

**Senator Lincoln Fillmore** proposes the following substitute bill:

**STUDENTS WITH DISABILITIES FUNDING AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Marsha Judkins

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ requires the State Board of Education (state board) to:
  - annually review standards and guidelines related to establishing disability classifications;
  - ensure the standards and guidelines provide school districts and charter schools flexibility to respond to the needs of students with disabilities; and
  - distribute certain special education funds in accordance with state board rules to provide for intensive services for high cost students with disabilities;
- ▶ permits disability program money to be used for facilities construction and alteration under certain circumstances;
- ▶ amends a formula related to add-on weighted pupil units for students with disabilities;
- ▶ repeals the Intensive Services Special Education Pilot Program;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53F-2-307**, as last amended by Laws of Utah 2020, Chapter 408

33 ENACTS:

34 **53F-2-315**, Utah Code Annotated 1953

35 REPEALS:

36 **53F-2-420**, as enacted by Laws of Utah 2021, Chapter 307



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

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

40 **53F-2-307. Weighted pupil units for programs for students with disabilities --**

41 **Local school board allocation.**

42 (1) As used in this section:

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

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

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

51 [(2) (3) Disability program money allocated to school districts or charter schools is  
52 restricted and shall be spent for the education of students with disabilities [but may include  
53 expenditures for].

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

56 (a) approved programs of services conducted for certified instructional personnel who

57 have students with disabilities in their classes[-]; or

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

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

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

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

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

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

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

67 [~~(3)~~] (5) The state board shall establish [and strictly interpret] definitions and provide  
68 standards for determining which students have disabilities and shall assist school districts and  
69 charter schools in determining the services that should be provided to students with disabilities.

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

71 (6) The state board shall annually evaluate, and amend as needed, the standards and  
72 guidelines that establish the identifying criteria for disability classifications to [assure strict  
73 compliance with those standards by the school districts and charter schools:] ensure that school  
74 districts and charter schools:

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

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

77 [~~(5)~~] (7) (a) Money appropriated to the state board for add-on WPU's for students with  
78 disabilities enrolled in regular programs shall be allocated to school districts and charter  
79 schools as provided in this Subsection [~~(5)~~] (7).

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

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

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

91           ~~[(d)]~~ (e) Growth WPU's shall be added to the prior year special education add-on  
92 WPU's, and growth WPU's shall be determined as follows:

93           (i) The special education student growth factor is calculated by comparing [~~S-3~~] total  
94 special education [~~ADM of two years~~] average daily membership of one year previous to the  
95 current year to the [~~S-3~~] total special education [~~ADM three~~] average daily membership two  
96 years previous to the current year [~~, not to exceed the official October total school district~~  
97 ~~growth factor from the prior year~~].

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

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

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

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

106           (iv) Growth ADMs for each school district or each charter school are multiplied by  
107 [~~1.53~~] 1.00 weighted pupil units and added to the prior year special education add-on WPU to  
108 determine each school district's or each charter school's total allocation.

109           ~~[(6)]~~ (8) If money appropriated under this chapter for programs for students with  
110 disabilities does not meet the costs of school districts and charter schools for those programs,  
111 each school district and each charter school shall first receive the amount generated for each  
112 student with a disability under the basic program.

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

114           **53F-2-315. Funding for intensive special education costs.**

115           (1) As used in this section:

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

118           (b) "Initiate rulemaking proceedings" means the same as that term is defined in Section

119 [63G-3-301.](#)

120 (c) "Special education add-on appropriation" means the money appropriated to the state  
121 board for add-on WPU's for students with disabilities.

122 (2) (a) On or before February 1, 2023, the state board shall, in accordance with Title  
123 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a distribution  
124 formula to allocate 3% of the special education add-on appropriation to eligible LEAs for the  
125 eligible LEA to use to fund high cost students with disabilities.

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

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

132 **Section 3. Repealer.**

133 This bill repeals:

134 Section [53F-2-420](#), **Intensive Services Special Education Pilot Program.**