



**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 5/20/2021  
5/25/2021

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"How the S3434 year can make a difference in postsecondary outcomes," New Jersey Lawyer, the Magazine, April, 2022.

Myers, G. (2021, June 9). EXTRA SCHOOLING BILL COULD BE STUCK ON MURPHY'S DESK. Record, The Hackensack, NJ), p. A1.

RH/CL

P.L. 2021, CHAPTER 109, *approved June 16, 2021*  
Senate, No. 3434 (*Second Reprint*)

1 AN ACT concerning education and related services for students with  
2 disabilities and supplementing chapter 46 of Title 18A of the  
3 New Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. a. Notwithstanding the provisions of N.J.S.18A:46-6,  
9 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
10 the age of eligibility for special education and related services to the  
11 contrary, a board of education shall, in the 2021-2022 school year,  
12 provide special education and related services contained in an  
13 individualized education program to a student with disabilities who  
14 attains the age of 21 during the 2020-2021 school year, provided  
15 that the parent of the student <sup>1</sup>**["in conjunction with"]** and<sup>1</sup> the  
16 individualized education program team <sup>1</sup>**["determines"]** determine<sup>1</sup>  
17 that the student requires <sup>1</sup>additional or compensatory<sup>1</sup> special  
18 education and related services<sup>1</sup>, including transition services,<sup>1</sup>  
19 during the 2021-2022 school year. A student receiving special  
20 education and related services pursuant to this subsection shall not  
21 be eligible to receive such education and services beyond June 30,  
22 2022, unless otherwise provided in a student's individualized  
23 education program <sup>1</sup>or as ordered by a hearing officer, complaint  
24 investigation, or court of competent jurisdiction<sup>1</sup>.

25 b. Notwithstanding the provisions of N.J.S.18A:46-6,  
26 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
27 the age of eligibility for special education and related services to the  
28 contrary, a board of education shall, in the 2022-2023 school year,  
29 provide special education and related services contained in an  
30 individualized education program to a student with disabilities who  
31 attains the age of 21 during the 2021-2022 school year, provided  
32 that the parent of the student <sup>1</sup>**["in conjunction with"]** and<sup>1</sup> the  
33 individualized education program team <sup>1</sup>**["determines"]** determine<sup>1</sup>  
34 that the student requires <sup>1</sup>additional or compensatory<sup>1</sup> special  
35 education and related services<sup>1</sup>, including transition services,<sup>1</sup>  
36 during the 2022-2023 school year. A student receiving special  
37 education and related services pursuant to this subsection shall not  
38 be eligible to receive such education and services beyond June 30,  
39 2023, unless otherwise provided in a student's individualized

**EXPLANATION** – Matter enclosed in bold-faced brackets **["thus"]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted March 22, 2021.

<sup>2</sup>Assembly AAP committee amendments adopted May 18, 2021.

1 education program <sup>1</sup>or as ordered by a hearing officer, complaint  
2 investigation, or court of competent jurisdiction<sup>1</sup>.

3 c. <sup>1</sup>Notwithstanding the provisions of N.J.S.18A:46-6,  
4 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
5 the age of eligibility for special education and related services to the  
6 contrary, a board of education shall, in the 2023-2024 school year,  
7 provide special education and related services contained in an  
8 individualized education program to a student with disabilities who  
9 attains the age of 21 during the 2022-2023 school year, provided  
10 that the parent of the student and the individualized education  
11 program team determine that the student requires additional or  
12 compensatory special education and related services, including  
13 transition services, during the 2023-2024 school year. A student  
14 receiving special education and related services pursuant to this  
15 subsection shall not be eligible to receive such education and  
16 services beyond June 30, 2024, unless otherwise provided in a  
17 student's individualized education program or as ordered by a  
18 hearing officer, complaint investigation, or court of competent  
19 jurisdiction.

20 d.<sup>1</sup> A student receiving special education and related services<sup>1</sup>,  
21 including transition services,<sup>1</sup> pursuant to this section shall be  
22 afforded the same rights, privileges, and remedies provided to  
23 students with disabilities pursuant to State law, State Board of  
24 Education regulations concerning special education, and the federal  
25 "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et  
26 seq<sup>1</sup>. Any disputes that arise with respect to the provision or nature  
27 of services provided to a student with disabilities in the additional  
28 year as provided under subsections a., b., and c. of this section may  
29 be addressed, as determined by the parent of the student with  
30 disabilities, by either:

31 (1) mediation;

32 (2) a written request for a complaint investigation submitted to  
33 the Director of the Office of Special Education Policy and Dispute  
34 Resolution in the Department of Education; or

35 (3) a special education due process hearing pursuant to the  
36 provisions of the "Individuals with Disabilities Education Act," 20  
37 U.S.C. s.1400 et seq., chapter 46 of Title 18A of the New Jersey  
38 Statutes, or regulations promulgated thereto.

39 e. (1) The special education and related services, including  
40 transition services, provided to students with disabilities pursuant to  
41 the provisions of this section shall, to the extent permitted by  
42 federal law, be paid for from the monies received by the State or a  
43 school district under the federal "Coronavirus Aid, Relief, and  
44 Economic Security (CARES) Act," Pub.L.116-136, the federal  
45 "Coronavirus Response and Relief Supplemental Appropriations  
46 (CRRSA) Act, 2021," Pub.L.116-260, the federal "American  
47 Rescue Plan (ARP) Act," Pub.L.117-2, or any other federal funding

1 provided to address the impact of the coronavirus pandemic on  
2 elementary and secondary schools as it becomes available.

3 (2) To the extent that the federal funds described in paragraph  
4 (1) of this subsection do not cover the costs borne by school  
5 districts to provide the special education and related services,  
6 including transition services, to students with disabilities pursuant  
7 to the provisions of this section, the State shall appropriate funds as  
8 necessary from the Property Tax Relief Fund to reimburse school  
9 districts for these costs.

10 (3) The special education and related services funded pursuant  
11 to the provisions of this subsection may include, but are not limited  
12 to, the additional staff, programs, and facilities deemed necessary  
13 by school districts to provide the special education and related  
14 services, including transition services, required under this section<sup>1</sup>.

