

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1715

H.P. 1226

House of Representatives, May 14, 2019

**An Act To Reorganize the Provision of Services for Children with
Disabilities from Birth to 5 Years of Age**

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.
Cosponsored by Senator CARSON of Cumberland and
Representatives: BRENNAN of Portland, GRAMLICH of Old Orchard Beach, HANDY of
Lewiston.

1 **Emergency preamble. Whereas**, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas**, this legislation moves responsibility for providing special education and
4 related services for children who are at least 3 years of age and under 6 years of age from
5 the Department of Education, Child Development Services System, the state intermediate
6 educational unit, to the school administrative units of residence of the children; and

7 **Whereas**, this legislation authorizes school administrative units to apply to the
8 Department of Education to be early adopters and take full responsibility for providing
9 special education and related services beginning in fiscal year 2019-20; and

10 **Whereas**, this legislation directs the Department of Education to ensure that any
11 transition issues relating to the elimination of the Department of Education, Child
12 Development Services Systems are addressed; and

13 **Whereas**, the Department of Education's review to ensure that transition issues are
14 addressed must be initiated before the 90-day period expires in order for the department
15 to ensure transition issues for early adopters are addressed and to ensure sufficient time
16 for the department, school administrative units that are not early adopters and a broad
17 group of stakeholders to meet and plan for the transition; and

18 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
19 the meaning of the Constitution of Maine and require the following legislation as
20 immediately necessary for the preservation of the public peace, health and safety; now,
21 therefore,

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

23 **PART A**

24 **Sec. A-1. 20-A MRSA §§7211 and 7212** are enacted to read:

25 **§7211. Early childhood special education services**

26 Notwithstanding section 7209, pursuant to 34 Code of Federal Regulations, Section
27 300.39(a), early childhood special education and related services, as defined in the federal
28 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.,
29 must be provided for children at least 3 years of age and under 6 years of age in
30 accordance with this section. For the purposes of this section, a school administrative unit
31 shall take responsibility for child find activities as provided in 20 United States Code,
32 Section 1412(a)(3) and free, appropriate public education for children with disabilities at
33 least 3 years of age and under 6 years of age beginning July 1, 2025 in accordance with
34 the phase-in provisions in subsection 1. A school administrative unit shall take
35 responsibility for its own resident children and may agree to be responsible also for
36 children outside its catchment area if approved by the department.

37 **1. Implementation phase-in; fiscal years 2020-21 to 2024-25.** A school
38 administrative unit shall submit to the department for approval a plan for providing early

1 childhood special education and related services under this section for fiscal years 2020-
2 21 to 2024-25 in accordance with the following implementation phase-in schedule. For
3 the purposes of this subsection, "baseline" means the number of children with disabilities
4 in kindergarten, grade 1 and grade 2 served in the school administrative unit during the
5 2019-20 school year.

6 A. Except for a school administrative unit that is an early adopter under section
7 7212, beginning in fiscal year 2020-21, a school administrative unit shall provide
8 services to the number of children with disabilities in kindergarten, grade 1 and grade
9 2 that is equal to at least 50% of the baseline.

10 B. Except for a school administrative unit that is an early adopter under section 7212,
11 beginning in fiscal year 2021-22, a school administrative unit shall provide services
12 to the number of children with disabilities in kindergarten, grade 1 and grade 2 that is
13 equal to at least 75% of the baseline.

14 C. Beginning in fiscal year 2022-23, a school administrative unit shall provide
15 services to 100% of the children with disabilities who are 4 years of age in the school
16 administrative unit's catchment area.

17 D. Beginning in fiscal year 2023-24, a school administrative unit shall provide
18 services to at least 50% of the children with disabilities who are 3 years of age in the
19 school administrative unit's catchment area.

20 E. Beginning in fiscal year 2024-25, a school administrative unit shall provide
21 services to 100% of the children with disabilities who are 3 years of age in the school
22 administrative unit's catchment area.

23 A school administrative unit that operates a preschool program for children who are 4
24 years of age shall ensure that children with disabilities are able to access a public
25 preschool program. A school administrative unit that operates a preschool program that
26 is not available to all children who are 4 years of age shall ensure that the school
27 administrative unit's procedures for selecting students provides for equitable access for
28 children with disabilities.

