SPONSOR: Rep. K. Williams & Sen. Poore
Reps. Bennett, Bentz, Briggs King, Heffernan, Jaques, Keeley, Kowalko, Lynn, Matthews, Osienski, Paradee, M. Smith, Spiegelman, Viola; Sens. Henry, McDowell Sokola, Townsend, Walsh

DELAWARE STATE HOUSE
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 12

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO PUBLIC SCHOOLS.

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

Section 1. Amend § 1703, Title 14 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1703. Unit of pupils.

As used in this chapter:

(a) "Unit" or "unit of pupils" is defined according to this schedule of numbers of pupils enrolled in schools beginning in kindergarten and through grade 12; and for children prior to entry into kindergarten who are eligible for special education services as defined in Chapter 31 of this title:

Beginning July 1, 2011

Preschool — 12.8

K-3 Regular Education — 16.2

4-12 Regular Education — 20

K-3 Basic Special Education (K-3 Basic) – 14.2 for the 2017-2018 school year; 12.2 for the 2018-2019 school year; 10.2 for the 2019-2020 school year; 8.4 for the 2020-2021 school year and all subsequent years.

4-12 Basic Special Education (Basic) — 8.4

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

Pre K-12 Complex Special Education (Complex) — 2.6.

(b) All such units must be authorized by the Department of Education under rules and regulations promulgated by the Department. Partial unit funding is provided for all units based on the cash-in value of the unit. Only the last unit in any category may be a major fraction.

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(c) In the case of kindergarten, "unit" or "unit of pupils" is defined as 32.4 pupils for half-day kindergarten and 16.2 pupils for full-day kindergarten.

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

(1) Preschool unit —

a. Student shall be counted in the preschool unit if the student is identified as eligible for special education and related services and not counted in the intensive unit or complex unit described below and is:

1. Eligible for special education and related services from birth; or

2. At least 3 years of age; or

3. Eligible as described in the interagency agreement with the Department of Health and Social Services; or

4. Not yet entered kindergarten.

b. The following provisions shall apply to the preschool unit:

1. Partial unit funding is provided for between 1 and 12.8 students based on the cash-in value of the unit.

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

3. The units include Divisions II and III.

4. Districts must use all funds generated by preschool unit to support services for the students counted in the preschool unit. Districts are not limited to using the funds to employ teachers only. The funds may be used to hire preschool special education teachers, paraprofessionals, and speech and language pathologists, or other related services personnel as determined at the local level. The units may

also be used to secure contractual services per requirements for the contractual option described in Chapter 13 of this title.

5. Districts may use tuition to pay for the local share and excess costs of special education and related services.

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

7. A student is not required to receive a minimum number of hours in special education instruction to count in the preschool unit.

(2) K-3 regular education unit —

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

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

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

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

3. The units include Divisions II and III.

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

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

(3) 4-12 regular education unit —

a. A student shall be counted in the grades 4-12 unit if the student is enrolled in grades 4 through 12 and not identified as eligible for special education and related services.

1. Partial unit funding is provided for between 1 and 20 students based on the cash-in value of the unit.

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

3. The units include Divisions II and III.

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

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

(4) ~~4-12~~K-12 basic special education (basic) —

a. A student shall be counted in the basic unit if the student is enrolled in ~~grades 4 through~~ kindergarten through grade 12; and identified as eligible for special education and related services; and not counted in the intensive unit or the complex unit described below. Students counted in K-3 basic must be counted separately from students counted in 4-12 basic until the 2021-2022 school year to accommodate the difference in unit value as outlined in subsection (a) of this section.

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

1. ~~Partial~~ For grades 4-12, partial unit funding is provided for between 1 and 8.4 students based on the cash-in value of the unit. For grades K-3: partial unit funding is provided for between 1 and 14.2 students for the 2017-2018 school year based on the cash –in value of the unit; partial unit funding is provided for between 1 and 12.2 students for the 2018-2019 school year based on the cash –in value of the unit; partial unit funding is provided for between 1 and 10.2 students for the 2019-2020 school year based on the cash –in value of the unit; partial unit funding is provided for between 1 and 8.4 students for the 2020-2021 school year and each subsequent year based on the cash –in value of the unit.

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

3. The units include Divisions II and III.

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

5. A student is not required to receive a minimum number of hours of instruction to count as a student in the basic unit.

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

7. All units generated by special education students are to be used for professional staff to support students with disabilities, to include special education teachers, school psychologists, speech/language pathologists, reading specialists, educational diagnosticians, counselors, class aides and social workers.

8. Districts are authorized to use up to 5% of the units for para-professionals or to cash them in for related services.

SYNOPSIS

This bill provides State funding to kindergarten through third grade for basic special education. State funding already occurs for intensive and complex special education during these grades. Currently the basic special education funding runs from fourth through twelfth grade. This bill is an effort to promote earlier identification and assistance for basic special education needs which should then mitigate costs over the long term.Pursuant to its terms, funding for K-3 special education will be phased in gradually over 4 years.