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Fiscal Note

Drafting Number: LLS 23-0759
Prime Sponsors: Rep. Sharbini

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Bill Status: House Education
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Bill Topic: **LEGAL REPRESENTATION & STUDENTS WITH DISABILITIES**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill requires the Department of Education to develop a list of attorneys qualified to represent parents in special education disputes with public schools, and appoint these attorneys to represent parents in certain appeal situations. The bill increase state expenditures and annually transfers money to fund state-appointed attorneys beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$28,302 to the Department of Education.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1168

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$28,302	\$16,410
	Cash Funds	\$10,000	\$10,000
	Centrally Appropriated	\$4,712	\$4,840
	Total Expenditures	\$43,014	\$31,250
	Total FTE	0.3 FTE	0.3 FTE
Transfers	General Fund	(\$10,000)	(\$10,000)
	Cash Funds	\$10,000	\$10,000
	Net Transfer	\$0	\$0
Other Budget Impacts	General Fund Reserve	\$4,245	\$2,462

Summary of Legislation

The bill requires the Department of Education (CDE) to maintain a list of attorneys qualified to represent parents of child with a disability in due process hearings brought under the federal Individuals with Disabilities in Education Act (IDEA). If a local education provider or other state program providing special education services initiates a due process concerning issues disputed in a state complaint in which the parent prevailed, the CDE must appoint an attorney from the list of attorneys to represent the parent.

The bill creates the Student with Disabilities Legal Representation Cash Fund and requires an annual transfer of \$10,000 from the General Fund to the fund, on or before July 1 of each year starting in 2024. The fund may receive gifts, grants, and donations. Attorneys may receive up to \$7,500 from the fund to represent a parent in a case. CDE must update materials distributed to parents describing due process complaint procedures for special education students to include the process of appointing attorneys in the event of a dispute.

State Transfers

On or before July 1, 2024, and each July 1 thereafter, the bill requires an annual transfer of \$10,000 from the General Fund to the newly created Student with Disabilities Legal Representation Cash Fund. This fiscal note assumes the first transfer will occur sometime in FY 2023-24, prior to July 1, 2024. To ensure that funds are available to support appointments in FY 2023-24, the bill may require additional clarification specifying when the transfer will occur within the fiscal year.

State Expenditures

The bill increases state expenditures in the Department of Education by \$43,014 in FY 2023-24, and by \$31,250 in FY 2024-25, paid from the General Fund and the Student with Disabilities Legal Representation Cash Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1168

	FY 2023-24	FY 2024-25
Department of Education		
Personal Services	\$15,042	\$16,410
Translation Services	\$13,260	-
Attorney Reimbursement	\$10,000	\$10,000
Centrally Appropriated Costs ¹	\$4,712	\$4,840
Total Cost	\$43,014	\$31,250
Total FTE	0.3 FTE	0.3 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Staff. CDE must develop criteria for attorneys qualified to represent parents, maintain and update the list, create an assignment and waiver process for parents involved in disputes, and manage reimbursements and credits to a cash fund. This will require 0.3 FTE for an Administrative Assistant starting in FY 2023-24. Once the program is running, this Administrative Assistant will appoint attorneys and provide parents with information and respond to parents and attorneys as needed.

Translation services. Due process materials distributed to parents concerning special education is currently translated into 13 languages other than English. Updating this material will require \$13,000 in translation services. This assumes 34 pages and a translation cost of \$34 per page.

Attorney reimbursement. It is assumed that up to \$10,000 per year will be spent from the Student with Disabilities Legal Representation Cash Fund. While the exact number of appointments is not known, it is assumed that the CDE will be required to manage appointments within the available funding transferred or appropriated to the fund by the General Assembly. Should appointment costs exceed available funds, the CDE may request additional appropriations to the fund to support more appointments. The ability to begin making appointments in FY 2023-24 depends on how soon within the fiscal year that the CDE develops the list of attorneys and procedures for the program, and when the transfer from the General Fund occurs.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires the following appropriations, and 0.3 FTE, to the CDE:

- \$28,302 from the General Fund; and
- \$10,000 from the Student with Disabilities Legal Representation Cash Fund.

Departmental Difference

The CDE estimates that its costs will be \$66,076 and 0.8 FTE in FY 2023-24 and \$48,810 and 0.8 FTE in FY2024-25 to administer the new attorney appointment program. This fiscal note differs from the CDE estimate by reducing the estimated number of correspondence hours on these cases from 1,580 annual hours to approximately 500 hours.

State and Local Government Contacts

Education
Law

Information Technology
Treasury

Judicial