

E2SSB 5091 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/27/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to provide the
4 funding necessary to support a comprehensive and responsive education
5 system that fully addresses the needs of students with disabilities
6 eligible for special education. Under the current funding model,
7 students with disabilities eligible for special education are funded
8 as basic education students first, with additional funding provided
9 through a statewide multiplier intended to meet the additional needs
10 of each student as established in the student's individualized
11 education program. Additionally, a safety net administered by the
12 office of the superintendent of public instruction is available for
13 school districts that demonstrate significant extra need beyond what
14 they receive from the base funding formula.

15 The legislature notes that school districts across the state have
16 identified the need for additional resources to create the
17 educational environment necessary to give every student with an
18 individualized education program the opportunity to succeed. It is
19 the legislature's intent to maintain the current funding structure
20 for special education with necessary resources, and to collect data
21 related to the numbers of students who fall into different cost
22 categories of support. These additional data will inform whether an
23 alternative system of funding may be necessary to better reflect
24 current needs of our schools and our students. However, as these data
25 are collected, the legislature also intends to provide immediate
26 relief to school district special education programs by enhancing the
27 supplemental funding school districts receive for every student in
28 the program of special education and to provide easier access to the
29 safety net when those base funds are not adequate.

30 **Sec. 2.** RCW 28A.150.392 and 2018 c 266 s 106 are each amended to
31 read as follows:

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

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

9 (2) Safety net funds shall be awarded by the state safety net
10 oversight committee subject to the following conditions and
11 limitations:

12 (a) The committee shall award additional funds for districts that
13 can convincingly demonstrate that all legitimate expenditures for
14 special education exceed all available revenues from state funding
15 formulas.

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

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

21 (d) In the determination of need, the committee shall require
22 that districts demonstrate that they are maximizing their eligibility
23 for all state revenues related to services for students eligible for
24 special education (~~(-eligible students)~~) and all federal revenues from
25 federal impact aid, medicaid, and the individuals with disabilities
26 education act-Part B and appropriate special projects. Awards
27 associated with (e) and (f) of this subsection shall not exceed the
28 total of a district's specific determination of need.

29 (e) The committee shall then consider the extraordinary high cost
30 needs of one or more individual students eligible for and receiving
31 special education (~~(students)~~). Differences in costs attributable to
32 district philosophy, service delivery choice, or accounting practices
33 are not a legitimate basis for safety net awards.

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

1 (g) The committee shall then consider the extraordinary high cost
2 needs of one or more individual students eligible for and receiving
3 special education (~~(students)~~) served in residential schools as
4 defined in RCW 28A.190.020, programs for juveniles under the
5 department of corrections, and programs for juveniles operated by
6 city and county jails to the extent they are providing a secondary
7 program of education (~~(for students enrolled in special education)~~).

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

11 (i) Safety net awards shall be adjusted based on the percent of
12 potential medicaid eligible students billed as calculated by the
13 superintendent of public instruction in accordance with chapter 318,
14 Laws of 1999.

15 (j) Safety net awards must be adjusted for any audit findings or
16 exceptions related to special education funding.

17 (3) The superintendent of public instruction shall adopt such
18 rules and procedures as are necessary to administer the special
19 education funding and safety net award process. By December 1, 2018,
20 the superintendent shall review and revise the rules to achieve full
21 and complete implementation of the requirements of this subsection
22 and subsection (4) of this section including revisions to rules that
23 provide additional flexibility to access community impact awards.
24 Before revising any standards, procedures, or rules, the
25 superintendent shall consult with the office of financial management
26 and the fiscal committees of the legislature. In adopting and
27 revising the rules, the superintendent shall ensure the application
28 process to access safety net funding is streamlined, timelines for
29 submission are not in conflict, feedback to school districts is
30 timely and provides sufficient information to allow school districts
31 to understand how to correct any deficiencies in a safety net
32 application, and that there is consistency between awards approved by
33 school district and by application period. The office of the
34 superintendent of public instruction shall also provide technical
35 assistance to school districts in preparing and submitting special
36 education safety net applications.

