council, the Governor shall ensure that the membership of the council
17 reasonably represents the population of the State. The council shall meet as often as
18 necessary as determined by the officers of the council but not less than quarterly. The
19 council shall meet in such places as the council determines necessary. The meetings must
20 be publicly announced and, to the extent appropriate, open and accessible to the general
21 public and must comply with freedom of access laws under Title 1, chapter 13,
22 subchapter 1. The commissioner shall adopt rules under section 7005, subsection 1
23 describing the composition of the council, selection process and duties of the members
24 consistent with the purposes of the council.

25 **1. Recommendations.** The council shall recommend to the Governor, the Children's
26 Cabinet, the commissioner and the Commissioner of Health and Human Services, with
27 the advice of the regional site boards of directors, legislation that is needed to maintain or
28 further develop the statewide system, for children from birth until 6 years of age, of
29 quality early intervention services, early childhood special education services and related
30 early childhood services.

31 **2. Consider issues.** The council shall consider, with the advice of the regional site
32 boards of directors and the state intermediate educational unit established under section
33 7209, subsection 3, contemporary issues affecting early intervention services, early
34 childhood special education services and related early childhood services in the State,
35 including but not limited to the following:

36 A. Successful strategies for early intervention, early childhood special education and
37 related early childhood services;

38 B. Personnel preparation and continuing education;

39 C. Child find activities and methods as required by the federal Individuals with
40 Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

1 D. Public awareness as required by the federal Individuals with Disabilities
2 Education Act, 20 United States Code, Section 1400 et seq.;

3 E. Contemporary research;

4 F. Monitoring and supervision;

5 G. Interagency issues, including but not limited to interagency agreements under
6 section 7213 and common early childhood standards;

7 H. Personnel development and training; and

8 I. Data collection, analysis and reporting.

9 **3. Bylaws.** The council shall develop and adopt bylaws for its conduct.

10 **4. Advise and assist.** The council shall advise and assist the department and the
11 Department of Health and Human Services in the development and implementation of
12 rules and interagency agreements under section 7213 to be carried out by the department
13 and the Department of Health and Human Services in support of early intervention, early
14 childhood special education and related early childhood services. The council shall
15 advise and assist the department and the Department of Health and Human Services in the
16 identification of the sources of fiscal and other support for services for early intervention
17 programs, the assignment of financial responsibility to the appropriate agency or agencies
18 and the promotion of the interagency agreements under section 7213. The council shall
19 advise and assist the department in the preparation of applications and amendments to
20 applications. The council shall advise and assist the department regarding the transition
21 of toddlers with disabilities to preschool and other appropriate services. The council shall
22 also advise and assist the department regarding the transition of children from the Child
23 Development Services System to kindergarten. The council shall also advise and report
24 on common standards, interagency focus areas, annual progress, monitoring and
25 reporting, centralized interdepartmental training and tracking, development of centralized
26 data and the ongoing function of interagency agreements under section 7213.

27 **5. Chair.** The council shall annually elect one member to serve as chair. In
28 accordance with 20 United States Code, Section 1441(a)(3), a member of the council who
29 is a representative or employee of the department may not serve as chair of the council. In
30 addition, a member of the council who is a representative or employee of the Department
31 of Health and Human Services or a representative or employee of the state intermediate
32 educational unit established under section 7209, subsection 3 may not serve as chair of
33 the council.

34 **6. Compensation.** The members of the council are entitled to compensation in
35 accordance with Title 5, section 12004-G, subsection 8-B. In accordance with the federal
36 Individuals with Disabilities Education Act, 20 United States Code, Section 1441(d),
37 reasonable expenses for attending council meetings and performing council duties include
38 child care for parent representatives. Agency representatives on the council are entitled to
39 reimbursement for expenses incurred in the performance of their council duties by the
40 nominating agencies in accordance with the provisions for state employees. Consumer
41 members are entitled to reimbursement for actual and necessary expenses incurred in the
42 performance of their duties.

