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HOUSE OF REPRESENTATIVES  
 151st GENERAL ASSEMBLY

HOUSE BILL NO. 86

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SPECIAL EDUCATION FUNDING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1703(a) and (d), Title 14 of the Delaware Code by making deletions as shown by strike  
 2 through and insertions as shown by underline as follows:

3 § 1703. Unit of pupils. [Effective July 1, 2021 until June 30, 2022]

4 As used in this chapter:

5 (a) ~~"Unit" or "unit of pupils" is defined according to this~~ As used in this chapter, "unit" or "unit of pupils" means  
 6 as defined in the following schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade  
 7 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31  
 8 of this title:

9 Beginning July 1, 2011

10	Preschool	12.8
11	K-3	16.2
12	4-12 Regular Education	20
13	4-12 Basic Special Education (Basic)	8.4
14	Pre-K-12 Intensive Special Education (Intensive)	6
15	Pre-K-12 Complex Special Education (Complex)	2.6

16 (1) Preschool — 12.8

17 (2) K-3 Regular Education — 16.2

18 (3) K-3 Basic Special Education (Basic) — 12.2

19                   (4) 4-12 Regular Education — 20

20                   (5) 4-12 Basic Special Education (Basic) — 8.4

21                   (6) Pre-K-12 Intensive Special Education (Intensive) — 6

22                   (7) Pre-K-12 Complex Special Education (Complex) — 2.6

23                   (d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for  
24 children with disabilities and all other children. The preschool unit shall be 1 unit for 12.8 students. The regular education  
25 unit for kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in  
26 subsection (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1  
27 unit for 20 students. The basic special education (basic) unit for kindergarten through grade 3 shall be 1 unit for 12.2  
28 students. The basic special education (basic) unit for grades 4 through 12 shall be 1 unit for 8.4 students. The intensive  
29 special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special  
30 education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment  
31 until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 21,  
32 whichever occurs first, as defined in Chapter 31 of this title.

33                   (2) K-3 regular education unit. —

34                   a. A student shall be counted in the K-3 regular education unit if the student is enrolled in kindergarten  
35 through grade 3 and not counted in the basic unit, intensive unit or complex unit described later in this section.

36                   b. The following provisions shall apply to the K-3 regular education unit:

37                   1. Partial unit funding is provided for between 1 and 16.2 students based on the cash-in value of the  
38 unit.

39                   2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus  
40 10 years of experience as defined in § 1305(a) of this title.

41                   3. The units include Divisions II and III.

42                   4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the  
43 buildings that generate them.

44                   5. At least 20% of teachers at the K-3 building level must be certified in the area of special education.  
45 The units are considered teacher/instructional units for purposes of other unit counts.

46                   (4) ~~4-12~~ K-12 basic special education (basic).

47                   a. A student shall be counted in the basic unit if the student is enrolled in ~~grades 4 through~~ kindergarten  
48 through grade 12; and identified as eligible for special education and related services; and not counted in the

49 intensive unit under paragraph (d)(5) of this section or the complex unit ~~described below. under paragraph (d)(6)~~  
50 of this section.

51 b. The following provisions shall apply to the 4-12 K-12 basic special education ("basic") unit:

52 1. ~~Partial~~ For grades 4 through 12, partial unit funding is provided for between 1 and 8.4 students  
53 based on the cash-in value of the unit. For kindergarten through grade 3, partial unit funding is provided for  
54 between 1 and 12.2 students based on the cash-in value of the unit.

