

Final Report  
of the

SUBCOMMITTEE TO STUDY EARLY CHILDHOOD SPECIAL EDUCATION

Submitted to  
the Commissioner of Education,  
the Commissioner of Health and Human Services,  
the Joint Committee on Education and Cultural Affairs of the 123<sup>rd</sup> Legislature,  
and the Joint Committee on Health and Human Services of the 123<sup>rd</sup> Legislature

January 22, 2007

Pursuant to  
Public Law 2005 Chapter 662

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## EXECUTIVE SUMMARY

The Subcommittee to Study Early Childhood Special Education was created and charged by PL 2005, c. 662 to assess Maine's system for early intervention, early childhood special education, and related services for children birth to eight years old. Specifically, the Subcommittee was asked to review the costs and benefits of proposed structural changes to Child Development Services (CDS), to investigate the efficacy, efficiency, and compliance of Maine's early intervention and early childhood special education systems, to explore whether Maine's current approaches strike a balance between cognitive, emotional, and physical development of young children (expanded with the support of the Task Force on Early Childhood to include a balance with social development), to determine whether national trends in early childhood systems might inform decisions to alter Maine's early childhood systems, and to examine such other issues that might be useful or necessary in the course of its work. The Subcommittee was granted authority by PL 2005, c. 662 to investigate alternatives, to make recommendations, and to introduce legislation to the 123<sup>rd</sup> Legislature. The Subcommittee functioned as a subcommittee of the Task Force on Early Childhood, an initiative of the Children's Cabinet established pursuant to 5 MRSA Chapter 439. Subcommittee membership included a broad range of stakeholders, including members of the executive and legislative branches of state government, parents of children with disabilities, public educators, and more. Legislative members were appointed by the President of the Senate and the Speaker of the House. Non-legislative members were appointed jointly by the Commissioner of Education (DOE) and the Commissioner of Health and Human Services (DHHS). Co-chairs were appointed from among the non-legislative members by the President of the Senate and the Speaker of the House.

From July through December 2006, the Subcommittee met 10 times for more than 40 hours in total. In addition, the Subcommittee received ongoing reports from two task forces comprised of Subcommittee members: a "balancing group" that conducted a survey of CDS sites and examined other data in order to address one of the Subcommittee's charges and a "data group" that examined and analyzed data from state and federal sources to address several of the Subcommittee's charges.

Having examined and analyzed voluminous data from local, state and national sources, and having solicited and accepted extensive public comment, the Subcommittee adopted 8 findings (6 by consensus) and 21 recommendations (14 by consensus).

To summarize the major themes in the Findings:

- Relative to national benchmarks, Maine's performance in providing early intervention and early childhood special education to children birth to age 5, including the performance of Child Development Services, is *very good* in most areas.
- The growing trend among states toward greater interagency coordination and more comprehensive early childhood systems informed the Subcommittee's recommendations to improve efficiency, quality, and accountability through greater interagency coordination in Maine, including an updated formal interdepartmental memorandum of understanding between Maine's DOE and DHHS.

To summarize the major themes in the Recommendations:

- Having considered several alternative models, the Subcommittee made several recommendations that would **build upon Maine's good performance by strengthening and improving the existing structure of the Birth-5 Child Development Services system**. A number of other alternatives, including the plan introduced by the Department of Education in LD 1772, would have required dismantling the system to implement one that resembles those of states whose performance was not as good as Maine's.
- Specific recommendations were made to **increase interagency collaboration**, especially among Child Development Services; the Department of Health and Human Services, including DHHS's new Division of Early Childhood; public schools; and other community resources.
- Specific recommendations were also made to **increase the accountability of system components** and personnel to the Governor, to the Legislature, to a dedicated Birth-5 council mandated by the federal Individuals with Disabilities Education Act (IDEA), to families of children with disabilities, and to the public.

After the Subcommittee's last meeting but during members' electronic review of the Subcommittee's final report and Subcommittee's proposed legislation to be introduced to the First Regular Session of the 123<sup>rd</sup> Legislature, the Department of Education announced in Part MM of the proposed 2007-08/2008-09 biennial budget language to eliminate the 16 regional CDS governing boards by July 1, 2008, and transfer governing authority and regional administration to 26 regional school districts. The Department of Education took the position that this plan was consistent with the Subcommittee's Recommendations. In a straw poll of non-abstaining members of the Subcommittee, **100% of respondents declared that the Department of Education's plan to put Birth-5 service administration in the 26 regional school administrative units was *inconsistent* with the Subcommittee's recommendations.**

## SUBCOMMITTEE'S CHARGE

In response to public request for a thoughtful review of changes to the early intervention and early childhood special education system that were proposed by the Department of Education, the Subcommittee to Study Early Childhood Special Education was created by Public Law 2005, Chapter 662, Part C. As described in law, the Subcommittee consisted of 28 members, including four legislators appointed by the presiding officers of the Legislature and including a range of stakeholders nominated by community organizations and appointed by the Commissioner of Education and the Commissioner of Health and Human Services.

The charge to the Subcommittee was to examine:

1. The extent to which services provided by the early childhood special education systems established in the State to deliver effective early intervention and free, appropriate public education services for eligible children from birth to 8 years of age are provided in an efficient manner that meets federal and state legal requirements;
2. The extent to which the existing early childhood systems established in the State strike a reasonable balance between the cognitive development and the emotional and physical needs of young children from birth to 8 years of age;
3. National trends and relevant models of governing and delivering early childhood special education systems in other states and jurisdictions that hold the potential for enhancing the effectiveness, efficiency or accountability of the early childhood special education systems established in the State;
4. The short-term and long-term costs and benefits of the Department of Education plan to restructure the Child Development Services System as presented by the Commissioner of Education to the Legislature pursuant to Public Law 2005, chapter 12, Part YY on November 30, 2005 and as set forth in this Act; and
5. Such other issues as the subcommittee membership determine to be useful or necessary in examining this policy matter.

The Subcommittee was directed to submit its findings and recommendations, including suggested legislation, to the Commissioner of Education and the Commissioner of Health and Human Services, who are the lead commissioners for the early childhood priority established by the Children's Cabinet and its Task Force on Early Childhood, and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 31, 2007.

The Subcommittee was authorized by Public Law 2005, Chapter 662, Part C, Section C-8 to introduce legislation related to the recommendations contained in its report to the First Regular Session of the 123<sup>rd</sup> Legislature at the time of submission of its report.

## FINDINGS

The Subcommittee to Study Early Childhood Special Education makes the following findings:

1. **Interagency Coordination.**

There is a trend among states toward increased development of interagency agreements, interagency standards, and interagency collaboration in the delivery of early childhood services. In the State of Maine interagency coordination would include interdepartmental coordination. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

2. **Efficiency of Special Education Birth to Age 8.**

Neither Child Development Services nor the public school early childhood special education system Birth-8 could be categorized as “efficient” or “inefficient” as there are no benchmarks for comparing the two systems to one another. The Subcommittee identified inefficiencies and efficiencies in the individual systems that warrant further investigation. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

3. **Childfind.**

Based on 2005 national data, Maine’s identification rate for children birth to age one is *below* the national average, for children age one to two years is *similar* to the national average, and for children age three to five years is *above* the national average. Across the nation the identification rate for 3-to-5-year-olds is below that for 6-to-10-year-olds, but in Maine the identification rate for 3-to-5-year-olds is similar that for 6-to-10-year-olds. **THIS IS A MAJORITY FINDING OF THE SUBCOMMITTEE.**

4. **Unmet Needs.**

Based on a study done by the IDEA Infant and Toddler Coordinators Association, 28% of states achieve a 90% or better rate of providing services to children Birth-Two (Part C of IDEA) in a timely manner. Between February 2005 and June 2006, CDS’s lowest rate of providing services in a timely manner was 92.2% and its highest was 98.7%. For children 3-5 (Part B of IDEA) CDS’s delivery percentage has been even higher than in Part C. Between February 2005 and June 2006 the monthly Part C rate has exceeded the Part B rate only four times. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

5. **Timeline Compliance.**

Based on a study by the IDEA Infant and Toddler Coordinators Association of compliance with 45-day timelines from referral through evaluation, assessment, and IFSP meeting, CDS’s compliance is *better overall* than 70% of reporting states. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

6. **Balancing Cognitive, Emotional, Physical, and Social Needs.**

Based on a survey of CDS sites conducted by the Subcommittee, inconsistencies with potential implications for balance were found among CDS sites regarding Childfind screening for Birth-5 and evaluation procedures for Birth-2. The survey also showed that many highly trained professionals were within the CDS system and that variations in qualifications exist among sites. Variations were found, specifically within developmental

therapy services, in the use of curriculum-based assessment tools and program assessment tools. Significant changes were found in the criteria of Department of Education endorsement for developmental therapists (endorsement category 282). From 2000 to the present, specialization for the early childhood field has been “generalized” so it no longer requires a balance in the knowledge base of developmental therapists across each of these developmental domains. For example, the coursework requirements in current Department of Education regulation Chapter 115 for Birth-5 282 endorsement have been reduced to 24 credits in special education with no requirement that the courses be specific to early childhood and no requirement for student teaching. In Maine’s higher education system there is not significant accessibility to or availability of relevant course work to address balance across each of these developmental domains. **THIS IS A MAJORITY FINDING OF THE SUBCOMMITTEE.**

7. **Timeline for Centralization.**

Regarding the centralized fiscal operations envisioned in Public Law 2005 Chapter 662, the Department of Education and the Subcommittee have identified challenges in meeting the originally proposed timelines. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

8. **Department of Education’s November 2005 Plan.**

The Subcommittee is unable to determine efficiencies, inefficiencies, or cost savings in the Department of Education’s plan that was presented to the Legislature in November 2005 and introduced to the 122<sup>nd</sup> Legislature as LD 1772. **THIS IS A CONSENSUS FINDING OF THE SUBCOMMITTEE.**

## RECOMMENDATIONS

Based on its findings, the Subcommittee to Study Early Childhood Special Education makes the following recommendations:

