

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 330aa

50th Legislature, 1st Session, 2011

Tracking Number: .184588.1

Short Title: Family, Infant, Toddler Program Enrollment

Sponsor(s): Senator Cynthia Nava

Analyst: Craig J. Johnson

Date: March 18, 2011

AS AMENDED

The Senate Finance Committee amendment makes the provisions of SB 330 effective on July 1, 2012.

The Senate Education Committee amendment strikes current language in the *Public School Code* entitling a child with a disability who has a third birthday during a school year to enroll in a public school preschool program and receive special education and related services from the beginning of the school year (before the child's third birthday).

Original Bill Summary:

SB 330 amends the *Public School Code* and provisions relating to the education of the students with disabilities by the Department of Health (DOH), to eliminate the option of a parent whose child is enrolled in the DOH Family, Infant, Toddler (FIT) Program and who reaches his or her third birthday to allow the child to complete the year in the DOH program. The parent's only option will be to enroll the child in a public school preschool program.

Fiscal Impact:

SB 330 does not contain an appropriation.

Fiscal Issues:

The bill analysis from the DOH states,

- the *American Recovery and Reinvestment Act of 2009* funds of \$2.9 million per year that are targeted to fund children over the age of 3 will end in September 2011;
- it is estimated that SB 330, if enacted, would reduce State General Fund expenditures for the FIT Program by approximately \$1,647,000 annually;
- if SB 330 is not enacted alternative funding will have to be identified to serve children whose parents elect to have them remain in the FIT Program after their third birthday; and

- currently, appropriated state funds are needed to serve children from birth through age two, as required under the federal Individuals with Disabilities Education Act (IDEA), Part C.
- If SB 330 were enacted, these children would transition to preschool services provided through public schools.

The bill analysis from the Public Education Department (PED) states that:

- based on 1,440 children who transitioned from the IDEA Part C FIT program to school district IDEA Part B Preschool Programs in 2010, the impact to funding from the State Equalization Guarantee would be approximately \$7.7 million;
- the fiscal impact will vary from year to year depending on the number of three-year old students transitioning;
- the number of preschool children with disabilities has increased steadily over the last several years and the number of preschool students with more severe disabilities is increasing;
- school district's budgets are based on prior year enrollment and any increases in the number of students will impact the district;
- although districts receive adjustments to their budgets based on current enrollment, the cost of students transitioning after the first reporting date will not be reflected that year and may have an impact on the classroom;
- currently, the majority of the three-year olds who transition out of the FIT program entered the IDEA Part B preschool programs in the fall, at the beginning of the school year; and
- with the proposed change, three-year olds may be transitioning through the entire school year.

Technical Issues:

The bill analysis from DOH also states, "In order to be consistent with the change made on Page 3, lines 20 – 23 the following change also needs to be made Page 2, lines 11 through 15

~~[A child with a disability who enrolls in the public school's preschool program and who has [his] the child's third birthday during a school year may receive special education and related services from the beginning of that school year]~~

Based on this change, school districts would no longer have to conduct evaluations and would provide a free and appropriate public education to 2 year olds."

Background:

According to DOH:

- In FY 10, the FIT Program at the DOH provided early intervention services to over 13,700 infants and toddlers with and at risk for developmental delays and disabilities.
- 1,309 children transitioned from the FIT Program (IDEA Part C) to Preschool Special Education (IDEA Part B) in calendar year 2009. The following table shows the number and percentage of children over the age of three who transitioned to special education:

Children who transitioned from FIT Program (Part C) to Preschool Special Education (Part B)	Number	Percent
Children aged 2	87	6.6%
Children over age 3	1,222*	93.4%
TOTAL	1,309	

*243 of these children had turned four by the time they exited the FIT Program.

- While the FIT program provides early intervention to children over three, the federal IDEA Part C requires that services be provided to children until the child’s third birthday and that preschool special education be provided by the child’s third birthday.
- IDEA Part C Sec 632 (5) defines an eligible child for the family infant toddler program as *“an individual under 3 years of age who needs early intervention services.”*
- IDEA Part B Sec 300.124 (a) requires that special education services through state education departments be provided *“By the third birthday of a child described in paragraph (a) of this section, an IEP... has been developed and is being implemented for the child.”*
- Children transition from IDEA Part C early intervention to IDEA Part B at the child’s third birthday in 48 other states. Maryland is the only other state that serves children in Part C early intervention past their third birthday.
- The FIT Program and PED’s Special Education Bureau have a Memorandum of Understanding that details:
 - notification of each school district of children who will be turning three;
 - development of a transition plan;
 - referral of children (with parental consent) to the local school district;
 - a conference meeting with the school district to ensure a smooth transition to preschool; and
 - eligibility determination for special education by the school district before the child’s birthday.
- As part of its cost saving measures, the FIT Program already ended services at age three for children who are eligible under the “at-risk” category.”

Related Bills:

None.