

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1607

S.P. 513

In Senate, April 23, 2019

An Act To Create the Department of Early Care and Learning

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MILLETT of Cumberland.
Cosponsored by Representative KORNFELD of Bangor and
Senators: President JACKSON of Aroostook, LIBBY of Androscoggin, MOORE of
Washington, ROSEN of Hancock, Representative: FARNSWORTH of Portland.

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

2 **CONCEPT DRAFT**

3 **SUMMARY**

4 This bill is a concept draft pursuant to Joint Rule 208.

5 This bill proposes to create the Department of Early Care and Learning as a cabinet-
6 level state agency within the executive branch of State Government. The department
7 would assume primary responsibility for matters regarding children under 6 years of age
8 in the State, including the care, health care and education of the children that are now the
9 responsibility of the Department of Health and Human Services and the Department of
10 Education. The major components of the bill are as follows.

11 **1. Definitions.** As used in this bill, unless the context otherwise indicates, the
12 following terms have the following meanings.

13 A. "Board" means the Board of Early Care and Learning.

14 B. "Commissioner" means the Commissioner of Early Care and Learning.

15 C. "Department" means the Department of Early Care and Learning.

16 D. "Early care and education" means programs and services relating to high-quality
17 care, health care and education of children under 6 years of age.

18 **2. Department; commissioner.** The department is created as a department of the
19 executive branch of State Government and a separate budget unit that has the duties,
20 responsibilities, functions, powers and authority accorded to state agencies under state
21 law. The department is administered by a commissioner who is the chief administrative
22 and executive officer of the department required by law to be appointed by the Governor
23 and confirmed by the Senate and reports directly to the Governor. The commissioner is
24 responsible for the performance and exercise of the duties, responsibilities, powers,
25 functions and authority of the department. The commissioner has the power to distribute
26 the functions and duties given to the commissioner among the various units of the
27 department to integrate the work properly and to promote the most economical and
28 efficient administration of the department. The powers and duties given to the
29 commissioner or the department are assumed and carried out by the units that the
30 commissioner designates and may in turn be delegated to subordinates by those unit
31 directors with the approval of the commissioner.

32 **3. Programs and services of department.** The department is directed to provide
33 children and families with programs and services to assist the children and families in
34 meeting essential needs, including:

35 A. Head Start and child care services;

36 B. Maternal and child health services, including home visiting programs;

37 C. Prekindergarten programs and services;

- 1 D. Child care services licensing, subsidies and quality control management;
- 2 E. Preschool special education under Part B of the federal Individuals with
- 3 Disabilities Education Act; and
- 4 F. Early intervention services for infants and toddlers under Part C of the federal
- 5 Individuals with Disabilities Education Act.

6 **4. Duties and responsibilities of department.** The department has the following
7 duties and responsibilities:

- 8 A. Administering programs and services necessary for the operation and management
- 9 of voluntary prekindergarten;
- 10 B. Administering programs and services necessary for the operation and management
- 11 of preschool and child development programs, including Head Start and child care
- 12 regulation;
- 13 C. Acting as the agent of the Federal Government to ensure that state programs and
- 14 services conform with federal requirements and to administer federal funds granted to
- 15 the State to assist in the activities of the department;
- 16 D. Assisting local units of administration in the State to ensure the availability of the
- 17 programs and services provided by the department;
- 18 E. Regulating early care and learning programs, including licensing and inspecting
- 19 the programs to ensure adherence to state law and department rules;
- 20 F. Performing functions relating to improvement in the quality, availability and
- 21 affordability of child care in the State;
- 22 G. Serving as the Head Start state collaboration office;
- 23 H. Administering the licensure and regulation of day care centers, group day care
- 24 homes and family day care homes;
- 25 I. Providing consultation and making recommendations concerning the establishment
- 26 and implementation of early care and learning services and programs;
- 27 J. Reporting and making recommendations to the Governor and the Legislature as
- 28 required by law or as determined necessary by the commissioner;
- 29 K. Performing any other duties, responsibilities or functions agreed upon between the
- 30 department and the Department of Health and Human Services; and
- 31 L. Performing any other duties, responsibilities or functions agreed upon between the
- 32 department and the Department of Education.