1. **Build on Current Systems.**

Maine should improve the systems that it has, build on current systems' demonstrated strengths, and make changes where needs are recognized. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

2. **Child Development Services Birth to 5.**

Maine should keep intact a Child Development Services system to coordinate services for eligible children birth through 5 and ensure that such children receive early intervention and early childhood special education under IDEA Part C and Part B Section 619. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

3. **Lead Agency.**

Maine should maintain the Department of Education as the Lead Agency for Child Development Services. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

4. **Interagency Connections: Expand Connections for Childfind and Service Delivery.**

Child Development Services should expand the connections of Childfind and of service delivery with School Administrative Units, with the Department of Health and Human Services, and with medical providers. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

5. **Transparent Annual Reporting.**

Annually, Child Development Services shall submit a report that is transparent and available to the public, to the legislative and governing bodies of Child Development Services about the performance of Child Development Services. This report shall include information on performance of individual sites and of the system, shall benchmark performance against state and national standards of performance, and shall include information about performance in Childfind, service delivery, service coordination, eligibility, and exits. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

6. **Common Early Childhood Standards Across Departments.**

The Department of Education and the Department of Health and Human Services shall establish and adopt common dual-department early childhood standards for birth to age 8 based on standards of the National Association for the Education of Young Children, the Individuals with Disabilities Education Improvement Act, and the Division of Early Childhood of the Council for Exceptional Children. This should include, but not be limited to, Developmentally Appropriate Practice as it relates to curricula, personnel standards, personnel training, inclusion, family centered approach, system access, facilities, credentialing, ratios, accreditation, and eligibility for contracts. The standards should address the places where children spend their days, including but not limited to child care, Head

Start, and public schools, including pre-K programs. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**7. Transfer of Records at Entry to Public School.**

Regional CDS sites shall be required to ask parents of children who were previously served by Child Development Services but who were discharged to grant parental permission for the regional site to share Child Development Services records with the receiving public school when the children enter public school. If the parent consents, then CDS shall send the records to the receiving public school. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**8. Interagency Agreement and Interagency Referrals.**

The Department of Health and Human Services and the Department of Education shall develop rules, policies, and a written interagency agreement by January 31, 2008, to address mutual support for children with special needs Birth-8 to include but not be limited to:

- a. Responsibilities for appropriate referrals to CDS from DHHS programs including the metabolic program, the newborn hearing program, and the birth defects registry,
- b. Components of a Quality Early Childhood System as outlined in Appendix E of this report,
- c. Clear definition of Department of Education and Department of Health and Human Services positions assigned to accomplish the responsibilities outlined in the interagency agreement, and
- d. Such other components that are consistent with other recommendations of the Subcommittee.

**THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**9. State Interagency Coordinating Council.**

There shall be a State Interagency Coordinating Council (SICC) for Birth-5. The SICC shall report annually to the Governor and the Legislature on its work and on recommendations for early intervention and early childhood special education. The SICC shall satisfy IDEA's requirements for a state interagency coordinating council, including the IDEA membership requirements. The SICC shall advise and report on the interagency agreement and its ongoing function. The SICC shall be staffed by the Department of Health and Human Services and the Department of Education. While meeting the requirements of federal IDEA, membership of the SICC shall simultaneously include:

- a. An employee of the Department of Health and Human Services in the Maine Center for Disease Control and Prevention who works in newborn screening programs, appointed by the Governor on the recommendation of the Commissioner of Health and Human Services,
- b. An employee of the Department of Health and Human Services in Children's Behavioral Health Services who works in Mental Health Case Management, appointed by the Governor on the recommendation of the Commissioner of Health and Human Services,
- c. An employee of the Department of Health and Human Services in the Division of Early Childhood, appointed by the Governor on the recommendation of the Commissioner of Health and Human Services.

- d. A Child Development Services contracted provider of an early childhood program nominated by the Maine Association for Community Service Providers and appointed by the Governor.

The SICC shall advise and report on common standards, interagency focus areas, annual progress, monitoring and reporting, centralized interdepartmental training and tracking, and development of centralized data. While the SICC's membership and staff may overlap those of the Maine Advisory Council for the Education of Children with Disabilities (MACECD), the SICC shall be a separate council from MACECD. In particular, the MACECD Early Transition group may have cross-membership with the SICC. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**10. Broad Reporting by State Interagency Coordinating Council.**

In addition to being staffed by the Department of Health and Human Services and the Department of Education, the State Interagency Coordinating Council required by IDEA shall deliver reports and advice to the Commissioner of Education, the Commissioner of Health and Human Services, the Education Committee of the Legislature, and the Health and Human Services Committee of the Legislature. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**11. Interagency Data Linkage.**

The Maine Educational Policy Research Institute (MEPRI) in the University of Maine System shall explore and report to the Joint Committee on Education and Cultural Affairs on the technical aspects that would enable data linkage to facilitate research projects involving linkage of identifiable health and education data in a way that would be in compliance with federal privacy law and regulation (FERPA and HIPAA Privacy Rule). MEPRI may tap the Attorney General's office for advice on what—if any—state law, regulation, or policy would have to be changed to enable or facilitate such studies. Data linkage would be investigated with a broad range of research questions in mind, but an example of questions that could be addressed is the number of case managers per child. A goal of such work is that the Department of Health and Human Services and the Department of Education will work together to determine how data systems can be designed to facilitate analysis of data across departments. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**12. Community Resources.**

The Birth-5 CDS system shall develop strategies to maximize the usage of a broad base of community resources, including private providers, public schools, resources from other agencies, and other available resources serving children and families. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**13. Regional Service Coordination and Delivery.**

Child Development Services responsibilities shall include, for children Birth-5, Early Intervention/Early Childhood Special Education (Part C and Part B Section 619); Childfind; Service Coordination; appropriate referrals to support programs outside of CDS serving children birth to age 5, including appropriate public and private resources, regardless of a child's eligibility for CDS services; and other responsibilities as outlined in Department of

Education regulation Chapter 180 as in effect in December 2006. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**14. Training and Support to Regional Site Boards.**

The Department of Education shall develop and present to the Legislature and to the State Interagency Coordinating Committee required by IDEA a plan for improving training and support to CDS regional boards of directors no later than June 30, 2007. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**15. Interface Between CDS and Public Schools.**

Public schools shall continue to be allowed to develop 4-year-old programs at their own pace, but these programs will be mandated to be inclusive. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**16. Deadline for Fiscal Centralization Enacted by Public Law 2005 Chapter 662.**

The deadline for fiscal centralization in 20-A MRSA § 7209(3)(C) shall be changed from September 30, 2006, to September 30, 2007. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**17. Sunset Dates Enacted by Public Law 2005 Chapter 662 and Associated Report.**

The Department of Education shall report to the Education Committee of the Legislature on the CDS centralization process by December 31, 2007, with an interim report by February 28, 2007. The Education Committee shall be authorized to introduce a bill to the Second Regular Session of the 123<sup>rd</sup> Legislature on course corrections to centralization. The sunset dates in 20-A MRSA §7209 shall be moved to September 30, 2008. The reports from the Department of Education to the Education Committee shall include, but need not be limited to:

- a. Overall progress of centralization and a comparison to the original timeline,
- b. Centralization costs and savings to date,
- c. Projected Fiscal Year 2008 savings compared to original estimates,
- d. Problems encountered, if any, and corrective actions taken or planned,
- e. Personnel turnover at regional sites, in the state Intermediate Education Unit, and in Department of Education CDS staff,
- f. Effects, if any, on services to children,
- g. Long-term projection on the efficacy of the centralization plan.

**THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**18. Funding Formula.**

The Department of Education, in consultation with regional CDS sites, shall develop a funding formula to develop annual awards to the intermediate education units, including consideration of:

- a. Administration and organization of the CDS system,
- b. Childfind,
- c. Case management,
- d. Provision of other services,
- e. Site's geographic area,

- f. Early childhood population,
- g. The number of children being served and the number included in the Childcount,
- h. MaineCare eligibility rate, and
- i. Cost containment measures.

**THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

**19. Monitoring and Compliance: Corrective Action Plans and CDS Site Takeovers.**

Title 20-A MRSA § 7209(1)(E) shall be amended to require a report to the IDEA-mandated State Interagency Coordinating Council and other advisory groups for sites that are under an Action Plan and for sites for whose operations the Department of Education has assumed temporary responsibility. These reports shall describe any progress or slippage by individual sites in meeting compliance requirements. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**20. Monitoring and Compliance: Unmet Needs Monitoring.**

The Department of Education shall explore a way to review unmet needs in School Administrative Units monthly or bimonthly and pilot the plan among a small sample of School Administrative Units. The plan shall include stratified sampling by the Department to achieve a mix of small, medium, and large districts. **THIS IS A MAJORITY RECOMMENDATION OF THE SUBCOMMITTEE.**

**21. Interface between CDS and School Administrative Units.**

The Department of Education shall explore the process that children undergo as they transition from CDS to Kindergarten in order to develop a consistent method for these transitions. **THIS IS A CONSENSUS RECOMMENDATION OF THE SUBCOMMITTEE.**

*Consensus decisions of the Subcommittee were those that were moved and seconded and to which no present and voting member objected. Majority decisions of the Subcommittee were those that were not consensus decisions but that were moved and seconded and which garnered the support of a majority of members present and voting.*

*The representatives of the Department of Education and of the Department of Health and Human Services abstained from all votes because policy decisions would typically be vetted through Departmental processes.*

*Rep. Makas abstained from all votes on anticipation of receiving the Subcommittee's report as a member of the Joint Committee on Education and Cultural Affairs in the 123<sup>rd</sup> Legislature.*

## **ASSESSMENT OF DEPARTMENT OF EDUCATION'S PLAN TO REORGANIZE CHILD DEVELOPMENT SERVICES IN PART MM OF PROPOSED BIENNIAL BUDGET LANGUAGE**