15 <sup>1</sup>[d.] f.<sup>1</sup> <sup>2</sup>Notwithstanding the provisions of chapter 26 of Title  
16 14 of the New Jersey Administrative Code, N.J.A.C.6A:14-4.9, or  
17 of any other law, rule, or regulation establishing educational facility  
18 planning standards, temporary facility standards, or age range and  
19 group size requirements for approved private schools for students  
20 with disabilities to the contrary, for the 2021-2022 school year  
21 through the 2023-2024 school year, the Department of Education  
22 shall permit an approved private school for students with  
23 disabilities to temporarily utilize non-qualifying spaces on school  
24 property for instruction and educational purposes in order to serve  
25 any additional students receiving special education and related  
26 services, including transition services, pursuant to the provisions of  
27 this section, if the department and the applicable county office of  
28 education determine that the school is able to provide suitable  
29 accommodations in those spaces for the additional students.

30 g. Notwithstanding the provisions of N.J.S.18A:46-21,  
31 N.J.A.C.6A:23A-18.3, or of any other law, rule, or regulation  
32 establishing per diem tuition rates at approved private schools for  
33 students with disabilities to the contrary, the Department of  
34 Education shall, for the 2021-2022 school year through the 2025-  
35 2026 school year, set the maximum tentative tuition rate of each  
36 approved private school for students with disabilities at the  
37 maximum tentative tuition rate set for the 2020-2021 school year if,  
38 during the 2021-2022 school year through the 2023-2024 school  
39 year, the school exceeds the total number of students at the  
40 approved facility in the 2020-2021 school year.

41 h.<sup>2</sup> As used in this section, “parent” means the natural or  
42 adoptive parent, the legal guardian, resource family parent when  
43 willing to so serve, a surrogate parent, or a person acting in the  
44 place of a parent, such as a grandparent or stepparent with whom  
45 the student lives or a person legally responsible for the student's  
46 welfare. Parent shall also include an adult student who has attained  
47 the age of 18, who is not under legal guardianship, and who is  
48 entitled to receive special education and related services.

**S3434 [2R]**

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1        2. This act shall take effect immediately.

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6        Requires boards of education to provide special education and  
7 related services to certain students exceeding age of eligibility for  
8 special education and related services.

# SENATE, No. 3434

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 11, 2021

**Sponsored by:**

**Senator DAWN MARIE ADDIEGO**  
**District 8 (Atlantic, Burlington and Camden)**  
**Senator STEPHEN M. SWEENEY**  
**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Senators Diegnan, Ruiz, Oroho, O'Scanlon, Thompson, Testa, Weinberg  
and Singleton**

**SYNOPSIS**

Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/22/2021)**

1 AN ACT concerning education and related services for students with  
2 disabilities and supplementing chapter 46 of Title 18A of the  
3 New Jersey Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. Notwithstanding the provisions of N.J.S.18A:46-6,  
9 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
10 the age of eligibility for special education and related services to the  
11 contrary, a board of education shall, in the 2021-2022 school year,  
12 provide special education and related services contained in an  
13 individualized education program to a student with disabilities who  
14 attains the age of 21 during the 2020-2021 school year, provided  
15 that the parent of the student in conjunction with the individualized  
16 education program team determines that the student requires special  
17 education and related services during the 2021-2022 school year. A  
18 student receiving special education and related services pursuant to  
19 this subsection shall not be eligible to receive such education and  
20 services beyond June 30, 2022, unless otherwise provided in a  
21 student's individualized education program.

22 b. Notwithstanding the provisions of N.J.S.18A:46-6,  
23 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
24 the age of eligibility for special education and related services to the  
25 contrary, a board of education shall, in the 2022-2023 school year,  
26 provide special education and related services contained in an  
27 individualized education program to a student with disabilities who  
28 attains the age of 21 during the 2021-2022 school year, provided  
29 that the parent of the student in conjunction with the individualized  
30 education program team determines that the student requires special  
31 education and related services during the 2022-2023 school year. A  
32 student receiving special education and related services pursuant to  
33 this subsection shall not be eligible to receive such education and  
34 services beyond June 30, 2023, unless otherwise provided in a  
35 student's individualized education program.

36 c. A student receiving special education and related services  
37 pursuant to this section shall be afforded the same rights, privileges,  
38 and remedies provided to students with disabilities pursuant to State  
39 law, State Board of Education regulations concerning special  
40 education, and the federal "Individuals with Disabilities Education  
41 Act," 20 U.S.C. s.1400 et seq.

42 d. As used in this section, "parent" means the natural or  
43 adoptive parent, the legal guardian, resource family parent when  
44 willing to so serve, a surrogate parent, or a person acting in the  
45 place of a parent, such as a grandparent or stepparent with whom  
46 the student lives or a person legally responsible for the student's  
47 welfare. Parent shall also include an adult student who has attained



1 the age of 18, who is not under legal guardianship, and who is  
2 entitled to receive special education and related services.

3

4 2. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill requires a board of education to temporarily provide  
10 special education and related services to certain students who  
11 exceed, or will exceed, the current age of eligibility for special  
12 education and related services in the 2020-2021 school year and the  
13 2021-2022 school year.

14 Under current State Board of Education regulations, district  
15 boards of education are required to provide a free, appropriate  
16 public education, in accordance with an individualized education  
17 program, to students with disabilities age three through 21. If a  
18 student turns 21 years of age during the school year, defined as the  
19 period between July 1 and June 30, the student is entitled to finish  
20 the school year. On June 30 of the student's final school year, the  
21 student is no longer eligible for special education and related  
22 services. This process is commonly referred to as "aging out."

