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Legislative Document

No. 2039

H.P. 1531

House of Representatives, April 18, 2022

**An Act To Reorganize the Provision of Services for Infants,
Toddlers and Children with Disabilities from Birth to 6 Years of
Age and Extend the Age of Eligibility under the Federal Individuals
with Disabilities Education Act to 22 Years of Age**

Reported by Eight Members in Report A from the Joint Standing Committee on Education and Cultural Affairs pursuant to Resolve 2021, chapter 106, section 3.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 5 MRSA §285, sub-§1, ¶F-7**, as corrected by RR 2009, c. 1, §5, is amended
3 to read:

4 F-7. ~~Any~~ Before July 1, 2026, any employee of a regional site of the Child
5 Development Services System under Title 20-A, section 7209, if the group health plan
6 is agreed to in collective bargaining and funds are available and, beginning July 1,
7 2026, any employee of the state intermediate educational unit under Title 20-A, section
8 7104, if the group health plan is agreed to in collective bargaining and funds are
9 available;

10 **Sec. 2. 5 MRSA §12004-C, sub-§10** is enacted to read:

11 **10.**

12 Board of directors, state intermediate Expenses Only 20-A MRSA §7105
13 educational unit

14

15 **Sec. 3. 5 MRSA §12021, sub-§6, ¶A**, as enacted by PL 2011, c. 616, Pt. A, §1, is
16 amended to read:

17 A. ~~The~~ Before July 1, 2026, the Child Development Services System under Title 20-A,
18 section 7209 and, beginning July 1, 2026, the state intermediate educational unit under
19 Title 20-A, section 7104;

20 **Sec. 4. 5 MRSA §24051, sub-§3, ¶H**, as enacted by PL 2019, c. 450, §11, is
21 amended to read:

22 H. Three persons representing statewide, membership or constituent organizations that
23 advance the well-being of young children and their families, including early care and
24 education programs, child care centers, Head Start programs, resource development
25 centers, programs for school-age children, ~~child development services~~ the state
26 intermediate educational unit, physicians and child advocates, nominated by their
27 organizations and appointed by the cabinet;

28 **Sec. 5. 5 MRSA §24052, sub-§1, ¶D**, as enacted by PL 2019, c. 450, §11, is
29 amended by amending subparagraph (3) to read:

30 (3) Enhance and improve quality and outcomes of early childhood and education
31 programs and services, including ~~child development services~~ the state intermediate
32 educational unit, home visitation, child care, education services, supervision
33 services, health services and social services; and

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

36 **9-B. Disciplinary sanctions for children with disabilities.** They retain the authority
37 to sanction a child with a disability as defined in section 7001, subsection 1-A for
38 misconduct that violates school rules. Notwithstanding the duties of school administrative
39 units as described in section 7202, the school board may authorize the superintendent,
40 principal or assistant principal to enforce this subsection by allowing the superintendent,
41 principal or assistant principal to suspend a child with a disability up to a maximum of 10

1 days individually or cumulatively for infractions of school rules. When a child with a
2 disability is suspended for 10 days or less individually or cumulatively within a school year
3 for a violation of school rules, the school board is not required to provide a tutor,
4 transportation or any other aspect of the student's special education program. Discipline of
5 children with disabilities must be consistent with the requirements of the federal
6 Individuals with Disabilities Education Act, 20 United States Code, Section 1415(k).
7 Beginning July 1, 2026, this subsection applies to a child with a disability as defined in
8 section 7201-A, subsection 1.

9 **Sec. 7. 20-A MRSA §5201, sub-§3, ¶E**, as amended by PL 2005, c. 662, Pt. A,
10 §12, is further amended to read:

11 E. ~~The~~ Before July 1, 2026, the eligibility for a child with a disability is governed by
12 section 7001, subsection 1-A. Beginning July 1, 2026, the eligibility for a child with a
13 disability is governed by section 7201-A, subsection 1.

14 **Sec. 8. 20-A MRSA §6202, first ¶**, as amended by PL 2021, c. 462, §1, is further
15 amended to read:

16 The commissioner shall establish a statewide assessment program to measure and
17 evaluate on a continuing basis the academic achievements of students in grades 3 to 12 on
18 the accountability standards set forth in section 6209 and in department rules implementing
19 that section and other curricular requirements. The commissioner may elect to provide for
20 the use of alternative measures of student achievement in grades 9 to 12. This assessment
21 applies to students in the public elementary and secondary schools, in public charter
22 schools, as that term is defined in section 2401, subsection 9, and in all private schools
23 approved for tuition whose school enrollments include at least 60% publicly funded
24 students, as determined by the previous school year's October and April average
25 enrollment. ~~The~~ Before July 1, 2026, the assessment program must be adapted to meet the
26 needs of children with disabilities as defined in section 7001, subsection 1-A or other
27 students as defined under rules by the commissioner. The assessment program may not
28 include the use of the standardized test known as "the SAT" as a method for assessing
29 student performance. Beginning July 1, 2026, the assessment program must be adapted to
30 meet the needs of children with disabilities as defined in section 7201-A, subsection 1 or
31 other students as defined under rules adopted by the commissioner.

32 **Sec. 9. 20-A MRSA §7001, sub-§1-B, ¶B**, as amended by PL 2011, c. 542, Pt. A,
33 §21, is further amended to read:

34 B. For children at least 3 years of age and under ~~20~~ 22 years of age evaluated in
35 accordance with the federal Individuals with Disabilities Education Act, 20 United
36 States Code, Section 1414, subsections (a) to (c) as measured by both standardized,
37 norm-referenced diagnostic instruments and appropriate procedures with delays or
38 impairments such that the children need special education:

39 (1) A child at least 3 years of age and under 6 years of age with a significant
40 developmental delay, at the discretion of the intermediate educational unit or
41 school administrative unit, as defined in rules adopted by the department, in one or
42 more of the following areas: cognitive development; physical development,
43 including vision and hearing; communication development; social or emotional
44 development; adaptive development; or

- 1 (2) A child with at least one of the following:
- 2 (a) Intellectual disability;
 - 3 (b) Hearing impairment, including deafness;
 - 4 (c) Speech or language impairment;
 - 5 (d) Visual impairment, including blindness;
 - 6 (e) Serious emotional disturbance;
 - 7 (f) Orthopedic impairment;
 - 8 (g) Autism;
 - 9 (h) Traumatic brain injury;
 - 10 (i) Other health impairment;
 - 11 (j) Specific learning disabilities;
 - 12 (k) Deafness and blindness; and
 - 13 (l) Multiple disabilities.

14 This paragraph is repealed July 1, 2024.

15 **Sec. 10. 20-A MRSA §7001, sub-§2-A**, as amended by PL 2011, c. 477, Pt. F, §1,
16 is further amended by enacting a new first blocked paragraph to read:

17 This subsection is repealed July 1, 2024.

18 **Sec. 11. 20-A MRSA §7006**, as enacted by PL 2005, c. 662, Pt. A, §20, is repealed.

