

Report of the Special Committee on Education to the 2023 Kansas Legislature

CHAIRPERSON: Representative Kristey Williams

VICE-CHAIRPERSON: Senator Molly Baumgardner

OTHER MEMBERS: Senators Renee Erickson, Beverly Gossage, Alicia Straub, and Dinah Sykes; and Representatives Susan Estes, Kyle Hoffman, Jarrod Ousley, Adam Thomas, and Valdenia Winn

STUDY TOPIC

The Committee is directed to:

- Review special education needs and expenditures, including:
 - Special education funding and how funding is distributed;
 - Current statutory requirements of special education;
 - The current excess cost calculation methodology;
 - Costs for regular and special education as reported by districts;
 - Requirements for students to qualify for special education;
 - Special education funding methodology in other states; and
 - Resources provided to special education students after graduation.

Special Committee on Education

REPORT

Conclusions and Recommendations

The Special Committee on Education discussion focused on the review of the current status of special education funding in Kansas and the review of possible alternatives to current funding methods.

The Committee made no formal recommendations to the 2023 Legislature, but the Chairperson presented four possible funding methods for special education:

- Increasing State Funding to 92.0 percent statewide;
- Shifting funding above constitutional requirements to special education;
- Amending KSA 72-3422 in the Kansas Special Education for Exceptional Children Act (SEECA) regarding special education state aid; and
- Reestablishing the Special Education Funding Taskforce with changes to its authorizing statute, KSA 72-3441 in SEECA.

[*Note:* The Chairperson requested Committee members submit their thoughts and preferences regarding those funding alternatives. Five members provided responses to staff. All responses recommended exploring the third option (amending KSA 72-3422), with one member also recommending the first option (increasing State Funding), and four members also recommending the fourth option (reestablishing the Special Education Funding Taskforce).]

Proposed Legislation: None.

BACKGROUND

In 2022, the Legislative Coordinating Council (LCC) appointed the Special Committee on Education (Committee), composed of 11 members.

The Committee was directed by the LCC to review special education needs and expenditures, including special education funding and how funding is distributed; current statutory requirements of special education; the current excess cost calculation methodology; costs for regular and special education as reported by districts; requirements for students to qualify for special education; special education funding methodology in other states; and resources

provided to special education students after graduation.

COMMITTEE ACTIVITIES

The Committee met on November 10, 2022. The Committee heard testimony on several topics focusing on special education (SPED) funding.

Special Education Overview

A Kansas Legislative Research Department (KLRD) Fiscal Analyst presented an overview of SPED with a focus on funding, including current federal and state law concerning the process to determine how many students require SPED and

related services. The analyst explained that the first step is determining the category of exceptionality the student has, and the second step includes matching services to the child's exceptionality and needs. The analyst also provided an overview of Individual Education Plans (IEPs), including how an IEP is developed and what it must include. Data was provided detailing the number of students in each of the 14 categories of disability outlined in federal and state law, as well as data pertaining to SPED funding for the past 10 years. In response to questions from Committee members, the analyst provided answers regarding how a child is identified as having an exceptionality and how student populations have changed over time.

Special Education Statute Overview

An Assistant Revisor of Statutes from the Office of the Revisor of Statutes reviewed background information on the federal Individuals with Disabilities Act (IDEA) and the Kansas Special Education for Exceptional Children Act (SEECA) [KSA 72-3403 through 72-3441].

The assistant revisor highlighted differences between IDEA and SEECA and noted that the *Kansas Constitution* does not include SPED policy. A Committee member asked whether the most recent *Gannon* decision agreed that the 92.0 percent reimbursement rate for excess costs was adequate, and the assistant revisor stated that the excess costs were adequate as part of the overall funding scheme, but the court maintained jurisdiction.

Current Special Education Funding

A KLRD Fiscal Analyst reviewed how SPED funding is calculated in Kansas and presented data on historical SPED funding as well as expected funding in coming fiscal years. The analyst noted the federal government sets the goal of funding SPED nationwide at the maximum of 40.0 percent of the national average per pupil expenditures for elementary and secondary education. It was also noted that Kansas sets the reimbursement rate for SPED excess costs at 92.0 percent.

