

Regular Session, 2013

HOUSE BILL NO. 375

BY REPRESENTATIVE HOFFMANN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EXCEP PERSON/DISABLED: Provides for the EarlySteps childhood disability intervention program and authorizes a fee schedule known as cost participation for services of the program

1 AN ACT

2 To amend and reenact R.S. 36:4(R), to enact Chapter 4-B of Title 28 of the Louisiana  
3 Revised Statutes of 1950, to be comprised of R.S. 28:461 through 470, and to repeal  
4 Part III of Chapter 8 of Title 17 of the Louisiana Revised Statutes of 1950, comprised  
5 of R.S. 17:1971 through 1979, relative to the early intervention program of this state  
6 for infants and toddlers with disabilities and their families; to establish the official  
7 name of such program; to provide for definitions; to provide for duties of the  
8 Department of Health and Hospitals relative to program administration; to provide  
9 requirements for a statewide system of services; to provide relative to payment for  
10 services; to allow for uses of funds for provision of certain services to eligible  
11 persons; to provide for authority to establish a statewide system of payments; to  
12 provide for authority to establish a schedule of fees for services provided to certain  
13 recipients; to create and provide for duties of the Louisiana State Interagency  
14 Coordinating Council for EarlySteps: Louisiana's Early Intervention Program for  
15 Infants and Toddlers with Disabilities and their Families; to authorize promulgation  
16 of rules by the Department of Health and Hospitals; to provide for continuation of  
17 effectiveness of certain administrative rules; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Chapter 4-B of Title 28 of the Louisiana Revised Statutes of 1950,  
20 comprised of R.S. 28:461 through 470, is hereby enacted to read as follows:

1           CHAPTER 4-B. EARLYSTEPS: LOUISIANA'S EARLY INTERVENTION

2                   PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

3                           AND THEIR FAMILIES

4           §461. Findings; policy

5                   A. The Louisiana Legislature hereby finds that there is an urgent and  
6           substantial need in this state for all of the following:

7                           (1) Enhancements in the development of infants and toddlers with  
8           disabilities in order to minimize their potential for developmental delay.

9                           (2) Greater recognition of the significant brain development that occurs  
10          during a child's first three years of life.

11                          (3) A reduction to the educational costs to our society, including costs borne  
12          by Louisiana's schools, through minimizing the need for special education and  
13          related services after infants and toddlers with disabilities reach school age.

14                          (4) Maximization of the potential for individuals with disabilities to live  
15          independently in the community.

16                          (5) Enhancement of families' capacity to meet the special needs of their  
17          infants and toddlers with disabilities.

18                          (6) Enhancement of the capacity of state and local agencies and service  
19          providers to identify, evaluate, and meet the needs of all children; particularly  
20          minority, low-income, inner-city, and rural children, and infants and toddlers in  
21          foster care.

22                          B. In consideration of the needs described in this Section, it is therefore the  
23          policy of Louisiana:

24                           (1) To develop and implement a statewide, comprehensive, coordinated,  
25          multidisciplinary interagency system that provides early intervention services for  
26          infants and toddlers with disabilities and their families.

27                           (2) To establish a state system of payments that provides for the collection,  
28          facilitation, and coordination of payment for early intervention services from federal,

1 state, local, and private sources, including public and private insurance coverage and  
2 cost sharing with those families who qualify.

3 (3) To enhance Louisiana's capacity to provide quality early intervention  
4 services and to expand and improve existing early intervention services currently  
5 being provided to infants and toddlers with disabilities and their families.

6 (4) To encourage Louisiana to expand opportunities for children under three  
7 years of age who would be at risk of having substantial developmental delay if they  
8 did not receive early intervention services.

9 §462. Definitions

10 As used in this Chapter, the following terms shall have the meaning ascribed  
11 to them in this Section, unless the context clearly indicates otherwise:

12 (1) "Cost participation" means fees or other charges through which families  
13 share in the cost for early intervention services provided pursuant to the provisions  
14 of this Chapter.

15 (2) "Council" means the Louisiana State Interagency Coordinating Council  
16 for EarlySteps established pursuant to R.S. 28:470.

17 (3) "Department" means the Department of Health and Hospitals.

18 (4) "Early intervention services" means developmental services that:

19 (a) Are provided under public supervision.

20 (b) Are provided at no cost except where federal or state law provides for a  
21 system of payments by families, including but not limited to a schedule providing  
22 a sliding scale of fees as provided in R.S. 28:469.

23 (c) Are designed to meet developmental needs of an infant or toddler with  
24 a disability, as identified by the individualized family service plan team, in any one  
25 or more of the following areas:

26 (i) Physical development.

27 (ii) Cognitive development.

28 (iii) Communication development.

29 (iv) Social or emotional development.

