

**Representative Steve Waldrip** proposes the following substitute bill:

**FULL-DAY KINDERGARTEN**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Waldrip**

Senate Sponsor: Ann Millner

6	Cosponsors:	Dan N. Johnson	Angela Romero
7	Carl R. Albrecht	Karen Kwan	V. Lowry Snow
8	Melissa G. Ballard	Ashlee Matthews	Robert M. Spendlove
9	Gay Lynn Bennion	Carol Spackman Moss	Andrew Stoddard
10	Joel K. Briscoe	Calvin R. Musselman	Elizabeth Weight
11	Clare Collard	Doug Owens	Douglas R. Welton
12	Jennifer Dailey-Provost	Karen M. Peterson	Mark A. Wheatley
13	Stephen G. Handy	Stephanie Pitcher	Mike Winder
14	Suzanne Harrison	Judy Weeks Rohner	
	Sandra Hollins		

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16 **LONG TITLE**

17 **General Description:**

18 This bill amends provisions related to optional enhanced kindergarten.

19 **Highlighted Provisions:**

20 This bill:

- 21 ▶ clarifies that kindergarten remains optional;
- 22 ▶ amends provisions related to the distribution of funding for optional enhanced
- 23 kindergarten grant program;



- 24           ▶ relocates a requirement for kindergarten entry and exit assessments from the
- 25 optional enhanced kindergarten grant program;
- 26           ▶ amends a definition and school year provisions in relation to a preschool reading
- 27 program; and
- 28           ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35           **35A-15-102**, as last amended by Laws of Utah 2020, Chapter 171
- 36           **53E-4-314**, as last amended by Laws of Utah 2020, Chapter 171
- 37           **53F-2-507**, as last amended by Laws of Utah 2020, Chapter 171
- 38           **53F-4-401**, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
- 39           **53F-4-404**, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
- 40           **53F-4-406**, as last amended by Laws of Utah 2020, Chapter 171
- 41           **53G-7-203**, as last amended by Laws of Utah 2019, Chapter 293



43 *Be it enacted by the Legislature of the state of Utah:*

44           Section 1. Section **35A-15-102** is amended to read:

45           **35A-15-102. Definitions.**

46           As used in this chapter:

- 47           (1) "Board" means the School Readiness Board, created in Section **35A-15-201**.
- 48           (2) "Economically disadvantaged" means to be eligible to receive free or reduced price
- 49 lunch.
- 50           (3) "Eligible home-based educational technology provider" means a provider that
- 51 offers a home-based educational technology program to develop the school readiness skills of
- 52 an eligible student.
- 53           (4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect
- 54 longitudinal academic outcome data, including special education use by student, by identifying

55 each student with a statewide unique student identifier.

56 (b) "Eligible LEA" includes a program exempt from licensure under Subsection  
57 [26-39-403\(2\)\(c\)](#).

58 (5) (a) "Eligible private provider" means a child care program that:

59 (i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

60 (ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section  
61 [26-39-403](#).

62 (b) "Eligible private provider" does not include:

63 (i) residential child care, as defined in Section [26-39-102](#); or

64 (ii) a program exempt from licensure under Subsection [26-39-403\(2\)\(c\)](#).

65 (6) "Eligible student" means a student:

66 (a) (i) who is age three, four, or five; and

67 (ii) is not eligible for enrollment under Subsection [53G-4-402\(6\)](#); and

68 (b) (i) (A) who is economically disadvantaged; and

69 (B) whose parent or legal guardian reports that the student has experienced at least one  
70 risk factor; or

71 (ii) is an English learner.

72 (7) "Evaluation" means an evaluation conducted in accordance with Section  
73 [35A-15-303](#).

74 (8) "High quality school readiness program" means a preschool program that:

75 (a) is provided by an eligible LEA, eligible private provider, or eligible home-based  
76 educational technology provider; and

77 (b) meets the elements of a high quality school readiness program described in Section  
78 [35A-15-202](#).

