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

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

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

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

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

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

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

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

PART A

Sec. A-1. 20-A MRS §§7211 and 7212 are enacted to read:

§ 7211. Early childhood special education services

Notwithstanding section 7209, pursuant to 34 Code of Federal Regulations, Section 300.39(a), early childhood special education and related services, as defined in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., must be provided for children at least 3 years of age and under 6 years of age in accordance with this section. For the purposes of this section, a school administrative unit shall take responsibility for child find activities as provided in 20 United States Code, Section 1412(a)(3) and free, appropriate public education for children with disabilities at least 3 years

of age and under 6 years of age beginning July 1, 2025 in accordance with the phase-in provisions in subsection 1. A school administrative unit shall take responsibility for its own resident children and may agree to be responsible also for children outside its catchment area if approved by the department.

1. Implementation phase-in; fiscal years 2020-21 to 2024-25. A school administrative unit shall submit to the department for approval a plan for providing early childhood special education and related services under this section for fiscal years 2020-21 to 2024-25 in accordance with the following implementation phase-in schedule. For the purposes of this subsection, "baseline" means the number of children with disabilities in kindergarten, grade 1 and grade 2 served in the school administrative unit during the 2019-20 school year.

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

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

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

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

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

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

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

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

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

B. The commissioner shall consider any school administrative unit space necessary for providing early childhood special education and related services for children at least 3 years of age and under 6 years of age as instructional space or regional programs and services space under section 15672, subsection 2-A, paragraph B. Shared space with a community partner is permissible, while meeting the necessary licensing standards for the external spaces.

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

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

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

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

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

§ 7212. Early adopters

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

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

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

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

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

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

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

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

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

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

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

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

8. Positions. Department of Education, Child Development Services System positions must be eliminated on or before July 1, 2025 as school administrative units adopt full responsibility for children with disabilities at least 3 years of age and under 6 years of age.

9. Stakeholders. Over the course of the transition period, the Department of Education shall meet with a broad group of stakeholders representing early childhood interests to discuss transition issues and receive input from the stakeholders.

10. Legislation. By January 1, 2020, the Department of Education shall submit to the Joint Standing Committee on Education and Cultural Affairs any draft legislation necessary to transfer responsibility for providing special education and related services as provided in this Act. The committee may report out a bill to the Second Regular Session of the 129th Legislature related to the subject matter.

Sec. A-4. Effective date. This Part takes effect when approved.

PART B

Sec. B-1. 5 MRSA §285, sub-§1, ¶F-7, as corrected by RR 2009, c. 1, §5, is repealed.

Sec. B-2. 5 MRSA §12021, sub-§6, ¶A, as enacted by PL 2011, c. 616, Pt. A, §1, is repealed.

Sec. B-3. 20-A MRSA §1001, sub-§9-B, as amended by PL 2005, c. 662, Pt. A, §6, is further amended to read:

9-B. Disciplinary sanctions for children with disabilities. They retain the authority to sanction a child with a disability as defined in section 7001, subsection ~~1-A1-B~~ for misconduct that violates school rules. Notwithstanding the duties of school administrative units as described in section 7202, the school board may authorize the superintendent, principal or assistant principal to enforce this subsection by allowing the superintendent, principal or assistant principal to suspend a child with a disability up to a maximum of 10 days individually or cumulatively for infractions of school rules. When a child with a disability is suspended for 10 days or less individually or cumulatively within a school year for a violation of school rules, the school board is not required to provide a tutor, transportation or any other aspect of the student's special education program. Discipline of children with disabilities must be consistent with the requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1415(k).

Sec. B-4. 20-A MRSA §5201, sub-§3, ¶E, as amended by PL 2005, c. 662, Pt. A, §12, is further amended to read:

E. The eligibility for a child with a disability is governed by section 7001, subsection ~~1-A1-B~~.

Sec. B-5. 20-A MRSA §6202, first ¶, as amended by PL 2015, c. 40, §4, is further amended to read:

The commissioner shall establish a statewide assessment program to measure and evaluate on a continuing basis the academic achievements of students in grades 3 to 12 on the accountability standards set forth in section 6209 and in department rules implementing that section and other curricular requirements. The commissioner may elect to provide for the use of alternative measures of student

achievement in grades 9 to 12. This assessment applies to students in the public elementary and secondary schools, in public charter schools, as that term is defined in section 2401, subsection 9, and in all private schools approved for tuition whose school enrollments include at least 60% publicly funded students, as determined by the previous school year's October and April average enrollment. The assessment program must be adapted to meet the needs of children with disabilities as defined in section 7001, subsection 1-A1-B or other students as defined under rules by the commissioner.

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

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

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

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

~~(1) A child who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate 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; and adaptive development; or~~

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

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

(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the ~~intermediate educational unit or~~ school administrative unit, as defined in rules adopted by the department, 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; or

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

(a) Intellectual disability;

- (b) Hearing impairment, including deafness;
- (c) Speech or language impairment;
- (d) Visual impairment, including blindness;
- (e) Serious emotional disturbance;
- (f) Orthopedic impairment;
- (g) Autism;
- (h) Traumatic brain injury;
- (i) Other health impairment;
- (j) Specific learning disabilities;
- (k) Deafness and blindness; and
- (l) Multiple disabilities.