19 **Sec. 12. 20-A MRSA §7008** is enacted to read:

20 **§7008. Repeal**

21 This chapter is repealed July 1, 2026.

22 **Sec. 13. 20-A MRSA c. 301-A** is enacted to read:

23 **CHAPTER 301-A**

24 **EARLY INTERVENTION SERVICES**

25 **§7101. Purpose and commitment**

26 The purpose of this chapter is to implement Part C of the federal Individuals with
27 Disabilities Education Act, 20 United States Code, Section 1400 et seq. The State is
28 committed to ensuring that all eligible infants and toddlers with disabilities are identified,
29 evaluated and provided with the early intervention services selected by their individualized
30 family services plan teams and described in their individualized family services plans.

31 **§7102. Definitions**

32 As used in this chapter, the following terms have the following meanings.

33 **1. Birth to under 3 years of age.** "Birth to under 3 years of age" means from the day
34 a child is born until the child's 3rd birthday.

1 **2. Board.** "Board" means the board of directors established under section 7105.

2 **3. Early intervention services.** Beginning July 1, 2026, "early intervention services"
3 means developmental services that are provided under public supervision; are provided at
4 no cost except where federal or state law provides for a system of payments by families,
5 including a schedule of sliding fees; are designed to meet the developmental needs of an
6 infant or toddler with a disability, as identified by the individualized family services plan
7 team, in one or more areas, including physical development, cognitive development,
8 communication development, social or emotional development and adaptive development;
9 meet the standards of the State; are provided by qualified personnel; to the maximum extent
10 appropriate, are provided in natural environments, including the home, and community
11 settings in which infants or toddlers without disabilities participate; and are provided in
12 conformity with an individualized family services plan.

13 **4. Infant or toddler with a disability.** Beginning July 1, 2026, "infant or toddler with
14 a disability" means a child from birth to under 3 years of age:

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

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

23 **5. Individualized family services plan.** "Individualized family services plan" means
24 the plan to provide services in accordance with Part C to an infant or toddler with a
25 disability or to the infant's or toddler's family.

26 **6. Individualized family services plan team.** "Individualized family services plan
27 team" means the group of individuals composed in accordance with Part C of the federal
28 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. to
29 determine the individualized family services plan for an infant or toddler with a disability.

30 **7. Part B.** "Part B" means Part B of the federal Individuals with Disabilities Education
31 Act, 20 United States Code, Section 1400 et seq.

32 **8. Part C.** "Part C" means Part C of the federal Individuals with Disabilities Education
33 Act, 20 United States Code, Section 1400 et seq.

34 **9. State intermediate educational unit.** "State intermediate educational unit" or
35 "SIEU" means the state intermediate educational unit established in section 7104.

36 **§7103. Department duties**

37 The department shall:

38 **1. Lead agency.** Beginning July 1, 2026, serve as the lead agency for the statewide
39 system pursuant to 20 United States Code, Section 1435, including the identification and
40 coordination of all available resources within the State for services to eligible infants and
41 toddlers with disabilities from birth to under 3 years of age and their families;

42 **2. Part C coordinator.** Appoint a coordinator of Part C services;

1 **3. Monitoring and oversight.** Beginning July 1, 2026, ensure through regular,
2 comprehensive monitoring and oversight of the SIEU that:

3 A. Appropriate early intervention services based on scientifically based research, to the
4 extent practicable, are available to all infants and toddlers with disabilities and their
5 families, including Indian infants and toddlers with disabilities and their families
6 residing on a reservation geographically located in the State and infants and toddlers
7 with disabilities who are homeless children and their families;

8 B. A comprehensive child find system that meets the requirements of Part C is available
9 throughout the State;

10 C. A timely, multidisciplinary evaluation of the functioning of each infant and toddler
11 with a disability and a family-directed identification of the needs of each family of such
12 an infant or toddler to assist appropriately in the development of the infant or toddler
13 are conducted;

14 D. Each infant or toddler with a disability has an individualized family services plan,
15 developed in accordance with Part C, including service coordination in accordance
16 with the plan;

17 E. To the maximum extent appropriate, early intervention services are provided in
18 natural environments and that the provision of early intervention services for an infant
19 or toddler with a disability that occurs in a setting other than a natural environment that
20 is most appropriate, as determined by the parent and the individual family services plan
21 team, occurs only when early intervention cannot be achieved satisfactorily for the
22 infant or toddler in the natural environment; and

23 F. Parents are provided with procedural safeguards in accordance with Part C;

24 **4. Application.** Submit an annual application to the United States Department of
25 Education for a Part C grant and include in its annual application a policy for the extended
26 Part C option described by 34 Code of Federal Regulations, Part 303 under which a parent
27 of a child with a disability who is eligible for preschool services pursuant to Part B and
28 who previously received early intervention services pursuant to Part C may decline the
29 right to an individualized education plan and a free, appropriate public education in order
30 to choose the continuation of early intervention services from 3 years of age until the
31 beginning of the school year following the child's 3rd birthday;

32 **5. Funding mechanism.** Develop and maintain a funding mechanism for the SIEU.
33 The funding mechanism must maximize billing through private insurance and the
34 MaineCare program. The department shall require the SIEU to enter into a subgrantee
35 agreement with the department that makes the distribution of federal Part C and state funds
36 contingent on the delivery of early intervention services in accordance with the agreement;

37 **6. Financial oversight of SIEU.** Provide monitoring and oversight of fiscal activities
38 of the SIEU;

39 **7. Interagency agreements.** Enter into interagency agreements, including agreements
40 that define the financial responsibility of each agency for paying for early intervention
41 services and procedures for resolving interagency disputes;

42 **8. Interagency coordinating council.** Establish and support a state interagency
43 coordinating council in accordance with Part C;

1 **9. Personnel development.** Develop and implement a comprehensive system of
2 personnel development, including the training of paraprofessionals and the training of
3 primary referral sources with respect to the basic components of early intervention services
4 available in the State;

5 **10. Public awareness program.** Develop and implement a public awareness program
6 focusing on early identification of infants and toddlers with disabilities and disseminate to
7 all primary referral sources, especially hospitals and physicians, information to be given to
8 parents, especially to parents with premature infants or infants with other physical risk
9 factors associated with learning or developmental complications, on the availability of
10 early intervention services pursuant to Part C and this chapter as well as procedures for
11 assisting such sources in disseminating such information to parents of infants and toddlers
12 with disabilities; and

13 **11. Rules.** Develop and adopt rules necessary to carry out Part C and this chapter,
14 including, but not limited to, rules regarding:

15 A. A rigorous definition of the term "developmental delay";

16 B. Child find;

17 C. Multidisciplinary assessment and family-directed assessment;

18 D. The role of the individualized family services plan team;

19 E. Development, implementation and periodic review of the individualized family
20 services plan;

21 F. Procedural safeguards; and

22 G. Qualifications for all personnel involved in Part C including early intervention
23 service providers.

24 Rules developed and adopted pursuant to this subsection are major substantive rules as
25 defined in Title 5, chapter 375, subchapter 2-A.