33 **5. Powers of department.** The department has the following powers:

- 34 A. Adopting rules and procedures to carry out department duties and responsibilities;
- 35 B. Contracting for services;
- 36 C. Hiring or assigning employees and staff;

1 D. Applying for and accepting from any other agency of government, person, group
2 or corporation any funds that may be available to carry out the duties and
3 responsibilities of the department;

4 E. In an adjudicatory proceeding conducted by the department, issuing subpoenas to
5 require the attendance and testimony of witnesses and the production of evidence or
6 discovery relating to an issue of fact in the proceeding and designating employees of
7 the department to issue such subpoenas;

8 F. Suing and being sued; and

9 G. Performing any legal act relating to the care, health care or education of children
10 under 6 years of age in the State.

11 **6. Board of Early Care and Learning.** The Board of Early Care and Learning is
12 established within the department to assist the department and commissioner in carrying
13 out the duties and responsibilities of the department.

14 A. The board consists of 9 members, including:

15 (1) The Commissioner of Health and Human Services as an ex officio member;

16 (2) The Commissioner of Education as an ex officio member;

17 (3) The Chancellor of the University of Maine System as an ex officio member;

18 (4) A representative of the business community with a demonstrated commitment
19 to education, appointed by the Governor;

20 (5) An early care and education teacher selected from a list of 3 nominees
21 provided by the Maine Education Association, appointed by the Governor;

22 (6) A parent or legal guardian of a child under 6 years of age receiving early care
23 and education services or services from a family child care provider, appointed
24 by the Governor;

25 (7) A person representing a provider of early care and education services who has
26 practical experience in the management and administration of early care and
27 education services, appointed by the Governor;

28 (8) A person with expertise in the evaluation and assessment of successful
29 preschool education programs, appointed by the Governor; and

30 (9) A pediatrician with a focus on child development or a person who is
31 nationally recognized for research in the field of educational psychology,
32 appointed by the Governor.

33 In making appointments, the Governor is directed to seek to appoint members who
34 are from geographically diverse regions of the State, who are familiar with the
35 differing interests, perspectives and needs of urban, rural and suburban regions and
36 who reflect the ethnic and racial diversity of the children of the State. Each member
37 chosen must have a demonstrated interest in and commitment to early care and
38 learning.

39 In appointing members to initial terms, the Governor is directed to designate 3
40 members for 5-year terms and 3 members for 4-year terms. Subsequent appointments

1 must be for 5-year terms. An appointed member may not serve more than 3
2 consecutive 5-year terms. A member serves until the member's successor is
3 appointed.

4 The board elects a chair from the board's membership and other officers that the
5 board considers necessary. A quorum consists of 5 members, and a quorum is
6 necessary for the board to conduct business. The board is directed to adopt bylaws to
7 govern the conduct of the board's activities. Appointed members of the board receive
8 per diem and reimbursement of expenses in conformity with the rates and allowances
9 determined for members of other state boards who receive per diem and
10 reimbursement of expenses.

11 B. The purposes of the board include:

12 (1) Consolidating and coordinating resources and public funding for early care
13 and learning to ensure the sound and coordinated development of related
14 programs and services;

15 (2) Ensuring that parents of children under 6 years of age have a decisive role in
16 the planning, operation and evaluation of programs and services that aid families
17 in the care of children under 6 years of age;

18 (3) Providing consumer education and accessibility to early care and learning
19 resources for all communities in the State;

20 (4) Advancing the quality of early care and learning to support the healthy
21 development of and preparation for success in school for children;

22 (5) Developing a seamless delivery system of early care and learning
23 administered by federal, state and local agencies and providers through local
24 points of entry;

25 (6) Developing and managing effective data collection to support necessary
26 functions of and accurately evaluate a coordinated early child care and learning
27 distribution system; and

28 (7) Reviewing and making recommendations regarding the budget of the
29 department.

30 C. The duties and responsibilities of the board include:

31 (1) Developing and overseeing the management of:

32 (a) The administration of a high-quality system of public and private early
33 care and learning;

34 (b) Subject to available funding, the implementation of a program of
35 voluntary and universally accepted high-quality early childhood education
36 for all preschool-age children in the State;

37 (c) A kindergarten readiness assessment for preschool-age children and a
38 comprehensive evaluation of early care and learning, including the
39 establishment of baseline data to inform the design and implementation of a
40 universally accessible, high-quality early care and learning program for all
41 preschool-age children in the State; and

1 (d) A workforce development system designed to support the education,
2 training and compensation of the early care and learning workforce,
3 including all family child care, infant, toddler, preschool and school-age
4 children program and services centers and providers; and

5 (2) Reporting biannually to the Governor, the Secretary of the Senate, the Clerk
6 of the House of Representatives, the joint standing committee of the Legislature
7 having jurisdiction over health and human services matters and the joint standing
8 committee of the Legislature having jurisdiction over education matters on the
9 board's and the department's activities, progress in achieving goals and
10 implementing programs of the department and progress in the State regarding
11 moving toward a system of universal early care and learning for preschool
12 children 3 to 5 years of age.

