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FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/11
 LAST UPDATED 03/14/11 **HB** _____

SPONSOR Nava

SHORT TITLE Family, Infant, Toddler Program Enrollment **SB** 330/aSEC/aSFC

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			\$1,089.0- \$1,647.0		Recurring	GF/FIT Program Savings
Total			(Unknown)	(Unknown)	Recurring	GF/Federal Funds-- PED State Equalization Guarantee/Medicaid Expenditures

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Public Education Department (PED)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to Senate Bill 330 specifies the effective date for July 1, 2012.

Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Bill 330 amends the Public School Code relating to the education of children with disabilities in public school preschool programs by eliminating the option of a child who has his or her third birthday during a school year from enrolling in a public school and receive special education and related services from the beginning of that school year.

Synopsis of Original Bill

Senate Bill 330 would eliminate the option of having a child enrolled in the Family, Infant, Toddler Program during the child's third year. These children would instead transition to preschool special education services provided through the Public Education Department.

FISCAL IMPLICATIONS

The Department of Health indicates the Family, Infant, Toddler (FIT) Program has been supported with American Recovery and Reinvestment Act (ARRA) funds of \$2.9 million per year; however, these ARRA funds that have been targeted to fund children in the FIT Program over the age of 3 will end in September 2011. It is estimated that passage of SB330 would reduce state general fund expenditures for the FIT Program by approximately \$1,647,000 annually.

If SB330/aSEC passes:

- An estimated 1,114 additional children will transfer from FIT to PED on their third birthday, and
- 414 two year olds will no longer be served by PED (they will move to FIT).

As a result, funding for 700 new children will need to be added to the PED budget and the FIT program will need \$558K in new funding to serve the 414 two year olds now served in public schools. DOH believes cost containment measures that have been put into effect in FY11 will help address this cost.

The Public Education Department estimates the current FY11 total fiscal impact to serve all of these children under the State Equalization Guarantee funding is approximately \$7,697,555.72. The formula used to determine the fiscal impact is as follows: $[N \text{ (number enrolled)} \times .5 \times 1.44 \times 2.0 \times 3712.17]$. This is based on 1,440 children who transitioned from the IDEA Part C Family, Infant, Toddler Program (FIT) to school district Individuals with Disabilities Education Act (IDEA) Part B Preschool programs in 2010. As of the Second Wednesday in February, 872 would have transitioned, therefore resulting in a total of 1,302 for the year.

The Part C to Part B transition numbers were provided to the PED by Mr. Andy Gomm, New Mexico Department of Health/Developmental Disabilities Support Division - Family Infant Toddler Program Manager. The estimated fiscal impact represents approximately 1% of the total State Equalization Guarantee funding for the State. The fiscal impact will vary from year to year depending on the number of three-year old students transitioning. The number of preschool students with disabilities has increased steadily over the last several years and the number of preschool students with more severe disabilities is increasing. The chart below highlights the number of three-year-olds with disabilities receiving services in the Part B school district preschool programs, over the past four years. This data can be reviewed at www.ideadata.org and the Special Education Bureau's website, under district data, at <http://www.ped.state.nm.us/SEB/data/index.html>.

School Year	Number of three-year-olds
2010	1,801
2009	1,657
2008	1,384 <u>1,497</u>
2007	1,395

The Public Education Department estimates the potential fiscal impact to be a savings of approximately \$2,146,228.20. The cost savings was determined using the same formula that was used to estimate the fiscal impact in the original SB 330: $[N \times .5 \times 1.44 \times 2.0 \times 3712.17]$. This is based on 401.5 children who were two-years-old on September 1, and enrolled in a school district preschool program. The N (number of enrolled students) is an average of the number of two-year-olds with disabilities receiving services in Part B school district preschool programs, over of the past four years. The fiscal impact will vary from year to year depending on the number of two-year-olds who will turn three-years-old during the school year and enroll in a school district preschool program prior to their third birthday.

School Year	2 yr olds on 9/1 who turn 3 during the school year
2010	414
2009	441
2008	395
2007	356

Although the elimination of two-year olds from entering the public schools during the school year in which they turn three may have save school districts funds because they will not have to locate, evaluate, identify and provide services for those students, the New Mexico Department of Health Family, Infant, and Toddler program will be responsible for these children. The FIT program will be responsible for locating, evaluating, identifying and providing services for these children if they qualify for services under the IDEA. This may have a fiscal impact on the FIT program. Child Find and the provision of services was provided by the public schools.

The amount discussed in this section of the analysis only reflects the cost of educating the two and three-year-old students transitioning from the FIT program. The students reflected in the charts above also include students who were identified by the district through child find. The fiscal impact does not include the cost of transportation. It is important to note that school district's budgets are based upon prior year enrollment and any drastic increases or decrease in the number of students will impact the district. Although the districts receive adjustments to their budgets based upon current enrollment, the cost of students transitioning after that date will not be reflected and may have an impact on the classroom. Communication between the local FIT providers and the school district about possible future transitioning students will be critical.

SIGNIFICANT ISSUES

The Family Infant Toddler (FIT) Program at the Department of Health indicates it provided early intervention services to over 13,700 infants and toddlers with and at risk for developmental delays and disabilities in FY10.

