PUBLIC EDUCATION FUNDING AND ENROLLMENT AMENDMENTS

2020 SIXTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to funding for public schools and educators and provisions related to enrollment in district and charter schools.

Highlighted Provisions:

This bill:

- defines terms;
- permits the State Board of Education (state board) to use a different date or dates for counting average daily membership when calculating the growth factor for the 2020-2021 school year;
- amends the distribution of small district base funding for necessarily existent small schools;
- creates a salary supplement for teachers who hold a certification from the National Board for Professional Teaching Standards;
- appropriates money to the state board to allocate to local education agencies to pay for software licenses for English language learner student instruction;
- allows a charter school to give enrollment preference for the 2021-2022 school year to a student who withdrew from the charter school to attend an online school or home school in the 2020-2021 school year due to the COVID-19 emergency; and
- allows the state board to use federal Elementary and Secondary School Emergency funds and nonlapsing Minimum School Program funds for charter school local replacement funding in the 2020-2021 school year.

Money Appropriated in this Bill:

This bill appropriates:

▸ to the State Board of Education - Minimum School Program - Related to Basic School Programs:

• from the Education Fund, $246,300; and

▸ to the State Board of Education - Minimum School Program - Related to Basic School Programs:

• from the Education Fund, One-time, $3,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-302, as last amended by Laws of Utah 2019, Chapter 186

53F-2-304, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14

53F-2-312, as last amended by Laws of Utah 2019, Chapter 186

53G-6-502, as last amended by Laws of Utah 2019, Chapters 151 and 293

53G-6-504, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53F-2-523, Utah Code Annotated 1953

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

Section 1. Section **53F-2-302** is amended to read:

53F-2-302. Determination of weighted pupil units.

The number of weighted pupil units in the Minimum School Program for each year is the total of the units for each school district and, subject to Subsection (4), charter school, determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than kindergarten and

self-contained classes for children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total by .55.

(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.

(b) Upon LEA governing board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.

(3) (a) The state board shall use prior year plus growth to determine average daily membership in distributing money under the Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

(4) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

(a) .55 for kindergarten pupils;

(b) .9 for pupils in grades 1 through 6;

(c) .99 for pupils in grades 7 through 8; and

(d) 1.2 for pupils in grades 9 through 12.

(5) Notwithstanding Subsection (3)(c):

(a) for the 2020-2021 school year the state board may use a count of average daily membership on any day or days of the current school year in 2020 to calculate a growth factor for the 2020-2021 school year; and

(b) when calculating the growth factor as described in Subsection (5)(a), the state board shall comply with all applicable federal requirements.

Section 2. Section **53F-2-304** is amended to read:

53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) The state board shall prepare and publish objective standards and guidelines for

determining which small schools are necessarily existent after consultation with local school boards.

(5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using distribution formulas adopted by the state board.

(b) The distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school's ADM between an elementary and secondary distribution formula.

(f) The state board shall prepare and distribute an allocation table based on the distribution formula to each school district.

(6) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(7) (a) The state board may allocate up to 208 weighted pupil units to support schools that:

(i) have isolating conditions, as defined by the state board, including geographic isolation; and

(ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection (7) at least once every five calendar years.

(8) If the state board classifies a school as a necessarily existent small school in accordance with this section, the state board shall, subject to legislative appropriation, distribute small district base funding to the relevant school district in the following amounts:

(a) for a district with [~~250~~] 500 students or less, 83 additional weighted pupil units;

[~~(b) for a district with 251 to 500 students, 56 additional weighted pupil units;~~]

[~~(c)~~] (b) for a district with 501 to 1,000 students, 28 additional weighted pupil units; and

[~~(d)~~] (c) for a district with 1,001 to 2,000 students, 14 additional weighted pupil units.

(9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(10) (a) Subject to Subsection (10)(b) and after a distribution made under Subsection (9), the state board may distribute a portion of necessarily existent small schools funding:

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

Section 3. Section **53F-2-312** is amended to read:

53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the state board for class size reduction shall be used to reduce the average class size in kindergarten through grade 8 in the state's public schools.

(2) A school district or charter school shall receive an allocation for class size reduction based on the school district or charter school's prior year average daily membership plus growth in kindergarten through grade 8 as determined under [~~Subsection~~] Section 53F-2-302[~~(3)~~] compared to the total prior year average daily membership plus growth in kindergarten through grade 8 statewide.

(3) (a) An LEA governing board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) An LEA governing board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 students in kindergarten through grade 2, an LEA governing board may petition the state board for, and the state board may grant, a waiver of the requirement described in Subsection (3)(b)(i).