- 1                   (v) Adaptive development.
- 2                   (d) Meet the standards of the state of Louisiana.
- 3                   (e) Include but are not limited to:
- 4                   (i) Family training, counseling, and home visits.
- 5                   (ii) Special instruction.
- 6                   (iii) Speech-language pathology and audiology services and sign language  
7 and cued language services.
- 8                   (iv) Occupational therapy.
- 9                   (v) Physical therapy.
- 10                  (vi) Psychological services.
- 11                  (vii) Family service coordination services.
- 12                  (viii) Medical services only for diagnostic or evaluation purposes.
- 13                  (ix) Early identification, screening, and assessment services.
- 14                  (x) Health services necessary to enable the infant or toddler to benefit from  
15 other early intervention services.
- 16                  (xi) Social work services.
- 17                  (xii) Vision services.
- 18                  (xiii) Assistive technology devices and assistive technology services.
- 19                  (xiv) Costs associated with transportation that are necessary to enable an  
20 infant or toddler and the infant's or toddler's family to receive early intervention  
21 services.
- 22                  (f) Are provided by qualified personnel, including:
- 23                  (i) Special educators.
- 24                  (ii) Speech-language pathologists and audiologists.
- 25                  (iii) Occupational therapists.
- 26                  (iv) Physical therapists.
- 27                  (v) Psychologists.
- 28                  (vi) Social workers.
- 29                  (vii) Nurses.

1           (viii) Registered dieticians.

2           (ix) Family therapists.

3           (x) Vision specialists, including ophthalmologists and optometrists.

4           (xi) Orientation and mobility specialists.

5           (xii) Pediatricians and other physicians.

6           (g) To the maximum extent appropriate, are provided in natural  
7 environments, including the home and community settings in which children without  
8 disabilities participate.

9           (h) Are provided in conformity with an individualized family service plan  
10 adopted in accordance with the provisions of this Chapter.

11           (5) "IDEA" means the federal Individuals with Disabilities Education Act.

12           (6)(a) "Infant or toddler with a disability " means an individual under three  
13 years of age who needs early intervention services because of either of the following:

14           (i) The individual is experiencing developmental delays, as measured by  
15 appropriate diagnostic instruments and procedures in the areas of cognitive  
16 development, physical development, communication development, social or  
17 emotional development, or adaptive development.

18           (ii) The individual has a diagnosed physical or mental condition which has  
19 a high probability of resulting in developmental delay.

20           (b) This definition may also include, at the department's discretion, at-risk  
21 infants and toddlers as defined in Subparagraph (c) of this Paragraph.

22           (c) "At-risk infant or toddler" means an individual under three years of age  
23 who would be at risk of experiencing a substantial developmental delay if early  
24 intervention services were not provided to the individual.

25           (7) "Parent" means a person who meets the definition of such term in federal  
26 regulations relative to early intervention programs for infants and toddlers with  
27 disabilities and their families (34 CFR 303.27).

1        §463. Goals

2                A. Louisiana shall adopt a policy which incorporates all of the components  
3        of a statewide system as provided in this Chapter.

4                B. The department shall include in its annual application for federal funds  
5        assurances that the statewide system provided for in this Chapter meets federal  
6        requirements for such a system and a description of services to be provided in  
7        accordance with the provisions of this Chapter.

8        §464. Requirements for statewide system

9                A statewide comprehensive, coordinated, multidisciplinary, interagency  
10        system to provide early intervention services for infants and toddlers with disabilities  
11        and their families shall include, at a minimum, the following components:

12                (1) A definition of the term "developmental delay" that will be used by the  
13        department in carrying out the provisions of this Chapter in order to appropriately  
14        identify infants and toddlers with disabilities who are in need of services provided  
15        for in this Chapter.

16                (2) A state policy that is in effect and which ensures that appropriate early  
17        intervention services based on scientific research, to the extent practicable, are  
18        available to all infants and toddlers with disabilities and their families, including  
19        Indian infants and toddlers with disabilities and their families residing on a  
20        reservation geographically located in Louisiana, infants and toddlers with disabilities  
21        who are homeless and their families, and infants and toddlers with disabilities who  
22        are wards of the state.

23                (3) A timely, comprehensive, multidisciplinary evaluation of the functioning  
24        of each infant and toddler with a disability in Louisiana and a family-directed  
25        identification of the needs of each family of such an infant or toddler to assist  
26        appropriately in the development of the infant or toddler.

27                (4) For each infant and toddler with a disability in Louisiana, an  
28        individualized family service plan developed in accordance with applicable federal

1 regulations, including family service coordination in accordance with such service  
2 plan.

3 (5) A comprehensive child-find system, consistent with the federal  
4 requirements of IDEA-Part B, including a system for making referrals to service  
5 providers that includes timelines and provides for participation by primary referral  
6 sources and that ensures rigorous standards for appropriately identifying infants and  
7 toddlers with disabilities for services pursuant to this Chapter that will reduce the  
8 need for future services.

9 (6) A public awareness program focusing on early identification of infants  
10 and toddlers with disabilities, including the preparation and dissemination by the  
11 department to all primary referral sources, especially hospitals and physicians, of  
12 information for parents, especially for parents with premature infants, or infants with  
13 other physical risk factors associated with learning or developmental complications,  
14 on the availability of early intervention services, and procedures for assisting such  
15 sources in disseminating such information to parents of infants and toddlers with  
16 disabilities.

17 (7) A central directory that includes information on early intervention  
18 services, resources, and experts available in Louisiana and research and  
19 demonstration projects being conducted in Louisiana.