At the end of the first week of January 2007, after the Subcommittee's last meeting but during members' electronic review of the Subcommittee's final report and Subcommittee's proposed legislation to be introduced to the First Regular Session of the 123<sup>rd</sup> Legislature, the Department of Education declared in Part MM of the proposed 2007-08/2008-09 biennial budget language (An Act to Create Learning Communities in Maine) its intention to eliminate the 16 regional CDS governing boards by July 1, 2008, and transfer governing authority and regional administration for Birth-5 early intervention and early childhood special education to 26 regional school districts. The Commissioner of Education informed the co-chairs of the Subcommittee that CDS budgeting would continue as before and that there would be 26 CDS regional advisory boards that would report to 26 regional K-12 school boards. (The language on regional advisory boards was absent from Part MM of the proposed budget language, but the Commissioner indicated that it would be included in an upcoming change package.) The Department of Education took the position that this plan was consistent with the Subcommittee's Recommendations and that the 26 regional CDS advisory boards reporting within the education system honored the several recommendations on creation of a strong State Interagency Coordinating Council with interagency reporting and oversight. The co-chairs conveyed the Department's position to the Subcommittee and confirmed the accuracy of their understanding with Department staff. During the period of January 20-22, 2007, the co-chairs conducted a straw poll by telephone and email of the 23 members of the Subcommittee who had not announced any blanket abstentions from voting. Members who were contacted represented the broad range of Subcommittee membership, including parents, providers, school administrators and board members, CDS personnel, and legislators. The co-chairs were able to contact 19 of 23 such members during this period, representing over two-thirds of the full Subcommittee and representing over four-fifths of the voting members of the Subcommittee. Of these 19, one abstained and each of the other 18 declared that **the Department of Education's plan to include Birth-5 service administration in the proposed reorganization to 26 regional school administrative units was *inconsistent* with the Subcommittee's recommendations.**

Appendix A  
Public Law 2005, Chapter 662, Part C

**Sec. C-1. Subcommittee established.** The Subcommittee To Study Early Childhood Special Education, referred to in this Part as "the subcommittee," is established to study early childhood special education programs and services provided for infants and young children from birth to 8 years of age. The subcommittee shall function as a subcommittee of the Task Force on Early Childhood, an initiative of the Children's Cabinet established pursuant to the Maine Revised Statutes, Title 5, chapter 439 that proposes to implement a state plan for comprehensive early childhood systems.

**Sec. C-2. Subcommittee membership.** The subcommittee consists of no more than 28 members appointed as follows:

1. Two members of the Senate, one belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the 2nd largest number of seats in the Senate, appointed by the President of the Senate;

2. Two members of the House of Representatives, one belonging to the political party holding the largest number of seats in the House of Representatives and one belonging to the political party holding the 2nd largest number of seats in the House of Representatives, appointed by the Speaker of the House;

3. Twenty-four members appointed jointly by the Commissioner of Education and the Commissioner of Health and Human Services, who are the lead commissioners for the early childhood priority established by the Children's Cabinet. The Commissioner of Education and the Commissioner of Health and Human Services shall appoint subcommittee members from a list of 2 to 3 nominees submitted for each subcommittee position by the respective statewide organizations that represent the specified categories as follows:

A. Two members who are parents of infants or toddlers with a disability that have knowledge of or experience with programs for infants and toddlers with disabilities, who are nominated by the Maine Parent Federation, Inc., or its successor;

B. Two members who are parents of children with a disability between 3 years of age and 8 years of age that have knowledge of or experience with programs for children with disabilities, who are nominated by the Maine Parent Federation, Inc., or its successor;

C. Two members who are contracted service providers of early intervention and free, appropriate public education services, who are nominated by the Maine Association for Community Service Providers, or its successor;

D. Two members who are Child Development Services System regional site staff who provide direct services, who are nominated by the boards of directors of the regional sites within the Child Development Services System;

E. One member who is a member of a board of directors of a Child Development Services System regional site, who are nominated by the boards of directors of the regional sites within the Child Development Services System;

F. One member who is a director of a Child Development Services System regional site, who is nominated by the Child Development Services System Site Directors Council;

G. One member who is a representative of a Head Start agency or program, who is nominated by the Director of the Office of Child Care and Head Start in the Department of Health and Human Services;

H. One member who is a representative of a child care program, who is nominated by the Director of the Office of Child Care and Head Start in the Department of Health and Human Services;

I. One member who is a teacher in an early childhood education program for children 4 years of age established by a public elementary school that includes coordination of programs and services for eligible children with a Child Development Services System regional site, who is nominated by the Executive Director of the Maine Education Association, or its successor;

J. One member who is a principal of a public elementary school that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children with a Child Development Services System regional site, who is nominated by the Executive Director of the Maine Principals' Association, or its successor;

K. Two members who are special education directors, who are nominated by the Executive Director of the Maine Administrators of Services for Children with Disabilities, or its successor;

L. One member who serves as a superintendent of a school administrative unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children with a Child Development Services System regional site, who is nominated by the Executive Director of the Maine School Superintendents Association, or its successor;

M. One member who serves as a school board member of a school administrative unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children with a Child Development Services System regional site, who is nominated by the Executive Director of the Maine School Boards Association, or its successor;

N. One member who is an individual with a disability, who is nominated by the Executive Director of the Maine Administrators of Services for Children with Disabilities, or its successor;

O. One member who is a representative on the Maine Advisory Council for the Education of Children with Disabilities, who is nominated by the chair of the Maine Advisory Council for the Education of Children with Disabilities, or its successor;

P. Two members representing the Department of Education, who are nominated by the Commissioner of Education; and

Q. Two members representing the Department of Health and Human Services, who are nominated by the Commissioner of Health and Human Services.

**Sec. C-3. Chairs.** The President of the Senate and the Speaker of the House shall each select one member appointed in section 2, subsection 3 to serve as a cochair of the subcommittee, except that the President of the Senate and the Speaker of the House may not appoint a Legislator to serve as a cochair of the subcommittee.

**Sec. C-4. Appointments; convening of subcommittee.** All the appointments must be made no later than 30 days following the effective date of this Part. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the subcommittee.

**Sec. C-5. Duties.** The subcommittee shall examine the following:

1. The extent to which services provided by the early childhood special education systems established in the State to deliver effective early intervention and free, appropriate public education services for eligible children from birth to 8 years of age are provided in an efficient manner that meets federal and state legal requirements;

2. The extent to which the existing early childhood systems established in the State strike a reasonable balance between the cognitive development and the emotional and physical needs of young children from birth to 8 years of age;

3. National trends and relevant models of governing and delivering early childhood special education systems in other states and jurisdictions that hold the

potential for enhancing the effectiveness, efficiency or accountability of the early childhood special education systems established in the State;

4. The short-term and long-term costs and benefits of the Department of Education plan to restructure the Child Development Services System as presented by the Commissioner of Education to the Legislature pursuant to Public Law 2005, chapter 12, Part YY on November 30, 2005 and as set forth in this Act; and

5. Such other issues as the subcommittee membership determine to be useful or necessary in examining this policy matter.

**Sec. C-6. Staff assistance.** The Department of Education shall provide necessary staffing services to the subcommittee.

**Sec. C-7. Compensation.** Legislative members of the subcommittee are entitled to receive the legislative per diem and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the subcommittee. Other members of the subcommittee may not receive compensation for their participation on the subcommittee.

**Sec. C-8. Report.** The subcommittee shall submit a report that includes its findings and recommendations, including suggested legislation, which may include an extension of any of the time periods established in the Maine Revised Statutes, Title 20-A, section 7209, for presentation to the Commissioner of Education and the Commissioner of Health and Human Services, who are the lead commissioners for the early childhood priority established by the Children's Cabinet, and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 31, 2007. The subcommittee is authorized to introduce legislation related to the recommendations contained in its report to the First Regular Session of the 123rd Legislature at the time of submission of its report.

Appendix B  
Members of Subcommittee to Study Early Childhood Special Education

Senator Elizabeth Mitchell (D), a member representing the Senate of the 122nd Maine Legislature (also co-chair of the Joint Standing Committee on Education and Cultural Affairs in the 122<sup>nd</sup> Legislature)

Senator Richard Rosen (R), a member representing the Senate of the 122nd Maine Legislature (also a member of the Joint Standing Committee on Health and Human Services in the 122<sup>nd</sup> Legislature)

Representative Elaine Makas (D), a member representing the House of Representatives of the 122nd Maine Legislature (also a member of the Joint Standing Committee on Education and Cultural Affairs in the 122<sup>nd</sup> Legislature)

Representative Vaughn Stedman (R), a member representing the House of Representatives of the 122nd Maine Legislature (also a member of the Joint Standing Committee on Education and Cultural Affairs in the 122<sup>nd</sup> Legislature)

Alan Cobo-Lewis, Co-Chair, University of Maine Department of Psychology, a member representing a parent of infant or toddler with disability having knowledge of or experience with programs for such children (appointed co-chair by President of the Senate)

Rob Hatch, Co-Chair, Child Health Center, a member representing a contracted service provider of early intervention and free appropriate public education services (appointed co-chair by Speaker of the House)

Robbin Pelletier, Maine Parent Federation, a member representing a parent of infant or toddler with disability having knowledge of or experience with programs for such children

Linda Easterbrooks, a member representing a parent of children with a disability between 3 and 8 years of age having knowledge of or experience with programs for such children

Kathy Foye, Maine Parent Federation, a member representing a parent of children with a disability between 3 and 8 years of age having knowledge of or experience with programs for such children

Mark Hammond, Mark Hammond Associates, a member representing a contracted service provider of early intervention and free appropriate public education services

Hannah Marston, Child Development Services-York County, a member representing CDS regional site staff who provide direct services

Natalie Hale, Child Development Services-Androscoggin County, a member representing CDS regional site staff providing direct services

Ellen Whitcomb, Child Development Services-Project Peds and Waterville School Department, the member representing a Board of Directors of a CDS regional site

Dewey Meter, Child Development Services-Waldo County and Child Development Services-Hancock County, the member representing the Directors of a CDS regional site

Jean Bridges, Penquis Community Action Program, the member representing a Head Start agency or program

