

# S.B. NO. 1459

JAN 22 2007

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## 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, 2006, and ending June 30, 2007, 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 federal and state obligations to provide early  
13 intervention services for children age zero to three years with  
14 a 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.

3       The State is currently under "special conditions," the first  
4 level of sanctions under the United States Department of  
5 Education, Office of Special Education Programs. The State is  
6 required to show improvement in providing comprehensive  
7 developmental evaluations in a timely manner, individual family  
8 support plans that meet federal requirements, and transition  
9 conferences that meet the federally required timelines to avoid  
10 moving to a higher level of sanctions, "compliance agreement."

11       Due to an increased number of children referred for  
12 services, early intervention purchase-of-service programs are  
13 providing an increased number of multi-disciplinary  
14 comprehensive developmental evaluations of a child's cognitive,  
15 physical, communication, social or emotional, and adaptive  
16 development.

17       To serve more children, current programs have expanded and  
18 three new purchase-of-service programs were added in windward,  
19 central, and leeward Oahu. These programs serve additional  
20 children who previously received therapy services from fee-for-  
21 service providers and care coordination from early intervention  
22 section, early childhood services programs, public health

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1 nurses, or healthy start; and additional children under age  
2 three years who are confirmed victims of child abuse or neglect,  
3 as required by the Individuals with Disabilities Education  
4 Improvement Act of 2004 and the Child Abuse Prevention and  
5 Treatment Act.

6 The Individuals with Disabilities Education Improvement Act  
7 of 2004 also requires a family-centered but more costly approach  
8 of providing services in "natural environments" or community-  
9 based settings, such as at families' homes, community preschools,  
10 and parks, which increases travel time for service providers to  
11 reach the "natural environment," and necessitates a smaller  
12 caseload, increased number of providers, and increased costs per  
13 child.

14 As a result of early intervention purchase-of-service  
15 programs having increased costs to evaluate and serve additional  
16 children as required by the Individuals with Disabilities  
17 Education Improvement Act of 2004, existing funds will be  
18 expended before the end of this fiscal year.

19 The purpose of this Act is to appropriate additional  
20 general funds to address expenses related to early intervention  
21 services from the department of health for fiscal year 2006-  
22 2007.

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1 SECTION 3. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$5,299,809, or so  
3 much thereof as may be necessary, for fiscal year 2006-2007 to  
4 carry out the purposes of this Act.

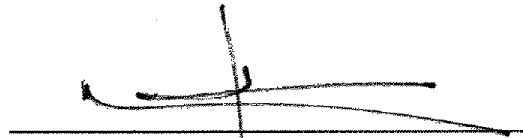
5 SECTION 4. The sum appropriated shall be expended by the  
6 department of health.

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

8

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INTRODUCED BY:

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10

BY REQUEST

SB 1459

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 \$5,299,809 in State general funds for fiscal year 2006-2007, 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 early intervention section of the Department of Health for fiscal year 2006-2007.

JUSTIFICATION: The Department of Health's early intervention section is responsible for ensuring the provision of early intervention services for children who meet the requirements of 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.

The State is currently under "Special Conditions", the first level of sanctions under the U.S. Department of Education, Office of Special Education Programs. The State is

required to show improvement in providing comprehensive developmental evaluations in a timely manner, individual family support plans that meet federal requirements, and transition conferences that meet the federally required timelines to avoid moving to a higher level of sanctions, "Compliance Agreement".

IDEA requires that all children referred due to a developmental concern or biological risk receive a multi-disciplinary comprehensive developmental evaluation (CDE) for cognitive, physical, communication, social or emotional, and adaptive development. In addition, children at environmental risk who do not pass a developmental screen are 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.

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. There are also referrals of new children to POS programs through Hawaii Keiki Information Service System, Part C's central point of contact. Additional POS staff are needed to ensure that all referred children receive the CDE. Approximately 377 new CDEs will be needed. This includes the 50 children transferring into POS programs from fee-for-service providers, 135 new referrals, and 192 referrals of children with confirmed child abuse and neglect.

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 session of 2006, the Executive Branch appropriation ceiling for fiscal year 2006-2007

has already been exceeded by \$415,349,859 or 8.51 percent. Funding requested in this measure is 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, and will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2006-2007 by \$5,299,809 or 0.11 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2006-2007 in this measure only, and does not include other general fund appropriations for fiscal year 2006-2007 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2007.

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 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: \$5,299,809 (fiscal year 2006-2007).

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HTH 530.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.