79 (9) "Investor" means a person that enters into a results-based contract to provide

80 funding to a high quality school readiness program on the condition that the person will receive

81 payment in accordance with Section [35A-15-402](#) if the high quality school readiness program

82 meets the performance outcome measures included in the results-based contract.

83 (10) "Kindergarten assessment" means the kindergarten entry assessment described in  
84 Section [~~53F-2-507~~] [53G-7-203](#).

85 (11) "Kindergarten transition plan" means a plan that supports the smooth transition of

86 a preschool student to kindergarten and includes communication and alignment among the  
87 preschool, program, parents, and K-12 personnel.

88 (12) "Local Education Agency" or "LEA" means a school district or charter school.

89 (13) "Performance outcome measure" means:

90 (a) indicators, as determined by the board, on the school readiness assessment and the  
91 kindergarten assessment; or

92 (b) for a results-based contract, the indicators included in the contract.

93 (14) "Results-based contract" means a contract that:

94 (a) is entered into in accordance with Section 35A-15-402;

95 (b) includes a performance outcome measure; and

96 (c) is between the board, a provider of a high quality school readiness program, and an  
97 investor.

98 (15) "Risk factor" means:

99 (a) having a mother who was 18 years old or younger when the child was born;

100 (b) a member of a child's household is incarcerated;

101 (c) living in a neighborhood with high violence or crime;

102 (d) having one or both parents with a low reading ability;

103 (e) moving at least once in the past year;

104 (f) having ever been in foster care;

105 (g) living with multiple families in the same household;

106 (h) having exposure in a child's home to:

107 (i) physical abuse or domestic violence;

108 (ii) substance abuse;

109 (iii) the death or chronic illness of a parent or sibling; or

110 (iv) mental illness;

111 (i) the primary language spoken in a child's home is a language other than English; or

112 (j) having at least one parent who has not completed high school.

113 (16) "School readiness assessment" means the same as that term is defined in Section  
114 53E-4-314.

115 (17) "Tool" means the tool developed in accordance with Section 35A-15-303.

116 Section 2. Section 53E-4-314 is amended to read:

- 117           **53E-4-314. School readiness assessment.**
- 118           (1) As used in this section:
- 119           (a) "School readiness assessment" means a preschool entry and exit profile that
- 120 measures literacy, numeracy, and lifelong learning practices developed in a student.
- 121           (b) "School readiness program" means a preschool program:
- 122           (i) in which a student participates in the year before the student is expected to enroll in
- 123 kindergarten; and
- 124           (ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.
- 125           (2) The state board shall develop a school readiness assessment that aligns with the
- 126 kindergarten entry and exit assessment described in Section [~~53F-2-507~~] [53G-7-203](#).
- 127           (3) A school readiness program shall:
- 128           (a) except as provided in Subsection (4), administer to each student who participates in
- 129 the school readiness program the school readiness assessment at the beginning and end of the
- 130 student's participation in the school readiness program; and
- 131           (b) report the results of the assessments described in Subsection (3)(a) or (4) to the
- 132 School Readiness Board created in Section [35A-15-201](#).
- 133           (4) In place of the assessments described in Subsection (3)(a), a school readiness
- 134 program that is offered through home-based technology may administer to each student who
- 135 participates in the school readiness program:
- 136           (a) a validated computer adaptive pre-assessment at the beginning of the student's
- 137 participation in the school readiness program; and
- 138           (b) a validated computer adaptive post-assessment at the end of the student's
- 139 participation in the school readiness program.
- 140           (5) (a) The following may submit school readiness assessment data to the School
- 141 Readiness Board created in Section [35A-15-201](#):
- 142           (i) a private child care provider; or
- 143           (ii) an LEA on behalf of a school that is not participating in the High Quality School
- 144 Readiness Grant Program described in Section [35A-15-301](#).
- 145           (b) If a private child care provider or LEA submits school readiness assessment data to
- 146 the School Readiness Board under Subsection (5)(a), the state board shall include the school
- 147 readiness assessment data in the report described in Subsection [35A-15-303](#)(5).