29 **2. Support.** The department shall provide technical assistance and support to school
30 administrative units that implement services approved by the commissioner. Support may
31 include first-year start-up funds from available state and federal resources as well as
32 reallocation of available Child Development Services System funds. Support may also
33 include paying the cost of administrative support approved by the department.

34 **3. Other resources for services.** The commissioner has the following
35 responsibilities regarding the provision of services under this section.

36 A. The commissioner shall consider any school administrative unit facility upgrades
37 and renovations necessary for providing special education and related services for
38 children at least 3 years of age and under 6 years of age to have Priority 1 status
39 under the School Revolving Renovation Fund under Title 30-A, section 6006-F.

40 B. The commissioner shall consider any school administrative unit space necessary
41 for providing early childhood special education and related services for children at
42 least 3 years of age and under 6 years of age as instructional space or regional

1 programs and services space under section 15672, subsection 2-A, paragraph B.
2 Shared space with a community partner is permissible, while meeting the necessary
3 licensing standards for the external spaces.

4 C. For the purposes of transporting students at least 3 years of age and under 5 years
5 of age pursuant to this section, the commissioner shall include seat belts and car seats
6 as an allowable component for bus purchases pursuant to approvals under chapter
7 215 and for the purposes of school funding under chapter 606-B.

8 D. The commissioner shall consider any administrative and technical support that
9 would enhance consistent delivery of services to children at least 3 years of age and
10 under 20 years of age.

11 E. The commissioner shall provide reimbursement for the costs of early childhood
12 special education services for eligible children provided by school administrative
13 units during the implementation phase-in under subsection 1.

14 F. The commissioner shall support regionalization of the provision of early
15 childhood special education services for eligible children at least 3 years of age and
16 under 6 years of age among school administrative units.

17 G. The commissioner shall support a school administrative unit that applies for
18 funding from the Fund for the Efficient Delivery of Educational Services established
19 pursuant to section 2651 for the purpose of regionalization of the provision of
20 services under paragraph F.

21 **§7212. Early adopters**

22 Notwithstanding section 7211, a school administrative unit may apply to the
23 department to take full responsibility for child find activities as provided in 20 United
24 States Code, Section 1412(a)(3) and free, appropriate public education for children with
25 disabilities at least 3 years of age and under 6 years of age beginning in fiscal year 2019-
26 20 or 2020-21. For purposes of this section, "early adopter" means a school
27 administrative unit that takes responsibility under this section. The department may
28 provide support to an early adopter. Support may include first-year start-up funds from
29 available state and federal resources as well as reallocation of available Child
30 Development Services System funds. Support may also include paying the cost of
31 administrative support approved by the department and support under section 7211,
32 subsections 2 and 3.

33 **Sec. A-2. Rulemaking.** The Department of Education shall adopt rules to
34 implement this Act. Rules adopted pursuant to this section are routine technical rules as
35 defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

36 **Sec. A-3. Transition provisions.** The following provisions govern the closure of
37 the Department of Education, Child Development Services System and the transition of
38 responsibility for providing special education and related services to children with
39 disabilities who are at least 3 years of age and under 6 years of age from the Department
40 of Education, Child Development Services System to the school administrative units of
41 residence.

1 **1. Implementation schedule.** Notwithstanding the Maine Revised Statutes, Title
2 20-A, section 7209, subsection 3-A, the school administrative unit of residence is
3 responsible for providing child find and special education and related services to children
4 with disabilities at least 3 years of age and under 6 years of age in accordance with this
5 subsection.

6 A. School administrative units shall fully meet their responsibilities under the federal
7 Individuals with Disabilities Education Act, Part B, Section 619 by July 1, 2025 in
8 accordance with the implementation phase-in schedule in Title 20-A, section 7211,
9 subsection 1.

10 B. Early adopter school administrative units under Title 20-A, section 7212 begin
11 serving these children in fiscal year 2019-20 or 2020-21.

12 **2. Regional sites.** The Department of Education shall adjust the Child Development
13 Services System regional sites during the implementation phase-in period in Title 20-A,
14 section 7211, subsection 1. The Child Development Services System is no longer
15 responsible for the provision of early childhood special education services to children
16 with disabilities within the school administrative units as the units implement the
17 schedule in Title 20-A, section 7211, subsection 1.

18 **3. Funds.** The funds appropriated to the Department of Education, Child
19 Development Services System must be transferred to the office of special services within
20 the Department of Education as the school administrative units become early adopters or
21 begin providing services in accordance with the implementation phase-in schedule in
22 Title 20-A, section 7211, subsection 1.