55 Section 2. Amend § 1703(a) and (d), Title 14 of the Delaware Code by making deletions as shown by strike  
56 through and insertions as shown by underline as follows:

57 § 1703. Unit of pupils. [Effective July 1, 2022 until June 30, 2023]

58 ~~As used in this chapter:~~

59 (a) ~~"Unit" or "unit of pupils" is defined according to this~~ As used in this chapter, "unit" or "unit of pupils" means  
60 as defined in the following schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade  
61 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31  
62 of this title:

63 Beginning July 1, 2011

64	<del>Preschool</del> _____	<del>12.8</del>
65	<del>K-3</del> _____	<del>16.2</del>
66	<del>4-12 Regular Education</del> _____	<del>20</del>
67	<del>4-12 Basic Special Education (Basic)</del> _____	<del>8.4</del>
68	<del>Pre-K-12 Intensive Special Education (Intensive)</del> _____	<del>6</del>
69	<del>Pre-K-12 Complex Special Education (Complex)</del> _____	<del>2.6</del>

70 (1) Preschool — 12.8

71 (2) K-3 Regular Education — 16.2

72 (3) K-3 Basic Special Education (Basic) — 10.2

73 (4) 4-12 Regular Education — 20

74 (5) 4-12 Basic Special Education (Basic) — 8.4

75 (6) Pre-K-12 Intensive Special Education (Intensive) — 6

76 (7) Pre-K-12 Complex Special Education (Complex) — 2.6

77 (d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for  
78 children with disabilities and all other children. The preschool unit shall be 1 unit for 12.8 students. The regular education

79 unit for kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in  
80 subsection (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1  
81 unit for 20 students. The basic special education (basic) unit for kindergarten through grade 3 shall be 1 unit for 10.2  
82 students. The basic special education (basic) unit for grades 4 through 12 shall be 1 unit for 8.4 students. The intensive  
83 special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The complex special  
84 education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is defined as enrollment  
85 until receipt of a regular high school diploma or the end of the school year in which the student attains the age of 21,  
86 whichever occurs first, as defined in Chapter 31 of this title.

87 (2) K-3 regular education unit. —

88 a. A student shall be counted in the K-3 regular education unit if the student is enrolled in kindergarten  
89 through grade 3 and not counted in the basic unit, intensive unit or complex unit described later in this section.

90 b. The following provisions shall apply to the K-3 regular education unit:

91 1. Partial unit funding is provided for between 1 and 16.2 students based on the cash-in value of the  
92 unit.

93 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus  
94 10 years of experience as defined in § 1305(a) of this title.

95 3. The units include Divisions II and III.

96 4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the  
97 buildings that generate them.

98 5. At least 20% of teachers at the K-3 building level must be certified in the area of special education.

99 The units are considered teacher/instructional units for purposes of other unit counts.

100 (4) ~~4-12~~ K-12 basic special education (basic).

101 a. A student shall be counted in the basic unit if the student is enrolled in ~~grades 4 through~~ kindergarten  
102 through grade 12; and identified as eligible for special education and related services; and not counted in the  
103 intensive unit under paragraph (d)(5) of this section or the complex unit ~~described below.~~ under paragraph (d)(6)  
104 of this section.

105 b. The following provisions shall apply to the ~~4-12~~ K-12 basic special education ("basic") unit:

106 1. ~~Partial~~ For grades 4 through 12, partial unit funding is provided for between 1 and 8.4 students  
107 based on the cash-in value of the unit. For kindergarten through grade 3, partial unit funding is provided for  
108 between 1 and 10.2 students based on the cash-in value of the unit.

109 Section 3. Amend § 1703(a) and (d), Title 14 of the Delaware Code by making deletions as shown by strike  
110 through and insertions as shown by underline as follows:

111 § 1703. Unit of pupils. [Effective July 1, 2023]

112 ~~As used in this chapter:~~

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114 as defined in the following schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade  
115 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31  
116 of this title:

117 Beginning July 1, 2011

118	<del>Preschool</del> _____	<del>12.8</del>
119	<del>K-3</del> _____	<del>16.2</del>
120	<del>4-12 Regular Education</del> _____	<del>20</del>
121	<del>4-12 Basic Special Education (Basic)</del> _____	<del>8.4</del>
122	<del>Pre-K-12 Intensive Special Education (Intensive)</del> _____	<del>6</del>
123	<del>Pre-K-12 Complex Special Education (Complex)</del> _____	<del>2.6</del>