A period of questions followed with a focus on federal SPED funding and estimated teacher additions during the consensus school finance estimating process.

Materials from the Fiscal Analyst's presentation can be found in the Appendix:

- Estimated Special Education Excess Costs FY 2023 and FY 2024;
- Historic Consensus Caseloads Estimates; and
- Headcount of Special Education Students and Headcount of All Students FY 2003–FY 2022.

Excess Costs

A Deputy Commissioner of the Kansas State Department of Education (KSDE) provided testimony regarding SPED funding and excess costs. He noted 86.0 percent of SPED funding is used for teacher entitlements (salaries). The deputy commissioner also noted costs for SPED vary by district, based on student needs.

He also noted the difference between the full-time equivalent (FTE) student amount calculation and the student headcount number and discussed requirements for SPED teachers and paraprofessionals (paras). SPED teachers and paras must also be licensed and have a time and effort log with a percentage of time spent on SPED. He described how SPED state aid is calculated for individual districts and described how this aid is distributed in terms of timing and calculations. He presented data on remaining funds for SPED expenditures from the federal Elementary and Secondary School Emergency Relief (ESSER) grants: \$2,087 from ESSER I and \$9.0 million from ESSER II.

A representative of the Kansas Policy Institute provided testimony regarding excess costs and SPED funding. He stated SPED students are eligible for weightings in addition to SPED funding. He also noted school districts have increased SPED cash reserves over the past few years and said the Legislative Division of Post Audit should conduct an audit of all SPED expenditures.

Testimony was also provided by a representative of the Kansas Association of School Boards, who noted that one in six students in

Kansas benefit from SPED services and Kansas ranks in the top five of states for SPED student graduation rates. It was also noted that the Division of Post Audit previously found that SPED is underfunded in Kansas. The Director of Special Education of the West Central Kansas Special Education Cooperative also provided testimony with a focus on the experience of providing SPED services to rural schools and how SPED cooperatives function.

Discussion on Possible Alternatives to Current Special Education Funding Methods

The Director of Legislative Research, KLRD, provided consensus school finance estimates related to education enrollment and school finance. He stated inflation is a primary contributing factor to the increase in SPED expenditures and education expenditures generally in coming fiscal years. The three-year average inflation estimates for Base State Aid increases are estimated at 5.3 percent for FY 2024, at 6.24 percent for FY 2025, and at 4.82 percent for FY 2026.

The Director noted these are true estimates. He stated the low inflation year is dropping off, so it is estimated costs will rise in FY 2025. In FY 2023 the base rate is \$4,846, it is estimated to be \$5,103 in FY 2024, and it is estimated to be \$5,421 in FY 2025. He stated excess costs will continue to rise, and this will reduce the percentage of SPED funding.

The Committee reviewed and discussed the following possible alternatives to the current funding model for special education:

- Increasing State Funding to 92.0 percent statewide;
- Shifting funding above constitutional requirements to special education;
- Amending KSA 72-3422 in SEECA regarding special education state aid; and
- Reestablishing the Special Education Funding Taskforce with changes to its authorizing statute, KSA 72-3441 in SEECA.

Conclusions and Recommendations

The Committee made no formal recommendations to the 2023 Legislature, but the Chairperson asked for Committee members to provide their recommendations for the possible funding alternatives.

Five members provided responses to staff. All responses recommended exploring the third option (amending KSA 72-3422), with one member also recommending the first option (increasing State Funding) and four members also recommending the fourth option (reestablishing the Special Education Funding Taskforce).