Margaret Watkinson, The Children's Garden, the member representing a child care program

Julie Ames, Hartford-Sumner Elementary School, the member representing a teacher in an early childhood education program for children 4 years of age established by a public elementary school that includes coordination of programs and services with a CDS regional site

Gail Gibson, Mapleton Elementary School, the member representing a principal of a public elementary school that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services with a CDS regional site

Kelley Sanborn, Maine School Union 98, a member representing a Special Education Director

Erica Thompson, Maine School Administrative District 54, a member representing a Special Education Director

Sandra MacArthur, Maine School Administrative District 59, the member representing a Superintendent of a School Administrative Unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services with a CDS regional site

Phyllis Shubert, Bangor School Committee, the member representing a School Board of a School Administrative Unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services with a CDS regional site

Alice Conway, Androscoggin Head Start, the member representing an individual with a disability

Jean Youde, Edmund Ervin Pediatric Center, MaineGeneral Medical Center, the member who is a representative on the Maine Advisory Council for the Education of Children with Disabilities (MACECD)

Angela Faherty, Department of Education, a member representing the Maine Department of Education

Debra Hannigan, Department of Education, a member representing the Maine Department of Education

Nancy DeSisto, Department of Health and Human Services, a member representing the Maine Department of Health and Human Services

James Beougher, Department of Health and Human Services, a member representing the Maine Department of Health and Human Services

*At the initial meeting of the Subcommittee, David Stockford was a member representing the Maine Department of Education. He announced his resignation from the Subcommittee at the August 24 meeting in order to take up a role on staff to the Subcommittee. On September 8, the Commissioner of Education appointed Debra Hannigan to take his place as a member representing the Maine Department of Education.*

Appendix C  
Meetings of the Subcommittee to Study Early Childhood Special Education

The Subcommittee to Study Early Childhood Special Education met on the following dates:

July 11, 2006, Room 105 Cross State Office Building  
August 17, 2006, Room 103 Cross State Office Building  
August 24, 2006, Cohen Center, Hallowell  
September 7, 2006, Appropriations and Financial Affairs Meeting Room, State House  
October 11, 2006, Appropriations and Financial Affairs Meeting Room, State House  
October 31, 2006, Appropriations and Financial Affairs Meeting Room, State House  
November 8, 2006, Room 103 Cross State Office Building  
November 29, 2006, Education and Cultural Affairs Meeting Room, Cross State Office Building  
December 7, 2006, Education and Cultural Affairs Meeting Room, Cross State Office Building  
December 19, 2006, Education and Cultural Affairs Meeting Room, Cross State Office Building

All meetings were open to the public, and public comment was encouraged at all meetings. Public monitoring of the proceedings was also possible via the Department of Education's ATM system on August 17 and via the Maine Legislature's online audio feeds from committee rooms on September 7, October 11, October 31, November 29, December 7, and December 19.

Appendix D  
Public Documents of the Subcommittee to Study Early Childhood Special Education

As the staffing organization pursuant to Public Law 2005, Chapter 662, Part C, Section C-6, the Department of Education is responsible for maintaining the public documents of the Subcommittee to Study Early Childhood Special Education. As of the date of submission of its final report, many of these public documents are also available online at [www.maine.gov/education/speced/cds/cds\\_subcomm.html](http://www.maine.gov/education/speced/cds/cds_subcomm.html)

Appendix E  
Components of a Quality Early Childhood System

1. Lead Agency and Governance
  - 1.1. Program administration and compliance
  - 1.2. State Interagency Coordinating Council
  - 1.3. Local Councils
  - 1.4. Eligibility definitions
  - 1.5. Reflection of regional and local trends and needs
  - 1.6. State-level agreements for cooperation and coordination
2. Community-based services
  - 2.1. Family centeredness
    - 2.1.1. Strengths of child and family
    - 2.1.2. Ease of access
    - 2.1.3. Multiple entry points (referral sources)
    - 2.1.4. Multiple service options
  - 2.2. Service in natural environments
  - 2.3. Service in least restrictive environment(s)
3. Visibility
  - 3.1. Informing referral sources
  - 3.2. Referral procedures and methods
  - 3.3. With involvement and public awareness
  - 3.4. Name brand recognition
4. Childfind
  - 4.1. Locating and identifying children
  - 4.2. Screening and assessment
  - 4.3. Eligibility determination
5. Service coordination and case management
  - 5.1. Plans of care (Individualized Family Service Plans/Individual Education Programs)
  - 5.2. Smooth transitions (into, within, and from program)
6. Quality Services
  - 6.1. Training and Technical Assistance at state and local levels
  - 6.2. For employees, providers, and other participants:
    - 6.2.1. Referral procedures
    - 6.2.2. Inclusive practices
  - 6.3. Personnel standards/credentialing
  - 6.4. Professional development
  - 6.5. Consistency in eligibility and service
7. Supervision and Accountability (Continuous Quality Improvement)
  - 7.1. Timeline compliance
  - 7.2. Timely service delivery
  - 7.3. Data collection, reporting, use, and analysis
    - 7.3.1. Multi-level: national, state, regional, local
    - 7.3.2. Process and child outcomes, e.g., referrals, screenings, timeline
    - 7.3.3. Compliance, exits
    - 7.3.4. Trend analysis

- 7.3.5. “Report cards” for the CDS state IEU, regional CDS sites, and providers
- 7.4. Performance standards
  - 7.4.1. Transparent performance data (effective data collection, public system reports)
  - 7.4.2. Incentives, corrections, sanctions
- 7.5. Resources, supports, and services
  - 7.5.1. Sufficient funding to operate effectively
  - 7.5.2. Procedures and practices for contracts, billing, third-party billing
- 7.6. Efficiency
- 8. Problem solving and prevention
  - 8.1. Dispute resolution among system, families, and providers
  - 8.2. Local cooperation and coordination in referrals, service locations, and trainings among early intervention/special education, DHHS programs, public schools, health organizations (clinics, hospitals), and early childhood businesses (e.g., child care, nursery schools)

## Appendix F

### Legislation Introduced to the 123<sup>rd</sup> Legislature by the Subcommittee to Study Early Childhood Special Education at the Time of Submission of this Report

On the pages that follow is “An Act to Improve Efficiency and Effectiveness of Early Intervention and Early Childhood Special Education for Children Birth through 8 through Improved Oversight, Accountability, and Interagency Coordination”, draft legislation submitted by the co-chairs on behalf of the Subcommittee to the Office of the Revisor of Statutes pursuant to PL 2005, c. 662, Pt. C., §C-8. Based on feedback from the members of the Subcommittee on a previous draft, the co-chairs edited the draft legislation in further consultation with members to ensure that the bill implements the Subcommittee’s recommendations.

**An Act to Improve Efficiency and Effectiveness of Early Intervention and Early Childhood Special Education for Children Birth through 8 through Improved Oversight, Accountability, and Interagency Coordination**

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

**PART A**

**Sec. A-1. 5 MRSA §12004-G, sub-§8-B,** is enacted to read:

**8-B.**

Education	Early Childhood Services Interagency Coordinating Council	Expenses Only	20-A MRSA §7211
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**Sec. A-2. 20-A MRSA § 3254-A sub-§ 2,** as enacted by PL 1985, c. 490, §7, is amended to read:

**2. Preschool programs.** The commissioner may establish preschool programs for ~~handicapped~~ children with disabilities between the ages of 3 and 5 years or contract with school administrative units to provide the programs. Establishment of such programs shall not affect duties and responsibilities of boards of directors of Child Development Services regional sites under section 7209 subsection 8. Preschool programs under this section shall be required to collaborate with Child Development Services regional sites.

**Sec. A-3. 20-A MRSA § 4252,** as enacted by PL 1983, c. 576, §1, and as amended by PL 1989, c. 548, §3, is further amended to read:

**4. Programs for 4-year-old children.** Encourage the development of 2-year kindergartens in conformity with section 5201, subsection 2, paragraph C and other appropriate programs to address the needs of 4-year-old children, provided that 2-year kindergartens and other programs to address the needs of 4-year-old children are inclusive of children with disabilities;

**Sec. A-4. 20-A MRSA § 4253,** as enacted by PL 1983, c. 576, §1, and as amended by PL 1997, c. 534, §1, is further amended to read:

**§4253. Local early childhood programs**

School administrative units wishing to develop early childhood programs shall submit plan proposals for approval to the department. The department shall encourage broad participation and participation with regional Child Development Services System sites in the program and shall provide technical assistance to local school administrative units in submitting proposals. The department shall require such early childhood programs to be inclusive of children with disabilities.

**Sec A-5. 20-A MRSA §4255**, as enacted by PL 2005, c. 368, §1, is amended to read:

**§4255. Coordinated early childhood programs for children 4 years of age**

**1. Approval process for early childhood education.** Any school administrative unit that wishes to develop an early childhood program for children 4 years of age must submit a proposal for approval to the department. Evaluation of the proposal must include consideration of at least the following factors:

A. Demonstrated coordination with other early childhood programs in the community to maximize resources;

B. Consideration of the extended child care needs of working parents;~~and~~

C. Provision of public notice regarding the proposal to the community being served, including the extent to which public notice has been disseminated broadly to other early childhood programs in the community;and

D. Inclusion of children with disabilities.

**2. Rulemaking.** The department may adopt rules to implement this section, and any rules adopted must include standards for early childhood programs for children 4 years of age that are developed by school administrative units. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to this subsection shall be consistent with common early childhood standards adopted pursuant to section 7213, subsection 3, paragraph B, and section 7214.

**Sec. A-6. 20-A MRSA §7001, sub-§1-A**, as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

**1-A. Child Development Services System.** "Child Development Services System" means regional sites, or their successor sites, and the state intermediate educational unit under section 7209,

subsection 3, or its successor, and the Early Childhood Services Interagency Coordinating Council, or its successor, established to ensure the provision of child find activities, early intervention services and free, appropriate public education services to eligible children Birth to under age 6 years and their families.