1 **7. Staffing.** The department, the Department of Health and Human Services and the
2 state intermediate educational unit established under section 7209, subsection 3 shall
3 together provide to the council the equivalent of one full-time professional staff position.
4 One half of the full-time-equivalent staff position must be filled by an employee or
5 employees of the department or the state intermediate educational unit, and one half of
6 the full-time-equivalent staff position must be filled by an employee or employees of the
7 Department of Health and Human Services. The department may fund its portion of the
8 staff position from funds allocated to the operation of the state intermediate educational
9 unit. The department and the Department of Health and Human Services shall use federal
10 funds received by the State under the federal Individuals with Disabilities Education Act,
11 20 United States Code, Section 1400 et seq. to fund the council staff position. The
12 department may staff the council with personnel who also staff the state advisory panel
13 described in 34 Code of Federal Regulations, Sections 300.167 to 300.169 (December
14 2006).

15 **8. Committees; advisory activities.** The council may establish committees
16 composed of members of the council. The council may also establish subcommittees
17 composed of parents, professionals, advocacy group representatives, board
18 representatives, employees and others with relevant expertise or experience, not all of
19 whom need be members of the council. Persons engaged in council business must be
20 reimbursed out of the operating budget of the council for their travel expenses and
21 incidental expenses in accordance with rules and procedures established by the council.

22 **9. Quorum.** The council shall adopt bylaws that define a quorum for the purpose of
23 conducting business of the council.

24 **10. Dispute resolution.** The council shall assist the lead agency as provided in
25 section 7209, subsection 1 in dispute resolution in a manner consistent with 20 United
26 States Code, Sections 1435(a)(10)(D) and 1435 (a)(10)(E).

27 **11. Membership.** Membership of the council must be in accordance with 20 United
28 States Code, Section 1441(b). The council must be composed as follows.

29 A. At least 20% of the members of the council must be parents of infants or toddlers
30 with disabilities or children 12 years of age or younger with disabilities. These
31 parents must have knowledge of, or experience with, programs for infants and
32 toddlers with disabilities. At least one member must be a parent of an infant or
33 toddler with a disability or a child under 6 years of age with a disability.
34 Nominations for members who are parents of infants or toddlers with disabilities or
35 children with disabilities must be submitted to the Governor by community
36 organizations and by Child Development Services System regional site boards of
37 directors. Nominations may be submitted individually by the community
38 organizations. Nominations may also be submitted by the community organizations
39 through a statewide educational advocacy alliance. Persons appointed to the council
40 under this paragraph must be nominees of community organizations or Child
41 Development Services System regional site boards of directors. At least 2 members
42 appointed under this paragraph must be nominated by the community organizations,
43 and at least one member appointed under this paragraph must be nominated by the
44 Child Development Services System regional site boards of directors. The members

- 1 appointed by the Governor under this paragraph must include at least one person
2 recommended by the commissioner from among the nominees of community
3 organizations and Child Development Services System regional site boards of
4 directors and at least one person recommended by the Commissioner of Health and
5 Human Services from among the nominees of the community organizations and
6 Child Development Services System regional site boards of directors.
- 7 B. At least 20% of the members must be public or private providers of early
8 intervention services. Nominations for such members must be submitted to the
9 Governor by the Maine Association for Community Service Providers or its
10 successor and by the Maine Child Care Directors Association or its successor. At
11 least one member must be a nominee of the Maine Association for Community
12 Service Providers, and at least one member must be a nominee of the Maine Child
13 Care Directors Association.
- 14 C. At least one member must be a Legislator.
- 15 D. At least one member must be a representative of Maine Roads to Quality or a
16 successor organization or must otherwise be involved in personnel preparation.
- 17 E. At least one member must be from the department and must have sufficient
18 authority to engage in policy planning and implementation on behalf of the
19 department and must be nominated by the commissioner.
- 20 F. At least one member must be from the Department of Health and Human Services,
21 must have sufficient authority to engage in policy planning and implementation on
22 behalf of the Department of Health and Human Services and must be nominated by
23 the Commissioner of Health and Human Services.
- 24 G. At least one member must represent MaineCare and must be nominated by the
25 Commissioner of Health and Human Services.
- 26 H. At least one member must represent a Head Start agency or program in Maine and
27 must be nominated by the Commissioner of Health and Human Services.
- 28 I. At least one member must represent the Department of Health and Human
29 Services, Division of Purchased and Support Services, Office of Child Care and Head
30 Start and must be nominated by the Commissioner of Health and Human Services.
- 31 J. At least one member must represent the Department of Professional and Financial
32 Regulation, Bureau of Insurance or its successor and must be nominated by the
33 Commissioner of Professional and Financial Regulation or the commissioner's
34 designee.
- 35 K. At least one member must be a representative nominated by an organization that
36 coordinates education for homeless children and youths.
- 37 L. At least one member must represent the state child welfare agency responsible for
38 foster care and must be nominated by the Commissioner of Health and Human
39 Services.
- 40 M. At least one member must represent state children's behavioral health services,
41 work in mental health case management and be nominated by the Commissioner of
42 Health and Human Services.