23 This bill would extend the age eligibility for special education  
24 and related services by requiring boards of education to provide the  
25 education and services included in a student's individualized  
26 education program (IEP) to students attaining the age of 21 during  
27 the 2020-2021 school year and the 2021-2022 school year.  
28 Students attaining the age of 21 during the 2020-2021 school year  
29 would be eligible for special education and related services in the  
30 2021-2022 school year; meanwhile, students attaining the age of 21  
31 during the 2021-2022 school year would be eligible for special  
32 education and related services in the 2022-2023 school year.  
33 Unless otherwise provided in the student's IEP, a student would not  
34 be eligible to receive special education and related services under  
35 this bill beyond the school year in which he or she attains the age of  
36 22.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

[First Reprint]

**SENATE, No. 3434**

**STATE OF NEW JERSEY**

DATED: MAY 12, 2021

The Assembly Education Committee reports favorably Senate Bill No. 3434 (1R).

This bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Under the bill, students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year; and students attaining the age of 21 in the 2022-2023 school year would be eligible for special education and related services in the 2023-2024 school year. Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction, a student would not be eligible to receive

special education and related services under this bill beyond the school year in which he or she attains the age of 22.

A student receiving special education and related services, including transition services, pursuant to the provisions of the bill, will be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal “Individuals with Disabilities Education Act,” 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

(1) mediation;

(2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or

(3) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto.

Finally, the bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

As reported by the committee, this bill is identical to Assembly Bill No. 5366, which was amended and reported by the committee on this same date.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 3434**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 18, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 3434 (1R), with committee amendments.

As amended, this bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Under the bill, students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year; and students attaining the age of 21 in the 2022-2023 school year would be eligible for special education and related services in the 2023-2024 school year. Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court

of competent jurisdiction, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.

A student receiving special education and related services, including transition services, pursuant to the provisions of the bill, will be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal “Individuals with Disabilities Education Act,” 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

(1) mediation;

(2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or

(3) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

Under the bill, the Department of Education will permit an approved private school for students with disabilities to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county

office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students. The bill also provides that the department will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 5366 (1R), which was also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that:

- the Department of Education will permit an approved private school for students with disabilities to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students; and
- the Department of Education will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.

Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs and revenue increases for school districts would likely vary among the districts and their magnitude would be

dependent on a number of factors, including the educational placement of classified students in the district.

The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### SENATE, No. 3434

# STATE OF NEW JERSEY

DATED: MARCH 9, 2021

The Senate Education Committee favorably reports Senate Bill No. 3434.

This bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year and the 2021-2022 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year and the 2021-2022 school year. Students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; meanwhile, students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year. Unless otherwise provided in the student's IEP, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3434**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 22, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3434, with committee amendments.

As amended, this bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Under the bill, students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year; and students attaining the age of 21 in the 2022-2023 school year would be eligible for special education and related services in the 2023-2024 school year. Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.

A student receiving special education and related services, including transition services, pursuant to the provisions of the bill, will be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal “Individuals with Disabilities Education Act,” 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

- (1) mediation;
- (2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or
- (3) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto.

Finally, the bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) require a school district to provide special education and related services in the 2023-2024 school year to a student with disabilities who attains the age of 21 during the 2022-2023 school year;

(2) clarify that the special education and related services will be provided pursuant to the provisions of the bill if the parent of a student with disabilities and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services, in the school year after the school year in which the student attains the age of 21;

(3) provide that any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

(a) mediation;

(b) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or

(c) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto;

(4) provide that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available;

(5) require the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for the costs to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill; and

(6) provide that the special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special

education and related services, including transition services, during this timeframe. Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services, under the bill.

The OLS notes that the bill requires that special education and related services, including transition services, provided to students with disabilities under the bill be first paid for from the monies received under the various federal stimulus packages enacted to address the effects of COVID-19. According to a broadcast memo released by the New Jersey Department of Education on March 3, 2021, funds awarded under the federal Elementary and Secondary School Emergency Relief Fund may be used to provide compensatory education or recovery services, or both, to students with disabilities.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**SENATE, No. 3434**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: MARCH 29, 2021

### SUMMARY

- Synopsis:** Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.
- Type of Impact:** Multi-year State expenditure increase from the Property Tax Relief Fund; multi-year increase in costs to local school districts.
- Agencies Affected:** Department of Education; Local School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>2021-2022 School Year through 2023-2024 School Year</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>Local Cost Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.
- Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs for school districts would likely vary among the districts and the magnitude of the costs would be dependent on a number of factors, including the educational placement of classified students in the district.
- The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

## **BILL DESCRIPTION**

This bill would require boards of education to provide special education and related services included in a student's individualized education program to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State from federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill. Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services.

In addition to potential State cost increases stemming from the bill, the provision of special education and related services specified under the bill may increase costs to local school districts. The costs for school districts would likely vary and the magnitude of the costs would be dependent on a number of factors, including the nature of the services provided and the educational placement of classified students in the district.

The OLS notes that the bill requires that special education and related services, including transition services, provided to students with disabilities under the bill be first paid for from the monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized. According to a broadcast memo released by the New Jersey Department of Education on March 3, 2021, funds awarded under the federal Elementary and Secondary School Emergency Relief Fund may be used to provide compensatory education or recovery services, or both, to students with disabilities.

Lastly, the OLS notes that under current law and regulation, certain students are already entitled to compensatory education beyond the age of 21 years old. In general, compensatory education may be provided to a student if it is determined that a school district failed to provide a free appropriate public education to a classified special education student.

*Section: Education*

*Analyst: Christopher Myles  
Associate Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## SENATE, No. 3434

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MAY 25, 2021

#### SUMMARY

- Synopsis:** Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.
- Type of Impact:** Multi-year State expenditure increase from the Property Tax Relief Fund; multi-year increase in costs and revenues to local school districts.
- Agencies Affected:** Department of Education; Local School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>2021-2022 School Year through 2025-2026 School Year</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>Local Cost Increase</b>	Indeterminate
<b>Local Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts for costs that may be incurred as a result of the bill during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.
- To the extent that costs are not covered by federal stimulus aid, the bill requires the State to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs and revenue increases for school districts would likely vary among the districts and their magnitude would be dependent on a number of factors, including the educational placement of classified students in the district.