In FY11, 1,570 children (1414 age 3 and 156 age 2) transitioned from the FIT Program (Part C) to Preschool Special Education (Part B) in calendar year 2010. PED reports that an additional 258 two year olds are enrolled in Part B services in FY11.

While the FIT program currently provides early intervention to children over three, the federal requirement under Individuals with Disabilities Education Act (IDEA) Part C is that services are 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 family infant toddler program as *“an individual under 3 years of age who needs early intervention services”*
- IDEA Part B Sec 300.124 (a) states that for special education through state education departments *“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 forty-eight (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 the NM Department of Education – Special Education Bureau have a Memorandum of Understanding (MOU) 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
- 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 3 for children who are eligible under the “at-risk” category.”

ADMINISTRATIVE IMPLICATIONS

The Public Education Department indicates implications for all agencies involved will be the following:

- Administrators will need to adjust teaching staff assignments or hire additional staff to meet student-teacher ratio requirements.
- Administrative time and effort to enroll and request student records from Part C agencies.
- Administrative time and effort to schedule transportation and adjust bus routes to address transportation of preschool age children to and from school. Since most preschool programs are divided up into half day session, this will require scheduling for morning and afternoon sessions.

- Memorandums of Understanding between the New Mexico Department of Health and the New Mexico Public Education Department, as well as between Part C service providers and Local Education Agencies, will need to be revised to reflect any changes to the law.
- New Mexico Administrative Code at 6.31.2.11 will need to be revised to reflect the changes
- Technical assistance manuals recently developed in conjunction with the DOH and the National Early Childhood Technical Assistance Center, regarding preschool transition will need to be revised.

OTHER SUBSTANTIVE ISSUES

PED indicates New Mexico is one of a few States that allows parental choice regarding transition at the age of three. Governor Martinez’s “Kids First, New Mexico Wins: A Blueprint for Raising Student Achievement” promotes an expansion of parental options and customized learning options.

Not all children receiving services in the FIT program qualify for special education services under IDEA Part B. The determination and provision of services is thoroughly spelled out in State and Federal law (34 CFR §§300.306; 300.323(c)). If it is possible to ensure a smooth and effective transition, a child may have no difficulty moving from Part C to Part B. Through a proper evaluation, eligibility determination, and IEP development - there should be little difference in services that a child receives. Part B Special Education Directors were contacted for this bill analysis and have commented that with the help of committed Part C providers and with the proper Memorandums of Understanding in place, moving children from Part C to Part B need not be difficult. (It was stated, though, that this could be more of an issue in large school districts.)

Currently, the majority of the three-year-olds who transitioned out of the FIT program entered the Part B preschool programs in the fall, at the beginning of the next school year. School districts could anticipate this as an annual event. With the proposed change, three-year-olds would be transitioning throughout the entire school year. With the influx of children transitioning to Part B during the school year, LEAs may run into staffing challenges to meet the 1:4 or 1:2 student: teacher ratio requirements for pre-school children. See 6.29.1.9(H)(5)(6) NMAC.

The IDEA Infant and Toddler Coordinators Association (IDEAINFANTTODDLER.ORG) recently conducted a study entitled Part C Implementation: State Challenges and Responses regarding eligibility, finance, and state decisions regarding the continued participation in Part C. The complete survey can be reviewed at [IDEA Infant and Toddler Coordinators Association's 2010 Tipping Point Survey](#). According to the survey, the majority of the states are continuing their participation in the Part C program. One survey question stated “Do you anticipate running out of funds to maintain services at some point this year?” Five states reported they would run out of funds, 40 states indicated that had sufficient funds to complete the year, and three states were unsure if they would run out of funds.

Other issues to consider include:

- Children enrolled in Part C presently receive services throughout the year. Children turning three in the summer will not be provided services with the potential of regression occurring prior to the beginning of school in the fall. It is unclear how these services will be provided for students who have not yet qualified for part B services.
- Additional cost may occur to LEAs if students who transition to Part B preschools during the course of the school year are found to experience regression when school is not in session. The IEP team may determine that children need Extended School Year services over the summer or during school holidays in order to meet the requirement of their individual education program. Extended School Year requirements would result in additional cost related to hiring of staff, opening and maintaining facilities, and providing transportation, during times outside of the regular school year.
- The State Performance Plan, Indicator Six, measures preschool Least Restrictive Environment for preschool students at the school district and state level. The measure records the number of preschool students receiving services in a regular early childhood program or in a separate setting. According to the US Department of Education Office of Special Education Programs, a regular early childhood program is defined as a setting with the majority of the students being nondisabled. The increase in the number of three-year-olds will require additional nondisabled peers in the preschool programs in order for the school district and state to meet the Indicator target.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB330 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. A federal grant using ARRA dollars currently funds FIT services for these children. The grant funding ends in September of 2011 and is not reoccurring. Federal IDEA Part C funding may only be used for services to children up to their third birthday. Currently, appropriated state funds are needed to serve children from birth through age two, as required under IDEA, Part C.

The estimated cost of serving the children over the age of three, in the FIT program, is \$3.9 million in state general funds (total cost = \$7.7 million including Medicaid). Given the FY11 budget for the FIT program, it is estimated that if SB330 is not passed the FIT Program will face a shortfall of between \$1.6 to \$2.6 million dollars. The FIT Program is implementing a variety of cost containment measures and already maximizes Medicaid, private insurance and IDEA Part C funds to help offset state costs for the FIT program.

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