20 (8)(a) A comprehensive system of personnel development, including the  
21 training of paraprofessionals and the training of primary referral sources with respect  
22 to the basic components of early intervention services available in Louisiana, that  
23 shall include:

24 (i) Implementing innovative strategies and activities for the recruitment and  
25 retention of early education service providers.

26 (ii) Promoting the preparation of early intervention providers who are fully  
27 and appropriately qualified to provide early intervention services.

1           (iii) Training personnel to coordinate transition services for infants and  
2           toddlers with disabilities from an early intervention program provided for in this  
3           Chapter to preschool or other appropriate services.

4           (b) The comprehensive system of personnel development may include:

5           (i) Training personnel to work in rural and inner-city areas.

6           (ii) Training personnel in the emotional and social development of young  
7           children.

8           (9) Policies and procedures relating to the establishment and maintenance  
9           of qualifications to ensure that personnel necessary to carry out the provisions of this  
10          Chapter are appropriately and adequately prepared and trained, including the  
11          establishment and maintenance of qualifications that are consistent with any  
12          state-approved or recognized certification, licensing, registration, or other  
13          comparable requirements that apply to the area in which such personnel are  
14          providing early intervention services. Nothing in this Chapter shall be construed to  
15          prohibit the use of paraprofessionals and assistants who are appropriately trained and  
16          supervised in accordance with Louisiana law, regulations, or written policy to assist  
17          in the provision of early intervention services to infants and toddlers with disabilities  
18          pursuant to the provisions of this Chapter.

19          (10) A single line of responsibility in the department for carrying out the  
20          following functions:

21          (a) General administration and supervision of programs and activities  
22          receiving assistance pursuant to this Chapter, and the monitoring of programs and  
23          activities used by Louisiana to carry out the provisions of this Chapter, whether or  
24          not such programs or activities are receiving assistance made available by this  
25          Chapter, to ensure compliance with this Chapter.

26          (b) Identification, coordination, and collection of all available resources  
27          within Louisiana from federal, state, local, and private sources, including those of  
28          the system of payments established pursuant to the provisions of R.S. 28:469.

29          (c) Assignment of financial responsibility to the appropriate agencies.



1           (d) Development of procedures to ensure that services are provided to infants  
2           and toddlers with disabilities and their families in a timely manner pending the  
3           resolution of any disputes among public agencies or service providers.

4           (e) Resolution of intra-agency and interagency disputes.

5           (f) Entry into formal interagency agreements which conform with all  
6           applicable provisions of Louisiana law that provide the following:

7           (i) Definitions of the financial responsibility of each agency for paying for  
8           early intervention services.

9           (ii) Procedures for resolving disputes.

10          (iii) Any additional component necessary to ensure meaningful cooperation  
11          and coordination.

12          (11) A policy pertaining to the contracting or making of other arrangements  
13          with service providers to provide early intervention services in Louisiana, consistent  
14          with the provisions of this Chapter, including the contents of the application used and  
15          the conditions of the contract or other arrangements.

16          (12) A procedure for securing timely reimbursement of funds.

17          (13) Procedural safeguards with respect to programs.

18          (14) A system for compiling data in accordance with information and  
19          reporting requirements of the United States Secretary of Education.

20          (15) A state interagency coordinating council that meets the requirements of  
21          R.S. 28:470.

22          (16) Policies and procedures to ensure all of the following:

23          (a) To the maximum extent appropriate, early intervention services are  
24          provided in natural environments.

25          (b) The provision of early intervention services for any infant or toddler with  
26          a disability occurs in a setting other than a natural environment that is most  
27          appropriate, as determined by the parent and the individualized family service plan  
28          team, only when early intervention cannot be achieved satisfactorily for the infant  
29          or toddler in a natural environment.

1        §465. Individualized family service plan

2            A. Assessment and program development shall provide, at a minimum, for  
3        each infant and toddler with disabilities and the infant's or toddler's family to receive:

4            (1) A multidisciplinary assessment of the unique strengths and needs of the  
5        infant or toddler and the identification of services appropriate to meet such needs.

6            (2) A family-directed assessment of the resources, priorities, and concerns  
7        of the family and the identification of the supports and services necessary to enhance  
8        the family's capacity to meet the developmental needs of the infant or toddler.

9            (3) A written individualized family service plan developed by a  
10       multidisciplinary team, including the parents, as required by Subsection D of this  
11       Section, including a description of the appropriate transition services for the infant  
12       or toddler.

13           B. The individualized family service plan shall be evaluated annually, and  
14       the family shall be provided a review of the plan at six-month intervals or more often  
15       as appropriate based on the infant or toddler and family needs.

16           C. The individualized family service plan shall be developed within a  
17       reasonable time after the assessment required by Paragraph (A)(1) of this Section is  
18       completed. With the parent's consent, early intervention services may commence  
19       prior to the completion of the assessment.

20           D. The individualized family service plan shall be in writing and contain all  
21       of the following:

22           (1) A statement of the infant's or toddler's present level of physical  
23       development, cognitive development, communication development, social or  
24       emotional development, and adaptive development, based on objective criteria.

