



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: February 21, 2017

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: H.S. 1 for H.B. 12 (Basic Special Education Unit)

SCPD has reviewed H.S. 1 for H.B. 12. It is similar to legislation (H.B. No. 30) introduced in 2015 which was endorsed by the SCPD. The current bill however, has a more restrained fiscal note and incorporates a few technical amendments suggested by the Council. SCPD has the following observations.

The bill addresses some anomalies in the current unit count system for students who qualify for special education.

First, special education students of all ages (Pre-K to 12) with "deep-end" needs are funded through "Intensive" or "Complex" units (lines 15-16). In contrast, special education students with "basic" needs are funded through the following units: Preschool (pre-kindergarten) and Basic Special Education (grades 4-12). There is an obvious gap, i.e, there is no distinct special education unit for students with basic needs in grades K-3. The K-3 special education students with basic needs are merged into a K-3 unit with all other students (line 10).

Second, the result of the above system is reduced funding for K-3 special education students with basic needs. The aberration is illustrated in the following table:

“BASIC NEEDS” SPECIAL EDUCATION STUDENT FUNDING

GRADE	UNIT COUNT (number of students needed to generate a unit)
Preschool (pre-K)	12.8
K-3	16.2
4-12	8.4

It is “odd” to have “richer” unit counts for very young (pre-K) students and students in higher (4-12) grades. Moreover, the difference in funding is dramatic. Identical K-3 students generate roughly half of the funding of the 4-12 students (16.2 versus 8.4).

The impact of the anomaly is difficult to measure. A district’s duty to identify students with disabilities and provide a free, appropriate public education is not statutorily diminished by lower funding for the K-3 special education population (14 Del.C. §§3101, 3120, and 3122). However, it is logical to assume that reduced funding may influence the availability of services and supports for this cadre of students. Moreover, as highlighted in the attached January 25, 2017 News Journal article, the K-3 grades are critical to student success:

A 2015 study by the National Center for Analysis of Longitudinal Data in Education Research identifies grade three as a crucial pivot. Between pre-K and third grade, about 41 percent of students were able to “graduate” from special services, the study found. After grade three, only about 26 percent of students transition out. The rest remain in special education for the rest of their academic careers.

The 2015 legislation (H.B. No. 30) proposed a modification of the special education “basic” unit so grades K-3 students with a current 16.2 funding ratio would have the same 8.4 funding ratio as grades 4-12 students. The fiscal note for this initiative was approximately \$11 million. See attached fiscal note. The 2017 bill is more fiscally restrained. It gradually adjusts the basic special education unit count for grades K-3 over a 4-year period as illustrated in the following table:

PHASED IN “BASIC NEEDS” SPECIAL EDUCATION STUDENT FUNDING
FOR GRADES K-3

SCHOOL YEAR	UNIT COUNT	STATE SHARE OF COSTS
2017-18	14.2	\$1.759 MILLION (FY18)
2018-19	12.2	\$4.173 MILLION (FY19)
2019-2020	10.2	\$7.636 MILLION (FY20)
2020-2021	8.4	\$12.294 MILLION (FY21)

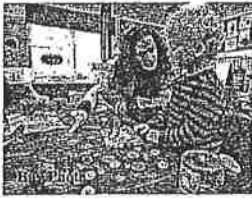
Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HS 1 for HB 12 basic special education unit 2-23-17

Many agree Delaware special ed bill is needed, but there's no money for it

Matthew Albright and Jessica Ries, The News Journal Published 3:08 p.m. ET Jan. 25, 2017 | Updated 23 hours ago



(Photo: Jason Minto/The News Journal)

Special education advocates say Delaware's school funding system is denying important help to almost 2,500 of the state's youngest students.

Rep. Kim Williams, D-Newport, is sponsoring a bill she says would fix that. Yet, despite widespread support, it is one of many proposals that has little chance of passing because of a projected \$350 million state budget gap.

"I know money is an issue for the state," Williams said. "But we invested all of this money into our early learning programs, and yet we have that void there in our elementary schools. This is something we really need to change."

Williams' bill would provide school districts extra money for students in grades K-3 who are in the "basic" special needs category.

Students with "basic" special needs have conditions like minor developmental delays or dyslexia. There are two other categories for more serious disabilities, "intensive" and "complex."