23 **4. Child Development Services System.** The Department of Education shall ensure
24 that any transition issues relating to the elimination of the Child Development Services
25 System during the 5-year implementation phase-in period in Title 20-A, section 7211 and
26 full elimination by July 1, 2025 are addressed.

27 **5. Budget.** The Department of Education shall develop a budget to include costs for
28 state positions for early intervention teams for Part C of the federal Individuals with
29 Disabilities Education Act, for Part C early intervention funding, for school
30 administrative units to serve children with disabilities at least 3 years of age and under 6
31 years of age and develop any additional statutory language necessary for the transition of
32 the Part C program to the department. All existing contracts and leases are void with the
33 deappropriation of funds from the Child Development Services System.

34 **6. Certificates.** During the first 3 years of the implementation phase-in period under
35 Title 20-A, section 7211, subsection 1, the Department of Education shall consider
36 certificates for the provision of special education for birth to 5 years of age and 5 years of
37 age to 20 years of age to be birth to 20 years of age certificates. The department shall
38 provide support to school personnel to become certified.

39 **7. Infants and toddlers with disabilities.** On July 1, 2020, the responsibility for
40 early intervention services for infants and toddlers with disabilities transfers to the office
41 of special services within the Department of Education.

1 The commissioner shall establish a statewide assessment program to measure and
2 evaluate on a continuing basis the academic achievements of students in grades 3 to 12 on
3 the accountability standards set forth in section 6209 and in department rules
4 implementing that section and other curricular requirements. The commissioner may
5 elect to provide for the use of alternative measures of student achievement in grades 9 to
6 12. This assessment applies to students in the public elementary and secondary schools,
7 in public charter schools, as that term is defined in section 2401, subsection 9, and in all
8 private schools approved for tuition whose school enrollments include at least 60%
9 publicly funded students, as determined by the previous school year's October and April
10 average enrollment. The assessment program must be adapted to meet the needs of
11 children with disabilities as defined in section 7001, subsection ~~1-A~~ 1-B or other students
12 as defined under rules by the commissioner.

13 **Sec. B-6. 20-A MRSA §7001, sub-§1-A**, as amended by PL 2011, c. 655, Pt.
14 OO, §1, is repealed.

15 **Sec. B-7. 20-A MRSA §7001, sub-§1-B**, as amended by PL 2011, c. 542, Pt. A,
16 §21, is further amended to read:

17 **1-B. Child with a disability.** "Child with a disability" means:

18 ~~A. For children from birth to under 3 years of age:~~

19 ~~(1) A child who needs early intervention services because the child has a~~
20 ~~significant developmental delay, as measured by both diagnostically appropriate~~
21 ~~instruments and procedures, in one or more of the following areas: cognitive~~
22 ~~development; physical development, including vision and hearing;~~
23 ~~communication development; social or emotional development; and adaptive~~
24 ~~development; or~~

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

28 B. For children at least 3 years of age and under 20 years of age evaluated in
29 accordance with the federal Individuals with Disabilities Education Act, 20 United
30 States Code, Section 1414, subsections (a) to (c) as measured by both standardized,
31 norm-referenced diagnostic instruments and appropriate procedures with delays or
32 impairments such that the children need special education:

33 (1) A child at least 3 years of age and under 6 years of age with a significant
34 developmental delay, at the discretion of the ~~intermediate educational unit or~~
35 school administrative unit, as defined in rules adopted by the department, in one
36 or more of the following areas: cognitive development; physical development,
37 including vision and hearing; communication development; social or emotional
38 development; or adaptive development; or

39 (2) A child with at least one of the following:

40 (a) Intellectual disability;

41 (b) Hearing impairment, including deafness;

- 1 (c) Speech or language impairment;
- 2 (d) Visual impairment, including blindness;
- 3 (e) Serious emotional disturbance;
- 4 (f) Orthopedic impairment;
- 5 (g) Autism;
- 6 (h) Traumatic brain injury;
- 7 (i) Other health impairment;
- 8 (j) Specific learning disabilities;
- 9 (k) Deafness and blindness; and
- 10 (l) Multiple disabilities.