37 (4) On an annual basis, the superintendent shall survey districts
38 regarding their satisfaction with the safety net process and consider
39 feedback from districts to improve the safety net process. Each year
40 by December 1st, the superintendent shall prepare and submit a report

1 to the office of financial management and the appropriate policy and
2 fiscal committees of the legislature that summarizes the survey
3 results and those changes made to the safety net process as a result
4 of the school district feedback.

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

7 (a) One staff member from the office of the superintendent of
8 public instruction;

9 (b) Staff of the office of the state auditor who shall be
10 nonvoting members of the committee; and

11 (c) One or more representatives from school districts or
12 educational service districts knowledgeable of special education
13 programs and funding.

14 (6) Beginning in the 2019-20 school year, a high-need student is
15 eligible for safety net awards from state funding under subsection
16 (2)(e) and (g) of this section if the student's individualized
17 education program costs exceed two and two-tenths times the average
18 per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the
19 every student succeeds act of 2015.

20 **Sec. 3.** RCW 28A.150.415 and 2017 3rd sp.s. c 13 s 105 are each
21 amended to read as follows:

22 (1) Beginning with the 2018-19 school year, the legislature shall
23 begin phasing in funding for professional learning days for
24 certificated instructional staff. At a minimum, the state must
25 allocate funding for:

26 (a) One professional learning day in the 2018-19 school year;

27 (b) Two professional learning days in the 2019-20 school year;

28 and

29 (c) Three professional learning days in the 2020-21 school year.

30 (2) The office of the superintendent of public instruction shall
31 calculate each school district's professional learning allocation as
32 provided in subsection (1) of this section separate from the minimum
33 state allocation for salaries as specified in RCW 28A.150.410 and
34 associated fringe benefits on the apportionment reports provided to
35 each school district. The professional learning allocation shall be
36 equal to the proportional increase resulting from adding the
37 professional learning days provided in subsection (1) of this section
38 to the required minimum number of school days in RCW
39 28A.150.220(5)(a) applied to the school district's minimum state

1 allocation for salaries and associated fringe benefits for
2 certificated instructional staff as specified in the omnibus
3 operating appropriations act. Professional learning allocations shall
4 be included in per-pupil calculations, such as special education, for
5 programs funded on a per-pupil basis.

6 (3) Nothing in this section entitles an individual certificated
7 instructional staff to any particular number of professional learning
8 days.

9 ~~((3))~~ (4) The professional learning days must meet the
10 definitions and standards provided in RCW 28A.415.430, 28A.415.432,
11 and 28A.415.434.

12 **Sec. 4.** RCW 28A.150.390 and 2018 c 266 s 102 are each amended to
13 read as follows:

14 (1) The superintendent of public instruction shall submit to each
15 regular session of the legislature during an odd-numbered year a
16 programmed budget request for special education programs for students
17 with disabilities. Funding for programs operated by local school
18 districts shall be on an excess cost basis from appropriations
19 provided by the legislature for special education programs for
20 students with disabilities and shall take account of state funds
21 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and
22 28A.150.415.

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

25 (a) A district's annual average headcount enrollment of students
26 ages birth through four and those five year olds not yet enrolled in
27 kindergarten who are eligible for and ~~((enrolled in))~~ receiving
28 special education, multiplied by the district's base allocation per
29 full-time equivalent student, multiplied by 1.15; ~~((and))~~

30 (b) A district's annual average ~~((full-time equivalent basic~~
31 ~~education))~~ enrollment ~~((, multiplied by the district's funded~~
32 ~~enrollment percent))~~ of resident students who are eligible for and
33 enrolled in special education, multiplied by the district's base
34 allocation per full-time equivalent student, multiplied by ~~((0.9609))~~
35 either the special education cost multiplier rate of:

36 (i) 1.00 for students eligible for and receiving special
37 education and reported to be in the general education setting for
38 eighty percent or more of the school day; or

1 (ii) 0.9823 for students eligible for and receiving special
2 education and reported to be in the general education setting for
3 less than eighty percent of the school day.