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Estimated Special Education Excess Costs FY 2023 and FY 2024

FY 2023 Estimate			
FY 2022 Actual Expenditures	\$1,059,884,948		
Increase based on average teacher salary increase and estimated total expenditure increases (FY 2022 Actual Exp. multiplied by estimated % increase)	+ 34,446,261	Percent change (Increase in existing SPED costs)	3.25%
Increase for additional teachers and paraprofessionals	+ 13,126,620	Added teachers & paraprofessionals:	195 * \$67,316
Estimated Total FY 2023 Expenditures	\$1,107,457,829		
Excess Cost Computation:			
Projected Total Expenditures	\$1,107,457,829		
Less Average Per Pupil Cost of Regular Ed (\$8,150) multiplied by special education FTE pupils excluding State Hospital residents (29,000)	- 236,350,000		
Less Federal Aid	- 132,442,353		
Less Medicaid Reimbursements	- 53,536,207		
Less State Hospitals Administrative Costs	- 300,000		
FY 2023 Excess Costs	\$ 684,829,269		
FY 2023 Excess Costs Approved	\$ 520,519,379	76.0% Excess Costs	
State Aid at 92% Excess Costs	630,042,927		
Shortfall from 92% Excess Costs	(109,523,548)		

FY 2024 Estimate			
FY 2023 Estimate	\$1,107,457,829		
Increase based on average teacher salary increase and estimated total expenditure increases (FY 2023 est. exp. Multiplied by estimated % increase)	+ 47,066,958	Percent change (Increase in existing SPED costs)	4.25%
Increase for additional teachers and paraprofessionals	+ 14,035,386	Added teachers & paraprofessionals:	200 * \$70,177
Estimated Total FY 2024 Expenditures	\$1,168,560,173		
Excess Cost Computation:			
Projected Total Expenditures	\$1,168,560,173		
Less Average Per Pupil Cost of Regular Ed (\$8,550) multiplied by special education	- 250,515,000		
Less Federal Aid	- 105,000,000		
Less Medicaid Reimbursements	- 48,309,179		
Less State Hospitals Administrative Costs	- 300,000		
FY 2024 Excess Costs	\$ 764,435,994		
FY 2024 Excess Costs Allocated	\$ 520,380,818	68.1% Excess Costs	
State Aid at 92% Excess Costs	703,281,114		
Shortfall from 92% Excess Costs	(182,900,296)		

Date of Consensus Education Meeting (KSDE, DOB, KLRD): October 26, 2022

Kansas Legislative Research Department

11/9/2022

Historical Consensus Caseloads Estimates

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Actual Expenditures for Previous Year *	\$ 768,877,370	\$ 773,590,853	\$ 790,577,520	\$ 814,999,758	\$ 837,451,472
Estimated Percent Change	1.5%	1.0%	2.5%	1.0%	2.5%
<i>Estimated Increase:</i>	<i>+</i> 11,533,161	<i>+</i> 7,735,909	<i>+</i> 19,764,438	<i>+</i> 8,149,998	<i>+</i> 20,936,287
Estimated Additional Teachers and Paras *	25	25	75	25	100
Estimated Average Salary for Teachers and Paras	62,576	62,521	62,104	25,725	63,385
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>+</i> 1,564,400	<i>+</i> 1,563,025	<i>+</i> 4,657,800	<i>+</i> 1,568,125	<i>+</i> 6,338,500
Estimated Total Expenditures	\$ 781,974,931	\$ 782,889,787	\$ 814,999,758	\$ 814,999,758	\$ 864,726,259

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 6,711	\$ 6,540	\$ 6,575	\$ 6,640	\$ 6,674
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>-</i> 177,841,500	<i>-</i> 176,959,320	<i>-</i> 172,685,800	<i>-</i> 176,132,640	<i>-</i> 179,343,728
Less Federal Aid	- 154,900,000	104,700,000	102,900,000	102,900,000	104,500,000
Less Medicaid Reimbursements	- 27,000,000	25,000,000	22,300,000	22,300,000	25,600,000
Less State Hospital Administrative Costs	- 300,000	300,000	300,000	300,000	300,000
Estimated FY Excess Costs	\$ 421,933,431	\$ 475,930,467	\$ 519,838,678	\$ 523,085,241	\$ 554,982,531
Approved Special Education State Aid	367,688,843	428,140,397	430,426,426	428,702,584	428,360,566
Percent Excess Costs	87.1%	90.0%	82.8%	82.0%	77.2%