148 Section 3. Section 53F-2-507 is amended to read:

149 **53F-2-507. Enhanced kindergarten early intervention program.**

150 (1) The state board shall, as described in Subsection (4), distribute funds appropriated  
151 under this section for an enhanced kindergarten program described in Subsection (2), to school  
152 districts and charter schools that apply for the funds.

153 (2) An LEA governing board shall use funds appropriated in this section for a school  
154 district or charter school to offer an early intervention program, delivered through an enhanced  
155 kindergarten program that:

156 (a) is an academic program focused on building age-appropriate literacy and numeracy  
157 skills;

158 (b) uses an evidence-based early intervention model;

159 (c) is targeted to at-risk students; and

160 (d) is delivered through additional hours or other means.

161 (3) An LEA governing board may not require a student to participate in an enhanced  
162 kindergarten program described in Subsection (2).

163 (4) ~~[Subject]~~ Except as provided in Subsection (5) and subject to Subsection (6), the  
164 state board shall distribute funds appropriated under this section for an enhanced kindergarten  
165 program described in Subsection (2) as follows:

166 (a) (i) the total allocation for charter schools shall be calculated by:

167 (A) dividing the number of charter school students by the total number of students in  
168 the public education system in the prior school year; and

169 (B) multiplying the resulting percentage by the total amount of available funds; and

170 (ii) the amount calculated under Subsection (4)(a) shall be distributed to charter

171 schools with the greatest need for an enhanced kindergarten program, as determined by the  
172 state board in consultation with the State Charter School Board;

173 (b) each school district shall receive the amount calculated by:

174 (i) multiplying the value of the weighted pupil unit by 0.45; and

175 (ii) multiplying the result by 20; and

176 (c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b)  
177 are made, shall be distributed to applicant school districts by:

178 (i) determining the number of students eligible to receive free lunch in the prior school

179 year for each school district; and

180 (ii) prorating the remaining funds based on the number of students eligible to receive  
181 free lunch in each school district.

182 [~~(5) (a) The state board shall:~~]

183 [~~(i) develop and collect data from kindergarten entry and exit assessments; and]~~

184 [~~(ii) make rules regarding the administration of and reporting regarding the  
185 assessments.]~~

186 [~~(b) An LEA shall administer the entry and exit assessments described in Subsection  
187 (5)(a) to each kindergarten student.]~~

188 (5) Notwithstanding Subsection (4), the state board shall distribute any increased funds  
189 appropriated under this section after January 1, 2022, for an enhanced kindergarten program  
190 described in Subsection (2) to LEAs:

191 (a) with the greatest need for an enhanced kindergarten program, as determined by the  
192 state board;

193 (b) that apply for grant funding to offer an enhanced kindergarten program in a school  
194 that does not already offer an enhanced kindergarten program; and

195 (c) that would not supplant federal or other available funding to offer an enhanced  
196 kindergarten program with state funding.

197 (6) For an LEA that receives funds under Subsection (4) [~~:(a) the LEA shall report to~~  
198 ~~the state board the results of the entry and exit assessments described in Subsection (5)(a) in~~  
199 ~~relation to each kindergarten student in the LEA; and (b)] or (5), the LEA is not eligible for  
200 subsequent distributions under Subsection (4) or (5) unless the results of the entry and exit  
201 assessments described in Subsection 53G-7-203(4) demonstrate successful outcomes of the  
202 LEA's enhanced kindergarten program, as determined by the board.~~

203 Section 4. Section **53F-4-401** is amended to read:

204 **53F-4-401. Definitions.**

205 As used in this part:

206 (1) "Contractor" means the educational technology provider selected by the state board  
207 under Section **53F-4-402**.

208 (2) "Intergenerational poverty" means the same as that term is defined in Section  
209 **35A-9-102**.