13 **7. Assistance and coordination.** All other state departments, agencies, officers and
14 employees are directed upon the request of the commissioner or board and to the extent
15 permissible by law to make available department and agency services, resources,
16 personnel and facilities to ensure the most effective coordination and use of state
17 resources, personnel and facilities for the benefit of families and children under 6 years of
18 age and to assist the department in carrying out the department's duties and
19 responsibilities.

20 **8. Transition.** By October 1, 2020, the transition regarding the reassignment of the
21 duties and responsibilities of the Department of Health and Human Services and
22 Department of Education to the department takes effect in the following ways.

23 A. All references to, responsibilities of and authority conferred upon the Department
24 of Health and Human Services and the Department of Education and the predecessors
25 of those departments regarding the powers, duties, responsibilities, programs,
26 services and functions assigned to the department are deemed to refer to and vest in
27 the department. The department is the successor in every way to the powers, duties,
28 responsibilities, programs, services and functions assigned to the Department of
29 Health and Human Services and the Department of Education as the powers, duties,
30 responsibilities, programs, services and functions pertain to the powers, duties,
31 responsibilities, programs, services and functions assumed by the department.

32 B. All accrued expenditures, assets, liabilities, balances of appropriations,
33 allocations, transfers, revenues or other available funds in an account or subdivision
34 of an account of the Department of Health and Human Services or the Department of
35 Education that pertain to the powers, duties, responsibilities, programs, services and
36 functions assumed by the department are transferred in the transition to the proper
37 accounts of the department by the State Controller or by financial order upon the
38 request of the State Budget Officer and with the approval of the Governor.

39 C. All rules of the Department of Health and Human Services and the Department of
40 Education, as they pertain to the duties of the department, that are in effect on the
41 effective date of the transition remain in effect until rescinded, revised or amended.

42 D. All contracts, agreements and compacts of the Department of Health and Human
43 Services and the Department of Education, as they pertain to the powers, duties,
44 responsibilities, programs, services and functions of the department, that are in effect

1 on the effective date of the transition remain in effect until the contracts, agreements
2 and compacts expire or are altered by the parties involved in the contracts,
3 agreements or compacts.

4 E. All records of the Department of Health and Human Services and the Department
5 of Education as they pertain to the powers, duties, responsibilities, programs, services
6 and functions of the department are transferred to the department as necessary to
7 implement the transition.

8 F. All employees and positions of the Department of Health and Human Services and
9 the Department of Education necessary to carry out the powers, duties,
10 responsibilities, programs, services and functions of the department are transferred to
11 the department.

12 G. All office equipment, furniture and other property or assets of the Department of
13 Health and Human Services and the Department of Education that are used or held
14 exclusively or principally by personnel transferred under paragraph F are transferred
15 to the department.

16 H. All transfers of employees and assets from the Department of Health and Human
17 Services and the Department of Education to the department are subject to the
18 approval of the commissioner, and a transfer of an employee or asset may not occur if
19 the commissioner determines that the employee or asset should remain with the
20 transferring department.

21 I. Employees of the department who were employees of the Department of Health
22 and Human Services or the Department of Education immediately prior to the
23 effective date of the transition retain all employee rights, privileges and benefits,
24 including sick leave, vacation and seniority, provided under the Civil Service Law or
25 collective bargaining agreements. The Department of Administrative and Financial
26 Services, Bureau of Human Resources is directed to assist the affected departments
27 with the orderly implementation of the transition under this paragraph.

28 J. The Department of Administrative and Financial Services, Bureau of the Budget is
29 directed to work with the employees of the Department of Health and Human
30 Services and the Department of Education with regard to the powers, duties,
31 responsibilities, programs, services and functions transferred to the department to
32 develop the budget for the department.