11 **Sec. B-8. 20-A MRSA §7001, sub-§1-C**, as enacted by PL 2005, c. 662, Pt. A,
12 §15, is amended to read:

13 **1-C. Early intervention services.** "Early intervention services" means
14 developmental services that are provided under public supervision; are provided at no
15 cost except where federal or state law provides for a system of payments by families,
16 including a schedule of sliding fees; are designed to meet the developmental needs of a
17 ~~child~~ an infant or toddler with a disability, as identified by the individualized family
18 service plan team, in one or more areas including physical development, cognitive
19 development, communication development, social or emotional development and
20 adaptive development; meet the standards of the State; are provided by qualified
21 personnel; to the maximum extent appropriate, are provided in natural environments,
22 including the home, and community settings in which ~~children~~ infants or toddlers without
23 disabilities participate; and are provided in conformity with an individualized family
24 service plan.

25 **Sec. B-9. 20-A MRSA §7001, sub-§2-A**, as amended by PL 2011, c. 477, Pt. F,
26 §1, is further amended to read:

27 **2-A. Free, appropriate public education.** "Free, appropriate public education"
28 means special education and related services that are provided at public expense, under
29 public supervision and direction and without charge; meet the standards of the
30 department; include an appropriate preschool, elementary school or secondary school
31 education in the State; and are provided in conformity with the ~~individualized family~~
32 ~~service plan or individualized education program.~~ ~~The Child Development Services~~
33 ~~System shall provide free, appropriate public education to a preschool child with~~
34 ~~disabilities who reaches 5 years of age between July 1st and October 15th if that child is~~
35 ~~already receiving free, appropriate public education through the Child Development~~
36 ~~Services System and the child's individualized education program team determines, in~~
37 ~~accordance with rules adopted by the commissioner, that it is in the best interest of the~~
38 ~~child not to enroll that child in kindergarten until the start of the following school year.~~

1 **Sec. B-10. 20-A MRSA §7001, sub-§2-B**, as amended by PL 2011, c. 655, Pt.
2 OO, §2, is repealed.

3 **Sec. B-11. 20-A MRSA §7001, sub-§2-D** is enacted to read:

4 **2-D. Infant or toddler with a disability.** "Infant or toddler with a disability" means
5 a child from birth to under 3 years of age:

6 A. Who needs early intervention services because the child has a significant
7 developmental delay, as measured by both diagnostically appropriate instruments and
8 procedures, in one or more of the following areas: cognitive development; physical
9 development, including vision and hearing; communication development; social or
10 emotional development; and adaptive development; or

11 B. With a diagnosed physical or mental condition that has a high probability of
12 resulting in a developmental delay, with the condition being such that the child needs
13 early intervention services.

14 **Sec. B-12. 20-A MRSA §7006**, as enacted by PL 2005, c. 662, Pt. A, §20, is
15 amended to read:

16 **§7006. Responsibility**

17 The Department of Education is designated as the state education agency responsible
18 for carrying out the State's obligations under the federal Individuals with Disabilities
19 Education Act, 20 United States Code, Section 1400 et seq., as amended. The department
20 and every school administrative unit, ~~intermediate educational unit~~, public school or other
21 public agency that receives federal or state funds to provide early intervention or free,
22 appropriate public education services to children with disabilities shall comply with the
23 federal Individuals with Disabilities Education Act, as amended, and all federal
24 regulations adopted under the Act.

25 **Sec. B-13. 20-A MRSA §7204, sub-§4**, as amended by PL 2005, c. 662, Pt. A,
26 §25, is further amended to read:

27 **4. Program approval.** Shall approve plans for all ~~early intervention and~~ special
28 education programs. The criteria for approval must include:

- 29 A. Requirements for admission;
- 30 B. Qualification or certification of staff;
- 31 C. Plan of instruction;
- 32 D. Adequacy of facilities;
- 33 E. Adequacy of supportive services;
- 34 F. Professional supervision; and
- 35 G. Teacher-student ratio;

1 **Sec. B-14. 20-A MRSA §7209, sub-§1**, as amended by PL 2011, c. 655, Pt. OO,
2 §4, is further amended to read:

3 **1. Department of Education.** The department shall serve as the lead agency for the
4 statewide system pursuant to 20 United States Code, Section 1435, including the
5 identification and coordination of all available resources within the State for services to
6 eligible children from birth to under 3 years of age, and shall exercise general supervisory
7 authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and
8 the provision of a free, appropriate public education to children at least 3 years of age and
9 under 6 years of age infants and toddlers with disabilities.

