

FIRST REGULAR SESSION

# HOUSE BILL NO. 759

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LAGER (Sponsor) FARES, GOODMAN, PHILLIPS, RICHARD, ERVIN, NOLTE, GUEST, DIXON, COOPER (155), WILSON (119), STEVENSON, LIPKE, WOOD, FAITH, POLLOCK, ROBB, THRELKELD, BEARDEN, FLOOK, BYRD, STEFANICK, BAKER (123), MAY, ST. ONGE, BROWN (30), SANDER, BIVINS, WETER, MUNZLINGER, MUSCHANY, McGHEE, ICET, YATES, GUEST, PARKER, LEMBKE, KRAUS, SUTHERLAND, DEMPSEY, RUESTMAN, SELF, MARSH, HOBBS, TILLEY, FISHER, JONES, NANCE, DAY, MOORE, JACKSON, SATER, DUSENBERG, AVERY, SCHAAF, WELLS, BRUNS, MYERS, QUINN, PORTWOOD, KINGERY, RUPP, WILSON (130) AND WASSON (Co-sponsors).

Read 1<sup>st</sup> time March 9, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1795L.02I

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### AN ACT

To amend chapters 160, 208, and 376, RSMo, by adding thereto seven new sections relating to family cost participation in the Missouri first steps program, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 160, 208, and 376, RSMo, are amended by adding thereto seven  
2 new sections, to be known as sections 160.900, 160.905, 160.910, 160.915, 160.920, 208.144,  
3 and 376.1218, to read as follows:

4 **160.900. 1. Subject to appropriations, the state of Missouri shall participate in the**  
5 **federal Infant and Toddler Program, Part C of the Individuals with Disabilities Education**  
6 **Act (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services to**  
7 **infants and toddlers determined eligible under state regulations.**

8 **2. The department of elementary and secondary education shall be responsible for**  
9 **the administration and implementation of Part C of IDEA through a regional first steps**  
10 **system and shall promulgate rules implementing the requirements of Part C of IDEA**  
11 **consistent with federal regulations, 34 C.F.R. 303, et seq.**

12 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
13 **that is created under the authority delegated in sections 160.900 to 160.920 shall become**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 effective only if it complies with and is subject to all of the provisions of chapter 536,  
12 RSMo, and, if applicable, section 536.028, RSMo. Sections 160.900 to 160.920 and chapter  
13 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
14 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
15 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
16 authority and any rule proposed or adopted after July 1, 2005, shall be invalid and void.

160.905. 1. The department of elementary and secondary education shall maintain  
2 a statewide birth to age three system of early intervention services under Part C of the  
3 Individuals with Disabilities Education Act, 20 U.S.C. Section 1431, et seq., for eligible  
4 children and families of such children which shall be administered through the regional  
5 first steps system.

6 2. The statewide system shall compile data on the number of eligible children in the  
7 state in need of early intervention services, the number of eligible children and their  
8 families served, the types of services provided, and other information as deemed necessary  
9 by the department.

10 3. The statewide system shall include a comprehensive child-find system and public  
11 awareness program to ensure that eligible children are identified, located, referred to the  
12 system, and evaluated for eligibility.

13 4. The department shall monitor system expenditures for administrative services  
14 and first steps regional offices to ensure maximum utilization of state funds for all children  
15 determined to be eligible for early intervention services.

160.910. 1. In the bidding cycle for the first steps system undertaken after July 1,  
2 2005, the structure for delivery of services shall be placed on a regional basis. Regions  
3 shall include counties to be determined by the department of elementary and secondary  
4 education. The first steps regional center shall conduct the intake process, evaluations and  
5 assessments, service coordination, development of an individualized family service plan,  
6 and oversight of the service providers. An agency shall bid upon a contract to manage the  
7 regional allotment for the region as designated by the department.

8 2. Any agency that bids for a regional center contract shall provide assurances that:

9 (1) First steps program services shall be provided, either directly or through  
10 contract, to eligible children in its region with the funding it receives;

11 (2) The child's individualized family service plan shall include measurements on  
12 the family's outcomes toward implementing the child's developmental goals; and

13 (3) Transdisciplinary and coaching approaches will be the focus of the  
14 individualized family service plan.

