

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

required for reimbursement of that expense item. If the commissioner and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision is final and both the commissioner and the county commissioners are bound by that decision.

The obligation of the Department of Corrections to reimburse counties pursuant to this section may not exceed the actual amount appropriated during fiscal years 1993-94, 1994-95, 1995-96 and 1996-97.

Notwithstanding any other statutory provision, funds provided as reimbursement to counties for housing state prisoners must be used to reduce the assessment of each municipality within the county for their due proportion of any county tax payable during the municipal year for which municipal taxes are being raised. County commissioners shall deduct from the total amount required to be assessed for county purposes an amount equal to the amount that the county commissioners estimate will be received pursuant to this subsection.

See title page for effective date.

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## CHAPTER 534

H.P. 1125 - L.D. 1581

### An Act to Improve the Child Development Services System and Encourage Collaboration in Early Childhood Programs with School Administrative Units

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

**Sec. 1. 20-A MRSA §4253**, as amended by PL 1989, c. 548, §6, is further amended to read:

#### §4253. Local early childhood programs

School administrative units wishing to develop early childhood programs shall submit plan proposals for approval to the department. The department shall encourage broad participation and participation with regional Child Development Services System sites in the grant program under section 4253-A and shall provide technical assistance to local school administrative units in submitting proposals. ~~The department shall monitor the implementation of the plans and evaluate their effectiveness before the excess costs may be included as allowable costs under section 4254, subsection 3. There shall be a grant maximum of \$50,000 under this section.~~

**Sec. 2. 20-A MRSA §4253-A**, as enacted by PL 1989, c. 548, §7, is repealed.

**Sec. 3. 20-A MRSA §4254**, as amended by PL 1989, c. 548, §8, is further amended to read:

#### §4254. Funding

**1. Allowable costs.** Allowable costs ~~shall be~~ are the ~~excess~~ cost of implementing approved plans; these costs may be added to the school unit's subsidizable costs under chapter 606.

~~**2. First and 2nd years.** Allowable costs in the first and 2nd years shall be funded through a grant made from funds appropriated for that purpose.~~

~~**3. Third and subsequent years.** For plans which have been evaluated as effective by the department, allowable costs may be added to the school units subsidized cost under chapter 606.~~

**Sec. 4. 20-A MRSA §7724, sub-§1**, as amended by PL 1993, c. 625, §2, is further amended to read:

**1. Establishment.** The Child Development Services System is established for the purpose of maintaining a coordinated service delivery system for the provision of childfind activities for children, from birth to under age 3 ~~6~~, early intervention services for eligible children, from birth to under age 3, and free, appropriate and public education services for eligible children, from age 3 to under age 6, who have a disability. The Child Development Services System consists of regional sites organized as intermediate educational units or as private nonprofit corporations, one state-level intermediate educational unit and the Interdepartmental Coordinating Council for Early Intervention advisory board. The Child Development Services System shall ensure application of the provisions of this chapter statewide through a contractual or grant relationship between the Department of Education and each regional site.

**Sec. 5. 20-A MRSA §7725, sub-§3**, as enacted by PL 1991, c. 843, §3 and amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

**3. Department.** ~~"Departments"~~ "Department" means ~~2 or more of the participating state agencies, the Department of Education, the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services.~~

**Sec. 6. 20-A MRSA §7725, sub-§4**, as amended by PL 1993, c. 625, §3, is further amended to read:

**4. Disability.** "Disability" means:

~~A. A condition of children, from birth to under age 6, who are in need of early intervention or special education services due to a delay in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or~~

~~B. For children, from birth to under age 3, a diagnosed, established condition or biological factors that have a high probability of resulting in developmental delay.~~

C. For children from birth to under age 3, developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; or adaptive development, with the delay being such that the child needs early intervention services; or a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, with the condition being such that the child needs early intervention services; or

D. For children age 3 to under age 6, evaluated in accordance with 34 Code of Federal Regulations, 300.530-534, developmental delays as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; deaf-blindness; or multiple disabilities, with the delay or impairment being such that the child needs special education and related services.

**Sec. 7. 20-A MRSA §7727, sub-§5, ¶¶C and D,** as amended by PL 1993, c. 625, §3, are further amended to read:

C. That rules are developed, adopted and implemented describing minimum standards for the following:

- (1) Least restrictive environment;
- (2) Nondiscrimination;
- (3) Rights of parents;

- (4) Free and appropriate public services;
- (5) Eligibility criteria;
- (6) The federal "childfind" program;
- (7) Program development, service descriptors and service delivery;
- (8) Early childhood team;
- (9) Individualized family service plan;
- (10) Statements of assurances;
- (11) Procedural safeguards and appeals processes;
- (12) Due process hearings;
- (13) Confidentiality of information;
- (14) Data collection, reporting and utilization;
- (15) Surrogate parents; ~~and~~
- (16) Payment Standardized procedures and rates of payment for and provision of early intervention and free appropriate public education services; and
- (17) Frequency and intensity of developmental therapy and special instruction services; and

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

**Sec. 8. 20-A MRSA §7727, sub-§5, ¶E** is enacted to read:

E. That the nonsupplanting requirement under the federal Individuals with Disabilities Education Act and its implementing regulations is addressed with the Interdepartmental Coordinating Council for Early Intervention for purposes of reporting under section 7734-C.