- 210 (3) "Preschool child" means a child who is:
- 211 (a) (i) four or five years old; and
- 212 (ii) not eligible for enrollment under Subsection 53G-4-402(6); or
- 213 (b) in the 2021-2022 or 2022-2023 school year, eligible for enrollment in kindergarten
- 214 or enrolled in kindergarten.
- 215 (4) (a) "Private preschool provider" means a child care program that:
- 216 (i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or
- 217 (B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section
- 218 26-39-403; and
- 219 (ii) meets other criteria as established by the state board, consistent with Utah
- 220 Constitution, Article X, Section 1.
- 221 (b) "Private preschool provider" does not include:
- 222 (i) a residential certificate provider described in Section 26-39-402; or
- 223 (ii) a program exempt from licensure under Subsection 26-39-403(2)(c).
- 224 (5) "Public preschool" means a preschool program that is provided by a school district
- 225 or charter school.
- 226 (6) "Qualifying participant" means a preschool child who:
- 227 (a) resides within the boundaries of a qualifying school as determined under Section
- 228 53G-6-302; or
- 229 (b) is enrolled in a qualifying preschool.
- 230 (7) "Qualifying preschool" means a public preschool or private preschool provider that:
- 231 (a) serves preschool children covered by child care subsidies funded by the Child Care
- 232 and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;
- 233 (b) participates in a federally assisted meal program that provides funds to licensed
- 234 child care centers as authorized under Section 53E-3-501; or
- 235 (c) is located within the boundaries of a qualifying school.
- 236 (8) "Qualifying school" means a school district elementary school that:
- 237 (a) has at least 50% of students who were eligible to receive free or reduced lunch the
- 238 previous school year;
- 239 (b) is a school with a high percentage, as determined by the Department of Workforce
- 240 Services through rule and based on the previous school year enrollments, of students



241 experiencing intergenerational poverty; or

242 (c) is located in one of the following school districts:

- 243 (i) Beaver School District;
- 244 (ii) Carbon School District;
- 245 (iii) Daggett School District;
- 246 (iv) Duchesne School District;
- 247 (v) Emery School District;
- 248 (vi) Garfield School District;
- 249 (vii) Grand School District;
- 250 (viii) Iron School District;
- 251 (ix) Juab School District;
- 252 (x) Kane School District;
- 253 (xi) Millard School District;
- 254 (xii) Morgan School District;
- 255 (xiii) North Sanpete School District;
- 256 (xiv) North Summit School District;
- 257 (xv) Piute School District;
- 258 (xvi) Rich School District;
- 259 (xvii) San Juan School District;
- 260 (xviii) Sevier School District;
- 261 (xix) South Sanpete School District;
- 262 (xx) South Summit School District;
- 263 (xxi) Tintic School District;
- 264 (xxii) Uintah School District; or
- 265 (xxiii) Wayne School District.

266 (9) "UPSTART" means the project established by Section [53F-4-402](#) that uses a  
267 home-based educational technology program to develop school readiness skills of preschool  
268 children.

269 Section 5. Section **53F-4-404** is amended to read:

270 **53F-4-404. Family participation in UPSTART -- Priority enrollment.**

271 (1) The contractor shall:

272 (a) solicit families to participate in UPSTART through a public information campaign  
273 and referrals from participating school districts; and

274 (b) work with the Department of Workforce Services and the state board to solicit  
275 participation from families of qualifying participants to participate in UPSTART.

276 (2) Preschool children who participate in UPSTART shall:

277 (a) be from families with diverse socioeconomic and ethnic backgrounds;

278 (b) reside in different regions of the state in both urban and rural areas; and

279 (c) be given preference to participate if the preschool children are qualifying  
280 participants.

281 (3) (a) In a contract entered into with an educational technology provider as described  
282 in Section 53F-4-402, the state board shall require the provider to prioritize enrollment of  
283 qualified participants based on a first come, first served basis.

284 (b) The state board shall provide a list of qualifying schools and qualifying preschools  
285 and other applicable information to the contractor for verification of qualifying participants.