15

16 The department may require other assurances that it deems necessary.

17 **3. The department shall give priority in the bidding process to agencies that include**  
18 **two or more of the following elements in their proposal:**

19 **(1) An agreement with the mental retardation and developmental disability**  
20 **regional center of the department of mental health determining its coordination;**

21 **(2) An agreement with the local Senate Bill 40 boards to serve first steps eligible**  
22 **children in their counties; or**

23 **(3) An assurance that an agency has a funding source to contribute in addition to**  
24 **state funding to provide services to children in its regional area.**

25 **4. The department may develop a rule creating a process for review of stewardship**  
26 **of funds before accepting a rebid from an agency that has held a regional center contract.**

**160.915. 1. No funds appropriated to the department of elementary and secondary**  
2 **education for the implementation and administration of sections 160.900 to 160.920 shall**  
3 **be used to satisfy a financial commitment for services that should have been paid from**  
4 **another public or private source. Federal funds available under Part C of the Individuals**  
5 **with Disabilities Education Act, 20 U.S.C. Section 1431, et seq., may be used whenever**  
6 **necessary to prevent the delay of early intervention services to the eligible child or family.**  
7 **When funds are used to reimburse the service provider to prevent a delay of the provision**  
8 **of services, the funds shall be recovered from the public or private source that has ultimate**  
9 **responsibility for the payment.**

10 **2. Nothing in this section shall be construed to permit any other state agency**  
11 **providing medically related services to reduce medical assistance to eligible children.**

12 **3. Payments for the provision of direct early intervention services to children and**  
13 **families who meet the state's eligibility criteria shall be paid in the manner prescribed by**  
14 **the department. Where applicable, the first steps system shall seek reimbursement from**  
15 **all third-party payers, both private and public.**

16 **4. The department shall promulgate rules, including emergency rules as necessary,**  
17 **that provide for family cost participation in early intervention services for eligible children,**  
18 **and such rules shall consider:**

19 **(1) A process to access private and public insurance; and**

20 **(2) Sliding scale of fees for participation relative to the financial resources of the**  
21 **parents or legal guardians of eligible children that contemplates the following elements, to**  
22 **become effective October 1, 2005:**

23 **(a) A basis in adjusted gross income and family size, with the lowest fee level tied**  
24 **to the Medicaid eligibility threshold, so that no fee is charged for a family whose income**  
25 **qualifies for Medicaid;**

26 (b) A monthly fee for participation rather than per service;

27 (c) A minimum fee of five dollars and a maximum fee of one hundred dollars, with  
28 the department retaining the right to revise the fee schedule no earlier than the third year  
29 after its implementation.

30 5. Families with incomes meeting the eligibility criteria for Medicaid participation  
31 shall be deemed unable to pay the established fees for early intervention services. To  
32 determine whether a family is subject to a fee, the family shall provide information  
33 sufficient to determine adjusted gross income, substantially equivalent to the information  
34 needed to establish eligibility for Medicaid. Early intervention services shall be provided  
35 at no cost to such families. All amounts generated by family cost participation, including  
36 but not limited to fees, copayments, and insurance reimbursements, shall be deposited to  
37 the first steps fund created in section 160.920.

38 6. The department shall ensure that the following services are provided at no cost  
39 to the family:

40 (1) Identifying the child;

41 (2) Evaluation and assessment;

42 (3) Service coordination; and

43 (4) Development of an individualized family service program.

44 7. The department may assign the collection of early intervention participation fees,  
45 payments, and public or private insurance to a designee, contractor, provider, third-party  
46 agent, or designated clearinghouse participating in the early intervention system. Such  
47 fees, payments, or insurance amounts shall be paid to the department, its designee,  
48 contractor, provider, third-party agent, or designated clearinghouse in a timely manner.  
49 Notice of collection procedures, schedule of fees or payments, and guidelines for inability  
50 to pay shall be made available to parents of eligible children. The department may require  
51 a release form that substantiates the parents' permission to seek insurance reimbursement.

160.920. 1. There is hereby created in the state treasury the "First Steps Fund".  
2 Moneys deposited in the fund shall be considered state funds under article IV, section 15  
3 of the Missouri Constitution. The state treasurer shall be custodian of the fund and shall  
4 disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo.  
5 Upon appropriation, money in the fund shall be used solely for the purpose of funding the  
6 first steps system established in sections 160.900 to 160.920.