Districts get extra funding from the state for all students classified as "intensive" or "complex," regardless of age. But they get no extra money for students who qualify as "basic" until the students reach fourth grade.

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Williams pushed a similar bill last year that faced almost no opposition but never got a final vote — lawmakers did not find money to pay for it.

The state's fiscal picture is even grimmer this year.

MORE: [Get a sense of the size of the state's budget problem \(/story/news/politics/2017/01/12/markell-budget-taxes/96487754/\)](/story/news/politics/2017/01/12/markell-budget-taxes/96487754/)

MORE: [See Delaware's role in a special education lawsuit before the U.S. Supreme Court \(/story/news/education/2016/11/23/supreme-court-special-education/94284980/\)](/story/news/education/2016/11/23/supreme-court-special-education/94284980/)

Acknowledging this, Williams tweaked the bill this year to phase in the services — and their costs. In the 2017-2018 school year, it would cost the state \$1.7 million and districts \$650,000; by 2020-2021, the state would be paying \$12.2 million and districts would be paying \$4.5 million.

Williams and her supporters say the price tag is well worth it. Students who don't get help with their special needs early in their academic career could have a weak foundation for the rest of their lives.



A student plays with cylinders and building blocks at Appoquinimink Preschool Center in Middletown. (Photo: Jason Minto/The News Journal)

"If they don't have the basic skills there by third grade, it sets them up to have a more challenging time all the way through," Williams said. "If we're really serious about this, we'll find a way to get the resources."



(Photo: File photo)

That could be tough because of the budget hole, says Sen. Harris McDowell, D-Wilmington North, co-chair of the budget-writing Joint Finance Committee.

"This is something we should do because the value of reaching kids in the early years is proven," said McDowell, who co-sponsored last year's bill. "But we have to be able to afford it."

STORY: [Amid drama, 2 Wilmington Housing board members quit \(/story/news/local/2017/01/25/wilmington-housing-authority-board-quit/97031102/\)](#)

STORY: [Crucial Middletown Senate election will be Feb. 25 \(/story/news/politics/2017/01/24/senate-election-middletown/97002834/\)](#)

Williams argues this omission is particularly glaring because the state has focused much of its resources and energy on early education. It has beefed up its pre-K system and pushed to get more students reading by the third grade.

Research shows the later a student is given special education services, the less likely they are to transition out of special education and the more likely they are to become involved in the criminal justice system and miss benchmarks like high school graduation, college, employment and more.

A 2015 study by the National Center for Analysis of Longitudinal Data in Education Research, identifies grade three as a crucial pivot. Between pre-K and third grade, about 41 percent of students were able to "graduate" from special services, the study found. After grade three, only about 26 percent of students transition out. The rest remain in special education for the rest of their academic careers.



Paraprofessional Julie Poore works with students at their make believe Home Depot store front at Appoquinimink Preschool Center in Middletown. (Photo: Jason Minto/The News Journal)

Josette McCullough, director of student services at Appoquinimink School District, said there is a real gap in services for students with basic special education needs. The bill would help districts close it by providing enough money for the resources and materials needed to serve those kids. The bill could also, potentially, reduce class sizes, McCullough said.

"I am an advocate for kids getting what they need," McCullough said. "House Bill 12 will support districts by providing funding, just as they do from grades 4-12 — the money earned will be provided directly to students with identified needs."

The very possibility of extra funding is exciting, she said, and like Williams, she has been involved in the effort to get the bill passed. McCullough was in Dover when Williams introduced the bill last week and is part of a committee developing Delaware's Special Education Strategic Plan, as is Michele Marinucci, director of student services for the Woodbridge School District.

Marinucci said under the current system, children with special education needs are getting the same amount of funding that students without special needs are getting in grades K-3.

"This is obviously a concern, since a child with special education needs, needs more instructional support, accommodations, and modifications than a typically advancing peer," she said.

Not only that but under the current setup, it's not only special education students that are suffering but likely their peers, whose teachers are being pulled in multiple directions trying to serve students at different levels.

"By not providing the level of staffing support at the early levels that our students need, we are putting our teachers in a much more challenging position of meeting the needs of all of their students — while also potentially compromising the outcomes of our struggling learners," Marinucci said. "Research also supports that the earlier the intervention, the greater the likelihood of closing the gap; this means that a child who is identified with basic special education needs and is appropriately served at an early age may not need to continue to receive special education services for the long term."

