

Representative Steve Waldrip proposes the following substitute bill:

FULL-DAY KINDERGARTEN

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Ann Millner

Cosponsors:	Dan N. Johnson	Angela Romero
Carl R. Albrecht	Karen Kwan	V. Lowry Snow
Melissa G. Ballard	Ashlee Matthews	Robert M. Spendlove
Gay Lynn Bennion	Carol Spackman Moss	Andrew Stoddard
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Stephen G. Handy	Stephanie Pitcher	Mike Winder
Suzanne Harrison	Judy Weeks Rohner	
Sandra Hollins		

LONG TITLE

General Description:

This bill amends provisions related to optional enhanced kindergarten.

Highlighted Provisions:

This bill:

- clarifies that kindergarten remains optional;
- amends provisions related to the distribution of funding for optional enhanced kindergarten grant program;



- 24 ▶ relocates a requirement for kindergarten entry and exit assessments from the
- 25 optional enhanced kindergarten grant program;
- 26 ▶ amends a definition and school year provisions in relation to a preschool reading
- 27 program; and
- 28 ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 35 **35A-15-102**, as last amended by Laws of Utah 2020, Chapter 171
- 36 **53E-4-314**, as last amended by Laws of Utah 2020, Chapter 171
- 37 **53F-2-507**, as last amended by Laws of Utah 2020, Chapter 171
- 38 **53F-4-401**, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
- 39 **53F-4-404**, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
- 40 **53F-4-406**, as last amended by Laws of Utah 2020, Chapter 171
- 41 **53G-7-203**, as last amended by Laws of Utah 2019, Chapter 293

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

Section 1. Section **35A-15-102** is amended to read:

35A-15-102. Definitions.

As used in this chapter:

- (1) "Board" means the School Readiness Board, created in Section **35A-15-201**.
- (2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.
- (3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.
- (4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying

each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26-39-102; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor; or

(ii) is an English learner.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section [53F-2-507] 53G-7-203.

(11) "Kindergarten transition plan" means a plan that supports the smooth transition of

a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) "Local Education Agency" or "LEA" means a school district or charter school.

(13) "Performance outcome measure" means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 2. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.

(2) The state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section ~~53F-2-507~~ [53G-7-203](#).

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section [35A-15-201](#).

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.

(5) (a) The following may submit school readiness assessment data to the School Readiness Board created in Section [35A-15-201](#):

(i) a private child care provider; or

(ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section [35A-15-301](#).

(b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection [35A-15-303](#)(5).

Section 3. Section **53F-2-507** is amended to read:

53F-2-507. Enhanced kindergarten early intervention program.

(1) The state board shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) An LEA governing board shall use funds appropriated in this section for a school district or charter school to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) An LEA governing board may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) ~~[Subject]~~ Except as provided in Subsection (5) and subject to Subsection (6), the state board shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the state board in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school

year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

~~[(5) (a) The state board shall:]~~

~~[(i) develop and collect data from kindergarten entry and exit assessments; and]~~

~~[(ii) make rules regarding the administration of and reporting regarding the assessments:]~~

~~[(b) An LEA shall administer the entry and exit assessments described in Subsection (5)(a) to each kindergarten student:]~~

(5) Notwithstanding Subsection (4), the state board shall distribute any increased funds appropriated under this section after January 1, 2022, for an enhanced kindergarten program described in Subsection (2) to LEAs:

(a) with the greatest need for an enhanced kindergarten program, as determined by the state board;

(b) that apply for grant funding to offer an enhanced kindergarten program in a school that does not already offer an enhanced kindergarten program; and

(c) that would not supplant \$→ ongoing ←\$ federal \$→ [or other available] ←\$ funding to offer an enhanced kindergarten program with state funding.

(6) For an LEA that receives funds under Subsection (4) ~~[(a) the LEA shall report to the state board the results of the entry and exit assessments described in Subsection (5)(a) in relation to each kindergarten student in the LEA; and (b)]~~ or (5), the LEA is not eligible for subsequent distributions under Subsection (4) or (5) unless the results of the entry and exit assessments described in Subsection 53G-7-203(4) demonstrate successful outcomes of the LEA's enhanced kindergarten program, as determined by the board.

Section 4. Section **53F-4-401** is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the state board under Section 53F-4-402.