- Under the bill, school districts that send students to approved private schools for students with disabilities (APSSDs) may incur additional tuition costs than they otherwise would have paid through the 2025-2026 school year.
- The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

## **BILL DESCRIPTION**

This bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal Coronavirus Aid, Relief, and Economic Security Act, the federal Coronavirus Response and Relief Supplemental Appropriations Act, 2021, the federal American Rescue Plan Act, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

Under the bill, the Department of Education will permit an APSSD to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students. The bill also provides that the department will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each APSSD at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the

2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note on this bill. However, in response to questions following the Senate Budget and Appropriations Committee hearing for the Department of Education on April 8, 2021, the department indicated that there are currently 8,687 students with disabilities who would be eligible for an additional year of special education and related services for the three-year period covered by the bill. The table below provides a breakdown of the number of students, by school year. The department stated that it is unable to estimate the costs to the State because it is unlikely that districts will be able to utilize federal funds to cover the costs for these students because under the federal Individuals with Disabilities Education Act (IDEA), this group of students are no longer eligible to receive the special education and related services required by the IDEA.

<b>School Year</b>	<b>Number of Students with Disabilities who will attain the age of 21 on or before June 30 of the School Year</b>
2020-2021	1,390
2021-2022	3,235
2022-2023	4,062
<b>Total</b>	<b>8,687</b>

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts for costs that may be incurred as a result of the bill during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill. To the extent that costs are not covered by federal stimulus aid, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services, under the bill.

In addition to potential State cost increases stemming from the bill, the provision of special education and related services specified under the bill may increase costs and revenues to local school districts. The costs and revenues for school districts would likely vary and the magnitude of the increases would be dependent on a number of factors, including the nature of the services provided and the educational placement of classified students in the district.

Under the bill, school districts that send students to APSSDs may incur additional tuition costs than they otherwise would have paid through the 2025-2026 school year. The most recent information available to the OLS indicates that 485 school districts send a total of 9,911 students to APSSDs. The OLS notes that State Board of Education regulations require the calculation of a maximum tentative tuition rate for the ensuing school year for each APSSD. The regulations also require a sending school district to pay the difference between that tentative tuition rate and the

certified, audited tuition rate in the second year following the school year for which the actual cost per student is certified.

The OLS notes that the bill requires that special education and related services, including transition services, provided to students with disabilities under the bill be first paid for from the monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized. According to a broadcast memo released by the New Jersey Department of Education on March 3, 2021, funds awarded under the federal Elementary and Secondary School Emergency Relief Fund may be used to provide compensatory education or recovery services, or both, to students with disabilities. Despite this, it is unclear whether federal funds would be eligible for the uses provided for in this bill.

Lastly, the OLS notes that under current law and regulation, certain students are already entitled to compensatory education beyond the age of 21 years old. In general, compensatory education may be provided to a student if it is determined that a school district failed to provide a free appropriate public education to a classified special education student.

*Section: Education*

*Analyst: Christopher Myles  
Associate Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 5366

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

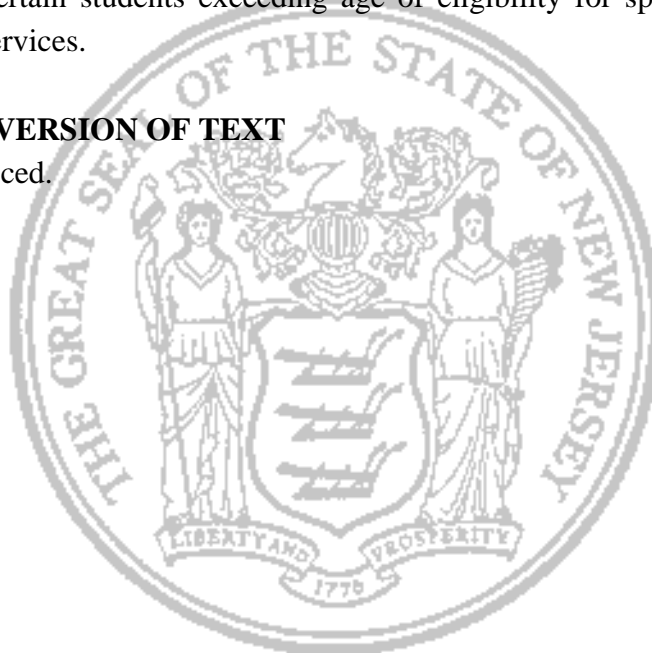
**Assemblyman Benson, Assemblywoman Jasey, Assemblymen Stanley, DePhillips, Wimberly, Caputo, Holley, Assemblywoman N.Munoz, Assemblymen Bergen, Scharfenberger, Webber, Zwicker, Assemblywomen Stanfield, Quijano and Carter**

**SYNOPSIS**

Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/12/2021)**

1 AN ACT concerning education and related services for students with  
2 disabilities and supplementing chapter 46 of Title 18A of the  
3 New Jersey Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. Notwithstanding the provisions of N.J.S.18A:46-6,  
9 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
10 the age of eligibility for special education and related services to the  
11 contrary, a board of education shall, in the 2021-2022 school year,  
12 provide special education and related services contained in an  
13 individualized education program to a student with disabilities who  
14 attains the age of 21 during the 2020-2021 school year, provided  
15 that the parent of the student in conjunction with the individualized  
16 education program team determines that the student requires special  
17 education and related services during the 2021-2022 school year. A  
18 student receiving special education and related services pursuant to  
19 this subsection shall not be eligible to receive such education and  
20 services beyond June 30, 2022, unless otherwise provided in a  
21 student's individualized education program.

22 b. Notwithstanding the provisions of N.J.S.18A:46-6,  
23 N.J.S.18A:46-8, or of any other law, rule, or regulation concerning  
24 the age of eligibility for special education and related services to the  
25 contrary, a board of education shall, in the 2022-2023 school year,  
26 provide special education and related services contained in an  
27 individualized education program to a student with disabilities who  
28 attains the age of 21 during the 2021-2022 school year, provided  
29 that the parent of the student in conjunction with the individualized  
30 education program team determines that the student requires special  
31 education and related services during the 2022-2023 school year. A  
32 student receiving special education and related services pursuant to  
33 this subsection shall not be eligible to receive such education and  
34 services beyond June 30, 2023, unless otherwise provided in a  
35 student's individualized education program.