1 N. At least one member must represent the Maine Center for Disease Control and
2 Prevention, work in one or more of the newborn screening programs described in
3 Title 22, sections 1532, 8821 and 8941 and be nominated by the Commissioner of
4 Health and Human Services.

5 O. At least one member must be a representative of the United States Department of
6 the Interior, Bureau of Indian Affairs or, when there is no school operated or funded
7 by the bureau, of the United States Department of Health and Human Services, Indian
8 Health Service or a tribe or tribal council from this State.

9 P. The council may include other members selected by the Governor. Other
10 members may include members of the Children's Cabinet, members of ad hoc or
11 standing committees of the Children's Cabinet, members of task forces established by
12 the Children's Cabinet and other persons.

13 Q. A member of the council may also be a member of the state advisory panel
14 described in 34 Code of Federal Regulations, Sections 300.167 to 300.169
15 (December 2006).

16 R. A member may fulfill more than one of the requirements in paragraphs A to Q.

17 **12. Annual report to the State.** The council shall provide to the joint standing
18 committee of the Legislature having jurisdiction over education and cultural affairs, the
19 joint standing committee of the Legislature having jurisdiction over health and human
20 services matters, the Governor, the commissioner, the Commissioner of Health and
21 Human Services and the Children's Cabinet an annual report on the State's system of
22 early intervention and early childhood special education. The report must include a
23 demonstration that the funds provided for the Child Development Services System for
24 early intervention and early childhood special education under the federal Individuals
25 with Disabilities Education Act, Part B, Sections 611 and 619 and Part C, 20 United
26 States Code, Section 1400 et seq. were used to supplement and increase, and not to
27 supplant, the level of other federal, state and local funds that are available for children
28 with disabilities and that the federal funds generated under the federal Individuals with
29 Disabilities Education Act, Part B, Sections 611 and 619 and Part C were not used to
30 satisfy a financial commitment for services that would have been paid for by a health
31 agency or another agency pursuant to policy or practice but for the fact that those services
32 are now listed on the individualized family service plans or individualized education
33 programs for children with disabilities. The report must describe the activities of the
34 council under subsections 2 and 4. The report must also describe and discuss the
35 interagency agreements under section 7213, their adequacy or inadequacy and
36 suggestions for any amendments or deletions. The report must discuss service detail,
37 provider capacity, procedural safeguards, complaint data, training, barriers to
38 collaboration, aspects of the system that have functioned well, aspects of the system that
39 have functioned poorly and responses undertaken by the system to correct or improve its
40 functioning.

41 **13. Annual report to the United States Secretary of Education.** In keeping with
42 the federal Individuals with Disabilities Education Act, 20 United States Code, Section
43 1441(e)(1)(D), the council shall prepare and submit an annual report to the Governor and
44 to the United States Secretary of Education on the status of early intervention programs

1 within the State for infants and toddlers with disabilities and their families. This report
2 may be identical in whole or in part to the report prepared and submitted under subsection
3 12.

4 **Sec. A-22. 20-A MRSA §7212** is enacted to read:

5 **§7212. Interface between Child Development Services System and school**
6 **administrative units**

7 **1. Commissioner to develop consistent method for transition.** In consultation
8 with school administrative units and regional sites, the commissioner shall develop a
9 consistent method for the transition that children undergo from the Child Development
10 Services System to kindergarten and shall adopt major substantive rules for this purpose
11 under section 7005, subsection 1.