25           (2) A statement of the family's resources, priorities, and concerns relating to  
26       enhancing the development of the family's infant or toddler with a disability.

27           (3) A statement of the measurable results or outcomes expected to be  
28       achieved for the infant and toddler and the family, including preliteracy and language  
29       skills, as developmentally appropriate for the child, and the criteria, procedures, and

1 timelines used to determine the degree to which progress toward achieving the  
2 results or outcomes is being made and whether modifications or revisions of the  
3 results or outcomes or services are necessary.

4 (4) A statement of specific early intervention services based on  
5 peer-reviewed research, to the extent practicable, necessary to meet the unique needs  
6 of the infant or toddler and the family, including the frequency, intensity, and the  
7 method of delivering services.

8 (5) A statement of the natural environments in which early intervention  
9 services shall appropriately be provided, including a justification of the extent, if  
10 any, to which the services will not be provided in a natural environment.

11 (6) The projected dates for initiation of services and the anticipated length,  
12 duration, and frequency of the services.

13 (7) The identification of the family service coordinator from the profession  
14 most immediately relevant to the infant's or toddler's or family's needs or who is  
15 otherwise qualified to carry out all applicable responsibilities pursuant to the  
16 provisions of this Chapter who will be responsible for the implementation of the plan  
17 and coordination with other agencies and persons, including transition services.

18 (8) The steps to be taken to support the transition of the toddler with a  
19 disability to preschool or other appropriate services, including the following steps:

20 (a) Notify the local educational agency for the area in which such a child  
21 resides that the child will shortly reach the age of eligibility for preschool services  
22 pursuant to IDEA-Part B federal regulations as determined in accordance with  
23 Louisiana law.

24 (b) In the case of a child who may be eligible for such preschool services,  
25 with the approval of the family of the child, convene a conference among the family  
26 service coordinator, the family, and the local educational agency at least ninety days  
27 but no more than six months before the child is eligible for the preschool services,  
28 to discuss any such services that the child may receive.

1           (c) In the case of a child who may not be eligible for such preschool services,  
2           with the approval of the family, make reasonable efforts to convene a conference  
3           among the family service coordinator, the family, and providers of other appropriate  
4           services for children who are not eligible for preschool service pursuant to  
5           IDEA-Part B federal regulations to discuss the appropriate services that the child  
6           may receive.

7           E. The contents of the individualized family service plan shall be fully  
8           explained to the parents and informed written consent from the parents shall be  
9           obtained prior to the provision of early intervention services described in such plan.  
10          If the parents do not provide consent with respect to a particular early intervention  
11          service, then only the early intervention services to which consent is obtained shall  
12          be provided.

13          §466. Uses of funds

14           In addition to utilizing funds provided pursuant to the provisions of this  
15          Chapter to implement and maintain the statewide system, the department shall use  
16          such funds for the following purposes:

17           (1) For direct early intervention services for infants and toddlers with  
18          disabilities and their families as provided in this Chapter that are not otherwise  
19          funded through public or private sources.

20           (2) To expand and improve upon services for infants and toddlers and their  
21          families as provided in this Chapter that are otherwise available.

22           (3) To strengthen the statewide system by initiating, expanding, or  
23          improving collaborative efforts related to at-risk infants and toddlers, including  
24          establishing linkages with appropriate public or private community-based  
25          organizations, services, and personnel for the purposes of:

26           (a) Identifying and evaluating at-risk infants and toddlers.

27           (b) Making referrals of the infants and toddlers identified and evaluated  
28          pursuant to the provisions of Subparagraph (a) of this Paragraph.

1           (c) Conducting periodic follow-up on each such referral to determine if the  
2           status of the infant or toddler involved has changed with respect to the eligibility of  
3           the infant or toddler for services pursuant to this Chapter.

4           §467. Procedural safeguards

5           The procedural safeguards which shall be included in a statewide system  
6           shall provide, at a minimum, the following:

7           (1) The timely administrative resolution of complaints by parents. Any party  
8           aggrieved by the findings and decision regarding an administrative complaint shall  
9           have the right to bring a civil action with respect to the complaint in any state court  
10          of competent jurisdiction or in a district court of the United States without regard to  
11          the amount in controversy. In any action brought pursuant to the provisions of this  
12          Paragraph, the court shall receive the records of the administrative proceedings, shall  
13          hear additional evidence at the request of a party, and, basing its decision on the  
14          preponderance of the evidence, shall grant such relief as the court determines is  
15          appropriate.

16          (2) The right to confidentiality of personally identifiable information,  
17          including the right of parents to written notice of and written consent to the exchange  
18          of such information among agencies consistent with applicable provisions of federal  
19          and state law.

20          (3) The right of the parents to determine whether they, their infant or toddler,  
21          or other family members will accept or decline any early intervention service  
22          provided for in this Chapter in accordance with state law without jeopardizing other  
23          early intervention services provided for in this Chapter.

24          (4) The opportunity for parents to examine records relating to assessment,  
25          screening, eligibility determinations, and the development and implementation of the  
26          individualized family service plan.