36 c. A student receiving special education and related services  
37 pursuant to this section shall be afforded the same rights, privileges,  
38 and remedies provided to students with disabilities pursuant to State  
39 law, State Board of Education regulations concerning special  
40 education, and the federal "Individuals with Disabilities Education  
41 Act," 20 U.S.C. s.1400 et seq.

42 d. As used in this section, "parent" means the natural or  
43 adoptive parent, the legal guardian, resource family parent when  
44 willing to so serve, a surrogate parent, or a person acting in the  
45 place of a parent, such as a grandparent or stepparent with whom  
46 the student lives or a person legally responsible for the student's  
47 welfare. Parent shall also include an adult student who has attained

1 the age of 18, who is not under legal guardianship, and who is  
2 entitled to receive special education and related services.

3

4 2. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill requires a board of education to temporarily provide  
10 special education and related services to certain students who  
11 exceed, or will exceed, the current age of eligibility for special  
12 education and related services in the 2020-2021 school year and the  
13 2021-2022 school year.

14 Under current State Board of Education regulations, district  
15 boards of education are required to provide a free, appropriate  
16 public education, in accordance with an individualized education  
17 program, to students with disabilities age three through 21. If a  
18 student turns 21 years of age during the school year, defined as the  
19 period between July 1 and June 30, the student is entitled to finish  
20 the school year. On June 30 of the student's final school year, the  
21 student is no longer eligible for special education and related  
22 services. This process is commonly referred to as "aging out."

23 This bill would extend the age eligibility for special education  
24 and related services by requiring boards of education to provide the  
25 education and services included in a student's individualized  
26 education program (IEP) to students attaining the age of 21 during  
27 the 2020-2021 school year and the 2021-2022 school year.  
28 Students attaining the age of 21 during the 2020-2021 school year  
29 would be eligible for special education and related services in the  
30 2021-2022 school year; meanwhile, students attaining the age of 21  
31 during the 2021-2022 school year would be eligible for special  
32 education and related services in the 2022-2023 school year.  
33 Unless otherwise provided in the student's IEP, a student would not  
34 be eligible to receive special education and related services under  
35 this bill beyond the school year in which he or she attains the age of  
36 22.

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5366**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 12, 2021

The Assembly Education Committee reports favorably Assembly Bill No. 5366 with committee amendments.

As amended, this bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Under the bill, students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year; and students attaining the age of 21 in the 2022-2023 school year would be eligible for special education and related services in the 2023-2024 school year. Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction, a student would not be eligible to receive

special education and related services under this bill beyond the school year in which he or she attains the age of 22.

A student receiving special education and related services, including transition services, pursuant to the provisions of the bill, will be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal “Individuals with Disabilities Education Act,” 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

- (1) mediation;
- (2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or
- (3) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto.

Finally, the bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

As amended and reported by the committee, this bill is identical to Senate Bill No. 3434 (1R), which was also reported by the committee on this same date.

**COMMITTEE AMENDMENTS:**

The committee amended the bill to:



- require a school district to provide special education and related services in the 2023-2024 school year to a student with disabilities who attains the age of 21 during the 2022-2023 school year;
- clarify that the special education and related services will be provided pursuant to the provisions of the bill if the parent of a student with disabilities and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services, in the school year after the school year in which the student attains the age of 21;
- provide that any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:
  - mediation;
  - a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or
  - a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto;
- provide that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” Pub.L.117-2, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available;
- require the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for the costs to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill; and
- provide that the special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 5366

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 18, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5366 (1R), with committee amendments.

As amended, this bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

Under current State Board of Education regulations, district boards of education are required to provide a free, appropriate public education, in accordance with an individualized education program, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish the school year. On June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out."

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Under the bill, students attaining the age of 21 during the 2020-2021 school year would be eligible for special education and related services in the 2021-2022 school year; students attaining the age of 21 during the 2021-2022 school year would be eligible for special education and related services in the 2022-2023 school year; and students attaining the age of 21 in the 2022-2023 school year would be eligible for special education and related services in the 2023-2024 school year. Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court

of competent jurisdiction, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.

A student receiving special education and related services, including transition services, pursuant to the provisions of the bill, will be afforded the same rights, privileges, and remedies provided to students with disabilities pursuant to State law, State Board of Education regulations concerning special education, and the federal “Individuals with Disabilities Education Act,” 20 U.S.C. s.1400 et seq. Any disputes that arise with respect to the provision or nature of services provided to a student with disabilities in the additional year as provided under the provisions of the bill may be addressed, as determined by the parent of the student, by either:

(1) mediation;

(2) a written request for a complaint investigation submitted to the Director of the Office of Special Education Policy and Dispute Resolution in the Department of Education; or

(3) a special education due process hearing pursuant to the provisions of applicable federal and State law, regulations promulgated thereto.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” the federal “Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021,” the federal “American Rescue Plan (ARP) Act,” or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

Under the bill, the Department of Education will permit an approved private school for students with disabilities to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county

office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students. The bill also provides that the department will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

As amended and reported by the committee, this bill is identical to Senate Bill No. 3434 (1R), which was also amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that:

- the Department of Education will permit an approved private school for students with disabilities to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students; and
- the Department of Education will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each approved private school for students with disabilities at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the 2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.

Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs and revenue increases for school districts would likely vary among the districts and their magnitude would be

dependent on a number of factors, including the educational placement of classified students in the district.