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

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

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

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

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

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

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

A. Who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate 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; and adaptive development; or

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

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

§ 7006. Responsibility

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

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

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

A. Requirements for admission;

B. Qualification or certification of staff;

- C. Plan of instruction;
- D. Adequacy of facilities;
- E. Adequacy of supportive services;
- F. Professional supervision; and
- G. Teacher-student ratio;

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

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

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

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

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

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

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

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

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

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

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

4. State level early childhood special education and intervention services staff.

A director of special services designated by the commissioner shall hire and supervise a director of early childhood special education and intervention services to oversee the implementation of services under the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C.

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

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

§ 7252-A. Special education programs; approval

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

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

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

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

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

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

The commissioner shall adopt or amend rules to define allowable early intervention and special education services and the qualifications of individuals who provide early intervention or special education services. ~~Each intermediate educational unit, approved private school or state licensed agency~~

~~providing early intervention services shall submit a report at such time and in such form as the commissioner may require.~~ Each school administrative unit, approved private school or state licensed agency providing special education services shall submit a report at such time and in such form as the commissioner may require.

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

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

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

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

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

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

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

1. Consultation. Prior to adopting or amending any rule that pertains to the administration of a program of Medicaid coverage established by the department pursuant to this chapter for services that qualify for reimbursement and are provided through the auspices of ~~the Child Development Services System~~ and school administrative units in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the following interested parties on the proposed adoption or amendment of rules:

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

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

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

- A. One employee of the department's office of integrated access and support who is responsible for child care services, appointed by the commissioner;
- B. The employee of the Department of Health and Human Services, Office of Child Care and Head Start who serves as the state child care administrator, or the state child care administrator's designee;
- C. One employee of the division within the department concerned with children's behavioral health services, appointed by the commissioner;
- D. Two employees of the Department of Education, one of whom represents special education programs and one of whom oversees public programs for children 4 years of age, appointed by the Commissioner of Education;
- E. One employee who serves as the state Head Start collaboration director, or the state Head Start collaboration director's designee;
- F. The State Fire Marshal or the State Fire Marshal's designee;
- G. One employee of the organizational unit of the department that provides programs and services for substance use disorder prevention and treatment, appointed by the commissioner;

- H. One employee of the Department of Economic and Community Development, appointed by the Commissioner of Economic and Community Development;
- I. One member of the Senate, appointed by the President of the Senate;
- J. Two members of the House of Representatives, at least one of whom may not be from the party with the most members in the House of Representatives, appointed by the Speaker of the House of Representatives;
- K. One parent or other consumer who receives a child care subsidy at the time of that parent's or consumer's appointment, appointed by the Governor;
- L. One parent or other consumer of child care services who does not receive a child care subsidy, appointed by the Governor;
- M. One business representative nominated by the Maine Chamber of Commerce and Industry, appointed by the Governor;
- N. One center-based care representative nominated by the Maine Child Care Directors' Association, appointed by the Governor;
- O. One Head Start provider nominated by the Maine Head Start Directors' Association, appointed by the Governor;
- P. One family child care provider nominated by an association of family child care providers in the State, appointed by the Governor;
- Q. One person representing Native Americans, appointed by the Governor;
- R. One child care provider who does not receive public funds, appointed by the Governor;
- S. One person representing a nonprofit advocacy organization dedicated to improving the lives of children, youth and their families, appointed by the Governor;
- ~~T. One person associated with a Child Development Services System site, appointed by the Governor;~~
- U. One person representing a collaborative partnership between the University of Maine and the Department of Health and Human Services, Office of Child Care and Head Start, nominated by the University of Maine Center for Community Inclusion and Disability Studies, appointed by the Governor;
- V. One representative of women nominated by the Maine Women's Lobby, appointed by the Governor;
- W. One direct service provider of child care for school-age children, nominated by the University of Maine at Farmington, Maine Afterschool Network, or a successor program, appointed by the Governor;

- X. One person representing the University of Southern Maine, Edmund S. Muskie School of Public Service, Maine Roads to Quality, or a successor program, appointed by the Governor;
- Y. A person representing an association of resource development centers in the State, appointed by the Governor; and
- Z. One person representing home-based child care providers, appointed by the Governor.

Senators and members of the House of Representatives serve for the duration of the legislative terms that they are serving when appointed. Members from state departments serve at the pleasure of their appointing authorities. All other members serve 3-year terms and may continue to serve beyond their terms until their successors are appointed. If a vacancy occurs before a term has expired, the vacancy must be filled for the remainder of the unexpired term by the authority who made the original appointment. If a member is absent for 2 consecutive meetings and has not been excused by the chair from either meeting, the council may remove the member by majority vote. If a nominating organization does not submit nominations within a reasonable period of time, the appointing authority may fill that organization's seat with a member of the public at large.

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

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

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

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

1-A. Referral to Department of Education. The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the ~~Child Development Services System~~Department of Education. The rules must also describe the timetables under which the department shall refer to the ~~Child Development Services System~~Department of Education children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither

confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services System~~Department of Education may make direct contact with the families of children who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the ~~Child Development Services System~~Department of Education shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

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

§ 8943. Central registry

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

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

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

SUMMARY

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

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

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