
HOUSE BILL 2964

State of Washington

65th Legislature

2018 Regular Session

By Representatives Pollet, Senn, Ortiz-Self, Valdez, Bergquist, Haler, Wylie, Santos, Slatter, Stanford, Ryu, Frame, and Orwall

Read first time 01/30/18. Referred to Committee on Appropriations.

1 AN ACT Relating to special education funding; amending RCW
2 28A.150.390, 28A.150.392, and 28A.150.276; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that special
5 education services are required to be provided by districts or public
6 schools for every student who qualifies under state and federal law.
7 The legislature finds that the existing multiplier and safety net
8 funding provisions do not adequately fund the full costs of providing
9 the programs of special education for all districts. The legislature
10 intends to provide additional state funding and improve access to
11 educational opportunities for students enrolled in special education
12 programs regardless of the source of revenue supporting the program
13 or the location where the student receives instruction.

14 **Sec. 2.** RCW 28A.150.390 and 2017 3rd sp.s. c 13 s 406 are each
15 amended to read as follows:

16 (1) The superintendent of public instruction shall submit to each
17 regular session of the legislature during an odd-numbered year a
18 programmed budget request for special education programs for students
19 with disabilities. Funding for programs operated by local school
20 districts shall be on an excess cost basis from appropriations

1 provided by the legislature for special education programs for
2 students with disabilities and shall take account of state funds
3 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8).

4 (2) The excess cost allocation to school districts shall be based
5 on the following:

6 (a) A district's annual average headcount enrollment of students
7 ages birth through four and those five year olds not yet enrolled in
8 kindergarten who are eligible for and enrolled in special education,
9 multiplied by the district's base allocation per full-time equivalent
10 student, multiplied by 1.15; and

11 (b) For any district eligible under (d) of this subsection, a
12 district's annual average full-time equivalent basic education
13 enrollment, multiplied by the district's funded enrollment percent,
14 multiplied by the district's base allocation per full-time equivalent
15 student, multiplied by 1.05 beginning with the 2018-19 school year
16 through the 2020-21 school year, and 1.09 beginning with the 2021-22
17 school year.

18 (c) For any district not eligible under (d) of this subsection, a
19 district's annual average full-time equivalent basic education
20 enrollment, multiplied by the district's funded enrollment percent,
21 multiplied by the district's base allocation per full-time equivalent
22 student, multiplied by 0.9309.

23 (d) To be eligible for the excess cost allocation in (b) of this
24 subsection, a district shall certify to the superintendent of public
25 instruction that the total costs of providing the program of special
26 education for all eligible students in the district are not met if
27 excess cost allocations are based on (c) of this subsection. The
28 superintendent of public instruction may prescribe the form and
29 detail of such certification.

30 (3) As used in this section:

31 (a) "Base allocation" means the total state allocation to all
32 schools in the district generated by the distribution formula under
33 RCW 28A.150.260 (4)(a), (5), (6), and (8), to be divided by the
34 district's full-time equivalent enrollment.

35 (b) "Basic education enrollment" means enrollment of resident
36 students including nonresident students enrolled under RCW
37 28A.225.225 and students from nonhigh districts enrolled under RCW
38 28A.225.210 and excluding students residing in another district
39 enrolled as part of an interdistrict cooperative program under RCW
40 28A.225.250.

1 (c) "Enrollment percent" means the district's resident special
2 education annual average enrollment, excluding students ages birth
3 through four and those five year olds not yet enrolled in
4 kindergarten, as a percent of the district's annual average full-time
5 equivalent basic education enrollment.

6 (d) "Funded enrollment percent" means the lesser of the
7 district's actual enrollment percent or thirteen and five-tenths
8 percent.

9 NEW SECTION. **Sec. 3.** Prior to the 2021-22 school year, the
10 legislature intends to review the special education multiplier and
11 adjust as necessary to provide adequate funding for special
12 education, based on recommendations made by the superintendent of
13 public instruction. The superintendent of public instruction will
14 recommend a special education multiplier to the fiscal committees of
15 the legislature and the office of financial management by September
16 1, 2018.