**Sec. 9. 20-A MRSA §7728, sub-§1,** as amended by PL 1993, c. 625, §4, is further amended to read:

**1. Federal obligations.** Develop and adopt statewide policies and rules for carrying out the provisions of this chapter to meet federal obligations under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part H, 20 United States Code, Section 1400 et seq. These obligations must include but are not limited to:

- A. Personnel standards;
- B. Comprehensive system of personnel development;
- C. Program monitoring;
- D. Data collection and data warehousing, consistent with department policies;
- E. Interagency agreements at the state level; ~~and~~
- F. Public awareness;
- G. Payment for early intervention and free appropriate public education services; and
- H. Frequency and intensity of developmental therapy and special instruction services;

**Sec. 10. 20-A MRSA 7730**, as amended by PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by c. 662, §2, is further amended to read:

**§7730. Regional site board of directors**

Each board of directors of a regional intermediate education unit or a private nonprofit corporation is responsible for governance of its activities, including the management and oversight of its general operations as established in section ~~7728~~ 7729. Membership must include representatives of the regional offices of the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services, representatives of participating school administrative units, parents of infants and children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the system is limited to work performed for the school administrative unit is exempt from the requirements of this section. Terms of membership and methods of appointment or election must be determined by board of directors bylaws, subject to approval of the department.

**Sec. 11. 20-A MRSA §7731, sub-§6**, as enacted by PL 1991, c. 843, §3, is amended to read:

**6. Contracts.** Subject to the approval of the department, enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter; Regional site boards of directors shall consider collaboration with school administrative units that are operating or that wish to develop, pursuant to

section 4253, early childhood programs in the regional board's catchment area in order to:

- A. Maximize the benefit of state interdepartmental agreements and efforts;
- B. Maximize the effective use of qualified personnel, facilities and other resources;
- C. Ensure consistent quality of early childhood programming; and
- D. Facilitate the transition process, for children and families, from the Child Development Services System to the public school system;

**Sec. 12. 20-A MRSA §7732-A, first ¶**, as enacted by PL 1993, c. 625, §10, is amended to read:

The board of directors of a private nonprofit corporation or a regional ~~local~~ intermediate educational unit shall:

**Sec. 13. 20-A MRSA §7732-A, sub-§5**, as enacted by PL 1993, c. 625, §10, is amended to read:

**5. Free, appropriate public education.** Ensure that eligible children, from age 3 to under age 6, receive free, appropriate public education services, in collaboration with school administrative units when possible;

**Sec. 14. 20-A MRSA §7733, first ¶**, as amended by PL 1995, c. 662, §7, is further amended to read:

The Interdepartmental Coordinating Council for Early Intervention, as established in Title 5, section 12004-G, subsection 8-A, is established as an advisory body to the commissioner ~~and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters~~ regarding the coordination of policies and programs aimed at implementing the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. and 34 Code of Federal Regulations, 303.650 to 303.654, July 1993.

**Sec. 15. 20-A MRSA §7733**, as amended by PL 1995, c. 662, §7, is further amended by adding a new 2nd paragraph to read:

The obligations of the Interdepartmental Coordinating Council for Early Intervention, as set forth in this section, may be met at the commissioner's discretion by any other advisory body to the commissioner required under the federal Individuals with Disabilities Education Act for school-aged children with disabilities, provided that the federal membership requirements of the Interdepartmental Coordinating Council for Early Intervention are met.

**Sec. 16. 20-A MRSA §7734-A, first ¶**, as enacted by PL 1993, c. 625, §16, is amended to read:

In addition to the programs authorized in this chapter, the commissioner may authorize expenditures to school administrative units for services for infants and children, from birth to under age 6, who are disabled, in a manner consistent with sections 4251 to 4254 and section 15603, subsection 22, paragraph D.

**Sec. 17. 20-A MRSA §7734-A, sub-§3**, as enacted by PL 1993, c. 625, §16, is amended to read:

**3. Coordination of services and resource development activities.** School administrative units shall coordinate their program and service activities for infants and children, from birth to under age 6, who are disabled, with ~~their local~~ the regional Child Development Services System sites to avoid duplication and maximize the use of resources in accordance with the rules as adopted by the department.

