

1 **STUDENTS WITH DISABILITIES FUNDING AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Marsha Judkins

7 **LONG TITLE**

8 **General Description:**

9 This bill makes changes to provisions related to funding for students with disabilities.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires the State Board of Education (state board) to:

13 • annually review standards and guidelines related to establishing disability
14 classifications;

15 • ensure the standards and guidelines provide school districts and charter schools
16 flexibility to respond to the needs of students with disabilities; and

17 • distribute certain special education funds in accordance with state board rules;

18 ▶ permits disability program money to be used for facilities construction and
19 alteration under certain circumstances;

20 ▶ amends a formula related to add-on weighted pupil units for students with
21 disabilities;

22 ▶ defines terms; and

23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53F-2-307**, as last amended by Laws of Utah 2020, Chapter 408

31 ENACTS:

32 **53F-2-315**, Utah Code Annotated 1953



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

35 Section 1. Section **53F-2-307** is amended to read:

36 **53F-2-307. Weighted pupil units for programs for students with disabilities --**

37 **Local school board allocation.**

38 (1) As used in this section:

39 (a) "Necessary cost" means a cost that is needed to provide special education and
40 related services to students with disabilities.

41 (b) "Reasonable cost" means a cost that, in nature and amount, does not exceed an
42 amount that a prudent person would incur under the circumstances prevailing at the time the
43 decision was made to incur the cost.

44 ~~[(+)]~~ (2) The number of weighted pupil units for students with disabilities shall reflect
45 the direct cost of programs for those students conducted in accordance with rules established by
46 the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

47 ~~[(2)]~~ (3) Disability program money allocated to school districts or charter schools is
48 restricted and shall be spent for the education of students with disabilities [~~but may include~~
49 expenditures for].

50 (4) Notwithstanding Subsection (3), disability program money allocated to school
51 districts or charter schools may be expended for:

52 (a) approved programs of services conducted for certified instructional personnel who
53 have students with disabilities in their classes[-]; or

54 (b) constructing facilities or altering existing facilities if:

55 (i) the costs are necessary costs and reasonable costs;

56 (ii) the costs are not for the general purpose of bringing facilities into compliance with:

57 (A) Section 504 of the Rehabilitation Act of 1973; or

58 (B) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.;

59 (iii) the construction or alteration meets the needs of one or more students with
 60 disabilities; and

61 (iv) the state board approves the expenditure in accordance with rules the state board
 62 makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

63 ~~[(3)]~~ (5) The state board shall establish ~~[and strictly interpret]~~ definitions and provide
 64 standards for determining which students have disabilities and shall assist school districts and
 65 charter schools in determining the services that should be provided to students with disabilities.

66 ~~[(4) Each year the state board shall evaluate]~~

67 (6) The state board shall annually evaluate, and amend as needed, the standards and
 68 guidelines that establish the identifying criteria for disability classifications to ~~[assure strict~~
 69 ~~compliance with those standards by the school districts and charter schools.]~~ ensure that school
 70 districts and charter schools:

71 (a) comply with the standards and guidelines; and

72 (b) have flexibility to respond to the needs of students with disabilities.

73 ~~[(5)]~~ (7) (a) Money appropriated to the state board for add-on WPUs for students with
 74 disabilities enrolled in regular programs shall be allocated to school districts and charter
 75 schools as provided in this Subsection ~~[(5)]~~ (7).

76 (b) The state board shall use a school district's or charter school's average number of
 77 special education add-on weighted pupil units determined by ~~[the previous five year's]~~ the prior
 78 year's average daily membership plus growth and the preceding four years' average daily
 79 membership data as a foundation for the special education add-on appropriation.

80 (c) The growth factor described in Subsection (7)(b) is the percentage change in total
 81 enrollment of kindergarten through grade 12 students on the first school day of October in the
 82 current school year as compared to the total enrollment of kindergarten through grade 12
 83 students on the first school day of October in the previous school year.

84 ~~[(e)]~~ (d) A school district's or charter school's special education add-on WPUs for the
 85 current year may not be less than the foundation special education add-on WPUs described in
 86 Subsection (7)(b).

87 ~~[(d)]~~ (e) Growth WPUs shall be added to the prior year special education add-on
 88 WPUs, and growth WPUs shall be determined as follows:

89 (i) The special education student growth factor is calculated by comparing S-3 total

90 special education [~~ADM of two years~~] average daily membership of one year previous to the
 91 current year to the S-3 total special education [~~ADM three~~] average daily membership two
 92 years previous to the current year[~~, not to exceed the official October total school district~~
 93 ~~growth factor from the prior year~~].

94 (ii) When calculating and applying the growth factor, a school district's S-3 total
 95 special education ADM for a given year is limited to [~~12.18%~~] the following percentage of the
 96 school district's S-3 total student ADM for the same year[~~:-~~]:

97 (A) for a school district in a county of the first, second, or third class, 14%; and

98 (B) for a school district in a county of the fourth, fifth, or sixth class, 20%.

99 (iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special
 100 education [~~ADM of two years~~] average daily membership of one year previous to the current
 101 year.

102 (iv) Growth ADMs for each school district or each charter school are multiplied by
 103 [~~1.53~~] 1.10 weighted pupil units and added to the prior year special education add-on WPU to
 104 determine each school district's or each charter school's total allocation.

105 [~~(6)~~] (8) If money appropriated under this chapter for programs for students with
 106 disabilities does not meet the costs of school districts and charter schools for those programs,
 107 each school district and each charter school shall first receive the amount generated for each
 108 student with a disability under the basic program.

109 Section 2. Section **53F-2-315** is enacted to read:

110 **53F-2-315. Funding for intensive special education costs.**

111 (1) As used in this section:

112 (a) "Eligible LEA" means an LEA that does not have an unused balance of state
 113 restricted funds to use to fund high cost students with disabilities.

114 (b) "Initiate rulemaking proceedings" means the same as that term is defined in Section
 115 63G-3-301.

116 (c) "Special education add-on appropriation" means the money appropriated to the state
 117 board for add-on WPUs for students with disabilities.

118 (2) (a) On or before February 1, 2023, the state board shall, in accordance with Title
 119 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a distribution

120 formula to allocate 3% of the special education add-on appropriation to eligible LEAs based on

121 the highest impact to an eligible LEA due to high cost students with disabilities.

122 (b) Beginning with the 2023-24 school year, the state board shall allocate the money
123 described in Subsection (2)(a), to an eligible LEA in accordance with the rules described in
124 Subsection (2)(a).

125 (3) Before the state board initiates rulemaking proceedings, the state board shall
126 present a rule proposed under Subsection (2)(a), to the Public Education Appropriations
127 Subcommittee or the Education Interim Committee.