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Testimony of Representative Drew Gattine presenting
LD 2120, An Act to Fund the Delivery of Educational Services to Children with Special Needs as Required by State and Federal Law in Special Purpose Private Preschools
Before the Joint Standing Committee on Education and Cultural Affairs

Senator Rafferty, Representative Brennan and my distinguished colleagues on the Education and Cultural Affairs Committee, my name is Drew Gattine and I am honored to represent parts of the communities of Saco, Scarborough and Westbrook in the Maine House. I am pleased to appear before you this afternoon to present **LD 2120, An Act to Fund the Delivery of Educational Services to Children with Special Needs as Required by State and Federal Law in Special Purpose Private Preschools**.

Last year, this committee and the legislature did something very important and very valuable to stem a crisis with respect to children with disabilities who receive services at special purpose private schools. I am pretty certain that you all remember this issue because you had a very lengthy public hearing on a related bill, LD 1309, last year and moved that bill forward with a unanimous vote and through the legislature under the hammer. Ultimately, the important issues that were raised last year in LD 1309 were resolved in the budget (Part YYY). The purpose of this bill is to make sure that the progress that we achieved last year is protected moving forward.

Budget Part YYY included language:

1. Recognizing that special purpose private preschools are entitled to reimbursement for the educational component of the services that they provide, not just for the medical component reimbursed by MaineCare;
2. Directing Child Development Services (CDS) in advance of the 24-25 school year to establish appropriate rates to reimburse these schools for the education they provide;
3. Requiring CDS to provide interim payments in the 23-24 school year in order to bridge the gap and make sure that current programming is maintained. The budget provided one-time funding of \$15 million for these interim payments, basically buying time for CDS to complete the rate-setting process.

So why did I put this bill in as an emergency in the second session? Over the fall, as CDS was implementing the interim funding, a real concern arose during conversations between the

providers and CDS that the rate-setting process for providing these services long-term was not going to be completed in time for those rates to be finalized and funded while the legislature was in session. Those rates are still not finalized (although when the Maine Department of Education (DOE) reported back to this committee last week it sounded like, if everything goes smoothly, rates might be in place after the legislature adjourns) and, absent some additional action by the legislature, there is a risk that the children and families who have benefitted greatly from the work that we all did last year will be in the same dire circumstances. In short, depending on what CDS proposes as rates (which we haven't seen yet) and what the Governor proposes in her supplemental budget for funding (which we haven't seen yet), it is possible that the legislature may need to consider funding another year of interim payments for the schools providing these vital services to these young students.

I know that you are getting a report back tomorrow from the Commissioner on her long-term plan and vision for CDS, and it sounds like there will be proposals regarding CDS in the supplemental budget that this Committee and the Appropriations and Financial Affairs Committee will get to consider. But I don't think this piece of the puzzle can get lost. As I said before this committee last year, the quality services that these children receive at these schools will benefit them for the rest of their lives and put them on track to have the best educational experience and set them up for the most successful lives as they move through our school systems and into adulthood.

You are going to hear today from families and educators who are going to tell you what a great impact these educational services have on these students. I think you already know that. You are also going to hear that the funding we provided last year has allowed these classrooms to stay open and available to these students. That's the part I'd like you to keep in mind. This is something that can move ahead successfully as this Committee and the DOE do the hard work of figuring out the long term plan for CDS.

Thank you.

month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, former subsection 1, paragraphs A to F and L to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15th day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, former subsection 1, paragraphs G to J and M to the Medical Care Services Other Special Revenue Funds account, the Other Special Revenue Funds Mental Health Services - Community Medicaid program, the Medicaid Services - Adult Developmental Services program and the Office of Behavioral Health - Medicaid Seed program within the Department of Health and Human Services.

Beginning January 1, 2025, on or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1-A to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue.

Sec. XXX-14. Application. That section of this Part that enacts the Maine Revised Statutes, Title 36, section 2552, subsection 1-A applies to sales occurring on or after January 1, 2025.