12 **2. Parental permission to share Child Development Services System records.** In
13 accordance with major substantive rules adopted by the commissioner under section
14 7005, subsection 1, a regional site shall ask the parent of a child who was served by the
15 Child Development Services System, and who was discharged, whether the parent grants
16 permission for the regional site to share Child Development Services System records with
17 the receiving public school when the child enters public school. In accordance with these
18 rules, the regional site may request parental permission at the time that the child is
19 discharged from the Child Development Services System and shall review with the parent
20 the information in the record, and the parent shall assess the pertinence of the information
21 for the receiving school district. The parent may withhold consent or may consent to the
22 Child Development Services System's sending records in whole or in part. The regional
23 site shall send to the receiving school district whatever part of the records the parent
24 consents to sharing with the receiving school district. The rules developed by the
25 commissioner to implement this subsection must be such that parental rights are not less
26 than those afforded under the federal Family Educational Rights and Privacy Act of 1974,
27 20 United States Code, Section 1232g (2006) and the federal Health Insurance Portability
28 and Accountability Act of 1996, 42 United States Code, Sections 1320d to 1320d-8
29 (2006).

30 **3. Certain programs inclusive of children with disabilities.** In accordance with
31 major substantive rules adopted by the commissioner under section 7005, subsection 1,
32 programs operated by school administrative units for children 4 years of age, including
33 prekindergartens, early kindergartens, 2-year kindergartens that enroll children 4 years of
34 age and 2-year childhood education programs that enroll children 4 years of age prior to
35 grade one, must be inclusive of children with disabilities.

36 **Sec. A-23. 20-A MRSA §7213** is enacted to read:

37 **§7213. Interagency agreements and interagency referrals**

38 The department and the Department of Health and Human Services shall develop
39 rules, policies and written interagency agreements regarding mutual support for children
40 with special needs from birth to 8 years of age. Rules adopted by the department to
41 implement this section must be adopted under section 7005, subsection 1. Rules adopted

1 jointly by the department and the Department of Health and Human Services to
2 implement this section must be adopted under section 7005, subsection 2 or under Title
3 22, section 8961, subsection 2. Rules adopted by the Department of Health and Human
4 Services to implement this section may be adopted under Title 22, section 8961,
5 subsection 1. Rules, policies and written interagency agreements developed to implement
6 this section must address:

7 **1. Responsibility for appropriate referrals.** Responsibility for appropriate
8 referrals to the department for early intervention or special education, including referrals
9 to the Child Development Services System from the metabolic abnormality detection
10 program under Title 22, section 1532, the central registry for birth defects under Title 22,
11 section 8943 and the newborn hearing program under Title 22, section 8821;

12 **2. Clear definition of positions.** Clear definition of department and Department of
13 Health and Human Services positions assigned to fulfill the responsibilities outlined in
14 the interagency agreements;

15 **3. Components of a high-quality early childhood services system.** Components
16 of a high-quality early childhood services system with attention to each of the following:

17 A. Lead agency, governance and advisory input, including local boards, councils and
18 advisory panels and the council; eligibility definitions; program administration and
19 compliance with state and federal law, regulation and policy; regional and local
20 trends and needs; and state-level agreements for cooperation and coordination;

21 B. Community-based services with common standards, including service in natural
22 environments and in least restrictive environments as appropriate, family-centered
23 services focused on the strengths of the child and family, ease of access, multiple
24 entry points or referral sources and multiple service options;

25 C. Visibility to referral sources and to the public; referral procedures and methods;
26 and name brand recognition;

27 D. Child find, including locating and identifying children, screening and assessment
28 and eligibility determination;

29 E. Service coordination and case management, including plans of care such as
30 individualized family service plans and individual education programs, and smooth
31 transitions among programs;

32 F. High-quality services, including training and technical assistance at state and local
33 levels; referral procedures and inclusive practices for employees, providers and other
34 participants; personnel standards and credentialing; professional development; and
35 consistency in eligibility and service;

36 G. Supervision and accountability, which, in accordance with the federal Individuals
37 with Disabilities Education Act, 20 United States Code, Section 1416, must include
38 monitoring of local education agencies and regional sites using quantifiable
39 indicators in each of the following priority areas and using qualitative indicators as
40 needed to adequately measure performance in the following priority areas for
41 students from 3 years of age to 8 years of age;

1 (1) Provision of a free, appropriate public education in the least restrictive
2 environment;

3 (2) State exercise of general supervisory authority, including child find, effective
4 monitoring, the use of resolution sessions, mediation, voluntary binding
5 arbitration and a system of transition services as defined in 20 United States
6 Code, Sections 1401(34) and 1437(a)(9); and

7 (3) Mitigation of disproportionate representation of racial and ethnic groups in
8 special education and related services to the extent that the representation is the
9 result of inappropriate identification.