26 **§7104. State intermediate educational unit**

27 The state intermediate educational unit is established as a body corporate and politic
28 and as a public instrumentality of the State for the purpose of identifying, evaluating and
29 providing early intervention services to eligible infants and toddlers with disabilities from
30 birth to under 3 years of age and their families pursuant to this chapter. The exercise by the
31 SIEU of the powers conferred by this chapter is the performance of an essential public
32 function by and on behalf of the State.

33 **§7105. Board of directors**

34 The board of directors is established in Title 5, section 12004-C, subsection 10 as the
35 policy-making authority and the governing body of the SIEU.

36 **1. Membership.** In appointing members to the board, the Governor shall give proper
37 consideration to achieving statewide geographical representation, cultural equity and
38 gender equity. Each member appointed by the Governor is subject to review by the joint
39 standing committee of the Legislature having jurisdiction over education matters and
40 confirmation by the Senate. The board consists of 13 voting members and 3 nonvoting
41 members as follows:

- 1 A. The Commissioner of Education or the commissioner's designee;
- 2 B. The Commissioner of Health and Human Services or the commissioner's designee;
- 3 C. Three members who are parents of infants and toddlers with disabilities who are
- 4 accessing or have accessed Part C services;
- 5 D. Two members who are providers of early intervention services;
- 6 E. One representative of the state interagency coordinating council;
- 7 F. One representative from a private preschool;
- 8 G. One representative from a public prekindergarten program;
- 9 H. Three members of the general public;
- 10 I. Two employees of the SIEU who are selected by the executive director of the SIEU
- 11 and are nonvoting members; and
- 12 J. The executive director of the SIEU, who serves as the clerk of the board and is a
- 13 nonvoting member.

14 **2. Term.** Each member of the board appointed by the Governor serves for a term of 3

15 years. Appointed board members may serve no more than 3 consecutive terms.

16 **3. Chair.** The board shall elect a chair annually from among its members. A member

17 may not serve more than 2 consecutive terms as chair.

18 **4. Meetings.** The board shall meet at least quarterly.

19 **§7106. Administrative and programmatic functions**

20 **1. Administrative functions.** The powers and duties of the board include the following

21 administrative functions. The board:

- 22 A. Shall develop and adopt policies, including bylaws, necessary or useful for the
- 23 operation of the SIEU;
- 24 B. Shall develop and adopt policies necessary or useful for the implementation of Part
- 25 C and any related department regulations;
- 26 C. May delegate duties and responsibilities as necessary for the efficient operation of
- 27 the SIEU;
- 28 D. Shall hire an executive director;
- 29 E. Shall appoint a treasurer, who need not be a member of the board, and accept
- 30 donations, bequests or other forms of financial assistance for any educational purpose
- 31 from a public or private person or agency and comply with rules and regulations
- 32 governing grants from the Federal Government or from any other person or agency;
- 33 F. Shall prepare and adopt an annual budget for the operation of the SIEU and exercise
- 34 budgetary responsibility and allocate for expenditure by the SIEU all the resources
- 35 available for the operation of the SIEU and its programs;
- 36 G. Shall employ professional and other personnel at the state level and regional levels,
- 37 including those necessary to ensure the implementation of the centralized fiscal and
- 38 data management systems. All SIEU employees are employees for the purposes of the
- 39 Maine Tort Claims Act;

- 1 H. Shall establish standards for a statewide salary and benefits administration system,
2 including personnel classifications, position descriptions and salary ranges, and a
3 standard package of health, retirement and other fringe benefits for SIEU employees;
- 4 I. Shall develop and implement a statewide salary and benefits administration system
5 and perform the payroll functions for SIEU employees;
- 6 J. Shall bargain collectively under Title 26, chapter 9-A if the employees of the SIEU
7 choose to be represented by an agent for purposes of collective bargaining. In such
8 circumstances, the SIEU must be considered a public employer for purposes of
9 collective bargaining;
- 10 K. Shall develop and implement a centralized system for statewide fiscal
11 administration. The SIEU shall establish internal controls and implement accounting
12 policies and procedures in accordance with standards set forth by the State Controller;
- 13 L. Shall indemnify the directors, officers and employees affiliated with the SIEU and
14 purchase and maintain insurance to indemnify any such person to the extent provided
15 in Title 13-B, section 714;
- 16 M. May collect any fees or costs permitted by Part C and established by department
17 rule;
- 18 N. Shall submit quarterly financial statements to the commissioner, the joint standing
19 committee of the Legislature having jurisdiction over education matters and the joint
20 standing committee of the Legislature having jurisdiction over appropriations and
21 financial affairs;
- 22 O. Shall develop and implement a centralized data management system in accordance
23 with Part C;
- 24 P. Shall design and implement a standard, statewide template for contracts with service
25 providers, including policies and procedures for the review of contracts;
- 26 Q. Shall design and implement a statewide plan to provide professional development
27 and training to SIEU personnel;
- 28 R. May enter into contracts, leases and agreements and any other instruments and
29 arrangements that are necessary, incidental or convenient to the performance of its
30 duties and the execution of its powers under this chapter;
- 31 S. May sue or be sued in the name of the SIEU; and
- 32 T. May perform any other act necessary or useful for carrying out its powers, duties or
33 purposes.
- 34 **2. Programmatic functions.** Beginning July 1, 2026, the powers and duties of the
35 board include the following programmatic functions. The board shall:
- 36 A. Engage in child find activities as required by Part C;
- 37 B. Engage in child count activities as required by Part C;
- 38 C. Evaluate potentially eligible infants and toddlers and their families and, using a
39 properly constituted individualized family services plan team, determine eligibility for
40 early intervention services as required by Part C;

1 D. Develop, using a properly constituted individualized family services plan team, an
2 individualized family services plan for every eligible infant and toddler with a
3 disability as required by Part C;

4 E. Ensure that eligible infants and toddlers with disabilities and their families receive
5 the early intervention services contained in their individualized family services plans,
6 either by providing the services directly or by contracting with qualified service
7 providers as defined by department rule;

8 F. Ensure that children with disabilities who are eligible for preschool services pursuant
9 to Part B and who previously received early intervention services pursuant to Part C
10 may decline the right to access a free, appropriate public education and may continue
11 to receive early intervention services from 3 years of age until the beginning of the
12 school year following the child's 3rd birthday if the parent chooses to continue to
13 receive services pursuant to Part C instead of transitioning to receiving services
14 pursuant to Part B in accordance with the federal extended Part C option described by
15 34 Code of Federal Regulations, Part 303;

16 G. Coordinate with the receiving Part B school administrative units to ensure that
17 infants and toddlers with disabilities are identified as potentially eligible for Part B
18 services;

19 H. Ensure that parents are provided with procedural safeguards as required by Part C;
20 and

21 I. Ensure that infants and toddlers and their families who are referred to the SIEU also
22 receive appropriate referrals for support outside of the Part C program, including
23 appropriate public and private programmatic resources, regardless of their eligibility
24 for early intervention services.

25 **§7107. Executive director**

26 **1. Employment.** The board shall hire an executive director who is qualified by training
27 or experience.