27          (5) Procedures to protect the rights of the infant or toddler whenever the  
28          parents of the infant or toddler are not known or cannot be found or the infant or  
29          toddler is a ward of the state, including the assignment of an individual, who shall

1 not be an employee of the department or any other state agency; and who shall not  
2 be any person, or any employee of a person, providing early intervention services to  
3 the infant or toddler or any family member of the infant or toddler to act as a  
4 surrogate for the parents.

5 (6) Written prior notice to the parents of the infant or toddler with a  
6 disability whenever the state agency or service provider proposes to initiate or  
7 change or refuses to initiate or change the identification, evaluation, or placement of  
8 the infant or toddler with a disability, or the provision of appropriate early  
9 intervention services to the infant or toddler.

10 (7) Procedures designed to ensure that the notice required by Paragraph (6)  
11 of this Section fully informs the parents, in the parents' native language, unless it is  
12 not feasible to do so, of all procedures available pursuant to this Section.

13 (8) The right of parents to use mediation in accordance with Section 615 of  
14 IDEA.

15 (9) During the pendency of any proceeding or action involving a complaint  
16 by the parents of an infant or toddler with a disability, unless the department and the  
17 parents otherwise agree, the infant or toddler shall continue to receive the appropriate  
18 early intervention services currently being provided, or if applying for initial  
19 services, shall receive the services not in dispute.

20 §468. Payor of last resort; nonsubstitution; reduction of other benefits

21 A. Funds provided pursuant to this Chapter may not be used to satisfy a  
22 financial commitment for services that would have been paid for from another public  
23 or private source, including any medical program administered by the Secretary of  
24 Defense, but for the enactment of this Chapter; except that whenever considered  
25 necessary to prevent a delay in the receipt of appropriate early intervention services  
26 by the infant or toddler or family according to the department's established timeline  
27 for timely delivery of services, funds provided pursuant to this Chapter may be used  
28 to pay the provider of services pending reimbursement from the agency that has  
29 ultimate responsibility for the payment.

1           B. Nothing in this Chapter shall be construed to permit the department to  
2           reduce medical or other assistance available or to alter eligibility pursuant to Title  
3           V of the Social Security Act, relating to maternal and child health, or Title XIX of  
4           the Social Security Act, relating to Medicaid for infants or toddlers with disabilities,  
5           within the state of Louisiana.

6           §469. System of payments; authority of the Department of Health and Hospitals;  
7           cost participation schedule

8           A. The department is hereby authorized to establish a statewide system of  
9           payments in accordance with the provisions of 34 CFR Part 303.

10           B.(1) In implementing the system of payments, the department shall  
11           promulgate rules for the reimbursement of services from all third-party payers, both  
12           private and public.

13           (2) The department or its designee shall seek payment from all third-party  
14           payers prior to claiming payment from the IDEA-Part C early intervention system  
15           of this state for services rendered to eligible children.

16           (3) The department or its designee may pay directly to a provider any  
17           required deductible, copayment, coinsurance, or other out-of-pocket expense for a  
18           child who is eligible for services from the IDEA-Part C early intervention system of  
19           this state.

20           C.(1)(a) The department shall promulgate rules in accordance with the  
21           Administrative Procedure Act that establish a schedule of monthly cost participation  
22           for early intervention services per qualifying family. Cost participation shall be  
23           based on a sliding scale and shall consider elements, including but not limited to  
24           adjusted gross income, family size, financial hardship, extraordinary expenses  
25           associated with the child, and Medicaid eligibility. The department shall be subject  
26           to all of the following limitations and requirements relative to the cost participation  
27           schedule:

28           (i) The department shall utilize the most recent federal poverty guidelines  
29           issued in the Federal Register by the United States Department of Health and Human

1 Services as the basis for determining the income threshold based on family size for  
2 eligibility for cost participation.

3 (ii) The department shall not assess any fee or other charge through the cost  
4 participation schedule upon a family which has annual income of less than three  
5 hundred percent of the federal poverty level.

6 (iii) In any month, the department shall not assess fees or other charges  
7 through the cost participation schedule which total more than three percent of the  
8 monthly income level for a family of four, according to the federal poverty guideline  
9 schedule.

10 (iv) The department shall not assess a fee or other charge through the cost  
11 participation schedule for any service provided for in Item (c)(ii) of this Paragraph.

12 (b) Parents who have public or private insurance and elect not to assign such  
13 right of recovery or indemnification to the department or choose not to release  
14 financial information shall be assessed the cost for each early intervention service  
15 listed on the individualized family service plan according to the most current service  
16 rate schedule and cost participation schedule promulgated by the department.

17 (c) The cost participation schedule promulgated by the department shall  
18 provide all of the following:

19 (i) Procedures by which a service provider may notify the department that  
20 a family is not complying with the cost participation requirements and procedures  
21 for suspending services.

22 (ii) A statement of assurance that fees are not charged for services which a  
23 child is otherwise entitled to receive at no cost to parents, including child-find  
24 activities, evaluation and assessment for eligibility and individualized family service  
25 planning, service coordination, administrative and coordinative activities related to  
26 development review, evaluation of individualized family service plans, and  
27 implementation of procedural safeguards and other components of the statewide  
28 system provided for in R.S. 28:464.