17 **Sec. 4.** RCW 28A.150.392 and 2017 3rd sp.s. c 13 s 407 are each
18 amended to read as follows:

19 (1)(a) To the extent necessary, funds shall be made available for
20 safety net awards for districts with demonstrated needs for special
21 education funding beyond the amounts provided through the special
22 education funding formula under RCW 28A.150.390.

23 (b) If the federal safety net awards based on the federal
24 eligibility threshold exceed the federal appropriation in any fiscal
25 year, then the superintendent shall expend all available federal
26 discretionary funds necessary to meet this need.

27 (c) Beginning in the 2018-19 school year, the office of the
28 superintendent of public instruction shall lower the threshold to
29 qualify for safety net funding and determine an appropriate threshold
30 for institutions providing special education, subject to limitations
31 and funding included in the operating budget. The criteria to
32 determine the change in the safety net threshold must be determined
33 in consultation with the office of financial management and the
34 fiscal committees of the legislature.

35 (2) Safety net funds shall be awarded by the state safety net
36 oversight committee subject to the following conditions and
37 limitations:

1 (a) The committee shall award additional funds for districts that
2 can convincingly demonstrate that all legitimate expenditures for
3 special education exceed all available revenues from state funding
4 formulas.

5 (b) In the determination of need, the committee shall consider
6 additional available revenues from federal sources.

7 (c) Differences in program costs attributable to district
8 philosophy, service delivery choice, or accounting practices are not
9 a legitimate basis for safety net awards.

10 (d) In the determination of need, the committee shall require
11 that districts demonstrate that they are maximizing their eligibility
12 for all state revenues related to services for special education-
13 eligible students and all federal revenues from federal impact aid,
14 medicaid, and the individuals with disabilities education act-Part B
15 and appropriate special projects. Awards associated with (e) and (f)
16 of this subsection shall not exceed the total of a district's
17 specific determination of need.

18 (e) The committee shall then consider the extraordinary high cost
19 needs of one or more individual special education students.
20 Differences in costs attributable to district philosophy, service
21 delivery choice, or accounting practices are not a legitimate basis
22 for safety net awards.

23 (f) Using criteria developed by the committee, the committee
24 shall then consider extraordinary costs associated with communities
25 that draw a larger number of families with children in need of
26 special education services, which may include consideration of
27 proximity to group homes, military bases, and regional hospitals.
28 Safety net awards under this subsection (2)(f) shall be adjusted to
29 reflect amounts awarded under (e) of this subsection.

30 (g) The committee shall then consider the extraordinary high cost
31 needs of one or more individual special education students served in
32 residential schools as defined in RCW 28A.190.020, programs for
33 juveniles under the department of corrections, and programs for
34 juveniles operated by city and county jails to the extent they are
35 providing a program of education for students enrolled in special
36 education.

37 (h) The maximum allowable indirect cost for calculating safety
38 net eligibility may not exceed the federal restricted indirect cost
39 rate for the district plus one percent.

1 ~~((h))~~ (i) Safety net awards shall be adjusted based on the
2 percent of potential medicaid eligible students billed as calculated
3 by the superintendent of public instruction in accordance with
4 chapter 318, Laws of 1999.

5 ~~((i))~~ (j) Safety net awards must be adjusted for any audit
6 findings or exceptions related to special education funding.

7 (3) The superintendent of public instruction shall adopt such
8 rules and procedures as are necessary to administer the special
9 education funding and safety net award process. By September 1, 2019,
10 the superintendent shall review and revise the rules to achieve full
11 and complete implementation of the requirements of this subsection
12 and subsection (4) of this section. Before revising any standards,
13 procedures, or rules, the superintendent shall consult with the
14 office of financial management and the fiscal committees of the
15 legislature. In adopting and revising the rules, the superintendent
16 shall ensure the application process to access safety net funding is
17 streamlined, timelines for submission are not in conflict, feedback
18 to school districts is timely and provides sufficient information to
19 allow school districts to understand how to correct any deficiencies
20 in a safety net application, and that there is consistency between
21 awards approved by school district and by application period. The
22 office of the superintendent of public instruction shall also provide
23 technical assistance to school districts in preparing and submitting
24 special education safety net applications.