28 **2. Duties and responsibilities.** The executive director shall:

29 A. Perform the duties prescribed for the executive director by the board;

30 B. Hire and supervise SIEU staff;

31 C. Ensure SIEU staff meet all certification and licensure requirements; and

32 D. Report annually to the joint standing committee of the Legislature having
33 jurisdiction over early childhood education matters.

34 **Sec. 14. 20-A MRSA §7201, sub-§2-A,** as enacted by PL 2005, c. 662, Pt. A, §22,
35 is amended to read:

36 **2-A. Natural or least restrictive environment.** To the maximum extent appropriate:

37 A. Early intervention services must be provided in natural environments, including the
38 home, and community settings in which children from birth to under 3 years of age
39 without disabilities participate; ~~and~~

40 This paragraph is repealed July 1, 2026; and

1 B. Children with disabilities at least 3 years of age and under ~~20~~ 22 years of age,
2 including children in public or private institutions or other care facilities, must be
3 educated with children without disabilities. Special classes, separate schooling or other
4 removal of children with disabilities from the regular educational environment may
5 occur only when the nature or severity of the disability of a child is such that education
6 in regular classes with the use of supplementary aids and services cannot be achieved
7 satisfactorily.

8 **Sec. 15. 20-A MRSA §7201-A** is enacted to read:

9 **§7201-A. Definitions**

10 Beginning July 1, 2024, as used in this chapter, the following terms have the following
11 meanings.

12 **1. Child with a disability.** "Child with a disability" means a child at least 3 years of
13 age and under 22 years of age evaluated in accordance with the federal Individuals with
14 Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as
15 measured by both standardized, norm-referenced diagnostic instruments and appropriate
16 procedures with delays or impairments such that the child needs special education, if the
17 child is:

18 A. A child at least 3 years of age and under 6 years of age with a significant
19 developmental delay, at the discretion of the school administrative unit, as defined in
20 rules adopted by the department, in one or more of the following areas:

21 (1) Cognitive development;

22 (2) Physical development, including vision and hearing;

23 (3) Communication development;

24 (4) Social or emotional development; or

25 (5) Adaptive development; or

26 B. A child with at least one of the following:

27 (1) Intellectual disability;

28 (2) Hearing impairment, including deafness;

29 (3) Speech or language impairment;

30 (4) Visual impairment, including blindness;

31 (5) Serious emotional disturbance;

32 (6) Orthopedic impairment;

33 (7) Autism;

34 (8) Traumatic brain injury;

35 (9) Other health impairment;

36 (10) Specific learning disabilities;

37 (11) Deafness and blindness; and

38 (12) Multiple disabilities.

1 **2. Free, appropriate public education.** "Free, appropriate public education" means
2 special education and related services that:

3 A. Are provided at public expense, under public supervision and direction and without
4 charge;

5 B. Meet the standards of the department;

6 C. Include an appropriate preschool, elementary school or secondary school education
7 in the State; and

8 D. Are provided in conformity with the individualized education program.

9 **3. Three years of age to under 6 years of age.** "Three years of age to under 6 years
10 of age" means from a child's 3rd birthday until the child's 6th birthday.

11 **4. Three years of age to under 22 years of age.** "Three years of age to under 22 years
12 of age" means from a child's 3rd birthday until the child's 22nd birthday.

13 **Sec. 16. 20-A MRSA §7202, sub-§1,** as enacted by PL 1981, c. 693, §§5 and 8, is
14 amended to read:

15 **1. Identification.** Identify all children from 3 years of age to under 22 years of age
16 within its jurisdiction who require special education;

17 **Sec. 17. 20-A MRSA §7202, sub-§3,** as amended by PL 2005, c. 662, Pt. A, §23,
18 is further amended to read:

19 **3. Diagnosis and evaluation.** Provide the evaluations and assessments required by
20 the federal Individuals with Disabilities Education Act, 20 United States Code, Section
21 1400 et seq., as amended, to plan and implement a special education program for children
22 with disabilities at least 3 years of age and under ~~20~~ 22 years of age within its jurisdiction;

23 **Sec. 18. 20-A MRSA §7203-A** is enacted to read:

24 **§7203-A. Responsibility**

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

33 **Sec. 19. 20-A MRSA §7204, sub-§4,** as amended by PL 2005, c. 662, Pt. A, §25,
34 is further amended to read:

35 **4. Program approval.** ~~Shall~~ Before July 1, 2026, shall approve plans for all early
36 intervention and special education programs and, beginning July 1, 2026, shall approve
37 plans for special education programs. The criteria for approval must include:

38 A. Requirements for admission;

39 B. Qualification or certification of staff;

40 C. Plan of instruction;

- 1 D. Adequacy of facilities;
- 2 E. Adequacy of supportive services;
- 3 F. Professional supervision; and
- 4 G. Teacher-student ratio;

5 **Sec. 20. 20-A MRSA §7209, sub-§9** is enacted to read:

6 **9. Transition to school administrative units for children from 3 years of age to**
7 **under 6 years of age.** Notwithstanding any provision of this section to the contrary,
8 beginning July 1, 2024, school administrative units are responsible for child find and the
9 provision of free, appropriate public education for children with disabilities from 3 years
10 of age to under 6 years of age in accordance with section 7211.

11 **Sec. 21. 20-A MRSA §7209, sub-§10** is enacted to read:

12 **10. Repeal.** This section is repealed July 1, 2026.

13 **Sec. 22. 20-A MRSA §7210**, as amended by PL 2005, c. 662, Pt. A, §30, is further
14 amended by enacting at the end a new paragraph to read:

15 This section is repealed July 1, 2026.

16 **Sec. 23. 20-A MRSA §7211** is enacted to read:

17 **§7211. Special education and related services for children with disabilities from 3**
18 **years of age to under 6 years of age**

19 Beginning July 1, 2024 and in accordance with subsection 4, school administrative
20 units are responsible for child find and the provision of free, appropriate public education
21 for children with disabilities from 3 years of age to under 6 years of age in accordance with
22 this section. A school administrative unit shall take responsibility for its own resident
23 children whether or not it operates a public preschool program.

24 **1. Service provision.** A school administrative unit shall provide services using its
25 own employees or through contracts with public or private providers. Before July 1, 2026,
26 a school administrative unit may contract with the Child Development Services System as
27 defined in section 7001, subsection 1-A to provide services.

28 **2. Support.** The department shall provide technical assistance and support to school
29 administrative units to implement the provisions of this section.

30 **3. Other resources for services.** The commissioner shall:

31 A. Consider any school administrative unit facility upgrades and renovations necessary
32 for providing special education and related services for children from 3 years of age to
33 under 6 years of age to have Priority 1 status under the School Revolving Renovation
34 Fund under Title 30-A, section 6006-F;

35 B. Consider any school administrative unit space necessary for providing early
36 childhood special education and related services for children from 3 years of age to
37 under 6 years of age as instructional space or regional programs and services space
38 under section 15672, subsection 2-A, paragraph B. Shared space with a community
39 partner is permissible if the shared space meets the necessary licensing standards for
40 the external spaces;

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

5 D. Consider any additional administrative and technical support that would enhance
6 consistent delivery of services to children from 3 years of age to under 6 years of age.

