



# LEGISLATIVE BULLETIN



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## Early Intervention Receives Late-Session Consideration

A significant legislative proposal, creating sweeping changes to child development services in a very short timeframe, was released so late in the session that it received a back-to-back public hearing and work session before it could even be assigned a document number and printed. Furthermore, the proposed legislation was amended on the eve of its day before the Education and Cultural Affairs Committee. The combination of late submission and last-minute amendments, committee haste to finish work, and abrupt disruption to operations left the overwhelming majority of those that testified to assert this is all moving too quickly.

The proposed legislation, among other things, transitions the provision of education services for infants, toddlers, and children with disabilities from birth to age six from private providers to public ones, with school administrative units (SAUs) primarily accountable for the new responsibilities. Additionally, the legislation proposed an extension of special education services to students up to age 22, rather than 20 years of age. The hand-off of responsibilities occurs between 2024 and 2026.

Originally, the proposed funding mechanism obligated the state to cover 100% of the SAU's cost to provide these additional services. However, at the eleventh hour the funding mechanism was stripped and replaced with a promise to develop a new funding formula by 2023. Without a clear funding mechanism two dirty words enter the debate: unfunded mandate.

The proposed legislation, *An Act To Reorganize the Provision of Services for Infants, Toddlers, and Children with Disabilities from Birth to 6 Years of Age and*

*Extend the Age of IDEA Eligibility to 22* is the committee's bill.

Questions and concerns that arose from the lengthy public hearing included: (1) does capacity (staffing, facility, and financial) exist at the SAU level to perform these services; (2) how can the state support early adopter SAUs ready to begin the transition now without penalizing districts unprepared for the changes; (3) does this reduce family choice; (4) are regionalized programs able to provide individualized services for students; and (5) what happens if an SAU fails to provide services?

An hour later at the work session, none of the questions or concerns were put to rest, while more were raised.

The Maine Department of Education is promoting this transition because the state is far behind its commitment to providing needed educational services under the Federal Individuals with Dis-

abilities Act (IDEA). Rather than beef-up state-centered solutions or programs, the department feels the best way to find and provide services to the child is by farming out the responsibility to SAUs. Contrary to their best intention, SAUs are not prepared to undertake such broad new responsibilities.

When asked if any SAUs are currently providing similar services to young children, department staff could only confirm one prepared SAU, which will begin providing such services to 3-year-olds next year.

As the hearing on the proposed legislation was scheduled unexpectedly, MMA's Legislative Policy Committee had not established a formal position. During the public hearing MMA provided provisional neither for nor against testimony, highlighting the best intentions and biggest fears of this proposal.

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## State Investment Via Property Tax Exemption

On Wednesday, the Taxation Committee held a public hearing on LD 2030, *An Act Regarding Taxation of Energy Storage Facilities and Equipment*, sponsored by Rep. Maureen Terry of Gorham. Shockingly, the bill had been printed on Monday.

LD 2030 proposes to make energy storage systems business equipment tax exemption (BETE) eligible for tax years beginning on or after April 1, 2022. Under the terms of the bill, these storage systems are defined as "commercial equipment, facilities or devices that are capable of absorbing energy, storing the energy for a period of time and discharging the energy after it has been stored."

The bill also extends a sales tax exemption on the parts and accessories necessary to build, repair and maintain energy storage systems.

Proponents of the initiative, which included industry representatives and the Maine Chamber of Commerce, argue that the incentives are necessary to support a new industry, increase industry related jobs and provide tax benefits that are on par with those extended to other alternative energy investments.

Representatives from the Governor's Energy Office and Maine Revenue Services provided testimony "neither for nor against" LD 2030 requesting the time

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## Early Intervention Receives Late-Session Consideration cont'd

Municipal officials support the concepts of early intervention and continuity of services, both of which underlie the need to acclimatize students to the school district in which they will receive the bulk of their education. Outstanding concerns include the short timeline for transitioning these services, the unknown funding mechanism for this probable mandate, and the potential liability to the student, SAU, and state if the provision of services falters at the public level.

Joining MMA with neither for nor against testimony was Maine's School Board Association and School Superintendent Association.

Supporting the proposed legislation was the superintendent from Gorham School District who asserted that insufficient private providers in the area means children are coming to public school without the wrap-around services they require. The superintendent admitted that the district does not have the facilities to manage the influx of new students, particularly four-year-old children, and that the district would lean on its private-public partnerships.

The only other support offered for the bill came from Maine Administrators of Services for Children with Disabilities.

Sharing the same mission and hope of serving Maine's students, opposition parties provided a litany of barriers preventing the success of this proposed legislation. Among those opposed to the framework under consideration were Maine Head Start Directors Association, Maine Children's Alliance, Midcoast Maine Community Action, Aroostook County Action Program, and Maine Service Employees Association, Local 1989.

Despite the outpouring of opposition and calls to slow down the hasty transition, the committee moved the bill forward with a 5-1-4 vote; five members voting ought to pass, one member voting ought to pass as amended and four voting against the proposal. The lack of a clear majority will not last long as three committee members will cast absentee votes in the coming days.

The ought to pass bloc of committee voters was not without uncertainty either.

In addition to the proposed language, the members added a requirement that the department report back to the committee three times in next calendar year and address a list of 11 concerns that committee members still harbor. Their concerns mirrored public testimony, and included

financial, staff and student impacts. Members also expressed concerns with private and public insurance complications, and punishment from federal agencies if Maine fails to comply with IDEA.

The committee is meeting today for language review.

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## Trouble with the ARPA Portal?

Recently many municipal officials have reported issues with the U.S. Treasury's ARPA portal (<https://api.id.me/en/session/new>). While many details remain unresolved, there are a few updates to provide.

Most municipal officials are at the account creation stage to gain access to the portal. Key insights about that process:

- The Treasury has assigned administrative privileges to the email account used to request initial disbursement about a year ago. Make sure to use that same email address when accessing the portal for the first time.
- Portal accounts can be created either through Login.gov or ID.me. Early comments indicate that Login.gov is a much easier website to navigate for account creation.
- Questions or issues with account creation or administrative privileges should be emailed to [SLFRP@treasury.gov](mailto:SLFRP@treasury.gov).

Upon gaining access to the portal, only some features are live. Here is what can and cannot be completed in the portal right now:

### User Roles (Live)

Ability to assign user roles is live. It is wise to have at least two people with reporting privileges able to access the portal. Each user will need their own account.

### Supporting Documents (Live)

Each recipient needs to submit the documents provided to the State of Maine during the initial request period about a year ago. These include signed copies of the award terms and conditions agreement, the assurances of compliance with Title VI of the Civil Rights Act of 1964, and the budget reference used to validate the

top-line budget total provided to the state as part of the request for funding.

### Project and Expenditure Report (Not Live)

A bulk of the reporting requirement is contained in the Project and Expenditure Report, which annually tracks the status and financial information for projects funded by ARPA. On Monday, Treasury staff would not commit to a date when the report will be live on the portal. The most clarity provided was "sometime in April."

During the Monday webinar linked below, Treasury provided a walk-through of the portal's reporting process. Staff stressed the streamlined reporting features when opting for the standard allowance for revenue loss and clarified that projects eligible in other categories can be reported under the standard allowance. Each community should proceed with the use of ARPA funds as they deem best, the Treasury is indicating that the standard allowance will facilitate the easiest and best use of these funds.

The streamlined reporting feature should ease the burden of meeting the **April 30 reporting deadline**. The Treasury has stated that an updated Project and Expenditure User Guide will be published soon. The most recent Treasury webinar can be viewed on YouTube: <https://www.youtube.com/watch?v=0NE1ZQXzOWo>

MMA is planning another ARPA webinar, that will include a live demonstration of reporting features. Since the portal is still only partially open, a date for this webinar is undetermined. Stay tuned for more details soon. Until then, visit MMA's ARPA Resource page for links to user reports, recorded webinars, and other useful links ([memun.org/ARPA-Resources](http://memun.org/ARPA-Resources)).

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## Sharing the Weed Wealth and Veterans' Exemptions

The Taxation Committee conducted a work session to discuss an amendment to a carryover bill, LD 1195, *An Act To Increase Funding to Qualifying Municipalities by Sharing Adult Use Marijuana Sales and Excise Revenue*, sponsored by Rep. Tiffany Roberts of South Berwick, which aims to direct 5% of the excise and sales tax revenue generated by adult use marijuana to municipalities on a proportional basis.

The proposed amendment replaces the original revenue sharing approach with an initiative establishing the Local Government Marijuana Revenue Fund to aid municipalities in the adoption and implementation of “opt-in” ordinances. As proposed, the fund is capitalized by a portion of the marijuana excise and sales tax revenue directed to the Adult Use Marijuana Public Health and Safety Fund.

Essentially, the goal is to remove the barriers that are currently preventing some municipalities from opting-in to this budding industry.

To be eligible for the funding, a municipality must opt-in to allow the operation of adult use establishments within the community on or after July 1, 2022. Qualifying expenses include legal fees and costs associated with drafting and adopting ordinances and warrant articles, as well as the expenses associated with conducting a town meeting. Applications for reimbursement of eligible expenses must be filed within three years of adopting the

ordinance and reimbursement under the program is limited to a one-time payment not to exceed \$20,000. The amendment further limits the Office of Marijuana’s exposure to the reimbursement program by enabling the office to forego making payments if the fund balance drops below \$250,000.

The committee’s discussion, in part, focused on the floor to be set to restrict the level at which the fund revenue could be drawn. Ultimately, Rep. Bruce Bickford of Auburn moved ought to pass as amended, which included removing the \$250,000 floor.

The motion carried with two opposed, with a minority report of ought not to pass.

A work session on LD 1986, *An Act To Exempt Permanently Disabled Veterans from Payment of Property Tax*, was also held. Under current law, military veterans who are disabled by injury or disease during active service for the most part are eligible to receive an exemption from property taxes in an amount up to \$6,000 of the just value of their property. This bill aims to provide totally and permanently disabled veterans a 100% just value tax exemption.

The committee wholly supported the bill with Rep. Bruce Bickford expressing concern for the lack of means testing to determine need. This point led to an in-depth discussion on the possibility of using the Property Tax Fairness Credit (PTFC), an income tax-related program

that is already implemented by Maine Revenue Services, as an avenue to advance the bill. This was a popular idea among committee members, as utilizing this method would capture individuals within this population who are renting and do not receive a property tax bill, as well as provide a tool for calculating need. Additionally, as an unintended benefit of the proposed amendment, the income tax benefit would eliminate the need to adjust any state reimbursement to municipalities since the program would be funded and administered at the state level.

Maine Revenue Services was called upon to weigh-in on the idea of using the PTFC as a method of implementation for delivering the intended relief and was asked to work with the bill sponsor, Rep. Timothy Roche of Wells, to craft an amendment that would include using the PTFC program as a way to implement the benefit.

Rep. Maureen Terry of Gorham made a motion of ought to pass as amended noting the concept amendment includes an avenue for means testing—such as the PTFC program—and that all stakeholders will be present for language review; the motion passed unanimously.

It was determined that the amendment would be available for review by the end of March.

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### State Investment Via Property Tax Exemption cont’d

necessary to further review the legislation and assess its impacts. Although the work session was scheduled to take place after the hearing, the committee elected to postpone the session to give the interested parties the time necessary to craft an acceptable amendment. The work session has not been scheduled, however it may take place as soon as Friday.

While it is entirely up to the state to determine how best to spend sales tax revenue, determining how property tax revenues are invested should be an author-

ity retained by municipalities.

Considering the lateness of the session, that the inflationary concerns raised by the proponents of the bill are also impacting the delivery of municipal services, the need to thoroughly review the impacts of this legislation on both municipal and state coffers, and to further contemplate the complications associated with the retroactive application of a tax exemption, municipal officials respectfully ask that the committee oppose passage of LD 2030.

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## Governor's Change Package Unveiled

Before an Appropriations and Financial Affairs Committee excited to be meeting in-person for the first time in two years, Department of Administrative and Financial Services Commissioner, Kristen Figueroa, presented Governor Mills' change package. The package proposes several amendments to the governor's previously submitted FY 22 – FY 23 supplemental General Fund budget (LD 1995).

The changes being proposed in the package are due to the Revenue Forecasting Committee's March 2022 report stating that Maine will experience a \$1.2 billion surplus, up from the \$881 million figure projected in December.

The amendments proposed in the package use 80% of the surplus revenue to fund one-time initiatives in recognition of the uncertainty with projections in the outlying years.

Of direct municipal interest, \$22 million is directed to Maine State Housing for investment in the Emergency Housing Relief Fund. The fund, in part, will provide rental assistance to

individuals currently residing in hotels, as well as be used to purchase and convert appropriate buildings into housing units.

An investment of \$1.3 million will match \$12.9 million in federal revenue to fund 15 municipal public water system projects.

An additional \$1.9 million in each year of the biennium will increase the state's share of county jail costs to \$21 million.

Finally, due to the updated forecast, in FY 23 an estimated \$240 million will be distributed to municipalities under the state/municipal revenue sharing program. In FY 24 and FY 25 the distributions will increase to \$246 million and \$257 million, respectively.

With the hearings on the supplemental budget completed, committee reports received and the change package in hand, the state's appropriators will now turn to the arduous process of piecing together a budget for the Legislature's consideration prior to the April 20 adjournment date.