Sec. XXX-15. Effective date. This Part takes effect January 1, 2025.

PART YYY

Sec. YYY-1. 20-A MRS §7302, sub-§2, ¶G is enacted to read:

G. A special purpose private preschool that provides both educational and medically necessary behavioral health services to children with disabilities who have not attained 6 years of age is entitled to receive payment for the educational services the preschool provides for the Child Development Services System. Before the beginning of the 2024-2025 school year, the Child Development Services System shall collaborate with special purpose private preschools to establish a funding formula that provides appropriate daily tuition rates for the educational services provided by each special purpose private preschool. The funding formula for the daily tuition rates must include, but is not limited to, the costs of supporting each preschool's site director and teachers and allocations for agency support staff, supplies, equipment, curricula, staff development, technology and noninstructional expenses such as heating, insurance, maintenance, occupancy costs, office supplies, phones and utilities.

Sec. YYY-2. Intermediate payments. No later than the start of the 2023-2024 school year and prior to the provision of the daily tuition rate in accordance with the Maine Revised Statutes, Title 20-A, section 7302, subsection 2, paragraph G, the Department of Education and the Child Development Services System shall assist in maintaining education programming at special purpose private preschools by providing payments for specially designed instruction provided by each special purpose private preschool at a rate of \$125 per day, per child, for scheduled school days in accordance with a child's individualized education program. The Department of Education and the Child

Development Services System shall make the payments for specially designed instruction provided by special purpose private preschools from July 1, 2023 through June 30, 2024.

Sec. YYY-3. Report. No later than December 15, 2023, the Department of Education shall submit a report to the Joint Standing Committee on Education and Cultural Affairs on the development of the funding formula for daily tuition rates under the Maine Revised Statutes, Title 20-A, section 7302, subsection 2, paragraph G, including recommendations and suggested legislation. The Joint Standing Committee on Education and Cultural Affairs may report out a bill related to the report to the Second Regular Session of the 131st Legislature.

Sec. YYY-4. Transfer from General Fund unappropriated surplus; Child Development Services program. Notwithstanding any provision of law to the contrary, on or before June 30, 2024, the State Controller shall transfer \$15,000,000 from the unappropriated surplus of the General Fund to the Department of Education, Child Development Services Program, Other Special Revenue Funds account to fund the payments required under section 2.

PART ZZZ

Sec. ZZZ-1. 36 MRSA §111, sub-§1-A, as amended by PL 2021, c. 594, §1, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~2021~~ 2022.

Sec. ZZZ-2. 36 MRSA §5122, sub-§2, ¶M-2, as amended by PL 2021, c. 635, Pt. DDD, §1, is further amended by amending subparagraph (2), division (d) to read:

(d) "Pension deduction amount" means:

(i) For tax years beginning prior to January 1, 2022, \$10,000;

(ii) For tax years beginning in 2022, \$25,000;

(iii) For tax years beginning in 2023, \$30,000; and

(iv) For tax years beginning on or after January 1, 2024, ~~\$35,000~~ the maximum annual benefit that an individual eligible to retire at the retirement age, as defined in 42 United States Code, Section 416(l), as of January 1st of the tax year may receive under the federal Social Security Act and amendments to that Act as of June 28, 2023.

Sec. ZZZ-3. 36 MRSA §5124-A, as amended by PL 2015, c. 267, Pt. DD, §13 and affected by §34, is repealed.

Sec. ZZZ-4. 36 MRSA §5124-C, sub-§1-A, as enacted by PL 2019, c. 616, Pt. X, §3, is amended to read:

1-A. Amount; ~~on or after~~ before January 1, ~~2020~~ 2026. For tax years beginning on or after January 1, 2020 and before January 1, 2026, the standard deduction of a resident individual is equal to the federal standard deduction, subject to the phase-out under subsection 2.

Sec. ZZZ-5. 36 MRSA §5124-C, sub-§1-B is enacted to read: