

H.B. NO. 2377

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH
FOR EARLY INTERVENTION SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of article VII of
3 the Constitution of the State of Hawaii.

4 SECTION 2. Although funds were appropriated to the
5 department of health for early intervention services for the
6 period beginning July 1, 2005 and ending June 30, 2006, the
7 department of health has a critical need for additional funds.

8 On May 31, 2005, the State of Hawaii was deemed in
9 compliance with the Felix Consent Decree, marking the end of
10 federal court oversight for services including early
11 intervention services. The department of health must continue
12 to carry out its obligations to provide early intervention
13 services for children age zero to three years with a
14 developmental delay or biological or environmental risk, as
15 mandated by part C of the Individuals with Disabilities
16 Education Improvement Act of 2004 (P.L. 108-446), sections 321-

1 351 to 321-357, Hawaii Revised Statutes, and the Hawaii early
2 intervention state plan. The department must ensure that
3 eligible children and their families receive the services
4 mandated by the Individuals with Disabilities Education Act of
5 2004 part C that are identified on their individual family
6 support plans.

7 Existing funds will be expended before the end of this
8 fiscal year, due to increased costs for early intervention
9 purchase-of-service programs to evaluate additional children and
10 serve them in "natural environments" as required by the
11 Individuals with Disabilities Education Act of 2004. These
12 purchase-of-service programs are providing an increased number
13 of multi-disciplinary comprehensive developmental evaluations of
14 a child's cognitive, physical, communication, social or
15 emotional, and adaptive development, as required by part C of
16 the Individuals with Disabilities Education Improvement Act of
17 2004, P.L. 108-446, due to an increased number of children
18 referred by public health nurses and healthy start programs. To
19 serve more children, current programs have expanded and three
20 new purchase-of-service programs in Windward, Central, and
21 Leeward Oahu have been added. These programs serve additional
22 children who previously received therapy services from fee-for-

1 service providers and care coordination from early intervention
2 section, early childhood services programs, public health
3 nurses, or healthy start; and additional children under age
4 three years who are confirmed victims of child abuse or neglect,
5 as required by the Child Abuse Prevention and Treatment Act and
6 the Individuals with Disabilities Education Improvement Act of
7 2004. The Individuals with Disabilities Education Improvement
8 Act of 2004 also requires a family-centered but more costly
9 approach of providing services in "natural environments" or
10 community-based settings, such as at families' homes, community
11 preschools, parks, etc., which increases travel time for service
12 providers to reach the "natural environment", and necessitates a
13 smaller caseload, increased number of providers, and results in
14 increased costs per child.

15 The purpose of this Act is to increase the authorized
16 general fund appropriation by \$3,200,928 for early intervention
17 services in the department of health for fiscal year 2005-2006.

18 SECTION 3. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$3,200,928 or so much
20 thereof as may be necessary, for fiscal year 2005-2006 to carry
21 out the purposes of this Act.

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1 SECTION 4. The sums appropriated shall be expended by the
2 department of health.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Boy

BY REQUEST

JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR EARLY INTERVENTION SERVICES.

PURPOSE: To appropriate \$3,200,928 in State general funds for fiscal year 2005-2006, for early intervention services for infants and children from birth to three years of age with developmental delay or at biological or environmental risk for developmental delay.

MEANS: Emergency appropriation of general funds for the Family Health Services Division, Early Intervention Section of the Department of Health for fiscal year 2005-2006, in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

JUSTIFICATION: The Early Intervention section, the lead agency for the Department of Health is responsible for ensuring the provision of early intervention services for children who meet federal law (Part C of the Individuals with Disabilities Education Improvement Act of 2004 [IDEA], P.L. 108-446), state law (sections 321-351 to 321-357, HRS), and the Hawaii Early Intervention State Plan. These services are provided for children age 0-3 years with a developmental delay, at biological risk, and environmental risk. Early intervention services include assistive technology devices and services; audiology; care coordination; family training, counseling and home visits; health services; medical services for diagnostic and evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work; special instruction; speech-language pathology; transportation; and vision services

IDEA requires that all children referred due to a developmental concern or biological risk

receive a multi-disciplinary comprehensive developmental evaluation (CDE). In addition, children at environmental risk who do not pass a developmental screen are also required to receive a CDE to determine if they have a developmental delay so that appropriate therapeutic services can be provided. This CDE requirement has resulted in increased costs for early intervention purchase-of-service (POS) programs. The CDE must evaluate the child's functioning in cognitive, physical, communication, social or emotional, and adaptive development. The State of Hawaii's Part C program was found to be out of compliance for meeting timelines for the CDE due to insufficient staff to evaluate all children. More children with developmental concerns are being referred by Public Health Nursing and Healthy Start programs to early intervention POS programs for the CDE and, if a delay is found, for services. Additional POS staff are needed to ensure that all referred children receive the CDE. It is expected that approximately 450 new CDEs will be needed. This includes the 200 children transferring into POS programs, 148 new referrals, and approximately 100 children from Healthy Start who did not pass the developmental screen. In previous years, not all new referrals received a CDE as required. Program monitoring during the period November 2004 - March 2005 of all Part C programs (i.e., Early Intervention Section, Public Health Nursing Branch, and Healthy Start) showed that only 60 percent of the children received a CDE. The other 40 percent only received an evaluation in their main area of concern (e.g., communication). This is why Hawaii was found out of compliance with providing CDEs to all children as required by IDEA Part C.

Current POS programs have expanded and three new POS programs in Windward, Central, and Leeward Oahu have been added to serve more children. Approximately 27 percent more children (increase from 1,283 to 1,631 children) are expected to be served by POS

programs. Reasons for the increased number of children at POS programs and increased services, and resulting increased POS costs, include:

- Transferring in of children who received therapy services from fee-for-service providers and care coordination from Early Intervention Section, Early Childhood Services Programs, Public Health Nursing, and Healthy Start. This will decrease fragmented services, decrease service gaps, increase transdisciplinary services where one primary provider is supported by other staff as needed, and improve documentation of the provision of services on the Individual Family Support Plan. Approximately 200 children are being transferred to POS programs.
- Enrollment of additional new children after the CDE confirms that a child has developmental delay(s). An additional 10 percent (148) new children are expected. The 2003 reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA) and IDEA require the referral of children under age 3 years with confirmed child abuse or neglect to early intervention services. IDEA also requires the expansion of public awareness/child find efforts to identify and evaluate homeless children who may be eligible for early intervention services.
- Increase in services needed by enrolled children. It has been found that when children receive a CDE, additional service needs are identified, which require increased services.

Increased POS costs are also due to meeting the IDEA requirement that children are to be served in "natural environments" or community-based settings, such as at families' homes, community preschools, parks, etc. This is a more costly service delivery system, compared to previous years when most children were served at center-based programs. Providing services in natural environments requires travel time for service providers to reach the "natural environment",

which necessitates a lower caseload, more providers, and results in increased costs per child. POS funds are needed for an increased number of providers and funds for service providers' travel time and mileage. Hawaii continues to be in the process of serving more children in natural environments, based on the reauthorization of IDEA, Part C in 1997.

The general fund recommendation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular and special sessions of 2005, the Executive Branch appropriation ceiling for fiscal year 2005-2006 has already been exceeded by \$165,665,981 or 3.83 percent. Funding requested in this measure for early intervention services for infants and children from birth to three years of age with developmental delay or at biological or environmental risk for developmental delay will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2005-2006 by \$3,200,928 or .07 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2005-2006 in this measure only, and does not include other general fund appropriations for fiscal year 2005-2006 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2006.

Impact on the public: If these early intervention services are not provided, infants and children from birth to three years of age will not receive services which are mandated under IDEA. Failure to provide these services to children at a young age may lead to more significant developmental delays and disabilities in later childhood, which may result in more costly intervention. Providing needed early intervention services will

contribute toward the statewide community goal that "All children shall be healthy, safe, and ready to succeed."

Impact on the department and other agencies:
Additional funding is needed to ensure the State's compliance with the federal mandate (IDEA, Part C), state mandate (section 321-352, HRS), and the Hawaii Early Intervention State Plan.

Hawaii's Part C program is required by IDEA Part C that Comprehensive Developmental Evaluations are provided in a timely manner, Individual Family Support Plans meet federal requirements, and Transition Conferences meet the federally required timelines. The State is currently under "Special Conditions", the first level of sanctions under the U.S. Department of Education/Office of Special Education Programs (OSEP). The State is required to show improvement to avoid moving to a higher level of sanctions, "Compliance Agreement".

GENERAL FUND: \$3,200,928 (fiscal year 2005-2006).

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Department of Education, Department of Budget
and Finance.

EFFECTIVE DATE: Upon approval.