7 **4. Funding.** Funding for school administrative units must be provided through a
8 funding formula, determined by the commissioner, that is separate from the essential
9 programs and services funding formula pursuant to chapter 606-B and must fund 100% of
10 the cost of education, including prekindergarten education, special education and related
11 services for children eligible for services under the federal Individuals with Disabilities
12 Education Act, Part B, Section 619. If funding is not provided to school administrative
13 units in accordance with this subsection, school administrative units are not required to take
14 responsibility for child find and the provision of free, appropriate public education for
15 children with disabilities from 3 years of age to under 6 years of age under this section.

16 **Sec. 24. 20-A MRSA §7252-A**, as amended by PL 2005, c. 662, Pt. A, §31, is
17 further amended by enacting at the end a new paragraph to read:

18 Beginning July 1, 2026, this section applies only to special education programs.

19 **Sec. 25. 20-A MRSA §7252-B**, as amended by PL 2005, c. 662, Pt. A, §32, is
20 further amended to read:

21 **§7252-B. ~~Early intervention; special~~ Special education services; approval**

22 The commissioner shall adopt or amend rules to define allowable early intervention
23 and special education services and the qualifications of individuals who provide early
24 intervention or special education services. Each intermediate educational unit, approved
25 private school or state licensed agency providing early intervention services shall submit a
26 report at such time and in such form as the commissioner may require. Each school
27 administrative unit, approved private school or state licensed agency providing special
28 education services shall submit a report at such time and in such form as the commissioner
29 may require. This paragraph is repealed July 1, 2026.

30 Beginning July 1, 2026, the commissioner shall adopt or amend rules to define
31 allowable special education services and the qualifications of individuals who provide
32 special education services. Each school administrative unit, approved private school or
33 state licensed agency providing special education services shall submit a report at such time
34 and in such form as the commissioner may require.

35 **Sec. 26. 22 MRSA §1532, sub-§2**, as enacted by PL 2013, c. 397, §1, is amended
36 to read:

37 **2. Referrals.** The department shall in a timely fashion refer newborn infants with
38 confirmed treatable congenital, genetic or metabolic conditions or critical congenital heart
39 disease to the ~~Child Development Services System as defined in Title 20-A, section 7001,~~
40 ~~subsection 1-A~~ state intermediate educational unit established in Title 20-A, Part 4, Subpart
41 1. The department shall in a timely fashion refer a newborn infant to the ~~Child~~
42 ~~Development Services System~~ state intermediate educational unit if at least 6 months have
43 passed since an initial positive test result of a treatable congenital, genetic or metabolic

1 condition without the specific nature of the condition having been confirmed. The
2 department and the Department of Education shall execute an interagency agreement to
3 facilitate all referrals made pursuant to this section. In accordance with the interagency
4 agreement, the Department of Education shall offer a single point of contact for the
5 Department of Health and Human Services to use in making referrals. Also in accordance
6 with the interagency agreement, the ~~Child Development Services System~~ state intermediate
7 educational unit may make direct contact with the families who are referred. The referrals
8 may be made electronically. For purposes of quality assurance and improvement, the ~~Child~~
9 ~~Development Services System~~ state intermediate educational unit shall supply aggregate
10 data to the department at least annually on the numbers of children referred to the ~~Child~~
11 ~~Development Services System~~ state intermediate educational unit under this section who
12 were found eligible and ineligible for early intervention services. The department shall
13 supply data at least annually to the ~~Child Development Services System~~ state intermediate
14 educational unit on how many children in the newborn blood spot screening program as
15 established by rule of the department under section 1533, subsection 2, paragraph G were
16 screened and how many were found to have a disorder.

17 **Sec. 27. 22 MRSA §3174-PP**, as enacted by PL 2009, c. 643, §1, is amended to
18 read:

19 **§3174-PP. Medicaid reimbursement for eligible services provided through the ~~Child~~**
20 **~~Development Services System~~ and school administrative units**

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

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

38 **2. Monthly report.** The Office of MaineCare Services shall prepare and submit at the
39 beginning of each month a report that includes a detailed statement of the status of any
40 proposed adoption or amendment of rules that pertain to the Medicaid programs specified
41 in subsection 1 to the joint standing committee of the Legislature having jurisdiction over
42 education matters and the joint standing committee of the Legislature having jurisdiction
43 over health and human services matters.

1 **Sec. 28. 22 MRSA §3922, sub-§1**, as enacted by PL 2021, c. 457, §1, is amended
2 to read:

3 **1. Expansion of services.** Increase the percentage of children screened for
4 developmental, social or emotional issues at all appropriate locations, including, but not
5 limited to, early childhood education facilities, child care facilities, Head Start facilities,
6 Early Head Start facilities, regional sites of the ~~Child Development Services System~~ state
7 intermediate educational unit under Title 20-A, section ~~7209, subsection 3~~ 7104 and health
8 care providers to ensure access to early periodic screening, diagnosis and treatment and
9 other related services to promote children's healthy development. For purposes of this
10 section, "Head Start" means a program operated under 42 United States Code, Sections
11 9831 to 9852c and "Early Head Start" means a program under 42 United States Code,
12 Section 9840a;

13 **Sec. 29. 22 MRSA §3922, sub-§2**, as enacted by PL 2021, c. 457, §1, is amended
14 to read:

15 **2. Coordinated system.** Develop a coordinated system of early identification, referral
16 and follow-up services across early childhood education, child care facilities, home visitor
17 services as defined in section 3931, subsection 2, paragraph P, Head Start, Early Head Start,
18 the ~~Child Development Services System~~ state intermediate educational unit under Title
19 20-A, section ~~7209, subsection 3~~ 7104, health care providers and family supports;

20 **Sec. 30. 22 MRSA §3931, sub-§4, ¶B**, as enacted by PL 2021, c. 457, §2, is
21 amended to read:

22 B. Screening and ongoing child assessments conducted in a manner that is responsive
23 to a child's home language and culture. Screening must include an initial assessment
24 of developmental, behavioral, motor, language, cognitive and social and emotional
25 skills to identify a delay in development in a child's skills or identify a disability that
26 may require further evaluation. Ongoing assessment must monitor a child's
27 development and progress toward individual goals with input from the child's family
28 to determine a child's strengths and needs and possible adjustment of child care center
29 and family child care provider teaching practices and home visit strategies and to
30 support a referral to the ~~Child Development Services System~~ state intermediate
31 educational unit under Title 20-A, section ~~7209, subsection 3~~ 7104 when necessary;

32 **Sec. 31. 22 MRSA §8301-A, sub-§1-A, ¶B**, as amended by PL 2009, c. 211, Pt.
33 B, §20, is further amended by enacting a new first blocked paragraph to read:

34 This paragraph is repealed July 1, 2026.

35 **Sec. 32. 22 MRSA §8301-A, sub-§1-A, ¶B-1** is enacted to read:

36 B-1. Beginning July 1, 2026, "child care facility" means a child care center, small child
37 care facility or nursery school. "Child care facility" does not include a facility operated
38 by a family child care provider, a youth camp licensed under section 2495, programs
39 offering instruction to children for the purpose of teaching a skill such as karate, dance
40 or basketball, a formal public or private school in the nature of a kindergarten or
41 elementary or secondary school approved by the Commissioner of Education in
42 accordance with Title 20-A or a private school recognized by the Department of
43 Education as a provider of equivalent instruction for the purpose of compulsory school

1 attendance. Any program for children under 5 years of age that is located in a private
2 school is required to be licensed as a child care facility.