**Sec. A-7. 20-A MRSA §7001, sub-§1-BB** is enacted to read:

**1-BB. Children's Cabinet.** "Children's Cabinet" means the Children's Cabinet established in Title 5 Chapter 439.

**Sec. A-8. 20-A MRSA §7001, sub-§1-BBB** is enacted to read:

**1-BBB. Council.** "Council" means the Early Childhood Services Interagency Coordinating Council established in section 7211.

**Sec. A-9. 20-A MRSA §7005,** as reallocated by RR 1997, c. 1, §20, and as amended by PL 2005, c. 662, Pt. A, §19, is further amended to read:

**§7005. Early intervention and sSpecial education**

1. **Rulemaking.** The commissioner is authorized to adopt rules necessary for the administration of this chapter and chapters 303 and 305. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal statute or regulation, if an applicable federal statute or regulation exists.

During the consideration of any proposed rule, when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the corresponding federal statute or regulation, if such a federal statute or regulation exists, and explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal statute or regulation.

2. **Joint rulemaking.** The Commissioner of Health and Human Services has joint rule-making authority with the Commissioner of Education as necessary for adoption of interagency standards across the Department of Education and the Department of Health

and Human Services. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The provisions of subsection 1 regarding regulatory agenda, regulatory burden, and justification of difference between rule and federal statute or regulation apply to rules adopted under this subsection. This subsection does not diminish any authority of the Department of Health and Human Services, Commissioner of Health and Human Services, or designee of the Commissioner of Health and Human Services to enact rules that are not under joint rule-making authority with the Commissioner of Education.

**Sec. A-10. 20-A MRSA §7209, sub-§1**, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

**§7209. General administration and supervision**

**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. This subsection is subject to the provisions of 20 United States Code Section 1435(a)(10).

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

B. During the period from July 1, 2006 to September 30, 2007~~8~~, the department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall only approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 in accordance with the following.

(1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

(2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational

unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educational unit to revise and resubmit the annual entitlement plan and the budget in a reasonable amount of time as determined by the commissioner.

(3) In the event the provisions of the resubmitted annual entitlement plan and the budget are not in compliance with the statewide standards established pursuant to subsection 3, the department is authorized to determine and approve an appropriate, final annual entitlement plan and a budget for the intermediate educational unit that is in compliance with the statewide standards established pursuant to subsection 3.

This paragraph is repealed September 30, 2007~~8~~.

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, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary responsibilities for operations at a regional site that fails to meet compliance requirements. The department must report at least quarterly to the council, to the state-level advisory committee, and to other advisory or oversight bodies that may be appropriate, about individual sites that are under an action plan and about individual sites for whose operations the department has taken temporary responsibilities. These reports must describe any progress or slippage by individual sites in meeting compliance requirements. For individual sites on an action plan the reports must describe the timelines on which the department expects the site to remain on an action plan. For individual sites for whose operations the department has taken temporary responsibilities the reports must describe the timelines on which the department expects to return responsibilities to the site.

Effective September 30, 2008, this paragraph is amended to read:

E. The department, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary responsibilities for operations at a regional site that fails to meet compliance requirements. The department must report at least quarterly to the council, ~~to the state-level advisory~~

~~committee,~~ and to other advisory or oversight bodies that may be appropriate, about individual sites that are under an action plan and about individual sites for whose operations the department has taken temporary responsibilities. These reports must describe any progress or slippage by individual sites in meeting compliance requirements. For individual sites for whose operations the department has taken temporarily responsibilities the reports must describe the timelines on which the department expects to return responsibility to the site.

**Sec A-11. 20-A MRSA § 7209 sub-§ 1 ¶ F** is enacted to read:

**F. Site funding.** The department shall make annual grant allocations from available funds to Child Development Services regional intermediate educational units in accordance with a funding formula developed by the department in consultation with the regional sites and adopted by rule.

(1) The funding formula must include consideration of the costs associated with the following functions: administration and organization of the Child Development Services System; childfind; case management; and provision of other services. The funding formula must take into consideration other factors, which may include but are not limited to a regional site's geographic area, the general population of children from birth to under age 6, the aggregate number of children being served in the previous year, the number of such children included in the child count over a three-year period, the average Medicaid enrollment rate, poverty indices, average rate at which families access private insurance in defrayment of costs for services provided by Child Development Services, the extent to which families have a choice of service providers, and cost containment measures.

(2). The rule establishing the funding formula is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-12. 20-A MRSA §7209 sub-§2,** as enacted by PL 2005, c. 662, Pt. A., §30, is amended to read:

**2. State-level advisory committee.** The state-level advisory committee is established for the period from July 1, 2006 to September 30, 2007<sup>8</sup> to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early childhood education consultant and the director of

early childhood special education within the department. This subsection is repealed September 30, 2007~~8~~.

**Sec. A-13. 20-A MRS §7209 sub-§3**, as enacted by PL 2005, c. 662, Pt. A., §30, is amended to read:

**3. State intermediate educational unit.** The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. For the period from July 1, 2006 to September 30, 2007~~8~~, the state intermediate educational unit shall perform the following statewide coordination and administration functions:

- A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;
- B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;
- C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006~~7~~. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;
- D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;
- E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07;
- F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with

the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel; and

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act.

**Sec A-14. 20-A MRSA §7209 sub-§4**, as enacted by PL 2005, c. 662, Pt. A, §30 is amended to read:

**4. Director of early childhood special education.** The commissioner shall appoint and supervise a director of early childhood special education. The director shall collaborate with the state-level advisory committee and the Commissioner of Health and Human Services and with the council in a manner consistent with the council's description in this chapter and at 20 United States Code 1441. Effective September 30, 2008, the director shall collaborate with the Commissioner of Health and Human Services and with the council in a manner consistent with the council's description in this chapter and at 20 United States Code 1441. The director has the following powers and duties:

A. To administer the state intermediate educational unit established under subsection 3. The director in collaboration with the council shall ensure the development of ~~develop~~ operating policies and establishment of organizational and operational procedures that include supervision, monitoring, data, assignment of financial responsibility in accordance with the interagency agreements and state and federal law and regulation, and accountability structures;

B. To ensure, in collaboration with the council, the development of ~~develop~~ statewide policies and procedures for carrying out federal and state laws and rules relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age; and

C. To ensure the provision of ~~provide~~ training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412-(a)-(3), early intervention services and the provision of a free, appropriate public education to children from birth to under 6

years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found-;

D. To ensure monitoring and supervision of supports and services provided to eligible children and their families, timelines, personnel qualifications, and compliance with state and federal laws and regulations; and

E. To report annually to the council and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and to the joint standing committee of the Legislature having jurisdiction over health and human services on the performance of the Child Development Services System. This report shall include information on any expansions of the connections of Childfind and service delivery with School Administrative Units, with the Department of Health and Human Services, and with medical providers. This report may include information on any expansion of the connection of Childfind with nurse-midwives. This report shall include information on the number of children screened in the programs in Title 22 Sections 1532, 8943, and 8824, the number of such children who were referred to the Child Development Services System who were found eligible for early intervention, and the number of such children who were referred to the Child Development Services System who were found ineligible for early intervention. This report shall also include information on annual performance over at least a 5-year period of each individual Child Development Services regional site and of the entire Child Development Services System; shall benchmark performance against state and national standards of performance; shall include information about performance in Childfind, service delivery, service coordination, eligibility, and exit data for children leaving the Child Development Services System; and shall describe strategies that the Child Development Services System has undertaken to maximize the usage of a broad base of community resources including private providers, public schools, resources from other agencies, and other available resources serving children and families. The report shall include a copy of the interagency agreements. The report shall be publicly posted on the web site of the Department of Education.

**Sec. A-15. 20-A MRS §7209 sub-§6**, as enacted by PL 2005, c. 662, Pt. A., §30, is amended to read:

**6. Regional site board of directors; annual entitlement plan; site budget approval.** A board of directors of a regional site is entitled to receive annual grant award allocations that are

approved by the department in accordance with the approval provisions for the annual entitlement plan and the budget for a regional site pursuant to subsection 1, paragraph B. This subsection is repealed September 30, 2007~~8~~.

**Sec. A-16. 20-A MRSA § 7209 sub-§ 8**, as enacted by PL 2005, c. 662, Pt. A., §30, is amended to read:

**8. Regional site; duties and obligations.** ~~A~~The board of directors of a Child Development Services regional site shall have the duty and responsibility to:

A. Ensure provision of child find activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Ensure provision of child count activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Ensure appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, including service coordination, in accordance with the payment provisions established by the State;

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services, including service coordination, with the regional site collaborating in collaboration with school administrative units when possible;

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; and

G. Ensure, in accordance with major substantive rules adopted by the commissioner under section 7005 subsection 1, that children from birth to under 6 years of age who are referred to Child Development Services also receive appropriate referrals for support outside of Child Development Services including appropriate public and private resources, regardless of the child's eligibility for early intervention or free appropriate public education; and

EH. Designate local personnel for training to commit funds for free~~7~~ appropriate public education. Personnel who commit funds for free~~7~~ appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine and designate which trained and certified personnel may commit funds.

**Sec. A-17. 20-A MRSA §7210**, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

**§7210. Conflict of interest**

Notwithstanding Title 5, section 18, subsection 1, paragraph B, all members of the state-level advisory committee established under section 7209, subsection 2 and all members of the council established under section 7211 and all employees, contractors, agents and other representatives of the state intermediate educational unit are deemed executive employees solely for purposes of Title 5, section 18. The department shall provide training to participants to ensure compliance with conflict of interest requirements.

Effective September 30, 2008, this section is amended to read:  
~~Notwithstanding Title 5, section 18, subsection 1, paragraph B, all members of the state-level advisory committee established under section 7209, subsection 2 and all members of the council established under section 7211 and all employees, contractors, agents and other representatives of the state intermediate educational unit are deemed executive employees solely for purposes of Title 5, section 18. The department shall provide training to participants to ensure compliance with conflict of interest requirements.~~

**Sec. A-18. 20-A MRSA § 7211** is enacted to read:

**§7211. Interdepartmental coordination and reporting**

The Early Childhood Services Interagency Coordinating Council, as established in Title 5, section 12004-G, subsection 8-B, is established as an advisory body to the State regarding the coordination of policies and programs aimed at implementing the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. Membership of the council must meet the requirements of this section and must also be in keeping with the federal requirements for a State Interagency Coordinating Council in the Individuals with Disabilities Education Act at 20 United States Code, Section 1441.