10 A. The commissioner is responsible for developing and adopting rules necessary to
11 carry out the provisions of Part C of the federal Individuals with Disabilities
12 Education Act, ~~Part B, Section 619 and Part C~~, 20 United States Code, Section 1400
13 1431 et seq.

14 ~~B-1. The commissioner or the commissioner's designee is responsible for developing~~
15 ~~and implementing a funding mechanism for the operation of the state intermediate~~
16 ~~educational unit established pursuant to subsection 3 and the delivery of services to~~
17 ~~eligible children with disabilities from birth to under 6 years of age.~~

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

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

24 ~~E. The department shall develop a corrective action plan with timelines to achieve~~
25 ~~compliance with federal or state law. The department shall report at least quarterly to~~
26 ~~the state interagency coordinating council described in 20 United States Code,~~
27 ~~Section 1441, to the state advisory panel described in 34 Code of Federal~~
28 ~~Regulations, Sections 300.167 to 300.169 and to other advisory bodies that may be~~
29 ~~appropriate about individual regional sites that are under a corrective action plan.~~
30 ~~These reports must describe any progress or slippage by individual regional sites in~~
31 ~~meeting compliance requirements. For an individual regional site under a corrective~~
32 ~~action plan, the reports must describe how long the department expects the regional~~
33 ~~site to remain under a corrective action plan.~~

34 F. The department is responsible for the provision of early intervention services to
35 eligible infants and toddlers with disabilities and their families. The department shall
36 employ or contract with appropriate qualified personnel to provide these early
37 intervention services.

38 **Sec. B-15. 20-A MRSA §7209, sub-§3**, as amended by PL 2011, c. 655, Pt. OO,
39 §4, is repealed.

40 **Sec. B-16. 20-A MRSA §7209, sub-§3-A**, as amended by PL 2017, c. 284, Pt.
41 AAAAAA, §§1 and 2, is repealed.

1 **Sec. B-17. 20-A MRSA §7209, sub-§4**, as amended by PL 2017, c. 284, Pt. SSS,
2 §1, is repealed and the following enacted in its place:

3 **4. State level early childhood special education and intervention services staff.**
4 A director of special services designated by the commissioner shall hire and supervise a
5 director of early childhood special education and intervention services to oversee the
6 implementation of services under the federal Individuals with Disabilities Education Act,
7 Part B, Section 619 and Part C.

8 **Sec. B-18. 20-A MRSA §7210**, as enacted by PL 2005, c. 662, Pt. A, §30, is
9 repealed.

10 **Sec. B-19. 20-A MRSA §7252-A**, as amended by PL 2005, c. 662, Pt. A, §31, is
11 further amended to read:

12 **§7252-A. Special education programs; approval**

13 ~~Early intervention and special~~ Special education programs may be established for the
14 delivery of ~~early intervention and~~ special education services to children with disabilities
15 in accordance with section 7204, subsection 4. ~~An early intervention program may be~~
16 ~~provided by an intermediate educational unit, an approved private school or a state~~
17 ~~licensed agency.~~ A special education program may be offered by a school administrative
18 unit, an approved private school or a state licensed agency. All ~~early intervention and~~
19 special education programs offered by approved private schools or state licensed agencies
20 must:

21 **1. Supervision.** Be provided under the supervision of the school administrative unit
22 responsible for the education of the child with a disability enrolled in the program;

23 **2. Description.** Be described in a master contractual agreement between the agency
24 or private school and the commissioner; and

25 **3. Approval.** Be approved in advance of the enrollment of any child with a
26 disability.

27 **Sec. B-20. 20-A MRSA §7252-B**, as amended by PL 2005, c. 662, Pt. A, §32, is
28 further amended to read:

29 **§7252-B. Early intervention; special education services; approval**

30 The commissioner shall adopt or amend rules to define allowable early intervention
31 and special education services and the qualifications of individuals who provide early
32 intervention or special education services. ~~Each intermediate educational unit, approved~~
33 ~~private school or state licensed agency providing early intervention services shall submit~~
34 ~~a report at such time and in such form as the commissioner may require.~~ Each school
35 administrative unit, approved private school or state licensed agency providing special
36 education services shall submit a report at such time and in such form as the
37 commissioner may require.