10 Monitoring activities in this paragraph must be in accordance with the federal
11 Individuals with Disabilities Education Act, 20 United States Code, Section 1416.
12 For children from birth to 8 years of age, monitoring activities must include a focus
13 on improving developmental progress, educational results and functional outcomes
14 for all children with disabilities. Supervision and monitoring in this paragraph must
15 be in accordance with the federal Individuals with Disabilities Education Act, 20
16 United States Code, Section 1435(a)(10) and must include monitoring of programs
17 used by the State to carry out the federal Individuals with Disabilities Education Act,
18 Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq. whether
19 or not these programs or activities are receiving assistance under either Part B,
20 Section 619 or Part C of that Act, to ensure that the State complies with Part B,
21 Section 619 and Part C of that Act. For students from birth to 8 years of age the
22 supervision and monitoring in this paragraph must also include evaluation of timeline
23 compliance; timely service delivery; data collection, reporting, use and analysis with
24 interdepartmental collation to track trends and performance; data collection and
25 analysis of both process and child outcomes, including referrals, screenings,
26 compliance and exits of children from eligibility; transparent and public data-driven
27 monitoring and accountability of regional sites and providers; performance standards;
28 and use of incentives, corrections and sanctions;

29 H. Resources, supports and services, including identification of sufficient funding to
30 operate effectively; procedures and practices for contracts, billing and 3rd-party
31 billing; and efficiency; and

32 I. Problem solving and prevention, including dispute resolution among families,
33 providers and others and including local cooperation and coordination in referrals,
34 service locations and training among early intervention and early childhood special
35 education programs in the Department of Health and Human Services, public schools,
36 health organizations such as clinics and hospitals and early childhood businesses such
37 as child care and nursery schools; and

38 **4. Other components.** Components consistent with the findings and
39 recommendations of the report submitted by the Subcommittee To Study Early
40 Childhood Special Education pursuant to Public Law 2005, chapter 662, Part C, section
41 8.

42 **Sec. A-24. 20-A MRSA §7214** is enacted to read:

1 **§7214. Common early childhood standards across departments**

2 The department and the Department of Health and Human Services shall establish
3 and adopt common dual-department early childhood standards for all children from birth
4 to 8 years of age based on standards established by the National Association for the
5 Education of Young Children, the federal Individuals with Disabilities Education
6 Improvement Act of 2004, Public Law 108-446, 118 Stat. 2647 (2004) and the Division
7 for Early Childhood of the Council for Exceptional Children or its successor. These
8 standards must address, but may not be limited to, developmentally appropriate practice
9 as it relates to curricula, personnel standards, personnel training, inclusion, family-
10 centered approaches, system access, facilities, credentialing, ratios, accreditation and
11 eligibility for contracts. The standards must address service facilities, including but not
12 limited to child care, Head Start and public schools, including prekindergarten and 2-year
13 kindergarten programs. Rules adopted by the department to implement this section must
14 be adopted under section 7005, subsection 1. Rules adopted jointly by the department
15 and the Department of Health and Human Services to implement this section must be
16 adopted under section 7005, subsection 2 or under Title 22, section 8961, subsection 2.
17 Rules adopted by the Department of Health and Human Services to implement this
18 section may be adopted under Title 22, section 8961, subsection 1.

19 **Sec. A-25. 22 MRSA §1532**, as enacted by PL 1983, c. 848, §2, is amended to
20 read:

21 **§1532. Detection of cognitive disability**

22 The department ~~may~~ shall require hospitals, maternity homes and other maternity
23 services to test newborn infants, or to cause them to be tested, for the presence of
24 metabolic abnormalities ~~which~~ that may be expected to result in subsequent ~~mental~~
25 ~~deficiencies~~ cognitive disabilities. The department shall ~~promulgate~~ adopt rules to define
26 this requirement and the approved testing methods, materials, procedure and testing
27 sequences. Reports and records of those making these tests may be required to be
28 submitted to the department in accordance with departmental rules. The department may,
29 on request, offer consultation, training and evaluation services to those testing facilities.
30 The department shall adopt rules according to which it shall in a timely fashion refer
31 newborn infants with confirmed metabolic abnormalities to the Child Development
32 Services System as defined in Title 20-A, section 7001, subsection 1-A. The department
33 shall also adopt rules according to which it shall in a timely fashion refer a newborn
34 infant to the Child Development Services System if at least 6 months have passed since
35 an initial positive test result of a metabolic abnormality without the specific nature of the
36 metabolic abnormality's having been confirmed. The department and the Department of
37 Education shall execute an interagency agreement to facilitate all referrals in this section.
38 In accordance with the interagency agreement, the Department of Education shall offer a
39 single point of contact for the Department of Health and Human Services to use in
40 making referrals. Also in accordance with the interagency agreement, the Child
41 Development Services System may make direct contact with the families who are
42 referred. The referrals may take place electronically. For purposes of quality assurance
43 and improvement, the Child Development Services System shall supply to the department
44 aggregate data at least annually on the number of children referred to the Child