Appointments to the council must be made by the Governor for terms defined in rules adopted by the commissioner under section

7005 subsection 1. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State. The council shall meet as often as necessary as determined by the officers of the council but not less than quarterly. The council shall meet in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public, and shall comply with the Freedom of Access Act. The commissioner shall adopt rules under section 7005 subsection 1 describing the composition of the council, selection process and duties of the members consistent with the purposes of the council.

**1. Recommendations.** The council shall recommend to the Governor, the Children's Cabinet, the Commissioner of Education, and the Commissioner of Health and Human Services, with the advice of the regional site boards of directors, legislation that is needed to maintain or further develop the statewide system, for children Birth through age 5, of quality early intervention services, early childhood special education services, and related early childhood services.

**2. Consider issues.** The council shall consider, with the advice of the regional site boards of directors and the state intermediate education unit, contemporary issues affecting early intervention services, early childhood special education services, and related early childhood services in the State, including, but not limited to, the following:

A. Successful strategies for early intervention, early childhood special education, and related early childhood services;

B. Personnel preparation and continuing education;

C. Childfind activities and methods as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Public awareness as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

E. Contemporary research;

F. Monitoring and supervision;

G. Interagency issues including but not limited to interagency agreements and common early childhood standards;

H. Personnel development and training; and

I. Data collection, analysis, and reporting.

**3. Bylaws.** The council shall develop and adopt bylaws for its conduct.

**4. Advise and assist.** The council shall advise and assist the Department of Education and the Department of Health and Human Services in the development and implementation of rules and interagency agreements, to be carried out by the departments in

support of early intervention, early childhood special education, and related early childhood services. The council shall advise and assist the Department of Education and the Department of Health and Human Services in the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency or agencies, and the promotion of the interagency agreements. The council shall advise and assist the Department of Education in the preparation of applications and amendments thereto. The council shall advise and assist the Department of Education regarding the transition of toddlers with disabilities to preschool and other appropriate services. The council shall also advise and assist the Department of Education regarding the transition of children from the Child Development Services System to Kindergarten. The council shall also advise and report on common standards, interagency focus areas, annual progress, monitoring and reporting, centralized interdepartmental training and tracking, development of centralized data, and ongoing function of interagency agreements.

**5. Chair.** The council shall annually elect one member to serve as chair. In accordance with 20 United States Code 1441(a)(3), any member of the council who is a representative or employee of the Department of Education may not serve as chair of the council. In addition, any member of the council who is a representative or employee of the Department of Health and Human Services or a representative or employee of the state intermediate educational unit may not serve as chair of the council.

**6. Compensation.** The members of the council are entitled to compensation in accordance with Title 5, section 12004-G. In accordance with the Individuals with Disabilities Education Act, 20 United States Code 1441(d), reasonable expenses for attending council meetings and performing council duties shall include child care for parent representatives. Agency representatives on the council are entitled to reimbursement for expenses incurred in the performance of their council duties by the appointing agencies in accordance with the provisions for state employees. Consumer members are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

**7. Staffing.** The Department of Education, the Department of Health and Human Services, and the state intermediate education unit shall together provide to the council the equivalent of one full-time professional staff person. One-half of the full-time-equivalent staff shall be an employee or employees of the Department of Education or the state intermediate education unit, and one-half of the full-time-equivalent staff shall be an

employee or employees of the Department of Health and Human Services. The Department of Education may fund its portion of staff from funds allocated to operation of the state intermediate education unit. The Department of Health and Human Services and the Department of Education may use federal funds received by the State under the Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., to fund council staff. The Department of Education may staff the council with personnel who also staff the State Advisory Panel described at 34 Code of Federal Regulations 300.167-300.169, December, 2006.

**8. Committee, task force, and advisory activities.** The council may establish committees composed of members of the council. The council may also establish subcommittees composed of parents, professionals, advocacy group representatives, board representatives, employees, and others with relevant expertise or experience, not all of whom need be members of the council. Persons engaged in council business shall be reimbursed out of the operating budget of the council for their travel expenses and incidental expenses in accordance with rules and procedures established by the council.

**9. Voting.** The council shall adopt bylaws that define a quorum for the purpose of conducting business of the council.

**10. Dispute resolution.** The council shall assist the lead agency in dispute resolution in a manner consistent with 20 United States Code 1435(a)(10)(C) and (a)(10)(E).

**11. Membership.** Membership in the council shall be in accordance with 20 United States Code 1441(b) and shall be composed as follows:

**A. Parent members.**

(1) **Community organizations.** In this paragraph, "community organizations" means Autism Society of Maine, the Disability Rights Center, the Learning Disabilities Association of Maine, the Maine Developmental Disabilities Council, the Maine Parent Federation, the Maine Transition Network, or their successors, and other non-profit member organizations of the Maine Educational Advocacy Alliance that are not governmental or quasi-governmental organizations.

(2) **Appointment of parent members.** Not less than 20 percent of the members of the council shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger. Nominations for members who are parents of infants or toddlers with disabilities or children

with disabilities shall be submitted to the Governor by community organizations as defined in subparagraph 1 and by Child Development Services regional boards of directors. Nominations may be submitted individually by the community organizations in subparagraph 1. Nominations may also be submitted by the community organizations in subparagraph 1 through the Maine Educational Advocacy Alliance. Persons appointed to the council under this paragraph shall be nominees of community organizations in subparagraph 1 or nominees of Child Development Services regional boards of directors. Not less than two members appointed under this paragraph shall be nominated by the community organizations in subparagraph 1, and not less than one member appointed under this paragraph shall be nominated by Child Development Services regional boards of directors. The members appointed by the Governor under this paragraph shall include not less than one person recommended by the Commissioner of Education from among the nominees of community organizations and Child Development Services regional boards of directors and not less than one person recommended by the Commissioner of Health and Human Services from among the nominees of community organizations and Child Development Services regional boards of directors.

B. Not less than 20 percent of the members shall be public or private providers of early intervention services. Nominations for such members shall be submitted to the Governor by the Maine Association of Community Service Providers or its successor and by the Maine Child Care Directors Association or its successor. Not less than one member shall be a nominee of the Maine Association of Community Service Providers, and not less than one member shall be a nominee of the Maine Child Care Directors Association.

C. Not less than 1 member shall be from the Maine Legislature.

D. Not less than 1 member shall be a representative of Maine Roads to Quality or shall otherwise be involved in personnel preparation.

E. Not less than 1 member shall be from the Department of Education, shall have sufficient authority to engage in policy planning and implementation on behalf of the Department of Education, and shall be nominated by the Commissioner of Education.

F. Not less than 1 member shall be from the Department of Health and Human Services, shall have sufficient authority to engage in policy planning and implementation on behalf of the Department of Health and Human Services, and shall be nominated by the Commissioner of Health and Human Services.

G. Not less than 1 member shall represent MaineCare and shall be nominated by the Commissioner of Health and Human Services.

H. Not less than 1 member shall represent a Head Start agency or program in Maine and shall be nominated by the Commissioner of Health and Human Services.

I. Not less than 1 member shall represent the Office of Child Care and Head Start and shall be nominated by the Commissioner of Health and Human Services.

J. Not less than 1 member shall represent the Bureau of Insurance or its successor and shall be nominated by the Commissioner of Professional and Financial Regulation or the Commissioner's successor.

K. Not less than 1 member shall be a representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

L. Not less than 1 member shall represent the State child welfare agency responsible for foster care and shall be nominated by the Commissioner of Health and Human Services.

M. Not less than 1 member shall represent Children's Behavioral Health Services, shall work in Mental Health Case Management, and shall be nominated by the Commissioner of Health and Human Services.

N. Not less than 1 member shall represent the Maine Center for Disease Control and Prevention, shall work in one or more of the newborn screening programs described at Title 22 Sections 1532, 8943, and 8824, and shall be nominated by the Commissioner of Health and Human Services.

O. Not less than 1 member shall be a representative of the Bureau of Indian Affairs or, where there is no school operated or funded by the Bureau of Indian Affairs, from the Indian Health Service or the tribe or tribal council.

P. The council may include other members selected by the Governor. This may include members of the Children's Cabinet, members of ad hoc or standing committees of the Children's Cabinet, members of task forces established by the Children's Cabinet, and other persons.

Q. A member of the council may also be a member of the State Advisory Panel described at 34 Code of Federal Regulations 300.167-300.169, December, 2006.

R. A member may fulfill more than one of the requirements in paragraphs A through Q.

**12. Annual report to the State.** The council shall provide to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, to the joint standing committee of the Legislature having jurisdiction over health and human services, to the Governor, to the Commissioner of

Education, to the Commissioner of Health and Human Services, and to the Children's Cabinet an annual report on the State's system of early intervention and early childhood special education. This report must include a demonstration that: the funds provided for the Child Development Services System for early intervention and early childhood special education under the federal Individuals with Disabilities Education Act, Part B, Sections 619 and 611, and Part C were used to supplement and increase, and not to supplant, the level of other federal, state, and local funds that are available for children with disabilities; and the federal funds generated under the federal Individuals with Disabilities Education Act, Part B, Sections 619 and 611, and Part C were not used to satisfy a financial commitment for services that would have been paid for by a health agency or another agency pursuant to policy or practice, but for the fact that these services are now listed on the individualized family service plans or individualized education programs of children with disabilities. The report shall also describe the activities of the council under subsections 2 and 4. The report shall also describe and discuss the interagency agreements, their adequacy or inadequacy, and suggestions for any amendments and deletions. The report shall also discuss service detail, provider capacity, procedural safeguards complaint data, training, barriers to collaboration, aspects of the system that have functioned well, aspects of the system that have functioned poorly, and responses undertaken by the system to correct or improve its functioning.