1 **Sec. B-21. 20-A MRSA §13022, sub-§1-A**, as enacted by PL 2011, c. 386, §2, is
2 amended to read:

3 **1-A. Scope of services.** A school psychologist delivers services to children from
4 birth to grade 12 who are eligible to be enrolled in educational ~~and intermediate~~
5 ~~educational~~ units, special education programs and approved private schools. The services
6 delivered are the services articulated under the domains of practice in the current Model
7 for Comprehensive and Integrated School Psychological Services developed and
8 published by the National Association of School Psychologists.

9 **Sec. B-22. 20-A MRSA §13024, sub-§1, ¶D**, as amended by PL 2017, c. 235,
10 §28 and affected by §41, is further amended to read:

11 D. Personnel for whom certification is not required prior to being hired or being
12 placed under contract by a public school ~~or an intermediate educational unit~~.

13 **Sec. B-23. 22 MRSA §1532, sub-§2**, as enacted by PL 2013, c. 397, §1, is
14 amended to read:

15 **2. Referrals.** The department shall in a timely fashion refer newborn infants with
16 confirmed treatable congenital, genetic or metabolic conditions or critical congenital
17 heart disease to the ~~Child Development Services System as defined in Title 20-A, section~~
18 ~~7001, subsection 1-A Department of Education~~. The department shall in a timely fashion
19 refer a newborn infant to the ~~Child Development Services System~~ Department of
20 Education if at least 6 months have passed since an initial positive test result of a treatable
21 congenital, genetic or metabolic condition without the specific nature of the condition
22 having been confirmed. The department and the Department of Education shall execute
23 an interagency agreement to facilitate all referrals made pursuant to this section. In
24 accordance with the interagency agreement, the Department of Education shall offer a
25 single point of contact for the Department of Health and Human Services to use in
26 making referrals. Also in accordance with the interagency agreement, the ~~Child~~
27 ~~Development Services System~~ Department of Education may make direct contact with
28 the families of children who are referred. The referrals may be made electronically. For
29 purposes of quality assurance and improvement, the ~~Child Development Services System~~
30 Department of Education shall supply aggregate data to the department at least annually
31 on the numbers of children referred to the ~~Child Development Services System~~
32 Department of Education under this section who were found eligible and ineligible for
33 early intervention services. The department shall supply data at least annually to the
34 ~~Child Development Services System~~ Department of Education on how many children in
35 the newborn blood spot screening program as established by rule of the department under
36 section 1533, subsection 2, paragraph G were screened and how many were found to have
37 a disorder.

38 **Sec. B-24. 22 MRSA §3174-PP, sub-§1**, as enacted by PL 2009, c. 643, §1, is
39 amended to read:

40 **1. Consultation.** Prior to adopting or amending any rule that pertains to the
41 administration of a program of Medicaid coverage established by the department pursuant
42 to this chapter for services that qualify for reimbursement and are provided through the

1 auspices of the ~~Child Development Services System~~ and school administrative units in
2 accordance with the federal Individuals with Disabilities Education Act, 20 United States
3 Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the
4 following interested parties on the proposed adoption or amendment of rules:

- 5 A. The Commissioner of Education or the commissioner's designee;
- 6 B. The Executive Director of the Maine School Management Association or the
7 executive director's designee;
- 8 C. The executive director of a statewide organization of administrators of services
9 for children with disabilities or the executive director's designee;
- 10 D. The executive director of a statewide organization for disability rights or the
11 executive director's designee; and
- 12 E. The Executive Director of the Maine Developmental Disabilities Council or the
13 executive director's designee.

14 **Sec. B-25. 22 MRSA §3739, sub-§2**, as amended by PL 2017, c. 407, Pt. A, §79,
15 is further amended to read:

16 **2. Membership.** The council has a minimum of ~~28~~ 27 members, appointed as
17 follows:

- 18 A. One employee of the department's office of integrated access and support who is
19 responsible for child care services, appointed by the commissioner;
- 20 B. The employee of the Department of Health and Human Services, Office of Child
21 Care and Head Start who serves as the state child care administrator, or the state child
22 care administrator's designee;
- 23 C. One employee of the division within the department concerned with children's
24 behavioral health services, appointed by the commissioner;
- 25 D. Two employees of the Department of Education, one of whom represents special
26 education programs and one of whom oversees public programs for children 4 years
27 of age, appointed by the Commissioner of Education;
- 28 E. One employee who serves as the state Head Start collaboration director, or the
29 state Head Start collaboration director's designee;
- 30 F. The State Fire Marshal or the State Fire Marshal's designee;
- 31 G. One employee of the organizational unit of the department that provides programs
32 and services for substance use disorder prevention and treatment, appointed by the
33 commissioner;
- 34 H. One employee of the Department of Economic and Community Development,
35 appointed by the Commissioner of Economic and Community Development;
- 36 I. One member of the Senate, appointed by the President of the Senate;
- 37 J. Two members of the House of Representatives, at least one of whom may not be
38 from the party with the most members in the House of Representatives, appointed by
39 the Speaker of the House of Representatives;