1           (2)(a) The department shall provide prior notification in writing to families  
2           for use of public or private insurance according to the requirements of 34 CFR  
3           303.414. Such notification shall include a statement of the general categories of  
4           costs that the parent would incur and a statement of the process for resolution of a  
5           dispute regarding decisions related to use of public or private insurance, failure to  
6           pay for services or the state's determination of a family's ability to pay.

7           (b) The department shall ensure that the procedures utilized to resolve such  
8           disputes will not delay or deny the parents' rights or the child's ability to access  
9           timely services.

10           (3) The aggregate contributions made by the parent shall not exceed the  
11           aggregate cost of the early intervention services received by the child and family,  
12           inclusive of any amount received from other sources of payment for a service.

13           (4)(a) At least annually, or at any time the department determines is  
14           warranted, the department shall conduct a reassessment of the parents' financial  
15           status. A parent may request such reassessment at any time when significant changes  
16           in financial circumstances may affect the calculation of the cost participation  
17           amount.

18           (b) The department shall not make any administrative decision regarding  
19           suspension or termination of services for a family prior to the family having been in  
20           arrears, with respect to fees or other charges assessed pursuant to cost participation,  
21           for a duration of three months.

22           (c) On at least a monthly basis, the department shall send to any family in  
23           arrears, with respect to fees or other charges assessed pursuant to cost participation,  
24           notice of the family's right for reconsideration of their financial status and the  
25           family's right to apply for exemption from cost participation due to financial  
26           hardship. A copy of the notice shall be sent to the representative and senator in  
27           whose district the family resides.

1           (5) The department shall not limit early intervention services for a child in  
2           any month if the cost of such services in that month exceeds the maximum monthly  
3           contribution from the child's family as provided in Item (1)(a)(iii) of this Subsection.

4           §470. Louisiana State Interagency Coordinating Council for EarlySteps: Louisiana's  
5           Early Intervention Program for Infants and Toddlers with Disabilities and  
6           Their Families

7           A. The Louisiana State Interagency Coordinating Council for EarlySteps:  
8           Louisiana's Early Intervention Program for Infants and Toddlers with Disabilities  
9           and Their Families is hereby created. All council members shall be appointed by the  
10          governor who shall also appoint the chairperson. No member of the council who is  
11          a representative of the department may serve as the chairperson of the council. At  
12          least twenty percent of the members shall be parents of infants or toddlers with  
13          disabilities or children with disabilities age twelve or younger, with knowledge of  
14          or experience with programs for infants and toddlers with disabilities; and at least  
15          twenty percent of the members shall be public or private providers of early  
16          intervention services.

17          B. The council shall be comprised of the following members:

18          (1) At least one member shall be a parent of either of the following:

19               (a) An infant or toddler with disabilities.

20               (b) A child with disabilities age six or younger.

21          (2) At least one member shall be an elected member of the Louisiana  
22          Legislature.

23          (3) At least one member shall be involved in the preparation and training of  
24          early intervention providers to become qualified to provide services.

25          (4) Members in the number of one each from each state agency involved in  
26          the provision of or payment for early intervention services to infants and toddlers  
27          with disabilities and their families, including Medicaid, and such members shall have  
28          sufficient authority to engage in policy planning and implementation on behalf of  
29          their respective agencies.

1           (5) At least one member shall be from the office of the Louisiana  
2           Department of Education which is responsible for preschool services to children with  
3           disabilities and who shall have sufficient authority to engage in policy planning and  
4           implementation on behalf of such agency.

5           (6) At least one member shall be from the Louisiana Department of  
6           Insurance.

7           (7) At least one member shall be from a Head Start agency or program.

8           (8) At least one member shall be from the Louisiana Department of Children  
9           and Family Services.

10          (9) At least one member designated by the Louisiana Department of  
11          Education who is responsible for coordination of the education of homeless children  
12          and youth.

13          (10) One member from the Department of Children and Family Services who  
14          is responsible for foster care.

15          (11) One member from the Department of Health and Hospitals, office of  
16          behavioral health.

17          (12) Any other members duly appointed by the governor.

18          C. The council shall meet at least quarterly and in such places as it deems  
19          necessary. The meetings shall be publicly announced and to the extent appropriate,  
20          open, and accessible to the general public.

21          D.(1) Subject to the approval of the governor, the council may prepare and  
22          approve a budget using funds provided pursuant to the provisions of this Chapter to  
23          conduct hearings and forums; to reimburse members of the council for reasonable  
24          and necessary expenses, including child care for parent representatives, for attending  
25          council meetings, and performing council duties; and to pay compensation to a  
26          member of the council if the member is not employed or must forfeit wages from  
27          other employment when performing official council business.

28          (2) The council shall use funds provided pursuant to this Chapter to hire an  
29          executive director who shall be responsible to and report directly to the council and

1 the governor or his designee to carry out its functions pursuant to this Chapter. The  
2 executive director shall be hired as an unclassified employee of the office of the  
3 governor. The cost of maintaining the functions of the executive director and council  
4 shall be specified by an interagency agreement between the department and the  
5 office of the governor. The council may also use funds provided pursuant to this  
6 Chapter to obtain the services of other such professional, technical, and clerical  
7 personnel as may be necessary to carry out its functions as provided in this Chapter.