The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 5366

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MAY 20, 2021

#### SUMMARY

- Synopsis:** Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.
- Type of Impact:** Multi-year State expenditure increase from the Property Tax Relief Fund; multi-year increase in costs and revenues to local school districts.
- Agencies Affected:** Department of Education; Local School Districts

#### Office of Legislative Services Estimate

Fiscal Impact	<u>2021-2022 School Year through 2023-2024 School Year</u>
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.
- Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs and revenue increases for school districts would likely vary among the districts and their magnitude would be dependent on a number of factors, including the educational placement of classified students in the district.
- The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for

from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

## **BILL DESCRIPTION**

This bill would require boards of education to provide special education and related services included in a student's individualized education program to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the individualized education program team determine that the student requires additional or compensatory special education and related services, including transition services.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State from federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note on this bill. However, in response to questions following the Senate Budget and Appropriations Committee hearing for the Department of Education on April 8, 2021, the department indicated that there are currently 8,687 students with disabilities who would be eligible for an additional year of special education and related services for the three-year period covered by the bill. The table below provides a breakdown of the number of students, by school year. The department stated that it is unable to estimate the costs to the State because it is unlikely that districts will be able to utilize federal funds to cover the costs for these students because under the federal Individuals with Disabilities Education Act (IDEA), this group of students are no longer eligible to receive the special education and related services required by the IDEA.

<b>School Year</b>	<b>Number of Students with Disabilities who will attain the age of 21 on or before June 30 of the School Year</b>
2020-2021	1,390
2021-2022	3,235
2022-2023	4,062
<b>Total</b>	<b>8,687</b>

***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill. Under the bill, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services.

In addition to potential State cost increases stemming from the bill, the provision of special education and related services specified under the bill may increase costs and revenues to local school districts. The costs and revenues for school districts would likely vary and the magnitude of the increases would be dependent on a number of factors, including the nature of the services provided and the educational placement of classified students in the district.

The OLS notes that the bill requires that special education and related services, including transition services, provided to students with disabilities under the bill be first paid for from the monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized. According to a broadcast memo released by the New Jersey Department of Education on March 3, 2021, funds awarded under the federal Elementary and Secondary School Emergency Relief Fund may be used to provide compensatory education or recovery services, or both, to students with disabilities. Despite this, it is unclear whether federal funds would be eligible for the uses provided for in this bill.

Lastly, the OLS notes that under current law and regulation, certain students are already entitled to compensatory education beyond the age of 21 years old. In general, compensatory education may be provided to a student if it is determined that a school district failed to provide a free appropriate public education to a classified special education student.

*Section: Education*

*Analyst: Christopher Myles  
Associate Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 5366**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: MAY 25, 2021

### SUMMARY

- Synopsis:** Requires boards of education to provide special education and related services to certain students exceeding age of eligibility for special education and related services.
- Type of Impact:** Multi-year State expenditure increase from the Property Tax Relief Fund; multi-year increase in costs and revenues to local school districts.
- Agencies Affected:** Department of Education; Local School Districts

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>2021-2022 School Year through 2025-2026 School Year</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>Local Cost Increase</b>	Indeterminate
<b>Local Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts for costs that may be incurred as a result of the bill during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill.
- To the extent that costs are not covered by federal stimulus aid, the bill requires the State to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services. The costs and revenue increases for school districts would likely vary among the districts and their magnitude would be dependent on a number of factors, including the educational placement of classified students in the district.

- Under the bill, school districts that send students to approved private schools for students with disabilities (APSSDs) may incur additional tuition costs than they otherwise would have paid through the 2025-2026 school year.
- The OLS notes that the bill requires that the special education and related services, including transition services, provided to students with disabilities under the bill will be first paid for from monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized.

## **BILL DESCRIPTION**

This bill requires a board of education to temporarily provide special education and related services to certain students who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and the 2022-2023 school year.

This bill would extend the age eligibility for special education and related services by requiring boards of education to provide the education and services included in a student's individualized education program (IEP) to students attaining the age of 21 during the 2020-2021 school year, the 2021-2022 school year, and the 2022-2023 school year, provided that the parent of the student and the IEP team determine that the student requires additional or compensatory special education and related services, including transition services.

Unless otherwise provided in the student's IEP or as ordered by a hearing officer, complaint investigation, or court of competent jurisdiction, a student would not be eligible to receive special education and related services under this bill beyond the school year in which he or she attains the age of 22.

The bill provides that the special education and related services, including transition services, provided to students with disabilities pursuant to the provisions of the bill, to the extent permitted by federal law, will be paid for from the monies received by the State or a school district under the federal Coronavirus Aid, Relief, and Economic Security Act, the federal Coronavirus Response and Relief Supplemental Appropriations Act, 2021, the federal American Rescue Plan Act, or any other federal funding provided to address the impact of the coronavirus pandemic on elementary and secondary schools as it becomes available. To the extent that these federal funds do not cover the costs borne by school districts to provide the special education and related services, including transition services, to students with disabilities pursuant to the provisions of the bill, the bill requires the State to appropriate funds as necessary from the Property Tax Relief Fund to reimburse school districts for these costs. The special education and related services funded pursuant to the provisions of the bill may include, but are not limited to, the additional staff, programs, and facilities deemed necessary by school districts to provide the special education and related services, including transition services, required under the bill.

Under the bill, the Department of Education will permit an APSSD to temporarily utilize non-qualifying spaces on school property for instruction and educational purposes in order to serve any additional students receiving special education and related services, including transition services, under the bill, if the department and the applicable county office of education determine that the school is able to provide suitable accommodations in those spaces for the additional students. The bill also provides that the department will, for the 2021-2022 school year through the 2025-2026 school year, set the maximum tentative tuition rate of each APSSD at the maximum tentative tuition rate set for the 2020-2021 school year if, during the 2021-2022 school year through the

2023-2024 school year, the school exceeds the total number of students at the approved facility in the 2020-2021 school year.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal fiscal note on this bill. However, in response to questions following the Senate Budget and Appropriations Committee hearing for the Department of Education on April 8, 2021, the department indicated that there are currently 8,687 students with disabilities who would be eligible for an additional year of special education and related services for the three-year period covered by the bill. The table below provides a breakdown of the number of students, by school year. The department stated that it is unable to estimate the costs to the State because it is unlikely that districts will be able to utilize federal funds to cover the costs for these students because under the federal Individuals with Disabilities Education Act (IDEA), this group of students are no longer eligible to receive the special education and related services required by the IDEA.