1 Development Services System under this section who are found eligible for early
2 intervention services and on the number of children found not eligible for early
3 intervention services. In addition, the department shall supply data at least annually to
4 the Child Development Services System on how many children in the metabolic
5 abnormality detection program were screened and how many were found to have a
6 metabolic disorder. The provisions of this section shall requirement in this section that a
7 newborn infant be tested for the presence of metabolic abnormalities that may be
8 expected to result in subsequent cognitive disability does not apply to a child if the
9 parents of a that child object to them on the grounds that the test conflicts with their
10 religious tenets and practices.

11 **Sec. A-26. 22 MRSA §8824, sub-§1-A** is enacted to read:

12 **1-A. Referral to Child Development Services System.** The department shall adopt
13 rules according to which it shall in a timely fashion refer children identified in subsection
14 1 as having a high likelihood of having a hearing impairment to the Child Development
15 Services System. The rules must also describe the timetables under which the department
16 shall refer to the Child Development Services System children identified by the
17 department in accordance with subsection 1 as having possible hearing impairment but
18 for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months
19 of age. The Department of Education and the Department of Health and Human Services
20 shall execute an interagency agreement under section 7213 to facilitate the referrals in
21 this subsection. In accordance with the interagency agreement, the Department of
22 Education shall offer a single point of contact for the Department of Health and Human
23 Services to use in making referrals. Also in accordance with the interagency agreement,
24 the Child Development Services System may make direct contact with the families who
25 are referred. The referrals may take place electronically. For purposes of quality
26 assurance and improvement, the Child Development Services System shall supply to the
27 Department of Health and Human Services aggregate data at least annually on the
28 number of children referred under this subsection who are found eligible for early
29 intervention services and on the number of children found not eligible for early
30 intervention services.

31 **Sec. A-27. 22 MRSA §8943,** as enacted by PL 1999, c. 344, §1, is amended to
32 read:

33 **§8943. Central registry**

34 The department shall establish and maintain a central registry for cases of birth
35 defects to accomplish the purposes of this chapter and facilitate research on birth defects.
36 The submission of information to and distribution of information from the central registry
37 are subject to the requirements of this chapter and other provisions of law. Information
38 that directly or indirectly identifies individual persons contained within the registry is
39 confidential and must be distributed from the registry in accordance with rules adopted by
40 the department. The department shall adopt rules according to which it will in a timely
41 fashion refer to the Child Development Services System children with confirmed birth
42 defects who may be eligible for early intervention. The department and the Department of
43 Education shall execute an interagency agreement to facilitate the referrals under this

1 3. Projected fiscal year 2008 savings compared to estimates reflected in Public Law
2 2005, chapter 662, Part D;

3 4. Problems encountered, if any, and corrective actions taken or planned;

4 5. Personnel turnover at Child Development Services System regional sites, in the
5 state intermediate educational unit and in Department of Education child development
6 services staff;

7 6. Effects, if any, on services to children; and

8 7. Long-term projections for the efficacy of the centralization plan.

9 The commissioner shall post written copies of the reports on the publicly accessible
10 website of the Department of Education.

11 **Sec. C-3. Training and support to regional site boards.** The Department of
12 Education shall develop and present to the Joint Standing Committee on Education and
13 Cultural Affairs and to the state interagency coordinating council described in the federal
14 Individuals with Disabilities Education Act, 20 United States Code, Section 1441 a plan
15 for improving training and support to Child Development Services System regional site
16 boards of directors. The Department of Education shall present the plan no later than 7
17 days after the effective date of this Act.