25 (4) On an annual basis, the superintendent shall survey districts
26 regarding their satisfaction with the safety net process and consider
27 feedback from districts to improve the safety net process. Each year
28 by December 1st, the superintendent shall prepare and submit a report
29 to the office of financial management and the appropriate policy and
30 fiscal committees of the legislature that summarizes the survey
31 results and those changes made to the safety net process as a result
32 of the school district feedback.

33 (5) The safety net oversight committee appointed by the
34 superintendent of public instruction shall consist of:

35 (a) One staff member from the office of the superintendent of
36 public instruction;

37 (b) Staff of the office of the state auditor who shall be
38 nonvoting members of the committee; ~~((and))~~

1 (c) One or more representatives from school districts or
2 educational service districts knowledgeable of special education
3 programs and funding;

4 (d) One representative from the office of the education ombuds
5 within the office of the governor;

6 (e) One representative from the educational opportunity gap
7 oversight and accountability committee; and

8 (f) One representative of a nonprofit entity serving or
9 advocating for students with learning or physical disabilities.

10 **Sec. 5.** RCW 28A.150.276 and 2017 3rd sp.s. c 13 s 501 are each
11 amended to read as follows:

12 (1)(a) Beginning September 1, 2019, school districts may use
13 local revenues only for documented and demonstrated enrichment of the
14 state's statutory program of basic education as authorized in
15 subsection (2) of this section.

16 (b) Nothing in this section revises the definition of the program
17 of basic education under RCW 28A.150.220 and 28A.150.260.

18 (c) For purposes of this section, "local revenues" means
19 enrichment levies collected under RCW 84.52.053, transportation
20 vehicle enrichment levies, local effort assistance funding received
21 under chapter 28A.500 RCW, and other school district local revenues
22 including, but not limited to, grants, donations, and state and
23 federal payments in lieu of taxes, except that "local revenues" does
24 not include other federal revenues, or local revenues that operate as
25 an offset to the district's basic education allocation under RCW
26 28A.150.250.

27 (2)(a) Enrichment activities are permitted under this section if
28 they provide supplementation beyond the state:

29 (i) Minimum instructional offerings of RCW 28A.150.220 or
30 28A.150.260;

31 (ii) Staffing ratios or program components of RCW 28A.150.260,
32 including providing additional staff for class size reduction beyond
33 class sizes allocated in the prototypical school model and additional
34 staff beyond the staffing ratios allocated in the prototypical school
35 formula;

36 (iii) Program components of RCW 28A.150.200, 28A.150.220, or
37 28A.150.260; or

38 (iv) Program of professional learning as defined by RCW
39 28A.415.430 beyond that allocated pursuant to RCW 28A.150.415.

1 (b) Permitted enrichment activities consist of:
2 (i) Extracurricular activities, extended school days, or an
3 extended school year;
4 (ii) Additional course offerings beyond the minimum instructional
5 program established in the state's statutory program of basic
6 education;
7 (iii) Activities associated with early learning programs;
8 (iv) Any additional salary costs attributable to the provision or
9 administration of the enrichment activities allowed under this
10 subsection; and
11 (v) Additional activities or enhancements that the office of the
12 superintendent of public instruction determines to be a documented
13 and demonstrated enrichment of the state's statutory program of basic
14 education under (a) of this subsection and for which the
15 superintendent approves proposed expenditures during the preballot
16 approval process required by RCW 84.52.053 and 28A.505.240.
17 (c) The restrictions on local revenues to enrichment activities
18 in subsection (1) of this section do not apply to special education
19 program offerings. A district may use levies authorized in this
20 section to support special education programs until the
21 superintendent of public instruction certifies that the district's
22 costs for special education are fully funded under RCW 28A.150.390
23 and 28A.150.392.
24 (3) In addition to the limitations of subsections (1) and (2) of
25 this section and of RCW 28A.400.200, permitted enrichment activities
26 are subject to the following conditions and limitations:
27 (a) If a school district spends local revenues for salary costs
28 attributable to the administration of enrichment programs, the
29 portion of administrator salaries attributable to that purpose may
30 not exceed the proportion of the district's local revenues to its
31 other revenues; and
32 (b) Supplemental contracts under RCW 28A.400.200 are subject to
33 the limitations of this section.
34 (4) The superintendent of public instruction must adopt rules to
35 implement this section.

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