**13. Annual report to the Secretary of Education.** In keeping with the Individuals with Disabilities Education Act, 20 United States Code 1441(b)(1)(D), the council shall prepare and submit an annual report to the Governor and to the United States Secretary of Education on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State of Maine. This report may be identical in whole or in part to the report prepared and submitted under subsection 12.

**Sec. A-19. 20-A MRSA § 7212 is enacted to read:**

**§7212. Interface between Child Development Services and School Administrative Units.**

A. In consultation with school administrative units and Child Development Services regional sites, the commissioner shall develop a consistent method for the transition that children undergo from Child Development Services to Kindergarten and shall promulgate major substantive rules for this method under section 7005 subsection 1.

B. In accordance with major substantive rules adopted by the commissioner under section 7005 subsection 1, Child Development Services regional sites shall ask parents of children who were previously served by Child Development Services but who were discharged whether they grant parental permission for the regional site to share Child Development Services records with the receiving public school when the children enter public school. In accordance with these rules, the Child Development Services regional site may request parental permission at the time that the child is discharged from Child Development Services. In accordance with the rules developed by the commissioner the Child Development Services regional site shall review with the parent the information in the record, and the parent shall assess the pertinence of the information for the receiving school district. The parent may withhold consent or may consent to Child Development Services sending records in whole or in part. The Child Development Services regional site shall send to the receiving school district whatever part of the records that the parent consents to sharing with the receiving school district. The rules developed by the commissioner to implement this paragraph must be such that parental rights are not less than those afforded under the federal Family Educational Rights and Privacy Act and the federal Health Insurance Portability and Accountability Act Privacy Rule.

C. In accordance with major substantive rules adopted by the commissioner under section 7005 subsection 1, programs operated by school administrative units for 4-year-old children, including prekindergartens, early kindergartens, 2-year kindergartens that enroll 4-year-old children, and 2-year childhood education programs enrolling 4-year-old children prior to grade one, are required to be inclusive of children with disabilities.

**Sec. A-20. 20-A MRSA § 7213** is enacted to read:

**§7213. Interagency agreements and interagency referrals.**

The Department of Education and the Department of Health and Human Services shall develop rules, policies, and written interagency agreements to address mutual support for children with special needs Birth to 8 years old. Rules adopted by the Department of Education to address this section shall be adopted under section 7005 subsection 1. Rules adopted jointly by the Department of Education and the Department of Health and Human Services to address this section shall be adopted under section 7005 subsection 2. Rules adopted by the Department of Health and

Human Services to address this section may be adopted under Title 22, section 8960, subsection 1. Rules, policies, and written interagency agreements developed to effectuate this section shall address:

1. Responsibilities for appropriate referrals to the Department of Education for early intervention or special education including referrals to the Child Development Services System from the metabolic program under Title 22 section 1532, from the central registry for birth defects under Title 22 section 8943, and from the newborn hearing program under Title 22 section 8824;

2. Clear definition of Department of Education and Department of Health and Human Services positions assigned to accomplish the responsibilities outlined in the interagency agreements; and

3. Components of a quality early childhood system with attention to each of the following:

A. Lead agency, governance, and advisory input, including local boards, councils and advisory panels, and the Early Childhood Services Interagency Coordinating Council; eligibility definitions; program administration and compliance with state and federal law, regulation, and policy; regional and local trends and needs; and state-level agreements for cooperation and coordination; and reflection of regional and local trends and needs;

B. Community-based services with common standards including service in natural environments and in least restrictive environments as appropriate; family-centered services focused on the strengths of the child and family, ease of access, multiple entry points (referral sources), and multiple service options;

C. Visibility to referral sources and to the public; referral procedures and methods; and name brand recognition;

D. Childfind including locating and identifying children, screening and assessment, and eligibility determination;

E. Service coordination and case management, including plans of care (individualized family service plans and individual educational programs) and smooth transitions among programs;

F. Quality services including training and technical assistance at state and local levels; referral procedures and inclusive practices for employees, providers, and other participants; personnel standards

and credentialing; professional development; and consistency in eligibility and service;

G. Supervision and accountability (Continuous Quality Improvement) including timeline compliance; timely service delivery; data collection, reporting, use, and analysis with inter-departmental collation to track trends and performance; data collection and analysis of both process and child outcomes including referrals, screenings, compliance, and exits of children from eligibility; transparent and public data-driven monitoring and accountability of regional sites and providers; performance standards; and incentives, corrections, and sanctions;

H. Resources, supports, and services including identifying sufficient funding to operate effectively; procedures and practices for contracts, billing, and third-party billing; and efficiency; and

I. Problem solving and prevention including dispute resolution among families, providers, and others and including local cooperation and coordination in referrals, service locations, and trainings among early intervention and early childhood special education, programs in the Department of Health and Human Services, public schools, health organizations such as clinics and hospitals, and early childhood businesses such as child care and nursery schools; and

4. Such other components that are consistent with the findings and recommendations of the report submitted by the Subcommittee to Study Early Childhood Special Education pursuant to Public Law 2005, chapter 662, part C, section C-8.

**Sec. A-21. 20-A MRSA § 7214** is enacted to read:

**§7214. Common early childhood standards across departments.** The Department of Education and the Department of Health and Human Services shall establish and adopt common dual-department early childhood standards for all children birth to age 8 based on standards established by the National Association for the Education of Young Children, the Individuals with Disabilities Education Improvement Act, and the Division of Early Childhood of the Council for Exceptional Children. These standards shall address, but not be limited to, Developmentally Appropriate Practice as it relates to curricula, personnel standards, personnel training, inclusion, family centered approach, system access, facilities, credentialing, ratios, accreditation, and eligibility for contracts. The standards shall address the places where children spend their days, including but not

limited to child care, Head Start, and public schools, including pre-Kindergarten and two-year Kindergarten programs. Rules adopted by the Department of Education to address this section shall be adopted under section 7005 subsection 1. Rules adopted jointly by the Department of Education and the Department of Health and Human Services to address this section shall be adopted under section 7005 subsection 2. Rules adopted by the Department of Health and Human Services to address this section may be adopted under Title 22, section 8960, subsection 1.

**Sec. A-22. 22 MRSA §1532**, as enacted by PL 1993, c. 848, §2, is amended to read:

**§1532. Detection of cognitive disability~~mental retardation~~**

The department ~~may~~shall require hospitals, maternity homes and other maternity services to test newborn infants, or to cause them to be tested, for the presence of metabolic abnormalities which may be expected to result in subsequent cognitive disabilities~~mental deficiencies~~. The department shall promulgate rules to define this requirement and the approved testing methods, materials, procedure and testing sequences. Reports and records of those making these tests may be required to be submitted to the department in accordance with departmental rules. The department may, on request, offer consultation, training and evaluation services to those testing facilities. The Department of Health and Human Services shall develop rules according to which it will in a timely fashion refer newborn infants with confirmed metabolic abnormalities to the Child Development Services System. The Department of Health and Human Services shall also develop rules according to which it will in a timely fashion refer newborn infants to the Child Development Services System if at least six months have passed since initial positive test result of metabolic abnormality without the specific nature of a metabolic abnormality having been confirmed. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement to facilitate all referrals in 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 may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred to the Child

Development Services System under this section who are found eligible for early intervention services and on the number of such children found not eligible for early intervention services. In addition the Department of Health and Human Services shall supply data at least annually to the Child Development Services System on how many children in the metabolic program were screened and how many were found to have a metabolic disorder. The requirement in this section that a newborn infant be tested for the presence of metabolic abnormalities which may be expected to result in subsequent mental deficiencies~~provisions of this section shall not apply to a child if the parents of a that child object to them on the grounds that the test conflicts with their religious tenets and practices.~~

**Sec. A-23. 22 MRSA §8824 ¶1A** is enacted to read:

**1A. Referral to Child Development Services.** The Department of Health and Human Services shall develop rules according to which it will in a timely fashion refer children identified in paragraph 1 of this section whom the department identifies as having a high likelihood of having a hearing impairment to the Child Development Services System. The rules shall also describe the timetables under which the Department of Health and Human Services shall refer to the Child Development Services System children identified in paragraph 1 of this section whom the Department of Health and Human Services identifies as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by six 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 paragraph. 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 may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement the Child Development Services System shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this section who are found eligible for early intervention services and on the number of such children found not eligible for early intervention services.

**Sec. A-24. 22 MRSA §8943**, as enacted by PL 1999, c. 344, §1, is 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 of Health and Human Services shall develop rules according to which it will in a timely fashion refer to the Child Development Services System children with confirmed birth defects who may be eligible for early intervention. The Department of Education and the Department of Health and Human Services 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 may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the Department of Health and Human Services 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 such children found not eligible for early intervention services. In addition the Department of Health and Human Services shall supply data at least annually to the Child Development Services System 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, tThe department—Department of Health and Human Services 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 a child whose parent or legal guardian objects on the basis of sincerely held religious beliefs.

**Sec. A-25. 22 MRSA c. 1689** is enacted to read:

CHAPTER 1689

COORDINATION AND COLLABORATION WITH CHILD DEVELOPMENT SERVICES

**§8961. Rulemaking.**

**1. Routine technical.** The Commissioner of Health and Human Services shall adopt rules as necessary to participate with the Department of Education in effectuating Title 20-A sections 7213 and 7214. Such rules are routine technical as defined in Title 5, chapter 375, subchapter 2-A

**2. Joint major substantive.** The Commissioner of Health and Human Services has joint rule-making authority with the Commissioner of Education as necessary for adoption of interagency standards across the Department of Education and the Department of Health and Human Services under Title 20-A sections 7213 and 7214. Such rules are major substantive as defined in Title 5, chapter 375, subchapter 2-A.

**§8962. Access to report.** The Department of Health and Human Services shall ensure that the report posted by the director of early childhood special education under Title 20-A section 7209 subsection 4 paragraph E is publicly accessible via the web site of the Maine Center for Disease Control and Prevention or its successor and via the web site of the Division of Early Childhood or its successor.