18 **Sec. C-4. Unmet needs monitoring.** To assess the continued provision of free,
19 appropriate public education to children after transition to public school, the Department
20 of Education shall develop a plan to review unmet needs in school administrative units
21 monthly or bimonthly and implement a pilot plan among no fewer than 6 school
22 administrative units, including a mix of small, medium and large districts. The
23 department shall, no later than January 31, 2008, present the pilot plan to the Joint
24 Standing Committee on Education and Cultural Affairs.

25 **Sec. C-5. Data linkage.** The Maine Education Policy Research Institute in the
26 University of Maine System shall deliver a report on or before January 31, 2008 to the
27 Joint Standing Committee on Education and Cultural Affairs on necessary technical and
28 legal advances that would enable data linkage to facilitate research projects that would
29 involve linkage of personally identifiable health and MaineCare data and personally
30 identifiable education data in a way that would be in compliance with federal privacy law
31 and regulation, including the federal Family Educational Rights and Privacy Act of 1974,
32 20 United States Code, Section 1232g (2006) and the federal Health Insurance Portability
33 and Accountability Act of 1996, 42 United States Code, Sections 1320d to 1320d-8
34 (2006). The institute may consult with the Office of the Attorney General and with the
35 Office of Policy and Legal Analysis for advice on identifying which, if any, state laws,
36 rules or policies would have to be changed to enable or facilitate such studies within the
37 bounds of federal law and regulation. This report must include design of a pilot study to
38 test the technical advances outlined in this section and must also investigate the
39 possibility of data linkage for assessing the effectiveness and efficiency of delivery of
40 early intervention, education and health and human services to individuals with
41 disabilities. The report may describe data linkage with a broad range of research

1 questions. The report may address how to use data linkage studies to assess the
2 effectiveness and efficiency of delivery of early intervention, education and health and
3 human services to individuals with disabilities, including the number of case managers
4 per child. A goal of such work is that the Department of Health and Human Services and
5 the Department of Education work together to determine how data systems can be
6 designed to facilitate analysis of data across departments.

7

SUMMARY

8 This bill implements the recommendations of the Subcommittee To Study Early
9 Childhood Special Education, which was established by Public Law 2005, chapter 662 to
10 study early intervention and early childhood special education services for children from
11 birth to 8 years of age. Based upon the findings of the subcommittee, including findings
12 that the Child Development Services System performs very well relative to national
13 benchmarks and findings that there is a national trend among states toward greater
14 interagency coordination and oversight, the bill builds on Maine's good performance,
15 increases interagency collaboration and increases accountability of system components to
16 the executive and legislative branches and to the public by:

17 1. Building on the current system's demonstrated strengths while making changes
18 where needs are recognized;

19 2. Keeping intact a Child Development Services System to coordinate services for
20 eligible children from birth until 5 years of age and to ensure that such children receive
21 early intervention and early childhood special education under the federal Individuals
22 with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code,
23 Section 1400 et seq.;

24 3. Maintaining the Department of Education as Maine's lead agency under the
25 federal Individuals with Disabilities Education Act while strongly promoting interagency
26 collaboration and oversight;

27 4. Expanding connections of federally mandated child find and service delivery with
28 school administrative units, with programs of the Department of Health and Human
29 Services and with medical and other providers of services to children from birth until 5
30 years of age;

31 5. Requiring the Child Development Services System to report annually to
32 legislative, advisory and governing bodies about the performance of the system, including
33 information on the performance of individual regional sites and of the system;

34 6. Requiring the Department of Education and the Department of Health and Human
35 Services to establish and adopt common dual-department early childhood standards for
36 children from birth to 8 years of age based on standards of the National Association for
37 the Education of Young Children, the federal Individuals with Disabilities Education Act
38 and the Division for Early Childhood of the Council for Exceptional Children;

39 7. Requiring Child Development Services System regional sites to ask parents of
40 children who were discharged from the Child Development Services System prior to

1 school entry to grant consent for the regional site to share relevant information from the
2 child's early intervention or early childhood special education record with the receiving
3 public school and requiring the regional sites to share this information with the public
4 school if the parent consents;

5 8. Requiring the Department of Education and the Department of Health and Human
6 Services to develop rules, policies and written interagency agreements by January 31,
7 2008 to address mutual support for children with special needs from birth to 8 years of
8 age; to assign responsibility for appropriate referrals from the Department of Health and
9 Human Services to early intervention and special education services, including referrals
10 to the Child Development Services System from the metabolic abnormality detection
11 program, the newborn hearing program and the birth defects registry; to include
12 components of a high-quality early childhood services system as outlined in the report of
13 the Subcommittee To Study Early Childhood Special Education; to include clear
14 definition of Department of Education and Department of Health and Human Services
15 positions assigned to accomplish the responsibilities outlined in the interagency
16 agreements; and to include other components consistent with recommendations of the
17 subcommittee;