4 (3) As used in this section:

5 (a) "Base allocation" means the total state allocation to all
6 schools in the district generated by the distribution formula under
7 RCW 28A.150.260 (4) (a), (5), (6), and (8) and the allocation under
8 RCW 28A.150.415, to be divided by the district's full-time equivalent
9 enrollment.

10 (b) "Basic education enrollment" means enrollment of resident
11 students including nonresident students enrolled under RCW
12 28A.225.225 and students from nonhigh districts enrolled under RCW
13 28A.225.210 and excluding students residing in another district
14 enrolled as part of an interdistrict cooperative program under RCW
15 28A.225.250.

16 (c) "Enrollment percent" means the district's resident (~~special~~
17 ~~education~~) annual average enrollment of students who are eligible
18 for and receiving special education, excluding students ages birth
19 through four and those five year olds not yet enrolled in
20 kindergarten and students enrolled in institutional education
21 programs, as a percent of the district's annual average full-time
22 equivalent basic education enrollment. If the enrollment percent
23 exceeds thirteen and five-tenths percent, the excess cost allocation
24 calculated under subsection (2) of this section must be adjusted by
25 multiplying the allocation by thirteen and five-tenths percent
26 divided by the enrollment percent.

27 (~~(d) "Funded enrollment percent" means the lesser of the~~
28 ~~district's actual enrollment percent or thirteen and five-tenths~~
29 ~~percent.~~)

30 **Sec. 5.** RCW 43.09.2856 and 2018 c 266 s 406 are each amended to
31 read as follows:

32 (1) Beginning with the 2019-20 school year, to ensure that school
33 district local revenues are used solely for purposes of enriching the
34 state's statutory program of basic education, the state auditor's
35 regular financial audits of school districts must include a review of
36 the expenditure of school district local revenues for compliance with
37 RCW 28A.150.276, including the spending plan approved by the
38 superintendent of public instruction under RCW 28A.505.240 and its

1 implementation, and any supplemental contracts entered into under RCW
2 28A.400.200.

3 (2) If an audit under subsection (1) of this section results in
4 findings that a school district has failed to comply with these
5 requirements, then within ninety days of completing the audit the
6 auditor must report the findings to the superintendent of public
7 instruction, the office of financial management, and the education
8 and operating budget committees of the legislature.

9 (3) The use of the state allocation provided for professional
10 learning under RCW 28A.150.415 must be audited as part of the regular
11 financial audits of school districts by the state auditor's office to
12 ensure compliance with the limitations and conditions of RCW
13 28A.150.415.

14 (4) (a) The state auditor must conduct a financial or
15 accountability audit of each school district by June 1, 2020, for the
16 2018-19 school year to include a review of the following:

17 (i) Special education revenues and the sources of those revenues,
18 by school district; and

19 (ii) Special education expenditures and the object of those
20 expenditures, by school district.

21 (b) Special education data reported for each school district
22 through the audits under this subsection must be compiled and
23 submitted to the education committees of the legislature by December
24 1, 2020.

25 NEW SECTION. Sec. 6. Section 5 of this act expires December 1,
26 2021."

27 Correct the title.

EFFECT: (1) Requires the threshold for high cost individuals for state funded special education safety net awards to be 2.2 times the average per-pupil expenditure defined in federal law.

(2) Changes from a single excess cost multiplier of 1.00 to a two-tiered multiplier of 1.00 for special education students spending 80 percent or more of their time in a general education classroom and 0.9823 for special education students spending less than 80 percent of their time in a general education classroom. Revises the definition of "enrollment percent" to align with the tiered multiplier.

(3) Reinstates language allowing federal funds to be used for the special education safety net.

(4) Removes provisions allowing federal funds to be used for professional development for certificated and classified staff providing special education services.

(5) Removes the special education multiplier for institutions.

(6) Changes references to "students with disabilities" and "special education enrollment" to "students eligible for and receiving special education."

(7) Requires districts demonstrate that expenditures for special education exceed all available revenues from state funding formulas, rather than state basic education funding formulas, for safety net awards.

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