- 1 K. One parent or other consumer who receives a child care subsidy at the time of
2 that parent's or consumer's appointment, appointed by the Governor;
- 3 L. One parent or other consumer of child care services who does not receive a child
4 care subsidy, appointed by the Governor;
- 5 M. One business representative nominated by the Maine Chamber of Commerce and
6 Industry, appointed by the Governor;
- 7 N. One center-based care representative nominated by the Maine Child Care
8 Directors' Association, appointed by the Governor;
- 9 O. One Head Start provider nominated by the Maine Head Start Directors'
10 Association, appointed by the Governor;
- 11 P. One family child care provider nominated by an association of family child care
12 providers in the State, appointed by the Governor;
- 13 Q. One person representing Native Americans, appointed by the Governor;
- 14 R. One child care provider who does not receive public funds, appointed by the
15 Governor;
- 16 S. One person representing a nonprofit advocacy organization dedicated to
17 improving the lives of children, youth and their families, appointed by the Governor;
- 18 ~~T. One person associated with a Child Development Services System site, appointed
19 by the Governor;~~
- 20 U. One person representing a collaborative partnership between the University of
21 Maine and the Department of Health and Human Services, Office of Child Care and
22 Head Start, nominated by the University of Maine Center for Community Inclusion
23 and Disability Studies, appointed by the Governor;
- 24 V. One representative of women nominated by the Maine Women's Lobby,
25 appointed by the Governor;
- 26 W. One direct service provider of child care for school-age children, nominated by
27 the University of Maine at Farmington, Maine Afterschool Network, or a successor
28 program, appointed by the Governor;
- 29 X. One person representing the University of Southern Maine, Edmund S. Muskie
30 School of Public Service, Maine Roads to Quality, or a successor program, appointed
31 by the Governor;
- 32 Y. A person representing an association of resource development centers in the State,
33 appointed by the Governor; and
- 34 Z. One person representing home-based child care providers, appointed by the
35 Governor.

36 Senators and members of the House of Representatives serve for the duration of the
37 legislative terms that they are serving when appointed. Members from state departments
38 serve at the pleasure of their appointing authorities. All other members serve 3-year
39 terms and may continue to serve beyond their terms until their successors are appointed.
40 If a vacancy occurs before a term has expired, the vacancy must be filled for the

1 remainder of the unexpired term by the authority who made the original appointment. If
2 a member is absent for 2 consecutive meetings and has not been excused by the chair
3 from either meeting, the council may remove the member by majority vote. If a
4 nominating organization does not submit nominations within a reasonable period of time,
5 the appointing authority may fill that organization's seat with a member of the public at
6 large.

7 The council shall determine whether more than ~~28~~ 27 members would assist it in its work
8 under subsections 1 and 5. If a majority of the council votes to request the appointment
9 of additional members, the council shall specify the number of additional members
10 needed and shall convey a request for the appointment of those additional members to the
11 Governor, who shall make the appointments.

12 **Sec. B-26. 22 MRSA §8301-A, sub-§1-A, ¶B,** as amended by PL 2009, c. 211,
13 Pt. B, §20, is further amended to read:

14 B. "Child care facility" means a child care center, small child care facility or nursery
15 school. "Child care facility" does not include a facility operated by a family child
16 care provider, a youth camp licensed under section 2495, programs offering
17 instruction to children for the purpose of teaching a skill such as karate, dance or
18 basketball, a formal public or private school in the nature of a kindergarten or
19 elementary or secondary school approved by the Commissioner of Education in
20 accordance with Title 20-A or a private school recognized by the Department of
21 Education as a provider of equivalent instruction for the purpose of compulsory
22 school attendance. Any program for children under 5 years of age that is located in a
23 private school ~~and programs that contract with one or more Child Development~~
24 ~~Services System sites are~~ is required to be licensed as a child care facility.