286 (c) The contractor shall annually provide participant information to the state board as  
287 part of the verification process.

288 (d) A qualifying participant may obtain a computer and peripheral equipment on loan  
289 and receive free Internet service for the duration of the qualified participant's participation in  
290 UPSTART if the qualifying participant:

291 (i) is eligible to receive free or reduced lunch; and

292 (ii) the qualifying participant participates in UPSTART at home.

293 (4) (a) The contractor shall make the home-based educational technology program  
294 available to families at a cost agreed upon by the state board and the contractor if the number of  
295 families who would like to participate in UPSTART exceeds the number of participants funded  
296 by the legislative appropriation.

297 (b) The state board and the contractor shall annually post on their websites information  
298 on purchasing a home-based educational technology program as provided in Subsection (4)(a).

299 (c) Except as provided in Subsection (4)(d), a preschool child may only participate in  
300 UPSTART through legislative funding once.

301 (d) Subsection (4)(c) does not apply to a preschool child who, in the 2021-2022 or  
302 2022-2023 school year:

- 303 (i) is eligible for enrollment in kindergarten; or
- 304 (ii) is enrolled in kindergarten.

305 Section 6. Section **53F-4-406** is amended to read:

306 **53F-4-406. Audit and evaluation.**

307 (1) The state auditor shall every three years:

- 308 (a) conduct an audit of the contractor's use of funds for UPSTART; or
- 309 (b) contract with an independent certified public accountant to conduct an audit.

310 (2) The state board shall:

- 311 (a) require by contract that the contractor will open its books and records relating to its
- 312 expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;
- 313 (b) reimburse the state auditor for the actual and necessary costs of the audit; and
- 314 (c) contract with an independent, qualified evaluator, selected through a request for
- 315 proposals process, to evaluate the home-based educational technology program for preschool
- 316 children.

317 (3) The evaluator described in Subsection (2)(c) shall use, among other indicators,

318 assessment scores from an assessment described in Section [~~53F-2-507~~] 53G-7-203 to evaluate

319 whether the contractor has effectively prepared preschool children for academic success as

320 described in Section 53F-4-402.

321 (4) Of the money appropriated by the Legislature for UPSTART, excluding funds used

322 to provide computers, peripheral equipment, and Internet service to families, no more than

323 7.5% of the appropriation not to exceed \$600,000 may be used for the evaluation and

324 administration of the program.

325 Section 7. Section **53G-7-203** is amended to read:

326 **53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.**

327 (1) Kindergartens are an integral part of the state's public education system.

328 (2) (a) Each local school board shall provide kindergarten classes free of charge for

329 kindergarten children residing within the district.

330 (b) Nothing in this Subsection (2):

331 (i) allows an LEA governing board to require a student to participate in a full-day

332 kindergarten program;

333 (ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6,

334 Part 2, Compulsory Education; or

335 (iii) requires a student who only attends a half-day of kindergarten to participate in dual  
336 enrollment under Section [53G-6-702](#).

337 (3) Kindertartens established under Subsection (2) shall receive state money under  
338 Title 53F, Public Education System -- Funding.

339 (4) (a) The state board shall:

340 (i) develop and collect data from kindergarten entry and exit assessments; and

341 (ii) make rules regarding the administration of and reporting regarding the assessments.

342 (b) An LEA shall:

343 (i) administer the entry and exit assessments described in Subsection (4)(a) to each  
344 kindergarten student; and

345 (ii) report to the state board the results of the entry and exit assessments described in  
346 Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

347 (5) The state board shall:

348 (a) establish a standard for the type of class that would constitute a full-day  
349 kindergarten class for purposes of the reporting described in Subsection (5)(b); and

350 (b) beginning with the 2022-2023 school year, require LEAs to report average daily  
351 membership for all kindergarten students under the standard described in Subsection (5)(a)  
352 with the October 1 data described in Section [53F-2-302](#).