Historical Consensus Caseloads Estimates

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Actual Expenditures for Previous Year *	\$ 845,036,304	\$ 843,110,861	\$ 862,481,386	\$ 899,723,699	\$ 966,008,742
Estimated Percent Change	1.0%	1.0%	4.5%	4.0%	4.5%
<i>Estimated Increase:</i>	<i>8,450,363</i>	<i>8,431,109</i>	<i>38,811,662</i>	<i>35,988,948</i>	<i>43,470,393</i>
Estimated Additional Teachers and Paras *	50	50	80	200	300
Estimated Average Salary for Teachers and Paras	65,336	64,980	64,980	66,994	66,994
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>3,216,800</i>	<i>3,249,000</i>	<i>5,198,400</i>	<i>13,398,800</i>	<i>20,098,200</i>
Estimated Total Expenditures	\$ 856,703,467	\$ 854,790,970	\$ 906,491,448	\$ 949,111,447	\$ 1,029,577,335

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 6,898	\$ 6,841	\$ 7,149	\$ 7,230	\$ 7,645
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>186,673,676</i>	<i>184,228,130</i>	<i>197,240,910</i>	<i>223,256,935</i>	<i>223,256,935</i>
Less Federal Aid	105,500,000	105,500,000	104,000,000	106,000,000	106,000,000
Less Medicaid Reimbursements	25,600,000	33,300,000	36,756,516	37,939,756	38,684,720
Less State Hospital Administrative Costs	300,000	300,000	300,000	300,000	300,000
Estimated FY Excess Costs	\$ 538,629,791	\$ 531,462,840	\$ 568,194,022	\$ 602,778,731	\$ 661,335,680
Approved Special Education State Aid	434,902,949	434,128,540	445,981,646	490,380,818	497,894,780
Percent Excess Costs	80.7%	81.7%	78.5%	81.4%	75.3%

