

# HOUSE BILL REPORT

## HB 2787

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**As Reported by House Committee On:**  
Human Services & Early Learning  
Appropriations

**Title:** An act relating to completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families.

**Brief Description:** Completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families.

**Sponsors:** Representatives Callan, Harris, Eslick, Senn, Stonier, Santos, Tharinger and Pollet; by request of Office of Financial Management.

**Brief History:**

**Committee Activity:**

Human Services & Early Learning: 2/5/20, 2/7/20 [DPS];

Appropriations: 2/10/20 [DPS(HSEL)].

**Brief Summary of Substitute Bill**

- Transfers funding appropriated for the Early Support for Infants and Toddlers (ESIT) program from the Office of the Superintendent of Public Instruction to the Department of Children, Youth, and Families (DCYF).
- Removes the requirement for school districts to contract for or provide ESIT services.
- Requires the DCYF to administer the ESIT program.

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### HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Dawn Eychaner (786-7135).

**Background:**

Early Support for Infants and Toddlers.

Part C of the federal Individuals with Disabilities Education Act (IDEA) requires individual and family intervention services for children from birth to age 3 who have been diagnosed with a disability or developmental delay. These services are provided through the Early Support for Infants and Toddlers (ESIT) program and include developmental services, occupational and physical therapy, speech or language therapy, and service coordination.

School districts are required to provide or contract for ESIT services. Funding for the ESIT program is allocated to school districts by the Office of the Superintendent of Public Instruction (OSPI) based on district enrollment counts of students from birth to age 3 who are eligible for and receiving early intervention services. Funds are allocated according to each school district's base allocation per full-time student, multiplied by 1.15, and distributed according to a kindergarten through twelfth grade (K-12) monthly apportionment schedule.

The Department of Children, Youth, and Families (DCYF) is the lead agency for IDEA Part C and the delivery of the ESIT program. The DCYF has the authority to develop and adopt rules to establish minimum requirements for ESIT services, including allowable allocations and expenditures for transitions into the IDEA, Part B services when a child turns age 3. School districts must ensure that students with disabilities who are ages 3 to 21 receive special education services under Part B of the IDEA.

Referrals to ESIT services are provided through Local Lead Agencies (LLAs) serving a specific geographic area. The LLAs either provide direct services or contract for services to be provided to children and families. The LLAs include county health and human services agencies, nonprofit agencies, and educational service districts.

The IDEA Part C funds must be treated as "payor of last resort" under federal regulations, meaning that these funds may not be used to satisfy a financial commitment for services that would otherwise have been paid for by another public or private source.

The DCYF is required by state law to ensure that all new and renewed contracts for agency services are performance-based.

Funding Model and System Redesign Plan.

In 2016 the Department of Early Learning (DEL) proposed a system design plan for the ESIT program that included recommendations to reorganize the service delivery system and redirect the flow of ESIT funding from the OSPI to the DEL. In 2018 the DEL ceased to exist, and its functions were transferred into the DCYF.

The 2018 Supplemental Operating Budget and the 2019-2021 Biennial Operating Budget contained provisions directing the DCYF to consult with the OSPI, the Office of Financial Management, and the Caseload Forecast Council to develop a funding model with which to determine budget appropriations for early intervention services. The 2019 report from the DCYF recommended a model appropriating ESIT funds to the DCYF, rather than the OSPI.

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**Summary of Substitute Bill:**

Funding for the ESIT program must be appropriated to the DCYF based on the annual average headcount of children from birth to age 3 who are eligible for and receiving early intervention services. The headcount must be multiplied by the per pupil statewide allocation for the prototypical K-12 school, multiplied by 1.15. The special education allocation formula for school districts is accordingly adjusted to remove children from birth to age 3.

Federal funds associated with Part C of the IDEA must be subject to federal "payor of last resort" requirements established in federal regulations.

The DCYF is required to distribute funds to ESIT and, when appropriate, to county lead agencies. School districts are no longer required to provide or contract for the ESIT program.

Contracts for ESIT services are temporarily exempted from DCYF performance-based contracting requirements. The exemption begins September 1, 2020, and ends September 1, 2021.

**Substitute Bill Compared to Original Bill:**

The substitute bill:

- removes the requirement for the DCYF to distribute ESIT funds to providers according to the K-12 apportionment schedule and allows distribution of funds to county lead agencies when appropriate;
- removes the requirement for ESIT service providers to bill all available funding sources prior to using state and federal funding;
- designates federal IDEA Part C funds as subject to "payor of last resort" requirements established in federal rule; and
- expires sections exempting ESIT contracts from DCYF performance-based contracting requirements on December 31, 2021, instead of on June 30, 2021.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on September 1, 2020.

**Staff Summary of Public Testimony:**

(In support) The intent of the bill is to move services from the K-12 system into the DCYF where the state's early learning services are centered. This policy creates better alignment between early intervention services and early learning services and finalizes the ESIT transfer from the OSPI to the DCYF. This program exists between the DCYF and the OSPI

now and creates two authorizing environments that create challenges for providers. The DCYF has been working toward this shift for a number of years and was waiting for K-12 policy and funding changes to settle before pursuing this change. Thank you for working out the details of this transfer and protecting the funding in the transfer. The substitute addresses most of the issues that were previously identified in the underlying bill. The extra time for complying with performance-based contracting requirements, and the changes in the substitute regarding payor of last resort language are appreciated.

(Opposed) None.

(Other) As many state funds as possible should go to treating children and state rules limit the amount of administrative fees in rules to 5 percent. Codifying that limit in the bill would be helpful. Moving the start date for the performance based contracts to July 2022 would make sense for beginning a contract period.

**Persons Testifying:** (In support) Representative Callan, prime sponsor; David Green, Office of the Superintendent of Public Instruction; Frank Ordway, Department of Children, Youth, and Families; and Lance Morehouse, WEECARE Coalition.

(Other) Michael Stewart, Boyer Children's Clinic.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Human Services & Early Learning be substituted therefor and the substitute bill do pass. Signed by 32 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Staff:** Jordan Clarke (786-7123).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Human Services & Early Learning:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on September 1, 2020.

**Staff Summary of Public Testimony:**

(In support) None.

(Opposed) None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.