124 (1) Preschool — 12.8

125 (2) K-3 Regular Education — 16.2

126 (3) K-3 Basic Special Education (Basic) — 8.4

127 (4) 4-12 Regular Education — 20

128 (5) 4-12 Basic Special Education (Basic) — 8.4

129 (6) Pre-K-12 Intensive Special Education (Intensive) — 6

130 (7) Pre-K-12 Complex Special Education (Complex) — 2.6

131 (d) For funding purposes, the following conditions shall prevail for the calculations of the number of units for  
132 children with disabilities and all other children. The preschool unit shall be 1 unit for 12.8 students. The regular education  
133 unit for kindergarten through third grade unit (K-3 regular education) shall be 1 unit for 16.2 students, except as noted in  
134 subsection (c) of this section above. The regular education unit for grades 4 through 12 (4-12 regular education) shall be 1  
135 unit for 20 students. The basic special education (basic) unit for ~~grades 4 kindergarten~~ through 12 shall be 1 unit for 8.4  
136 students. The intensive special education (intensive) unit for preschool through grade 12 shall be 1 unit for 6 students. The  
137 complex special education (complex) unit for preschool through grade 12 shall be 1 unit for 2.6 students. Grade 12 is

138 defined as enrollment until receipt of a regular high school diploma or the end of the school year in which the student  
139 attains the age of 21, whichever occurs first, as defined in Chapter 31 of this title.

140 (2) K-3 regular education unit. —

141 a. A student shall be counted in the K-3 regular education unit if the student is enrolled in kindergarten  
142 through grade 3 and not counted in the basic unit, intensive unit or complex unit described later in this section.

143 b. The following provisions shall apply to the K-3 regular education unit:

144 1. Partial unit funding is provided for between 1 and 16.2 students based on the cash-in value of the  
145 unit.

146 2. The cash-in value of the unit is tied to the teacher state salary schedule at the master's level plus  
147 10 years of experience as defined in § 1305(a) of this title.

148 3. The units include Divisions II and III.

149 4. The units are covered under the 98% rule as defined in § 1704(4) of this title and returned to the  
150 buildings that generate them.

151 5. At least 20% of teachers at the K-3 building level must be certified in the area of special education.

152 The units are considered teacher/instructional units for purposes of other unit counts.

153 (4) ~~4-12~~ K-12 *basic special education (basic)*.

154 a. A student shall be counted in the basic unit if the student is enrolled in ~~grades 4 through~~ kindergarten  
155 through grade 12; and identified as eligible for special education and related services; and not counted in the  
156 intensive unit under paragraph (d)(5) of this section or the complex unit ~~described below.~~ under paragraph (d)(6)  
157 of this section.

158 b. The following provisions shall apply to the ~~4-12~~ K-12 basic special education ("basic") unit:

159 1. Partial unit funding is provided for between 1 and 8.4 students based on the cash-in value of the  
160 unit.

161 Section 4. Section 1 of this Act takes effect on July 1, 2021. Section 2 takes effect on July 1, 2022. Section 3 takes  
162 effect on July 1, 2023.

#### SYNOPSIS

This Act provides increased funding for kindergarten through third grade students identified as eligible for basic special education services. Currently, basic special education is provided for students in fourth through twelfth grade who are identified as eligible for basic special education and related services; there is no additional unit funding for students in kindergarten through third grade who may be eligible for basic special education services. The Act adds a designation of "K-3 Basic Special Education (basic)" and over three years reduces the number of students comprising a unit from the current 16.2 to 8.4.

This Act will increase the unit count funding for K-3 Basic Special Education (basic) students by School Year 2023-2024, Fiscal Year 2024, to be consistent with the 8.4 unit of pupils currently available to students in grades 4 through

12. Sections 1 through 3 of this Act change the funding chart currently in the Code to subsections and provides for a decrease in the ratio between the number of students enrolled and the unit count for basic special education from 16.2 currently to 12.2 in Fiscal Year 2022, 10.2 in Fiscal Year 2023, and 8.4 in Fiscal Year 2024. Section 4 of this Act delays the effect of each Section until the start of each new fiscal year in the 3-year cycle over which this Act's changes are intended to occur.