3 **Sec. 33. 22 MRSA §8824, sub-§1-A**, as amended by PL 2007, c. 695, Pt. A, §28,
4 is further amended to read:

5 **1-A. Referral to ~~Child Development Services System~~ state intermediate**
6 **educational unit**. The department shall adopt rules according to which it shall in a timely
7 fashion refer children identified in subsection 1 as having a high likelihood of having a
8 hearing impairment to the ~~Child Development Services System~~ state intermediate
9 educational unit. The rules must also describe the timetables under which the department
10 shall refer to the ~~Child Development Services System~~ state intermediate educational unit
11 children identified by the department in accordance with subsection 1 as having possible
12 hearing impairment but for whom hearing impairment has been neither confirmed nor
13 disconfirmed by 6 months of age. The Department of Education and the Department of
14 Health and Human Services shall execute an interagency agreement to facilitate the
15 referrals in this subsection. In accordance with the interagency agreement, the Department
16 of Education shall offer a single point of contact for the Department of Health and Human
17 Services to use in making referrals. Also in accordance with the interagency agreement,
18 the ~~Child Development Services System~~ state intermediate educational unit may make
19 direct contact with the families who are referred. The referrals may take place
20 electronically. For purposes of quality assurance and improvement, the ~~Child Development~~
21 ~~Services System~~ state intermediate educational unit shall supply to the Department of
22 Health and Human Services aggregate data at least annually on the number of children
23 referred under this subsection who are found eligible for early intervention services and on
24 the number of children found not eligible for early intervention services.

25 **Sec. 34. 22 MRSA §8943**, as amended by PL 2007, c. 450, Pt. A, §9, is further
26 amended to read:

27 **§8943. Central registry**

28 The department shall establish and maintain a central registry for cases of birth defects
29 to accomplish the purposes of this chapter and facilitate research on birth defects. The
30 submission of information to and distribution of information from the central registry are
31 subject to the requirements of this chapter and other provisions of law. Information that
32 directly or indirectly identifies individual persons contained within the registry is
33 confidential and must be distributed from the registry in accordance with rules adopted by
34 the department. The department shall adopt rules according to which it will in a timely
35 fashion refer to the ~~Child Development Services System~~ state intermediate educational unit
36 children with confirmed birth defects who may be eligible for early intervention. The
37 department and the Department of Education shall execute an interagency agreement to
38 facilitate the referrals under this section. In accordance with the interagency agreement, the
39 Department of Education shall offer a single point of contact for the Department of Health
40 and Human Services to use in making referrals. Also in accordance with the interagency
41 agreement, the ~~Child Development Services System~~ state intermediate educational unit
42 may make direct contact with the families who are referred. The referrals may take place
43 electronically. For purposes of quality assurance and improvement, the ~~Child Development~~
44 ~~Services System~~ state intermediate educational unit shall supply to the department
45 aggregate data at least annually on the number of children referred under this section who

1 were found eligible for early intervention services and on the number of children found not
2 eligible for early intervention services. In addition, the department shall supply data at
3 least annually to the ~~Child Development Services System~~ state intermediate educational
4 unit on how many children had data entered into the registry. For a child whose parent or
5 legal guardian objects on the basis of sincerely held religious belief, the department may
6 not require the reporting of information about that child to the central registry or enter into
7 the central registry information regarding birth defects of that child.

8 **Sec. 35. Transition provisions.** The following provisions govern the transition and
9 reorganization of responsibility for providing special education and related services to
10 children with disabilities from 3 years of age to under 6 years of age from the Child
11 Development Services System to the school administrative units of residence and the
12 elimination of the Child Development Services System.

13 **1. Responsibility for children with disabilities from 3 years of age to under 6 years**
14 **of age.** Notwithstanding the Maine Revised Statutes, Title 20-A, section 7209, subsection
15 3-A, beginning July 1, 2024, the school administrative unit of residence is responsible for
16 providing child find and special education and related services to children with disabilities
17 from 3 years of age to under 6 years of age in accordance with Title 20-A, section 7211.

18 **2. Regional sites.** The Department of Education shall adjust the Child Development
19 Services System regional sites as necessary based on the capacity of the school
20 administrative units to serve students. As of July 1, 2024, the Child Development Services
21 System is no longer responsible for the provision of early childhood special education
22 services to children with disabilities but must remain available to serve as a service provider
23 for the school administrative units until July 1, 2026.

24 **3. Funds.** The funds appropriated to the Child Development Services System, state
25 intermediate educational unit for services under the federal Individuals with Disabilities
26 Education Act, Part B, Section 619 may be reallocated as necessary to the school
27 administrative units effective July 1, 2024 through a reimbursement model developed by
28 the Department of Education.

29 **4. Child Development Services System.** The Department of Education shall ensure
30 that any transition issues relating to the elimination of the Child Development Services
31 System by July 1, 2026 are addressed.

32 **5. Funding mechanisms.** The Department of Education shall develop a funding
33 mechanism for the state intermediate educational unit to be in place on or before July 1,
34 2026 that includes maximizing insurance billing for private insurance and the MaineCare
35 program.

36 **6. Compensatory services.** The Department of Education shall pay 100% of costs for
37 compensatory services for children with a disability from 3 years of age to under 6 years
38 of age who have been underserved through the independent education unit model for fiscal
39 years 2022-23, 2023-24, 2024-25, 2025-26 and 2026-27.

40 **7. Budget; funding formula.** The Department of Education shall develop a budget for
41 the costs for school administrative units to serve children with disabilities from 3 years of
42 age to under 6 years of age and a funding formula for children with disabilities from 3 years
43 of age to under 6 years of age to be in place on or before July 1, 2024 and that is in
44 accordance with the 100% funding requirement pursuant to the Maine Revised Statutes,

1 Title 20-A, section 7211, subsection 4. The department shall submit the proposed funding
2 formula to the joint standing committee of the Legislature having jurisdiction over
3 education matters for review no later than February 1, 2023.

4 **8. Total cost.** The Department of Education shall develop an estimate of the total cost
5 for each year of the transition and the estimated total ongoing cost per year after the
6 transition.

7 **9. Infants and toddlers with disabilities.** On July 1, 2026, the responsibility for early
8 intervention services for infants and toddlers with disabilities transfers from the Child
9 Development Services System to the board of directors of the state intermediate
10 educational unit.