18 9. Establishing the Early Childhood Services Interagency Coordinating Council as the
19 federally mandated state interagency coordinating council for services for children from
20 birth until 5 years of age under the federal Individuals with Disabilities Education Act
21 with specific membership requirements under federal and state law to advise and report
22 on common standards, interagency focus areas, annual progress, monitoring and
23 reporting, centralized interdepartmental training and tracking and development of
24 centralized data;

25 10. Requiring that staff for the Early Childhood Services Interagency Coordinating
26 Council be provided by the Department of Education and the Department of Health and
27 Human Services and requiring the council to deliver reports and advice to the
28 Commissioner of Education, the Commissioner of Health and Human Services, the Joint
29 Standing Committee on Education and Cultural Affairs and the Joint Standing Committee
30 on Health and Human Services;

31 11. Requiring the Maine Education Policy Research Institute in the University of
32 Maine System to explore and report to the Joint Standing Committee on Education and
33 Cultural Affairs on necessary technical and legal advances that would enable data linkage
34 of individually identifiable health and education data in a way that would be consistent
35 with federal laws and regulations on privacy while facilitating research projects on such
36 matters as effectiveness, efficiency and cost-effectiveness of service delivery;

37 12. Requiring the Child Development Services System to report on strategies to
38 maximize the use of a broad base of community resources, including private providers,
39 public schools, resources from other agencies and other available resources for serving
40 children and families;

41 13. Assigning to the Child Development Services System the responsibility for
42 service coordination for eligible children from birth until 5 years of age, for child find for
43 children from birth until 5 years of age, for appropriate referrals to support services and

- 1 programs outside of the system that are appropriate for children and families referred to
2 the system and for ensuring that eligible children from birth until 5 years of age receive
3 early intervention or free, appropriate public education as well as referrals to other
4 programs and services based upon child and family needs;
- 5 14. Requiring the Department of Education to develop and present to the Legislature
6 and to the Early Childhood Services State Interagency Coordinating Council a plan for
7 improving training and support to Child Development Services System regional site
8 boards of directors;
- 9 15. Allowing public schools to continue to develop, at their own pace, programs for
10 children 4 years of age while requiring that those programs be inclusive of children with
11 disabilities;
- 12 16. Changing the deadline for fiscal centralization in the Maine Revised Statutes,
13 Title 20-A, section 7209, subsection 3, paragraph C from September 30, 2006 to
14 September 30, 2007;
- 15 17. Requiring the Commissioner of Education to report to the Joint Standing
16 Committee on Education and Cultural Affairs by December 31, 2007 on the Child
17 Development Services System centralization process and authorizing the committee to
18 introduce a bill to the Second Regular Session of the 123rd Legislature on related matters;
- 19 18. Requiring the Department of Education, in consultation with Child Development
20 Services System regional sites, to develop a funding formula that must include
21 consideration of administration and organization of the Child Development Services
22 System, child find, case management and provision of other services and that may
23 include each regional site's geographic area, the early childhood population, the number
24 of such children receiving services and the number of such children included in the child
25 count, the Medicaid enrollment rate, poverty indices, average private insurance rates,
26 family choice of providers, cost containment measures and other factors;
- 27 19. Amending Title 20-A, section 7209, subsection 1 to require the Department of
28 Education to submit quarterly reports to the Early Childhood Services Interagency
29 Coordinating Council and other advisory groups about Child Development Services
30 System regional sites that are under a corrective action plan and about regional sites for
31 whose operations the Department of Education has assumed temporary responsibility,
32 with the reports describing any progress or slippage by individual regional sites in
33 meeting compliance requirements;
- 34 20. Requiring the Department of Education to develop a plan to review unmet needs
35 in school administrative units monthly or bimonthly and to implement the plan among no
36 fewer than 6 school administrative units; and
- 37 21. Requiring the Department of Education to explore the process that children
38 undergo as they transition from the Child Development Services System to kindergarten
39 in order to develop a consistent method for these transitions.