7 2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any  
8 moneys remaining in the fund at the end of the biennium shall not revert to the credit of  
9 the general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as other

11 funds are invested. Any interest and moneys earned on such investments shall be credited  
12 to the fund.

208.144. The department of social services shall recognize the first steps system  
2 established under sections 160.900 to 160.920, RSMo, as an eligible program and shall pay  
3 all claims for reimbursement for Medicaid-eligible children to the first steps system. For  
4 those eligible children having other private insurance, the department of social services  
5 shall seek insurance reimbursement as appropriate.

376.1218. 1. Each health carrier or health benefit plan, as defined in section  
2 376.1350, that offers or issues health benefit plans which are delivered, issued for delivery,  
3 continued, or renewed in this state on or after January 1, 2006, shall provide coverage to  
4 reimburse the Missouri first steps system for the early intervention services described in  
5 subsection 2 of this section that are delivered by early intervention specialists for children  
6 from birth to age three identified by the Missouri first steps system as eligible for services  
7 under Part C of the Individuals with Disabilities Education Act 20 U.S.C. 1431, et seq.  
8 Such coverage shall be limited to three thousand dollars for each covered child per policy  
9 per calendar year, with a maximum of nine thousand dollars per child.

10 2. For purposes of this section, "early intervention services" means speech and  
11 language therapy, occupational therapy, physical therapy, and assistive technology services  
12 and devices for children from birth to age three who are identified by the Missouri first  
13 steps system as eligible for services under Part C of the Individuals with Disabilities  
14 Education Act 20 U.S.C. Section 1431, et seq., and which are designed to help that  
15 individual attain or retain the capability to function age-appropriately within his or her  
16 environment. Early intervention services shall include services under an active  
17 individualized family service plan that enhance functional ability without effecting a cure.  
18 Early intervention services, as defined in this section, may continue through the time  
19 period indicated in section 160.905, RSMo, or any period of compensatory services  
20 required by Part C of the Individuals with Disabilities Education Act, which may extend  
21 beyond age three. An individualized family service plan is a written plan for providing  
22 early intervention services to an eligible child and the child's family that is adopted in  
23 accordance with 20 U.S.C. Section 1436. Early intervention services shall be deemed  
24 medically necessary. The first steps system, on behalf of its contracted regional first steps  
25 centers and providers, shall be considered the rendering provider of services for purposes  
26 of this section.

27 3. No payment made for specified early intervention services shall be applied by the  
28 insurer against any maximum lifetime aggregate or annual limits specified in the policy or  
29 health benefit plan. Prescribed insurance benefits shall reimburse the Missouri first steps

30 system administered by the department of elementary and secondary education, or its  
31 designee, for payments made by the system for the early intervention services as prescribed  
32 by the individualized family service plan, upon submission of the individualized family  
33 service plan and first steps explanation of benefits to the insurance carrier by the  
34 department or its designee. Prescribed insurance benefits shall be reimbursed at the  
35 current Medicaid reimbursement rate for each specified eligible service under subsection  
36 2 of this section.

37 4. The health care service required by this section shall not be subject to any  
38 greater deductible or copayment than other similar health care services provided by the  
39 health benefit plan.

40 5. A health carrier or health benefit plan subject to the provisions of this section  
41 shall also provide reimbursement to the department of social services for claims filed on  
42 behalf of eligible children under the Missouri first steps system who are insureds of a  
43 health benefit plan under this section.

44 6. This section shall not apply to a supplemental insurance policy, including a life  
45 care contract, specified disease policy, hospital policy providing a fixed daily benefit only,  
46 Medicare supplement policy, long-term care policy, or short-term major medical policies  
47 of six months or less duration.

48 Section B. Because immediate action is necessary to ensure the continuation of early  
49 intervention services to infants and toddlers with disabilities section A of this act is deemed  
50 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is  
51 hereby declared to be an emergency act within the meaning of the constitution, and section A of  
52 this act shall be in full force and effect on July 1, 2005, or upon its passage and approval,  
53 whichever later occurs.