11 **10. Positions.** The Department of Education shall eliminate all Child Development
12 Services System positions on or before July 1, 2026. The Department of Education shall
13 transfer Part C employees to the state intermediate educational unit on July 1, 2026. Part B
14 employees must be offered the following beginning August 1, 2022:

- 15 A. Career counseling through the Department of Labor;
- 16 B. Course work and expedited certification pathways to obtain certification in early
17 childhood special education;
- 18 C. Retraining in early intervention services to serve in the state intermediate
19 educational unit; and
- 20 D. Retirement options.

21 **11. Maine Public Employees Retirement System one-time election.** A Child
22 Development Services System employee who transfers from the Child Development
23 Services System to a school administrative unit between July 1, 2022 and July 1, 2026 who
24 otherwise would be a mandatory member of the State Employee and Teacher Retirement
25 Program or the Participating Local District Consolidated Retirement Plan as a result of such
26 transfer, within 30 days of the transfer, may make a one-time election whether to be a
27 member of the applicable program or plan. Once an election is made under this subsection,
28 the election is irrevocable with respect to all subsequent employment with the same
29 employer when membership in the program is not optional except as provided in the Maine
30 Revised Statutes, Title 5, section 18252-A or 18252-C.

31 **12. Early adopters.** Prior to July 1, 2023, school administrative units providing special
32 education and related services for children from 3 years of age to under 6 years of age must
33 be reimbursed at 100% by the Child Development Services System for the costs of these
34 services. Beginning July 1, 2023, school administrative units providing special education
35 and related services to children from 3 years of age to under 6 years of age must receive
36 100% reimbursement for these costs directly from the Department of Education. School
37 administrative units assuming this responsibility before July 1, 2024 must be considered
38 early adopters. The department shall provide financial support for early adopters, including
39 but not limited to first-year start-up funds from available state and federal resources, a
40 reallocation of available Child Development Services System funds and the other resources
41 for services under the Maine Revised Statutes, Title 20-A, section 7211, subsection 3.
42 Support may also include funds for the cost of administrative support approved by the
43 department.

1 **13. Reports to joint standing committee.** The Department of Education shall submit
2 reports to the joint standing committee of the Legislature having jurisdiction over education
3 matters on the reorganization of the provision of services to eligible children from birth to
4 under 6 years of age in accordance with the following.

5 A. Between the effective date of this Act and November 2, 2022, the Department of
6 Education shall submit 3 reports to the joint standing committee. These reports must
7 address the transition provisions included in this section and the following:

8 (1) How the funding formula being developed for children with disabilities from 3
9 years of age to under 6 years of age will provide 100% funding and any other
10 details regarding budgetary matters and funding mechanisms;

11 (2) Information on MaineCare and private insurance billing and any issues
12 regarding requirements to obtain parental consent for billing insurance;

13 (3) Updates and improvements to child find;

14 (4) Reporting requirements pursuant to the Maine Revised Statutes, Title 20-A,
15 section 7209, subsection 4, paragraph E that should also be a reporting requirement
16 for the new state intermediate educational unit pursuant to Title 20-A, section
17 7104;

18 (5) Updates and additional information regarding the employment of current Child
19 Development Services System employees, including but not limited to
20 employment and retirement protections, memoranda of understanding with local
21 service providers and the status of and plans for appropriate training and educator
22 credentialing;

23 (6) Whether and how superintendent agreements for students from 3 years of age
24 to under 6 years of age will occur for students receiving services outside of the
25 school district in which the student resides;

26 (7) Updates and information regarding the provision of compensatory services
27 under subsection 6 and whether there are any additional unanticipated costs or
28 liability for school administrative units as a result of these services;

29 (8) Updates on and status of school administrative unit and local service provider
30 or agency capacity assessments;

31 (9) Updates on the eligibility of and any federal changes on the expansion of the
32 standard deviation for qualification of services;

33 (10) A plan to address labor shortages related to the provision of services under
34 this Act;

35 (11) Recommendations on additional appointing authorities, other than the
36 Governor, for the board of directors of the state intermediate educational unit under
37 the Maine Revised Statutes, Title 20-A, section 7105; and

38 (12) Any other information, findings or recommendations regarding the transition
39 of services under this Act.

40 The Joint Standing Committee on Education and Cultural Affairs is authorized to meet
41 3 times between the effective date of this Act and November 2, 2022 to receive and
42 discuss the reports under this paragraph.

43 B. No later than February 1, 2023, and annually thereafter until the transition is
44 complete, the Department of Education shall submit a report to the joint standing

1 committee of the Legislature having jurisdiction over education matters on the
2 reorganization of the provision of services to eligible children from birth to under 6
3 years of age.

4 **Sec. 36. Rulemaking.** The Department of Education shall adopt rules to accomplish
5 the transition and reorganization required by this Act, including the reorganization and
6 transition provisions. Rules adopted pursuant to this section are major substantive rules as
7 defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The
8 department shall submit the provisionally adopted rules under this section to the Legislature
9 no later than January 13, 2023.

10 **Sec. 37. Board of directors; appointments; staggered terms.** The Governor
11 shall make all appointments to the board of directors of the state intermediate educational
12 unit pursuant to the Maine Revised Statutes, Title 20-A, section 7105 no earlier than July
13 1, 2023 and no later than July 1, 2025. Notwithstanding Title 20-A, section 7105,
14 subsection 2, the Governor, for original appointments, shall designate their first
15 appointment for a 2-year term or a 3-year term. An initial term of 2 years may not be
16 considered a full term for purposes of limiting the number of terms for which a member
17 may serve.

18 **Sec. 38. Authority for legislation.** The joint standing committee of the Legislature
19 having jurisdiction over education matters may submit legislation to the 131st Legislature
20 upon receipt of any reports or provisionally adopted major substantive rules or to
21 implement any necessary revisions to provisions of law related to this Act, including but
22 not limited to delaying the dates of the reorganization of services if the joint standing
23 committee determines necessary benchmarks for the reorganization of services have not
24 been met.

25 **Sec. 39. Effective date.** Those sections of this Act that amend the Maine Revised
26 Statutes, Title 22, section 1532, subsection 2; Title 22, section 3174-PP; Title 22, section
27 3922, subsections 1 and 2; Title 22, section 3931, subsection 4, paragraph B; Title 22,
28 section 8824, subsection 1-A; and Title 22, section 8943 take effect July 1, 2026.