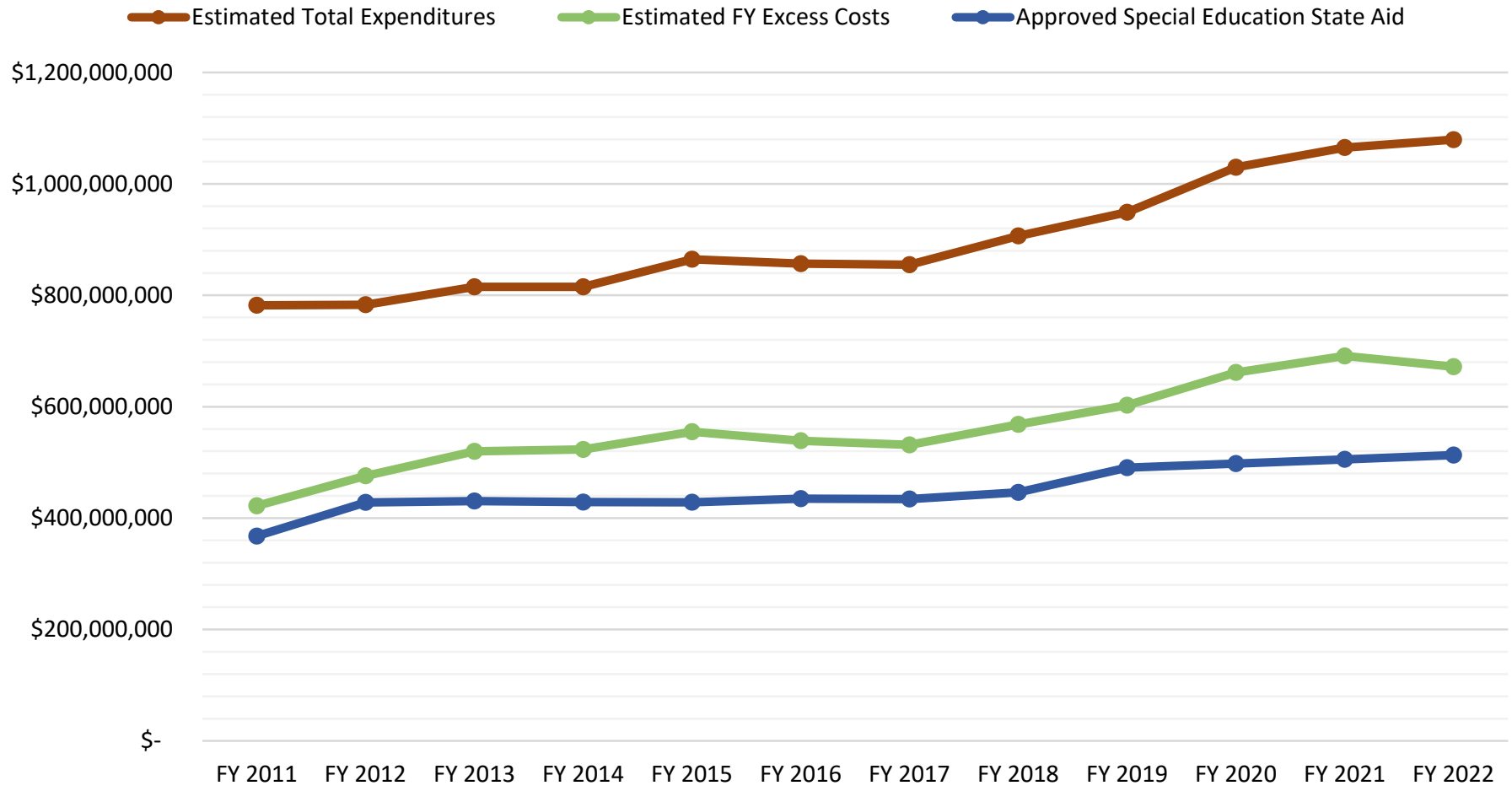
Historical Consensus Caseloads Estimates

	FY 2021	FY 2022
Actual Expenditures for Previous Year *	\$ 1,009,074,869	\$ 1,017,356,006
Estimated Percent Change	3.5%	4.0%
<i>Estimated Increase:</i>	<i>35,317,620</i>	<i>40,694,240</i>
Estimated Additional Teachers and Paras *	300	300
Estimated Average Salary for Teachers and Paras	69,004	71,074
<i>Estimated Increase for Additional Teachers and Para Salaries:</i>	<i>20,701,200</i>	<i>21,322,200</i>
Estimated Total Expenditures	\$ 1,065,093,689	\$ 1,079,372,446

Excess Cost Computation:

Average Per Pupil Cost of Regular Education * Unweighted SPED FTEs	\$ 7,726	\$ 7,909
<i>Less Average Cost Per Pupil of Regular Education</i>	<i>224,054,000</i>	<i>229,361,000</i>
Less Federal Aid	105,000,000	132,614,188
Less Medicaid Reimbursements	44,692,737	45,312,943
Less State Hospital Administrative Costs	300,000	300,000
Estimated FY Excess Costs	\$ 691,046,952	\$ 671,784,315
Approved Special Education State Aid	505,566,465	513,030,935
Percent Excess Costs	73.2%	76.4%