**PART B**

**Sec. B-1.** Public Law 1999 chapter 296 section 11 is repealed.

**PART C**

**Sec. C-1. Adoption of rules and development of policies and interagency agreements.** The Department of Health and Human Services and the Department of Education shall develop policies and written interagency agreements by January 31, 2008, as necessary to address mutual support for children with special needs Birth to 8 years old under Maine Revised Statutes, Title 20-A, section 7213, common early childhood standards under Maine Revised Statutes, Title 20-A, section 7214, and referrals under Title 22, sections 1532, 8824, and 8943. Major substantive rules adopted by the Department of Education to address the requirements of Maine Revised Statutes, Title 20-A, sections 7212, 7213, and 7214, and Title 22, sections 1532, 8824, and 8943, must be presented by the Department of Education for legislative review in the Second Regular Session of the 123rd Legislature. Major substantive rules adopted jointly by the Department of Education and the Department of Health and Human Services to address the requirements of Maine Revised Statutes, Title 20-A, sections

7213 and 7214, and Title 22, sections 1532, 8824, and 8943, must be presented by the Department of Education and the Department of Health and Human Services for legislative review in the Second Regular Session of the 123rd Legislature. The Department of Health and Services must adopt by January 31, 2008, any routine technical rules that are necessary to address the requirements of Maine Revised Statutes, Title 20-A, sections 7213 and 7214, and Title 22, sections 1532, 8824, and 8943.

**Sec. C-2. Report on centralization. Committee authorized to introduce legislation.** The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by the date of effect of this Act, and again by December 31, 2007, on the Child Development Services centralization process outlined in Public Law 2005 chapter 662. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs is authorized to introduce a bill to the Second Regular Session of the 123rd Legislature on amendments to centralization. The reports from the commissioner shall include, but need not be limited to:

- a. Overall progress of centralization and a comparison to the timeline originally proposed in Public Law 2005, chapter 662;
- b. Centralization costs and savings to date;
- c. Projected Fiscal Year 2008 savings compared to estimates reflected in Public Law 2005, chapter 662, part D;
- d. Problems encountered, if any, and corrective actions taken or planned;
- e. Personnel turnover at Child Development Services regional sites, in the state intermediate education unit, and in Department of Education Child Development Services staff;
- f. Effects, if any, on services to children;
- g. Long-term projection on the efficacy of the centralization plan.

The commissioner shall post written copies of the reports on the world wide web site of the Department of Education in a manner that is publicly accessible.

**Sec. C-3. Training and support to regional site boards.** The Department of Education shall develop and present to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and to the State Interagency Coordinating Council described in the Individuals with Disabilities Education Act, 20 United States Code 1441, a plan for improving training and support to Child Development Services regional boards of directors. The Department of Education shall present the plan no

later than June 30, 2007, or the date of effect of this Act, whichever comes last.

**Sec. C-4. Unmet needs monitoring.** It being critical to assess the continued provision of Free Appropriate Public Education to children after transition to public school, the Department of Education shall explore a way to review unmet needs in school administrative units monthly or bimonthly and pilot the plan among no fewer than six school administrative units. The plan shall include stratified sampling by the department to achieve a mix of small, medium, and large districts. The department shall, no later than January 31, 2008, present to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs a plan for piloting such a review.

**Sec. C-5. Data linkage.** The Maine Educational Policy Research Institute (MEPRI) in the University of Maine System shall deliver a report on or before January 31, 2008, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on necessary technical and legal advances that would enable data linkage to facilitate research projects that would involve linkage of personally identifiable health and MaineCare data and personally identifiable education data in a way that would be in compliance with federal privacy law and regulation, including the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act Privacy Rule. MEPRI may consult with the Office of the Attorney General and with the Office of Policy and Legal Analysis for advice on what if any state law, regulation, or policy would have to be changed to enable or facilitate such studies within the bounds of federal law and regulation. This report shall include design of a pilot study to test the technical advances outlined above and shall also investigate the possibility of data linkage for assessing the effectiveness and efficiency of delivery of early intervention, education, and health and human services to individuals with disabilities. The report may describe data linkage with a broad range of research questions in mind. The report may address how to use data linkage studies to assess the effectiveness, efficacy, and efficiency of delivery of early intervention, education, and health and human services to individuals with disabilities, including the number of case managers per child. A goal of such work is that the Department of Health and Human Services and the Department of Education will work together to determine how data systems can be designed to facilitate analysis of data across departments.

## Summary

This bill implements the recommendations of the Subcommittee to Study Early Childhood Special Education, which was established by Public Law 2005 chapter 662 to study early intervention and early childhood special education services for children birth through age 8. Based upon the findings of the Subcommittee, including findings that Child Development Services performs very well relative to national benchmarks and findings that there is a national trend among states toward greater interagency coordination and oversight, the bill builds on Maine's good performance, increases interagency collaboration, and increases accountability of system components to the executive and legislative branches and to the public by:

1. Building on the current systems' demonstrated strengths while making changes where needs are recognized,
2. Keeping intact a Child Development Services System to coordinate services for eligible children from Birth through age 5 and to ensure that such children receive early intervention and early childhood special education under the federal Individuals with Disabilities Education Act Part C and Part B Section 619,
3. Maintaining the Department of Education as Maine's lead agency under the Individuals with Disabilities Education Act while strongly promoting interagency collaboration and oversight,
4. Expanding connections of federally mandated childfind and service delivery with school administrative units, with programs of the Department of Health and Human Services, and with medical and other providers of services to children Birth - 5,
5. Requiring Child Development Services to report annually to legislative, advisory, and governing bodies about the performance of Child Development Services, including information on the performance of individual Child Development Services regional sites and of the system,
6. Requiring the Department of Education and the Department of Health and Human Services to establish and adopt common dual-department early childhood standards for birth to age 8 based on standards of the National Association for the Education of Young Children, the Individuals with Disabilities Education Act, and

the Division of Early Childhood of the Council for Exceptional Children,

7. Requiring Child Development Services regional sites to ask parents of children who were discharged from Child Development Services prior to school entry to grant parental consent for the regional site to share relevant information from the child's early intervention/early childhood special education record with the receiving public school and to share this information with the public school if the parent consents,

8. Requiring the Department of Education and the Department of Health and Human Services to develop rules, policies, and written interagency agreements by January 31, 2008, to address mutual support for children with special needs Birth through age 8 to include responsibilities for appropriate referrals from the Department of Health and Human Services to early intervention and special education including referrals to Child Development Services from the metabolic program, the newborn hearing program, and the birth defects registry, to include components of a quality early childhood system as outlined in the report of the Subcommittee to Study Early Childhood Special Education, to include clear definition of Department of Education and Department of Health and Human Services positions assigned to accomplish the responsibilities outlined in the interagency agreements, and to include such other components that are consistent with other recommendations of the Subcommittee to Study Early Childhood Special Education,

9. Establishing the Early Childhood Services Interagency Coordinating Council as the federally mandated state interagency coordinating council for services birth to age 5 under the federal Individuals with Disabilities Education Act with specific membership requirements under federal and state law to advise and report on common standards, interagency focus areas, annual progress, monitoring and reporting, centralized interdepartmental training and tracking, and development of centralized data,

10. Requiring that staff for the Early Childhood Services Interagency Coordinating Council be provided by the Department of Education and the Department of Health and Human Services and requiring the council to deliver reports and advice to the Commissioner of Education, the Commissioner of Health and Human Services, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, and the joint

standing committee of the Legislature having jurisdiction over health and human services,

11. Requiring the Maine Educational Policy Research Institute in the University of Maine System to explore and report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on necessary technical legal advances that would enable data linkage of individually identifiable health and education data in a way that would be consistent with federal laws and regulations on privacy while facilitating research projects on such matters as effectiveness, efficiency, and cost-effectiveness of service delivery,

12. Requiring Child Development Services to report on strategies that it develops to maximize the use of a broad base of community resources, including private providers, public school, resources from other agencies, and other available resources serving children and families,

13. Assigning to Child Development Services the responsibility for service coordination for eligible children from birth through age 5, for childfind for birth to through age 5, for appropriate referrals to support services and programs outside of Child Development Services appropriate for children and families referred to Child Development Services, and for ensuring that eligible children from birth through age 5 receive early intervention or free appropriate public education as well as referrals to other programs and services based upon child and family needs,

14. Requiring the Department of Education to develop and present to the Legislature and to the Early Childhood Services State Interagency Coordinating Committee a plan for improving training and support to Child Development Services regional boards of directors,

15. Allowing public schools to continue to develop 4-year-old programs at their own pace while requiring that these programs be inclusive of children with disabilities,

16. Changing the deadline for fiscal centralization in 20-A MRSA §7209(3)(C) from September 30, 2006, to September 30, 2007,

17. Requiring the Department of Education to report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 31, 2007, on the Child Development Services centralization process and

authorizing the joint standing committee of the Legislature having jurisdiction over education and cultural affairs to introduce a bill to the Second Regular Session of the 123rd Legislature on related matters,

18. Requiring the Department of Education, in consultation with Child Development Services regional sites, to develop a funding formula that must include consideration of administration and organization of the Child Development Services system, childfind, case management, and provision of other services, and that may include regional site's geographic area, early childhood population, number of children receiving services and the number of such children included in the childcount, MaineCare enrollment rate, poverty indices, private insurance rate, family choice of providers, cost containment measures, and other factors,

19. Amending 20-A MRS §7209(1)(E) to require a report to the Early Childhood Services Interagency Coordinating Council and other advisory groups for Child Development Services regional sites that are under a Corrective Action Plan and for regional sites for whose operations the Department of Education has assumed temporary responsibility, with the reports describing any progress or slippage by individual regional sites in meeting compliance requirements,

20. Requiring the Department of Education to explore how to review unmet needs in school administrative units monthly or bimonthly and to pilot it among a small sample of school administrative units, and

21. Requiring the Department of Education to explore the process that children undergo as they transition from Child Development Services to Kindergarten in order to develop a consistent method for these transitions.