29 SUMMARY

30 This bill, which is reported out by the Joint Standing Committee on Education and
31 Cultural Affairs pursuant to Resolve 2021, chapter 106, extends the age of eligibility under
32 the federal Individuals with Disabilities Education Act to 22 years of age and provides for
33 the reorganization of the provision of services for infants, toddlers and children with
34 disabilities from birth to 6 years of age. The bill:

35 1. Establishes a new chapter of law governing early intervention services to implement
36 Part C of the federal Individuals with Disabilities Education Act beginning July 1, 2026. It
37 provides for the duties and responsibilities of the Department of Education, establishes the
38 state intermediate educational unit, which will replace the current child development
39 services system for infants and toddlers from birth to under 3 years of age, creates a board
40 of directors and provides for the board's powers and duties, including administrative and
41 programmatic functions, and an executive director;

42 2. Provides that, beginning July 1, 2024, school administrative units are responsible for
43 child find and the provision of free, appropriate public education for children with

1 disabilities from 3 years of age to under 6 years of age, whether or not the school
2 administrative units operate public preschool programs, and requires the Department of
3 Education to develop a funding formula to provide funds for school administrative units to
4 be implemented no later than July 1, 2024. It further provides that funding for school
5 administrative units must be provided through a funding formula, determined by the
6 Commissioner of Education, that is separate from the essential programs and services
7 funding formula pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B and
8 must fund 100% of the cost of education, including prekindergarten education, special
9 education and related services for children eligible for services under the federal
10 Individuals with Disabilities Education Act, Part B, Section 619. If funding is not provided
11 to school administrative units, school administrative units are not required to take
12 responsibility for child find and the provision of free, appropriate public education for
13 children with disabilities from 3 years of age to under 6 years of age;

14 3. Amends cross-references to the Child Development Services System to refer to the
15 state intermediate educational unit. Before July 1, 2026, the Child Development Services
16 System is the state intermediate educational unit; beginning July 1, 2026, the state
17 intermediate educational unit is established pursuant to the Maine Revised Statutes, Title
18 20-A, section 7104;

19 4. Repeals, on July 1, 2026, those sections of law governing the Child Development
20 Services System;

21 5. Provides provisions for the transition and reorganization of services for infants and
22 toddlers and children with disabilities from birth to 6 years of age, including but not limited
23 to provisions that require the Department of Education to:

24 A. Adjust Child Development Services System regional sites as necessary based on
25 school administrative units' capacity to serve students. Between July 1, 2024 and July
26 1, 2026, school administrative units may contract with Child Development Services
27 System sites to provide services to children, and funds for the Child Development
28 Services System may be reallocated as necessary to school administrative units
29 beginning July 1, 2024;

30 B. Develop a funding mechanism for the state intermediate educational unit to be in
31 place on or before July 1, 2026;

32 C. Pay 100% of costs for compensatory services for children with disabilities from 3
33 years of age to under 6 years of age who have been underserved through the
34 independent education unit model for fiscal years 2022-23, 2023-24, 2024-25, 2025-
35 26 and 2026-27;

36 D. Develop a budget to include costs for school administrative units to serve children
37 with disabilities from 3 years of age to under 6 years of age and develop a funding
38 formula to be in place on or before July 1, 2024, which must be submitted to the joint
39 standing committee of the Legislature having jurisdiction over education matters for
40 review no later than February 1, 2023;

41 E. Develop a projection of the total cost for each year of the transition and the
42 anticipated total cost for each year after the transition;

43 F. Eliminate all Child Development Services System positions on or before July 1,
44 2026. The Department of Education is required to transfer Part C employees to the state
45 intermediate educational unit on July 1, 2026. Part B employees must be offered career

1 counseling, course work and expedited certification pathways, retraining in early
2 intervention services and retirement options beginning August 1, 2022;

3 G. Report to the joint standing committee annually throughout the transition and 3
4 times between the effective date of this legislation and November 2, 2022. The Joint
5 Standing Committee on Education and Cultural Affairs is authorized to meet 3 times
6 during that same time period to receive and discuss the reports; and

7 H. Adopt major substantive rules governing the transition and to implement this
8 legislation. The rules must be submitted to the Legislature no later than January 13,
9 2023;

10 6. Provides a provision for school administrative units that want to adopt responsibility
11 early for the provision of a free, appropriate public education for children from 3 years of
12 age to under 6 years of age to do so and receive 100% reimbursement for these costs directly
13 from the Department of Education and additional financial support from the department;

14 7. Provides that a Child Development Services System employee who transfers from
15 the Child Development Services System to a school administrative unit between July 1,
16 2022 and July 1, 2026 who otherwise would be a mandatory member of the State Employee
17 and Teacher Retirement Program or the Participating Local District Consolidated
18 Retirement Plan as a result of such transfer, within 30 days of the transfer, may make a
19 one-time election whether to be a member of the applicable program or plan; and

20 8. Gives authority to the joint standing committee of the Legislature having jurisdiction
21 over education matters to submit legislation to the 131st Legislature upon receipt of any
22 reports or provisionally adopted rules pursuant to this legislation or to implement any
23 necessary revisions to provisions of the law related to this legislation, including but not
24 limited to delaying the dates of the reorganization of services if the committee determines
25 that necessary benchmarks for the reorganization of services have not been met.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**



130th MAINE LEGISLATURE

LD 2039

LR 2686(01)

An Act To Reorganize the Provision of Services for Infants, Toddlers and Children with Disabilities from Birth to 6 Years of Age and Extend the Age of Eligibility under the Individuals with Disabilities Education Act to 22

**Fiscal Note for Original Bill
Committee: Education Committee
Fiscal Note Required: Yes**

Fiscal Note

Potential future biennium cost increase - General Fund

Fiscal Detail and Notes

Under current law, services for infants, toddlers and children with disabilities from birth to 6 years of age is provided through the Child Development Services System (CDS) which receives General Fund appropriations of approximately \$39.7 million per year along with approximately \$5.3 million annually in federal funds. This legislation reorganizes how services to these children are provided and extends the age that a child with a disability is eligible to receive services under the Individuals with Disabilities Education Act from age 21 to age 22. The bill requires the Department of Education to develop projections for the total cost of this reorganization and to report to the joint standing committee having jurisdiction over education matters on the cost and proposed funding mechanisms by November 2, 2022. If the projected costs exceed current funding levels, additional General Fund appropriations will be required.

As part of the reorganization, the bill requires school administrative units (SAU's) to assume responsibility for identifying and providing free, appropriate public education (FAPE) for children with disabilities from 3 years of age to under 6 beginning July 1, 2024 using their own employees or through contracts with public or private providers (SAU's are allowed to contract with the Child Development Services System until July 1, 2026) only if funding is provided to cover the total costs to SAU's through a funding formula to be developed by the Department of Education. The bill allows for funds appropriated to the current Child Development Services System program for children with disabilities from 3 years of age to under 6 to be reallocated through a reimbursement model developed by the department to SAU's beginning July 1, 2024.

This legislation also repeals the current Child Development Services System and replaces it with a State Intermediate Educational Unit (SIEU) established as a public instrumentality of the State responsible for identifying, evaluating and providing early intervention services to eligible infants and toddlers with disabilities from birth to under age 3 and their families effective July 1, 2026. The bill requires the Department of Education to develop a funding mechanism for the SIEU to be in place by that effective date.

This bill requires the Department of Education to pay 100% of the costs for compensatory services for children with a disability from 3 years of age to under 6 years of age who have been underserved through the current model from fiscal year 2022-23 through fiscal year 2025-26. This requirement is expected to result in additional costs to the State, but the total impact can not be estimated at this time.

Any additional costs to the Department of Health and Human Services from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.