**Sec. 18. 20-A MRSA §7734-B**, as enacted by PL 1993, c. 625, §16, is repealed.

**Sec. 19. 20-A MRSA §7734-C**, as enacted by PL 1993, c. 625, §16, is amended to read:

**§7734-C. Annual report**

The council shall provide to the joint standing committee on of the Legislature having jurisdiction over educational matters a yearly and to the commissioner an annual report on the Child Development Services System early intervention system in the State. This report must include a demonstration that: the funds provided under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part H were used to supplement and increase, and not to supplant, the level of other federal, state and local funds that are available for children with disabilities; and the federal funds generated under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part H were not used to satisfy a financial commitment for services that would have been paid for by a health agency or another agency pursuant to policy or practice, but for the fact that these services are now listed on the individualized family service plans of children with disabilities.

**Sec. 20. Task Force to Study the Cost-effectiveness of the Child Development Services System.**

**1. Establishment and duties.** The Task Force to Study the Cost-effectiveness of the Child Development Services System, referred to in this section as the "task force," is established. The task force has the following duties.

A. The task force shall study and make recommendations regarding the most efficient and cost-effective manner in which the Child Development Services System could achieve greater administrative efficiency and economy.

B. The task force shall review and make recommendations regarding the cost-effectiveness of hiring professional staff to be employed at the regional child development services sites as compared to contracting for services with non-profit and for-profit service providers.

**2. Membership.** The task force consists of 16 members appointed as follows:

A. Four Legislators, 2 of whom must be members of the Senate and 2 of whom must be members of the House of Representatives, appointed jointly by the President of the Senate and the Speaker of the House;

B. The Commissioner of Education, or a designee;

C. The Commissioner of Human Services, or a designee;

D. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, or a designee;

E. Two members representing nonprofit and for-profit service providers, one of whom must be a clinical professional and one of whom must be a developmental therapist, appointed jointly by the President of the Senate and the Speaker of the House;

F. Two members representing parents whose children receive services through the system, appointed jointly by the President of the Senate and the Speaker of the House;

G. One member representing Child Development Services System site directors, designated by the Child Development Services System site directors;

H. One member representing Child Development Services System site board members, designated by the Child Development Services System site board members;

I. One member representing public school special education directors, designated by the Maine Association of Directors of Services for Children with Exceptionalities;

J. One member representing community health nurses with experience in providing community health services to children with developmental

needs, designated by the Maine State Nurses Association; and

K. One member representing the organizational development profession, appointed jointly by the President of the Senate and the Speaker of the House.

All appointments must be made no later than 15 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the task force no later than September 15, 1997. The task force shall select a chair from among its legislative members.

**3. Staff assistance.** The task force may request staffing and clerical assistance from the Legislative Council.

**4. Reimbursement.** The task force members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for each day's attendance at meetings of the task force. The Executive Director of the Legislative Council shall administer the task force's budget.

**5. Report.** The task force shall submit its report with any accompanying legislation to the Second Regular Session of the 118th Legislature by January 1, 1998.

**6. Meetings.** The task force may meet up to 3 times.

**Sec. 21. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1997-98

**LEGISLATURE**

**Task Force to Study the Cost-effectiveness of the Child Development Services System**

Personal Services	\$660
All Other	1,100

Provides funds for the per diem and expenses of legislative members and miscellaneous costs, including printing, of the Task Force to Study the Cost-effectiveness of

the Child Development Services System.

**LEGISLATURE**

**TOTAL** \$1,760

See title page for effective date.

**CHAPTER 535**

**H.P. 360 - L.D. 505**

**An Act to Establish a Tuition Rate for Education in the Unorganized Territory**

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

**Sec. 1. 20-A MRSA §3304, sub-§1,** as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

**Sec. 2. 20-A MRSA §3304, sub-§1-A** is enacted to read:

**1-A. Charges.** The per pupil tuition charge must be an amount equal to 125% of the state average expenditure per elementary pupil during the preceding year, as determined annually by the commissioner pursuant to section 5804 or the receiving school administrative unit's actual expenditure per elementary pupil for the preceding year as calculated by the commissioner, whichever is less.

See title page for effective date.

**CHAPTER 536**

**S.P. 117 - L.D. 396**

**An Act to Allow the Maine Forest Service to Retain Funds from the Sale of Real Estate**

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

**Sec. 1. 12 MRSA §8003, sub-§3, ¶M,** as amended by PL 1993, c. 335, §1, is further amended to read:

M. ~~The~~ Except for lands acquired under the authority of paragraph N, the director is authorized, with the consent of the commissioner, to sell, grant, lease, transfer or otherwise convey any real or personal property under the jurisdiction of the bureau. The director shall deposit the proceeds from the sale or lease of property purchased with Maine Forestry District tax funds in