That could be one of the bill's selling points.

McCullough said earlier identification and support for students with basic special education needs could mitigate long-term costs.

Alex Eldreth, policy and community outreach director for Autism Delaware, said his group enthusiastically supports the bill. He hopes it will prevent students from becoming dissatisfied with school because they aren't getting enough help to succeed.

"You're pretty much formed in your opinions of education by third grade," Eldreth said. "If these students have a supportive environment that really helps meet their needs, that can go a long way."

Many agree Delaware special ed bill is needed, but there's no money for it

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Williams' bill plays into a larger drive to provide more resources to at-risk kids in public schools. The Wilmington Education Improvement Commission has been pushing hard for the state to provide more resources for students who live in poverty or are learning English as a second language; the Commission also backed William's special needs bill last year.

Contact Matthew Albright at malbright@delawareonline.com, (302) 324-2428 or on Twitter @TNJ_malbright. Contact Jessica Bies at (302) 324-2881, bies@delawareonline.com or on Twitter at @jessicabies.

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148TH GENERAL ASSEMBLY

FISCAL NOTE

BILL: HOUSE BILL NO. 30
SPONSOR: Representative K. Williams
DESCRIPTION: AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO PUBLIC SCHOOLS.

ASSUMPTIONS:

1. This Act shall be effective the fiscal year after its enactment.
2. This Act will change the level of funding supporting students in basic special education in grades Kindergarten through Third Grade from 1 unit of funding for every 16.2 pupils to 1 unit of funding for every 8.4 pupils.
3. This legislation will generate an additional 136.54 state units of funding for students in grades Kindergarten through Third Grade that are enrolled as basic special education along with an additional 2.4 units for Related Services.
4. A state unit of funding is \$78,068 while the local share of personnel costs is assumed at \$28,497. Other employment costs are assumed at 30.08%.
5. Related Services funding, as defined by 14 Del. C. §1716A, for K-3 Basic Special Education is 1 unit of funding for every 57 units where the unit value is equal to a 10-month teacher with ten years of experience at the Master Degree level on the state supported salary schedule.
6. Overall costs are assumed to growth 2.0% annually.

<u>Cost:</u>	<u>State Share</u>	<u>Local Share</u>
Fiscal Year 2016:	\$10,788,500	\$3,959,200
Fiscal Year 2017:	\$11,400,300	\$4,038,400
Fiscal Year 2018:	\$11,628,300	\$4,119,200

Office of Controller General
February 16, 2015
MSJ:MSJ
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(Amounts are shown in whole dollars)



149th GENERAL ASSEMBLY
FISCAL NOTE

BILL: HS 1 to HOUSE BILL NO. 12
SPONSOR: Representative K. Williams
DESCRIPTION: AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO PUBLIC SCHOOLS.

Assumptions:

1. This Act shall be effective beginning with the fiscal year after its enactment.
2. This Act will change the level of funding supporting students in basic special education in grades Kindergarten through Third Grade from 1 unit of funding for every 16.2 pupils to the following:
 - o 1 unit of funding for every 14.2 pupils for the 2017-2018 school year;
 - o 1 unit of funding for every 12.2 pupils for the 2018-2019 school year;
 - o 1 unit of funding for every 10.2 pupils for the 2019-2020 school year; and
 - o 1 unit of funding for every 8.4 pupils for the 2020-2021 school year.
3. This legislation will generate an additional 21 state units of funding for students in grades Kindergarten through Third Grade that are enrolled as basic special education for school year 2017-2018 with 145 units generated for school year 2020-2021 upon full implementation.
4. A state unit of funding is estimated at \$82,889 while the local share of personnel costs is assumed at \$30,623. Other employment costs are assumed at 31.49%.
5. Overall costs are assumed to grow 2.0% annually.

Cost:

	<u>State Share</u>	<u>Local Share</u>
Fiscal Year 2018:	\$1,759,000	\$650,000
Fiscal Year 2019:	\$4,173,000	\$1,542,000
Fiscal Year 2020:	\$7,636,000	\$2,821,000
Fiscal Year 2021:	\$12,294,000	\$4,542,000

Prepared by Michael Morton
Office of the Controller General
1/17/17
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