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(3) "Preschool child" means a child who is:

- (a) (i) four or five years old; and
- (ii) not eligible for enrollment under Subsection 53G-4-402(6); or
- (b) in the 2021-2022 or 2022-2023 school year, eligible for enrollment in kindergarten or enrolled in kindergarten.

(4) (a) "Private preschool provider" means a child care program that:

- (i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or
- (B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section 26-39-403; and
- (ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) "Private preschool provider" does not include:

- (i) a residential certificate provider described in Section 26-39-402; or
- (ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district or charter school.

(6) "Qualifying participant" means a preschool child who:

- (a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or
- (b) is enrolled in a qualifying preschool.

(7) "Qualifying preschool" means a public preschool or private preschool provider that:

- (a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;
- (b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or
- (c) is located within the boundaries of a qualifying school.

(8) "Qualifying school" means a school district elementary school that:

- (a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;
- (b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students

241 experiencing intergenerational poverty; or

242 (c) is located in one of the following school districts:

243 (i) Beaver School District;

244 (ii) Carbon School District;

245 (iii) Daggett School District;

246 (iv) Duchesne School District;

247 (v) Emery School District;

248 (vi) Garfield School District;

249 (vii) Grand School District;

250 (viii) Iron School District;

251 (ix) Juab School District;

252 (x) Kane School District;

253 (xi) Millard School District;

254 (xii) Morgan School District;

255 (xiii) North Sanpete School District;

256 (xiv) North Summit School District;

257 (xv) Piute School District;

258 (xvi) Rich School District;

259 (xvii) San Juan School District;

260 (xviii) Sevier School District;

261 (xix) South Sanpete School District;

262 (xx) South Summit School District;

263 (xxi) Tintic School District;

264 (xxii) Uintah School District; or

265 (xxiii) Wayne School District.

266 (9) "UPSTART" means the project established by Section 53F-4-402 that uses a
267 home-based educational technology program to develop school readiness skills of preschool
268 children.

269 Section 5. Section 53F-4-404 is amended to read:

270 **53F-4-404. Family participation in UPSTART -- Priority enrollment.**

271 (1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the state board to solicit participation from families of qualifying participants to participate in UPSTART.

(2) Preschool children who participate in UPSTART shall:

(a) be from families with diverse socioeconomic and ethnic backgrounds;

(b) reside in different regions of the state in both urban and rural areas; and

(c) be given preference to participate if the preschool children are qualifying participants.

(3) (a) In a contract entered into with an educational technology provider as described in Section 53F-4-402, the state board shall require the provider to prioritize enrollment of qualified participants based on a first come, first served basis.

(b) The state board shall provide a list of qualifying schools and qualifying preschools and other applicable information to the contractor for verification of qualifying participants.

(c) The contractor shall annually provide participant information to the state board as part of the verification process.

(d) A qualifying participant may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the qualified participant's participation in UPSTART if the qualifying participant:

(i) is eligible to receive free or reduced lunch; and

(ii) the qualifying participant participates in UPSTART at home.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

(c) Except as provided in Subsection (4)(d), a preschool child may only participate in UPSTART through legislative funding once.

(d) Subsection (4)(c) does not apply to a preschool child who, in the 2021-2022 or 2022-2023 school year:

(i) is eligible for enrollment in kindergarten; or

(ii) is enrolled in kindergarten.

Section 6. Section **53F-4-406** is amended to read:

53F-4-406. Audit and evaluation.

(1) The state auditor shall every three years:

(a) conduct an audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an audit.

(2) The state board shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section [~~53F-2-507~~] 53G-7-203 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section 53F-4-402.

(4) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% of the appropriation not to exceed \$600,000 may be used for the evaluation and administration of the program.

Section 7. Section **53G-7-203** is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2) (a) Each local school board shall provide kindergarten classes free of charge for kindergarten children residing within the district.

(b) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6,

Part 2, Compulsory Education; or

(iii) requires a student who only attends a half-day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4) (a) The state board shall:

(i) develop and collect data from kindergarten entry and exit assessments; and

(ii) make rules regarding the administration of and reporting regarding the assessments.

(b) An LEA shall:

(i) administer the entry and exit assessments described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the entry and exit assessments described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) The state board shall:

(a) establish a standard for the type of class that would constitute a full-day kindergarten class for purposes of the reporting described in Subsection (5)(b); and

(b) beginning with the 2022-2023 school year, require LEAs to report average daily membership for all kindergarten students under the standard described in Subsection (5)(a) with the October 1 data described in Section 53F-2-302.