8 E. The council shall have the following duties:

9 (1) To advise and assist the department in the performance of responsibilities  
10 established pursuant to this Chapter, particularly the identification of sources of  
11 fiscal and other support for services for early intervention programs, assignment of  
12 financial responsibility to the appropriate agency, and the promotion of interagency  
13 agreements.

14 (2) To advise and assist the department in the preparation of applications and  
15 amendments thereto.

16 (3) To advise and assist the department relative to the transition of toddlers  
17 with disabilities to preschool and other appropriate services.

18 (4) To prepare and submit an annual report to the governor and to the United  
19 States Secretary of Education on the status of early intervention programs for infants  
20 and toddlers with disabilities and their families operated within the state.

21 (5) The council may advise appropriate agencies in the state with respect to  
22 the integration of services for infants and toddlers with disabilities and at-risk infants  
23 and toddlers and their families, regardless of whether at-risk infants and toddlers are  
24 eligible for early intervention services in the state.

25 (6) To prepare and submit an annual report to the Legislature of Louisiana  
26 on the status of the early intervention program of this state for infants and toddlers  
27 with disabilities and their families.



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Hoffmann

HB No. 375

**Abstract:** Provides for the EarlySteps childhood disability intervention program and the La. State Interagency Coordinating Council for EarlySteps. Authorizes a fee schedule known as cost participation for services of the program.

Proposed law deletes present law in Title 17 of the La. Revised Statutes of 1950 (R.S. 17:1971-1979), relative to ChildNet: La.'s Early Intervention Program for Infants and Toddlers with Special Needs and their Families.

Proposed law recreates and revises certain provisions of present law relative to the ChildNet Program; changes the program name to "EarlySteps: La.'s Early Intervention Program for Infants and Toddlers with Disabilities and their Families"; and locates provisions relative to the EarlySteps Program in Title 28 of the La. Revised Statutes of 1950.

Proposed law provides legislative findings relative to infants and toddlers with disabilities and their families, and defines terms used in proposed law.

Proposed law provides for policies, goals, and requirements of a statewide comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families. Further provides for procedural safeguards which shall be included in such statewide system.

Proposed law provides for requirements of individualized family service plans for infants, toddlers, and families who receive services through the EarlySteps program.

Proposed law requires that DHH utilize funds received pursuant to fees and other charges authorized by proposed law for the following purposes:

- (1) Implementing and maintaining the statewide system providing early intervention services.
- (2) Providing direct early intervention services for infants and toddlers with disabilities and their families as provided in proposed law that are not otherwise funded through public or private sources.
- (3) Expanding and improving services for infants and toddlers and their families as provided in proposed law that are otherwise available.
- (4) Strengthening the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel.

Proposed law stipulates that funds provided to implement provisions of proposed law may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the U.S. Secretary of Defense, but for the enactment of proposed law; except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided pursuant to the

provisions of proposed law may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

Proposed law provides that nothing in proposed law shall be construed to permit La. to reduce medical or other assistance available or to alter eligibility pursuant to Title V of the Social Security Act relating to maternal and child health, or Title XIX of the Social Security Act relating to Medicaid for infants or toddlers with disabilities, within the state of La.

Proposed law authorizes DHH to establish a statewide system of payments for services provided pursuant to proposed law which comports with federal regulations relative to early intervention programs for infants and toddlers with disabilities and their families (34 CFR Part 303). Further provides that in implementing such system of payments, DHH:

- (1) Shall promulgate rules for the reimbursement of services from all third-party payers, both private and public.
- (2) Shall seek payment from all third-party payers prior to claiming payment from the early intervention system for services rendered to eligible children.
- (3) May pay directly to a provider any required deductible, copayment, coinsurance, or other out-of-pocket expense for a child who is eligible for services from the early intervention system.
- (4) Shall promulgate rules that establish a schedule of monthly cost participation for early intervention services per qualifying family. Proposed law defines "cost participation" as fees or other charges through which families share in the cost for services provided pursuant to proposed law.

Proposed law subjects DHH to all of the following limitations and requirements relative to cost participation:

- (1) DHH shall utilize the most recent federal poverty guidelines issued in the Federal Register by the U.S. Dept. of Health and Human Services as the basis for determining the income threshold based on family size for eligibility for cost participation.
- (2) DHH shall not assess any fee or other charge through the cost participation schedule upon a family which has annual income of less than 300% of the federal poverty level.
- (3) In any month, DHH shall not assess fees or other charges through the cost participation schedule which total more than 3% of the monthly income level for a family of four, according to the federal poverty guideline schedule.
- (4) DHH shall not assess a fee or other charge through the cost participation schedule for any service identified elsewhere in proposed law as a free service.

Proposed law authorizes DHH to establish procedures by which a service provider may notify the department that a family is not complying with the cost participation requirements and procedures for suspending services.