<b>School Year</b>	<b>Number of Students with Disabilities who will attain the age of 21 on or before June 30 of the School Year</b>
2020-2021	1,390
2021-2022	3,235
2022-2023	4,062
<b>Total</b>	<b>8,687</b>

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill may lead to increased State school aid expenditures in indeterminate amounts for costs that may be incurred as a result of the bill during the 2021-2022 through 2023-2024 school years. The OLS does not have the informational basis to project how many students would be provided additional or compensatory special education and related services, including transition services, beyond the age of 21 pursuant to the provisions of this bill. To the extent that costs are not covered by federal stimulus aid, the State is required to appropriate such funds as may be necessary to reimburse school districts for costs borne to provide special education and related services, including transition services, under the bill.

In addition to potential State cost increases stemming from the bill, the provision of special education and related services specified under the bill may increase costs and revenues to local school districts. The costs and revenues for school districts would likely vary and the magnitude of the increases would be dependent on a number of factors, including the nature of the services provided and the educational placement of classified students in the district.

Under the bill, school districts that send students to APSSDs may incur additional tuition costs than they otherwise would have paid through the 2025-2026 school year. The most recent information available to the OLS indicates that 485 school districts send a total of 9,911 students to APSSDs. The OLS notes that State Board of Education regulations require the calculation of a maximum tentative tuition rate for the ensuing school year for each APSSD. The regulations also require a sending school district to pay the difference between that tentative tuition rate and the

certified, audited tuition rate in the second year following the school year for which the actual cost per student is certified.

The OLS notes that the bill requires that special education and related services, including transition services, provided to students with disabilities under the bill be first paid for from the monies received under the various federal stimulus packages enacted to address the effects of COVID-19 before State funds are utilized. According to a broadcast memo released by the New Jersey Department of Education on March 3, 2021, funds awarded under the federal Elementary and Secondary School Emergency Relief Fund may be used to provide compensatory education or recovery services, or both, to students with disabilities. Despite this, it is unclear whether federal funds would be eligible for the uses provided for in this bill.

Lastly, the OLS notes that under current law and regulation, certain students are already entitled to compensatory education beyond the age of 21 years old. In general, compensatory education may be provided to a student if it is determined that a school district failed to provide a free appropriate public education to a classified special education student.

*Section: Education*

*Analyst: Christopher Myles  
Associate Fiscal Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Signs Legislation Offering an Additional Year of Special Education to Students with Disabilities

06/16/2021

*The Extension Will Be Available to the Classes of 2021, 2022, and 2023*

**TRENTON** – Building on his commitment to ensuring a high-quality education for all New Jersey students, Governor Phil Murphy today signed legislation (S3434/A5366) to offer an additional year of public education and related services to students with disabilities. This bill will provide a temporary one-year extension of special education and related services to students with disabilities who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021, 2021-2022, or 2022-2023 school year following a determination by the student's Individualized Education Program (IEP) team that such education and/or services are necessary.

“The pandemic has been especially hard on students with disabilities who rely on school programs to ensure they have the skills and services they need to be successful following graduation,” **said Governor Murphy**. “By providing an additional year for students who will otherwise age out allows to us acknowledge the unique impact of the pandemic on these students and help secure a better future for them and their families.”

The Department of Education (DOE) estimates that approximately 8,700 students across the state are expected to age out of their special education services over the course of the three applicable school years under this legislation, an estimated cost of approximately \$600 million over three years. Today, Governor Murphy announced that the Administration will be allocating federal American Rescue Plan (ARP) funds to cover the cost of the temporary expansion of these services.

“In New Jersey, we are committed to providing a quality education to all students, especially to those who are most vulnerable,” **said Dr. Angelica Allen-McMillan, Acting Commissioner of Education**. “We know the global pandemic has adversely impacted our students with special needs who have an individualized education program, and this important measure will extend the academics and supports to those students who would otherwise “age out” of the school system.”

“Enactment of this measure is a tremendous victory for advocates and families who worked tirelessly for its passage, and who fight every day to ensure their children have access to vital resources and services,” **said Senate President Steve Sweeney**. “The extension is a crucial lifeline to students on the brink of aging out who lost educational services to the pandemic at a critical time for them and their families. Because of COVID-19, they experienced real hardships that made it difficult for them to participate in the services and activities that will enable them to realize their potential. This measure will provide a bridge to independence so these students can regain the skill-based training that was stolen by COVID-19.”

“This bill is about hope and a belief that all children should have the opportunity to achieve their potential. Although today's signing recognizes the end of a difficult legislative path, it pales in comparison to the fight the parents of these wonderful children tireless face every day. Thank you Governor Murphy and thank you to every parent and every advocate who worked to get this done,” **said Senator Dawn Addiego**. “The disability community was among the hardest hit by this pandemic, but through this legislation students on the brink of aging out will be able to remain in school for an extra year, to make up for the time lost over the last 18 months.”

“Every student has felt the impact of a year of disruption and isolation. This is particularly true for special education students who thrive on routine and structure,” **said Assembly sponsors Assemblymembers Valerie Vainieri Huttle, Pamela Lampitt, and John McKeon.** “Extending educational services to students who will otherwise ‘age out’ over the next several years will help account for a year of the academic and social learning delays caused by the pandemic, as well as prepare them to transition to the next phase of their lives.”

*To view the Governor’s signing statement, [click here](#)*

**GOVERNOR'S STATEMENT UPON SIGNING  
SENATE BILL NO. 3434  
(Second Reprint)**

Today I am pleased to sign Senate Bill No. 3434 (Second Reprint), which requires boards of education to provide additional or compensatory special education and related services, including transition services, to students with disabilities following a determination by a student's Individualized Education Program ("IEP") team that the student requires such services. This bill applies to students with disabilities who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021 school year, 2021-2022 school year, and 2022-2023 school year. Under current State and federal laws, district boards of education are required to provide a free appropriate public education, in accordance with a student's IEP, to students with disabilities age three through 21. If a student turns 21 years of age during the school year, defined as the period between July 1 and June 30, the student is entitled to finish that final school year. As of June 30 of the student's final school year, the student is no longer eligible for special education and related services. This process is commonly referred to as "aging out".