Historic Education Consensus Caseloads Estimates

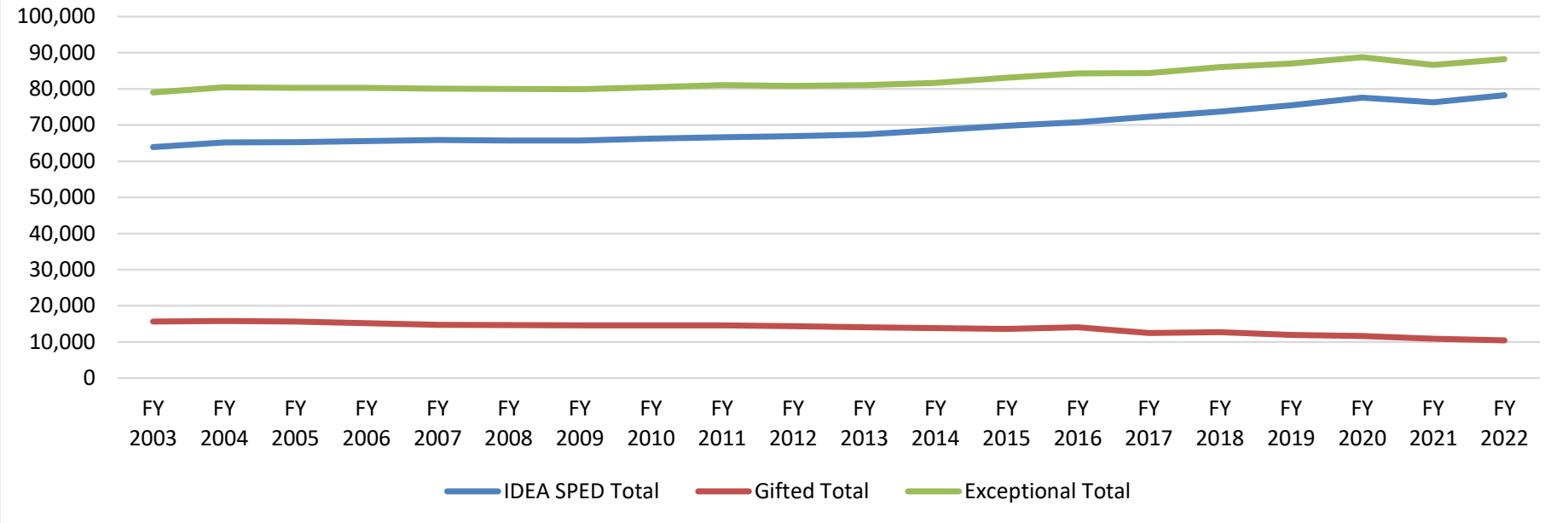


Special Education Student Headcounts, FY 2003- FY 2022																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
IDEA SPED Total	63,909	65,146	65,258	65,595	65,831	65,716	65,730	66,219	66,700	66,901	67,369	68,626	69,845	70,762	72,286	73,729	75,511	77,559	76,283	78,273
Gifted Total	15,658	15,803	15,650	15,203	14,739	14,690	14,592	14,585	14,607	14,363	14,078	13,858	13,608	14,025	12,491	12,736	11,963	11,650	10,845	10,439
Exceptional Total	79,005	80,401	80,301	80,287	80,097	79,927	79,894	80,389	81,064	80,863	81,038	81,672	83,038	84,304	84,366	86,024	87,039	88,751	86,697	88,271

All student Headcounts, FY 2003 - FY 2022																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Total Headcount Enrollment (all students, including Special Education)	499,458	499,189	497,514	496,490	496,143	502,366	503,229	509,018	511,258	512,201	514,237	521,089	521,208	520,252	517,336	518,712	518,836	518,889	502,492	506,371

Percent Change from Prior Year, All Students and Special Education Students																				
	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
IDEA SPED Total		2%	0%	1%	0%	0%	0%	1%	1%	0%	1%	2%	2%	1%	2%	2%	2%	3%	-2%	3%
Gifted Total		1%	-1%	-3%	-3%	0%	-1%	0%	0%	-2%	-2%	-2%	-2%	3%	-11%	2%	-6%	-3%	-7%	-4%
Exceptional Total		2%	0%	0%	0%	0%	0%	1%	1%	0%	0%	1%	2%	2%	0%	2%	1%	2%	-2%	2%
Total Headcount Enrollment (all students, including Special Education)		0%	0%	0%	0%	1%	0%	1%	0%	0%	0%	1%	0%	0%	-1%	0%	0%	0%	-3%	1%

Special Education Enrollment FY 2003- FY 2022



Total Headcount Enrollment (All Students, including Special Education)

