

Summary of Amendment 7709 to House Bill 704

PURPOSE – HB 704 addresses the current problems with the state systems for funding and accountability of special education for students with disabilities. The Commonwealth benefits when all students are educated and prepared for meaningful employment, higher education, and self-sufficiency. Reforms are required at this time because most school districts do not have the basic resources needed to provide a quality education with supports and services for children with disabilities. The state funding and accountability systems for special education are broken and need repair.

HISTORY – HB 704 has 66 bipartisan cosponsors. The Senate companion bill, SB 940, has 15 cosponsors. HB 704 was approved 22-3 by the House Education Committee on July 1, 2009. Amendment 7709 was approved by the whole House of Representatives on June 22, 2010 by a vote of 199 to 0. The amendment reflects the input of many legislators in both House Caucuses and the PA Department of Education.

SUMMARY – The updated provisions in Amendment 7709 make the following improvements:

- Provide an effective formula to distribute state funding for special education, without creating compulsory annual targets or limiting the discretion of the General Assembly;
- Increase the accuracy of the special education formula by using three weights;
- Establish a transparent process to set the final formula weights through a legislative commission and subsequent regulation;
- Maintain spending at 2008-09 levels for 2010-11 if insufficient funds are appropriated;
- Streamline and strengthen school district accountability without imposing excess bureaucracy, applied when sufficient funds are appropriated in future years; and
- Maintain the Contingency Fund and make it more accountable and transparent.

DETAILS –

(1) The **formula** for distributing state funding for special education will include:

- The formula remains an independent line item in the state budget, separate from basic education. The basic education reforms adopted in 2008 did not include special education.
- The formula acknowledges that the General Assembly will use its discretion to decide for each year about the level of state funding for special education and the amount of any change in funding.
- The formula distributes any increased funding, determined by the appropriations decisions of the General Assembly, by taking into consideration a number of factors reflecting the unique circumstances of each school district. Factors in the distribution formula include the base cost to educate all students, a different weight for each of three cost categories for students with disabilities, and district-specific variables for student enrollment, actual spending, poverty, tax effort, and cost of living. Three-year averages are used for many variables, ensuring stable funding levels for districts.
- Overall, the formula will distribute special education funding with the goal of helping all students to meet state academic standards. Students with disabilities have higher costs than other students just to provide the basic materials, personnel, services, equipment, technology, and time and effort required to learn.
- Districts will utilize new state funding to improve programs and supports and other best practices that benefit students with disabilities, such as meeting state and federal performance indicators and providing curricula adaptation, co-teaching, assistive technology, school-wide positive behavior supports, supplementary aids and services, professional development, reading specialist services and supports, reducing caseloads for special education teachers and related services personnel, and/or placing eligible students in regular classrooms with supports in accordance with their IEP. School districts retain discretion to make the best investments.
- The bill does not create compulsory annual state spending targets. It is assumed, however, that any increased funding in the future would provide a minimum increase for all districts without state funding cuts. The original terms of the bill, deleted in the current version, would have phased in about \$36 million per year in additional state funding, with local districts also picking up their share.
- State funding will remain at 2008-09 levels for 2010-11 if insufficient funds are appropriated. Since 2003, the annual increase in state funding for special education has averaged only 1.7% per year.

This has not kept pace with overall inflation (over 3% growth per year), with medical sector inflation (nearly 10% growth per year), or with increased numbers of Pennsylvania students with disabilities (2.6% growth per year).

- The distribution formula will include three multipliers and weights to better match real student costs, rather than a single variable, a single student count, and a single weight (1.3). Using three “cost categories” will allow the formula to more accurately distribute resources and avoid over-identification. The final definitions for the categories and the weights will be determined through a legislative commission and then placed into regulation.
- An actual student count will be used in the highest cost category to ensure distribution accuracy. A data-based statewide percentage of eligible students will be used in the two lower cost categories to balance the needs for providing accuracy and avoiding over-identification. This percentage will be applied to the actual total enrollment of all students in each district for the lowest cost category and to the actual number of students receiving special education for the middle cost category.
- The final form of the variables in the formula will be determined by a legislative commission and implemented by subsequent regulations. The commission will use national accounting standards, share information, consult with stakeholders, work with PDE’s Task Force and the Advisory Panel, hold at least three regional public hearings, and receive overall support as needed from PDE. After the commission evaluates and develops the final variables in this open and transparent manner, the State Board of Education will enact the commission’s decisions into regulation.
- The formula has been changed from earlier versions, so that it no longer includes a performance variable that pays districts additional funding for meeting both inclusion and achievement targets. Instead, a modest grant program will be established to allow school districts to seek recognition and support for the additional costs of implementing best practices for inclusion and achievement. Nothing in the bill, including the grant program, will change IDEA law or the authority of IEP teams for the placement of students.

(2) The **Contingency Fund** for extraordinarily costly students is maintained at current levels (one percent of the total special education appropriation) and with current standards for issuing the grants through PDE. The Fund is made more accountable with PDE reports to the General Assembly. The Fund is necessary because no formula can anticipate the extraordinary expenses needed for the most costly students with disabilities.

(3) The **accountability system** is streamlined and strengthened by incorporating the existing requirement for districts to implement three-year special education plans. The bill has been revised to ensure that accountability will be accomplished without imposing excess bureaucracy on school districts, while still addressing the academic and developmental challenges for eligible students. The district plans will be written in a manner that is easier for parents to understand and shall be made available to the public. PDE will more closely review the plans, will provide technical assistance to improve the plans, and will reject plans that do not meet state and federal standards. PDE will monitor plan implementation to ensure progress pursuant to federal performance indicators and shall identify districts failing to adequately implement their plans. PDE must withhold partial funding when district plans are rejected or when districts are not implementing their plans. PSBA and PSEA reviewed and approved the accountability provisions prior to the votes in the House Education Committee. To cut costs over time, school district plans must describe programs and strategies targeting K-3 early intervention and also policies to ensure that students who no longer qualify for special education services are transitioned out. This section takes effect when funding is appropriated.

(4) To further **prevent over-identification** – in addition to using the three-variable formula and the strengthened accountability system – PDE will directly monitor and report on identification rates in districts, conduct a thorough review of districts increasing the ratio of eligible students to all students more than 10% in one year or 5% per year over any five-year period, and shall withhold partial funding from districts with unjustified increases.

(5) PDE must **provide public notice** of the decisions and actions it takes pursuant to this law, as well as file an annual special education report with the General Assembly.