25 **Sec. B-27. 22 MRSA §8824, sub-§1-A,** as amended by PL 2007, c. 695, Pt. A,
26 §28, is further amended to read:

27 **1-A. Referral to Department of Education.** The department shall adopt rules
28 according to which it shall in a timely fashion refer children identified in subsection 1 as
29 having a high likelihood of having a hearing impairment to the ~~Child Development~~
30 ~~Services System~~ Department of Education. The rules must also describe the timetables
31 under which the department shall refer to the ~~Child Development Services System~~
32 Department of Education children identified by the department in accordance with
33 subsection 1 as having possible hearing impairment but for whom hearing impairment has
34 been neither confirmed nor disconfirmed by 6 months of age. The Department of
35 Education and the Department of Health and Human Services shall execute an
36 interagency agreement to facilitate the referrals in this subsection. In accordance with the
37 interagency agreement, the Department of Education shall offer a single point of contact
38 for the Department of Health and Human Services to use in making referrals. Also in
39 accordance with the interagency agreement, the ~~Child Development Services System~~
40 Department of Education may make direct contact with the families of children who are
41 referred. The referrals may take place electronically. For purposes of quality assurance
42 and improvement, the ~~Child Development Services System~~ Department of Education
43 shall supply to the Department of Health and Human Services aggregate data at least
44 annually on the number of children referred under this subsection who are found eligible

1 for early intervention services and on the number of children found not eligible for early
2 intervention services.

3 **Sec. B-28. 22 MRSA §8943**, as amended by PL 2007, c. 450, Pt. A, §9, is further
4 amended to read:

5 **§8943. Central registry**

6 The department shall establish and maintain a central registry for cases of birth
7 defects to accomplish the purposes of this chapter and facilitate research on birth defects.
8 The submission of information to and distribution of information from the central registry
9 are subject to the requirements of this chapter and other provisions of law. Information
10 that directly or indirectly identifies individual persons contained within the registry is
11 confidential and must be distributed from the registry in accordance with rules adopted by
12 the department. The department shall adopt rules according to which it will in a timely
13 fashion refer to the ~~Child Development Services System~~ Department of Education
14 children with confirmed birth defects who may be eligible for early intervention. The
15 department and the Department of Education shall execute an interagency agreement to
16 facilitate the referrals under this section. In accordance with the interagency agreement,
17 the Department of Education shall offer a single point of contact for the Department of
18 Health and Human Services to use in making referrals. Also in accordance with the
19 interagency agreement, the ~~Child Development Services System~~ Department of
20 Education may make direct contact with the families of children who are referred. The
21 referrals may take place electronically. For purposes of quality assurance and
22 improvement, the ~~Child Development Services System~~ Department of Education shall
23 supply to the department aggregate data at least annually on the number of children
24 referred under this section who were found eligible for early intervention services and on
25 the number of children found not eligible for early intervention services. In addition, the
26 department shall supply data at least annually to the ~~Child Development Services System~~
27 Department of Education on how many children had data entered into the registry. For a
28 child whose parent or legal guardian objects on the basis of sincerely held religious
29 belief, the department may not require the reporting of information about that child to the
30 central registry or enter into the central registry information regarding birth defects of that
31 child.

32 **Sec. B-29. Effective date.** This Part takes effect July 1, 2025.

33 **Emergency clause.** In view of the emergency cited in the preamble, this
34 legislation takes effect when approved except as otherwise indicated.

35 **SUMMARY**

36 Beginning in fiscal year 2019-20 for early adopters and over a 5-year implementation
37 phase-in beginning in fiscal year 2020-21 for other school administrative units, this bill
38 moves responsibility for providing special education and related services for children
39 who are at least 3 years of age and under 6 years of age from the Department of
40 Education, Child Development Services System, the state intermediate educational unit,
41 to the school administrative units of residence of the children.

1 This bill eliminates the Child Development Services System and moves the entire
2 responsibility for providing services to children from birth to under 3 years of age to the
3 Department of Education's office of special services. The funding plan continues the
4 present arrangement of full responsibility for costs being shared among state funds,
5 federal funds, the MaineCare program and private insurers.

6 The changes provide fewer transition points, create efficiencies, eliminate duplicate
7 state functions and maximize existing services and facilities at the local level. The State
8 continues its current practice of funding all services for preschool children with
9 disabilities that are not paid for with federal funds, MaineCare funds or private funds.