I commend the bill's sponsors for their dedication to assisting New Jersey's most vulnerable students and their families, many of whom have been especially hard hit by the disruptions caused by the Coronavirus disease 2019 (COVID-19) pandemic. The provision of educational and related services required by students' IEPs has been especially challenging to deliver through remote learning, which has been a primary mode of instruction in many school districts over the last 15 months. Many students with disabilities were unable to receive the education and related services necessary to prepare them for a successful transition into adult life and are far less prepared for the aging out process than they would be during normal times.

The provision of services to the three cohorts of students identified in this bill could cost approximately \$600 million. Although the bill authorizes the use of State funding, I have been advised by the Department of Education that the State is unable to fund this provision of services through any means other than federal dollars due to the Maintenance of Financial Support and Maintenance of Effort obligations imposed by the federal Individuals with Disabilities Education Act (IDEA). For this reason, the bill will be funded entirely through the American Rescue Plan State Fiscal Recovery Fund.

Date: June 16, 2021

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor

# This Week in NJ: June 18th, 2021

06/18/2021



## Governor Murphy Marks Milestone Achievement of Fully Vaccinating 4.7 Million Individuals Who Live, Work, or Study in New Jersey Ahead of June 30th Goal

Returning to University Hospital, the location of New Jersey's first COVID-19 vaccination on December 15, 2020, Governor Phil Murphy announced that the state has hit its ambitious goal of fully vaccinating 4.7 million individuals who live, work, or study in New Jersey nearly two weeks before its original target date of June 30th.

"Before the arrival of vaccines in mid-December, our Administration set one of the most aggressive vaccination goals in the country," **said Governor Murphy**. "Reaching our milestone of 4.7 million fully vaccinated individuals who live, work, or study in New Jersey in a little more than six months required a comprehensive statewide approach, with strong partnerships across all levels of government, the private sector, and in our communities. Our Administration built a large-scale vaccination infrastructure, with more than 1,500 vaccine distribution sites to date, to meet demand and provide equitable access to all eligible individuals. We are grateful to the millions who rolled up their sleeves to protect themselves, their families, and their communities from COVID-19, and together, we have exceeded our initial goal. While we are celebrating this remarkable achievement, our work is not yet finished, and we must continue working together to vaccinate all eligible individuals to end the COVID-19 pandemic."



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## Governor Murphy Commemorates Juneteenth By Signing the "Fair Chance in Housing Act"

During New Jersey's first commemoration of Juneteenth as an official state and federal holiday, Governor Murphy signed legislation (S250/A1919) barring landlords from asking about criminal history on housing applications in most instances. By signing the legislation –

known as the "Fair Chance in Housing Act" – Governor Murphy is furthering his commitment to taking action to dismantle systemic racial disparities that have been allowed to exist for too long in New Jersey.

"As we commemorate Juneteenth, we must commit to both remembering the past and continuing to take action to ensure communities of color, especially Black Americans, achieve the full equity they deserve," **said Governor Murphy**. "Today, I am proud to sign the Fair Chance in Housing Act into law and work to level what has been for too long an uneven playing field when it comes to access to housing. I thank the sponsors and advocates for their tireless commitment to making this bill a reality and ensuring that New Jersey is a fairer place to live."

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## On Juneteenth, Governor Murphy Announces Leadership of Wealth Disparity Task Force

Governor Phil Murphy announced that Lieutenant Governor Sheila Oliver, Department of Banking and Insurance Commissioner Marlene Caride, Rutgers University President Dr. Jonathan Holloway, and Council of New Jersey Grantmakers President and CEO Maria Vizcarrondo will lead the Governor's Wealth Disparity Task Force. They will be joined by additional government officials, academic researchers, and faith and community leaders to be announced at a later date.

“In my State of the State Address in 2020, a month before the pandemic swept over our state, I announced my intention to form a task force focused specifically on the issue of our state’s gaping racial wealth disparity,” **said Governor Murphy.** “Lieutenant Governor Oliver, Commissioner Caride, Dr. Holloway, and Maria Vizcarrondo are the right choices to lead the Wealth Disparity Task Force. As esteemed and experienced leaders in government and education, they are well qualified to tackle this issue and advocate for the inclusion of all in prosperous future of our state.”



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## Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin Announce Naming of New Department of Health Building for Commissioner Judy Persichilli

Governor Phil Murphy, Senate President Steve Sweeney, and Assembly Speaker Craig Coughlin announced that the new Department of Health building in Downtown Trenton will be named



after Health Commissioner Judy Persichilli, in honor of her past and ongoing service to the people of New Jersey during the COVID-19 pandemic.

“Each and every day throughout the pandemic, Judy has remained singularly engaged to save lives and protect public health,” **said Governor Murphy**. “She has been the right leader for these times, and I could not be prouder to have asked Judy to serve as Commissioner two years ago. Now all those who pass through the halls of the ‘Judith M. Persichilli Building’ will be reminded of Judy’s selfless, honorable, and dedicated service to our state and its residents during the greatest public health crisis in New Jersey’s history.”

[READ MORE](#)

## Governor Murphy Signs Legislation Offering an Additional Year of Special Education to Students with Disabilities

Building on his commitment to ensuring a high-quality education for all New Jersey students, Governor Phil Murphy signed legislation (S3434/A5366) to offer an additional year of public education and related services to students with

disabilities. This bill will provide a temporary one-year extension of special education and related services to students with disabilities who exceed, or will exceed, the current age of eligibility for special education and related services in the 2020-2021, 2021-2022, or 2022-2023 school year following a determination by the student’s Individualized Education Program (IEP) team that such education and/or services are necessary.

“The pandemic has been especially hard on students with disabilities who rely on school programs to ensure they have the skills and services they need to be successful following graduation,” **said Governor Murphy**. “By providing an additional year for students who will otherwise age out allows to us acknowledge the unique impact of the pandemic on these students and help secure a better future for them and their families.”

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