Proposed law requires DHH to include in the cost participation schedule a statement of assurance that fees are not charged for services which a child is otherwise entitled to receive at no cost to parents, including child find activities, evaluation and assessment for eligibility and individualized family service planning, service coordination, administrative and coordinative activities related to development review, evaluation of individualized family service plans, and implementation of procedural safeguards and other components of the statewide system provided for in proposed law.

Proposed law requires DHH to provide prior notification in writing to families relative to use of public or private insurance according to requirements provided in federal regulations. Also requires DHH to ensure that procedures utilized to resolve disputes related to use of insurance to cover services will not delay or deny the parents' rights or the child's ability to access timely services.

Proposed law provides that the aggregate contributions made by the parent for services provided pursuant to proposed law shall not exceed the aggregate cost of the services, inclusive of any amount received from other sources of payment for a service.

Proposed law provides that at least annually, or at any time the department determines is warranted, the lead agency shall conduct a reassessment of the parents' financial status. Provides that a parent may request such reassessment at any time when significant changes in financial circumstances may affect the calculation of the cost participation amount.

Proposed law prohibits DHH from making any administrative decision regarding suspension or termination of services for a family prior to the family having been in arrears, with respect to fees or other charges assessed pursuant to cost participation, for a duration of three months.

Proposed law requires DHH, on at least a monthly basis, to send to any family in arrears, with respect to fees or other charges assessed pursuant to cost participation, notice of the family's right for reconsideration of their financial status and the family's right to apply for exemption from cost participation due to financial hardship. Further, requires DHH to send such notice to the representative and senator in whose district the family resides.

Proposed law prohibits DHH from limiting early intervention services for a child in any month if the cost of such services in that month exceeds the maximum monthly contribution from the child's family as provided in proposed law

Proposed law creates and provides for the membership of the La. State Interagency Coordinating Council for EarlySteps: La.'s Early Intervention Program for Infants and Toddlers with Disabilities and Their Families, referred to hereafter as "the council".

Proposed law provides that subject to the approval of the governor, the council may use funds provided pursuant to the provisions of proposed law for the following purposes:

- (1) To conduct hearings and forums.
- (2) To reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties.
- (3) To pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business.
- (4) To obtain the services of professional, technical, and clerical personnel as may be necessary to carry out its functions as provided in proposed law.

Proposed law requires that the council hire an executive director who shall be an unclassified employee of the office of the governor.

Proposed law provides that the council shall have the following duties:

- (1) To advise and assist DHH in the performance of the responsibilities established pursuant to the provisions of proposed law.
- (2) To advise and assist DHH in the preparation of applications and amendments thereto.



- (3) To advise and assist the department regarding the transition of toddlers with disabilities to preschool and other appropriate services.
- (4) To prepare and submit an annual report to the governor and to the U.S. Secretary of Education on the status of early intervention programs for infants and toddlers with disabilities and their families operating in La.
- (5) To prepare and submit an annual report to the legislature on the status of the early intervention program for infants and toddlers with disabilities and their families.

Proposed law provides that the council may advise appropriate agencies in the state with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the state.

Proposed law stipulates that no member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

Proposed law provides that all administrative rules relative to the ChildNet program promulgated by the Dept. of Education shall remain effective and shall be deemed to have been promulgated by DHH until such time as those rules may be revised and repromulgated to provide for the EarlySteps program in accordance with the provisions of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 36:4(R); Adds R.S. 28:461-470; Repeals R.S. 17:1971-1979)

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Added requirement that the La. State Interagency Coordinating Council for EarlySteps prepare and submit an annual report to the legislature concerning the program.
2. Added provisions subjecting DHH to all of the following limitations and requirements relative to the cost participation schedule provided for in proposed law:
  - (a) DHH shall utilize the most recent federal poverty guidelines issued in the Federal Register by the U.S. Dept. of Health and Human Services as the basis for determining the income threshold based on family size for eligibility for cost participation.
  - (b) DHH shall not assess any fee or other charge through the cost participation schedule upon a family which has annual income of less than 300% of the federal poverty level.
  - (c) In any month, DHH shall not assess fees or other charges through the cost participation schedule which total more than 3% of the monthly income level for a family of four, according to the federal poverty guideline schedule.
  - (d) DHH shall not assess a fee or other charge through the cost participation schedule for any service identified elsewhere in proposed law as a free service.

3. Added provision prohibiting DHH from limiting early intervention services for a child in any month if the cost of such services in that month exceeds the maximum monthly contribution from the child's family as provided in proposed law.
4. Added provision prohibiting DHH from making any administrative decision regarding suspension or termination of services for a family prior to the family having been in arrears, with respect to fees or other charges assessed pursuant to cost participation, for a duration of three months.
5. Added provision requiring DHH, on at least a monthly basis, to send to any family in arrears, with respect to fees or other charges assessed pursuant to cost participation, notice of the family's right for reconsideration of their financial status and the family's right to apply for exemption from cost participation due to financial hardship. Added further requirement that DHH also send such notice to the representative and senator in whose district the family resides.
6. Changed permissive provision authorizing DHH to utilize funds received pursuant to fees and other charges authorized by proposed law for support of the EarlySteps program to a provision requiring that DHH utilize the funds in such manner.
7. Made technical changes.