(4) A school may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) An LEA governing board may use up to 20% of an allocation under this section for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by at least 5% or at least 700 students from the previous school year, the LEA governing board may use up to 50% of an allocation received by the school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size

reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade 8.

Section 4. Section **53F-2-523** is enacted to read:

53F-2-523. Salary supplement for National Board-certified teachers.

(1) As used in this section:

(a) "National Board certification" means the same as that term is defined in Section 53E-6-102.

(b) "National Board-certified teacher" or "board-certified teacher" means a teacher who:

(i) holds a National Board certification; and

(ii) has an assignment to teach in an LEA.

(c) "Salary supplement" means a salary supplement for a board-certified or Title I school board-certified teacher described in this section.

(d) "Title I school" means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(e) "Title I school board-certified teacher" means a board-certified teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for salary supplements shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for a board-certified teacher is $1,000.

(b) The annual salary supplement for a Title I school board-certified teacher is $2,000.

(c) A board-certified teacher who qualifies for a salary supplement under Subsections (3)(a) and (b) may only receive the salary supplement that is greater in value.

(d) The employer paid benefits described in Subsection (2)(b) are in addition to an amount described in this Subsection (3).

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement;

(b) establish a deadline by which a teacher is required to apply in order to receive a salary supplement;

(c) determine whether a teacher who applies for a salary supplement is a board-certified teacher or a Title I school board-certified teacher;

(d) verify, as needed, a determination made under Subsection (4)(c) with LEA or school administrators; and

(e) certify a list of board-certified teachers and Title I school board-certified teachers.

(5) To receive a salary supplement, a board-certified teacher or a Title I school board-certified teacher shall apply to the state board before the deadline described in Subsection (4)(b).

(6) The state board shall establish and administer an appeal process for a teacher who applies for but does not receive a salary supplement that allows the teacher to appeal eligibility by providing evidence to the state board:

(a) of the teacher's National Board certification; or

(b) (i) of the teacher's National Board certification; and

(ii) that the teacher is assigned to teach in a Title I school.

(7) The state board shall:

(a) distribute money appropriated for salary supplements to LEAs in accordance with

the provisions of this section; and

(b) include the cost of employer-paid benefits described in Subsection (2)(b) in the amount distributed to an LEA for each salary supplement.

(8) (a) An LEA shall use money received under this section to provide a salary supplement to each board-certified teacher and Title I school board-certified teacher in an amount equal to the amount described in Subsection (3).

(b) A salary supplement is part of a teacher's base pay, subject to the teacher's qualification as a board-certified teacher or Title I school board-certified teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if an annual appropriation for salary supplements is not sufficient to cover the costs associated with salary supplements, the state board shall distribute the funds on a pro rata basis.

Section 5. Section **53G-6-502** is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

(a) "At capacity" means operating above the school's open enrollment threshold.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

[~~(b)~~] (c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.

[~~(c)~~] (d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

[~~(d)~~] (e) "School of residence" means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade

level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;

(g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity; [~~or~~]

(h) a child of a military servicemember as defined in Section 53B-8-102[~~.~~]; or

(i) for the 2021-2022 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 school year due to the COVID-19 emergency.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 6. Section **53G-6-504** is amended to read:

53G-6-504. Approval of increase in charter school enrollment capacity -- Expansion.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The state board may approve an increase in charter school enrollment capacity subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53G-5-301.

(4) (a) A charter school may annually submit a request to the state board for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The state board shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(e) For the 2021-2022 school year, the previous school year described in Subsection (4)(a) is the 2019-2020 school year.

(5) (a) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

(6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the state board, the state board shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(7) (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the state board shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

(8) For fiscal year 2021, in addition to an appropriation described in Subsection 53F-2-704(2)(a), for the guarantee described in Section 53F-2-704, the state board may use up to $8,000,000 from the following sources in priority order:

(a) funds from the federal Elementary and Secondary School Emergency Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136; and

(b) notwithstanding anything to the contrary in Subsection 53F-2-205(3)(b), nonlapsing Minimum School Program funds.

Section 7. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1,

2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund $246,300

Schedule of Programs:

National Board-Certified Teacher Program $246,300

ITEM 2

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-time $3,000,000

Schedule of Programs:

English Language Learner Software Support $3,000,000

The Legislature intends that:

(1) the State Board of Education allocate the appropriation under this section to a local education agency in proportion to the local education agency's share of statewide English language learner students; and

(2) a local education agency select a vendor and use an allocation of money allocated under Subsection (1) to pay for software licenses for software used for English language learner student instruction.

Section 8. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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