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SENATE BILL 6073

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State of Washington

61st Legislature

2009 Regular Session

By Senators Oemig, Shin, Roach, Jarrett, and McDermott

Read first time 02/20/09. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to profoundly capable divergent students; amending  
2 RCW 28A.155.010, 28A.155.020, and 28A.150.390; adding a new section to  
3 chapter 28A.155 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that profoundly  
6 divergent children have educational needs that are substantially  
7 different than those of normal students. Without individualized  
8 attention, profoundly divergent children underachieve and are unable to  
9 reach their full potential within our society. Furthermore, providing  
10 an inadequate education of the most capable of the profoundly divergent  
11 harms the least capable of the profoundly divergent. The innovation  
12 and skills of high functioning profoundly divergent students create  
13 opportunities for the lowest functioning of the profoundly divergent to  
14 lead fulfilling lives. By assuring that both ends of the profoundly  
15 divergent spectrum have the resources to flourish, the educational  
16 system provides for those at the margins of the intellectual strata.

17 **Sec. 2.** RCW 28A.155.010 and 2007 c 115 s 1 are each amended to  
18 read as follows:

1 It is the purpose of RCW 28A.155.010 through 28A.155.160,  
2 28A.160.030, and 28A.150.390 to ensure that all children with  
3 disabilities as defined in RCW 28A.155.020, and profoundly divergent  
4 children as defined in section 3 of this act, shall have the  
5 opportunity for an appropriate education at public expense as  
6 guaranteed to them by the Constitution of this state and applicable  
7 federal laws.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.155  
9 RCW to read as follows:

10 (1) Students designated as profoundly divergent under subsection  
11 (2) of this section must be provided an educational opportunity in  
12 accordance with the special needs education provided for in RCW  
13 28A.155.020.

14 (2) A student is eligible for special needs educational programs  
15 for profoundly divergent students if the student's intelligence  
16 quotient deviates from the mean by three or more standard deviations on  
17 an individually administered standardized test of intelligence.

18 (3) Students who must be referred for individualized testing  
19 include:

20 (a) Any student who performs in the ninety-ninth percentile on a  
21 normalized test of student achievement;

22 (b) Any student exhibiting a substantial number of the defining  
23 characteristics, as established by the relevant field of study, of a  
24 student whose intelligence quotient deviates from the mean by three or  
25 more standard deviations;

26 (c) Any student identified in early childhood, birth through age  
27 three, as having a substantial number of the defining characteristics,  
28 as established by the relevant field of study, of a student whose  
29 intelligence quotient deviates from the mean by three or more standard  
30 deviations; or

31 (d) Any student meeting any other criteria established by the  
32 office of the superintendent of public instruction for screening  
33 students whose intelligence quotient deviates from the mean by three or  
34 more standard deviations.

35 **Sec. 4.** RCW 28A.155.020 and 2007 c 115 s 2 are each amended to  
36 read as follows:

1           There is established in the office of the superintendent of public  
2 instruction an administrative section or unit for the education of  
3 children with disabilities who require special education and for the  
4 education of profoundly divergent children.

5           Students with disabilities are those children whether enrolled in  
6 school or not who through an evaluation process are determined eligible  
7 for special education due to a disability. Students who are profoundly  
8 divergent are defined in section 3 of this act.

9           In accordance with part B of the federal individuals with  
10 disabilities education improvement act and any other federal or state  
11 laws relating to the provision of special education services, the  
12 superintendent of public instruction shall require each school district  
13 in the state to insure an appropriate educational opportunity for all  
14 children with disabilities and profoundly divergent children between  
15 the ages of three and twenty-one, but when the twenty-first birthday  
16 occurs during the school year, the educational program may be continued  
17 until the end of that school year. The superintendent of public  
18 instruction, by rule, shall establish for the purpose of excess cost  
19 funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010  
20 through 28A.155.160, functional definitions of special education, the  
21 various types of disabling conditions, and eligibility criteria for  
22 special education programs for children with disabilities and  
23 profoundly divergent children, including referral procedures, use of  
24 aversive interventions, the education curriculum and statewide or  
25 district-wide assessments, parent and district requests for special  
26 education due process hearings, and procedural safeguards. For the  
27 purposes of RCW 28A.155.010 through 28A.155.160, an appropriate  
28 education is defined as an education directed to the unique needs,  
29 abilities, and limitations of the children with disabilities and  
30 profoundly divergent children who are enrolled either full time or part  
31 time in a school district. School districts are strongly encouraged to  
32 provide parental training in the care and education of the children and  
33 to involve parents in the classroom.

34           Nothing in this section shall prohibit the establishment or  
35 continuation of existing cooperative programs between school districts  
36 or contracts with other agencies approved by the superintendent of  
37 public instruction, which can meet the obligations of school districts

1 to provide education for children with disabilities, or prohibit the  
2 continuation of needed related services to school districts by the  
3 department of social and health services.

4 This section shall not be construed as in any way limiting the  
5 powers of local school districts set forth in RCW 28A.155.070.

6 **Sec. 5.** RCW 28A.150.390 and 1995 c 77 s 6 are each amended to read  
7 as follows:

8 The superintendent of public instruction shall submit to each  
9 regular session of the legislature during an odd-numbered year a  
10 programmed budget request for special education programs for students  
11 with disabilities and profoundly divergent children. Funding for  
12 programs operated by local school districts shall be on an excess cost  
13 basis from appropriations provided by the legislature for special  
14 education programs for students with disabilities and profoundly  
15 divergent children and shall take account of state funds accruing  
16 through RCW 28A.150.250, 28A.150.260, federal medical assistance and  
17 private funds accruing under RCW 74.09.5249 through 74.09.5253 and  
18 74.09.5254 through 74.09.5256, and other state and local funds,  
19 excluding special excess levies.

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