

E2SSB 5091 - H COMM AMD
By Committee on Education

NOT ADOPTED 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.

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

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

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

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

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

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

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

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

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

36 (f) Using criteria developed by the committee, the committee
37 shall then consider extraordinary costs associated with communities
38 that draw a larger number of families with children in need of
39 special education services, which may include consideration of
40 proximity to group homes, military bases, and regional hospitals.

1 Safety net awards under this subsection (2)(f) shall be adjusted to
2 reflect amounts awarded under (e) of this subsection.

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

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

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

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

19 (k) Beginning in school year 2019-20, the average per pupil
20 expenditure used to determine safety net awards must exclude state
21 safety net funding provided in this section.

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

1 assistance to school districts in preparing and submitting special
2 education safety net applications.

3 (4) On an annual basis, the superintendent shall survey districts
4 regarding their satisfaction with the safety net process and consider
5 feedback from districts to improve the safety net process. Each year
6 by December 1st, the superintendent shall prepare and submit a report
7 to the office of financial management and the appropriate policy and
8 fiscal committees of the legislature that summarizes the survey
9 results and those changes made to the safety net process as a result
10 of the school district feedback.

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

13 (a) One staff member from the office of the superintendent of
14 public instruction;

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

17 (c) One or more representatives from school districts or
18 educational service districts knowledgeable of special education
19 programs and funding.

20 (6) Beginning in fiscal year 2020, safety net appropriations
21 provided in the omnibus operating appropriations act may not include
22 federal funding thereby eliminating the federal expenditure ratio
23 requirement for school districts to expend three times the statewide
24 average per-pupil expenditures to qualify for state safety net
25 awards. A state expenditure ratio requirement may be identified in
26 the omnibus operating appropriations act but, if identified, it must
27 be less than the federal expenditure ratio requirement.

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

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

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

35 (b) Two professional learning days in the 2019-20 school year;
36 and

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

38 (2) The office of the superintendent of public instruction shall
39 calculate each school district's professional learning allocation as

1 provided in subsection (1) of this section separate from the minimum
2 state allocation for salaries as specified in RCW 28A.150.410 and
3 associated fringe benefits on the apportionment reports provided to
4 each school district. The professional learning allocation shall be
5 equal to the proportional increase resulting from adding the
6 professional learning days provided in subsection (1) of this section
7 to the required minimum number of school days in RCW
8 28A.150.220(5)(a) applied to the school district's minimum state
9 allocation for salaries and associated fringe benefits for
10 certificated instructional staff as specified in the omnibus
11 operating appropriations act. Professional learning allocations shall
12 be included in per-pupil calculations, such as special education, for
13 programs funded on a per-pupil basis.

14 (3) Nothing in this section entitles an individual certificated
15 instructional staff to any particular number of professional learning
16 days.

17 ~~((3))~~ (4) The professional learning days must meet the
18 definitions and standards provided in RCW 28A.415.430, 28A.415.432,
19 and 28A.415.434.

20 NEW SECTION. Sec. 4. A new section is added to chapter 28A.150
21 RCW to read as follows:

22 Federal special education allocations may be used to deliver
23 professional development under RCW 28A.150.415 and 28A.413.060 to
24 classified and certificated staff who provide services to students
25 eligible for and receiving special education.

26 **Sec. 5.** RCW 28A.150.390 and 2018 c 266 s 102 are each amended to
27 read as follows:

28 (1) The superintendent of public instruction shall submit to each
29 regular session of the legislature during an odd-numbered year a
30 programmed budget request for special education programs for students
31 with disabilities. Funding for programs operated by local school
32 districts shall be on an excess cost basis from appropriations
33 provided by the legislature for special education programs for
34 students with disabilities and shall take account of state funds
35 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and
36 28A.150.415.

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

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

6 (b) A district's annual average full-time equivalent basic
7 education enrollment, multiplied by the district's funded enrollment
8 percent, multiplied by the district's base allocation per full-time
9 equivalent student, multiplied by (~~0.9609~~) 1.00; and

10 (c) A district's annual average full-time equivalent enrollment
11 of students who are eligible for and receiving special education in
12 institutional education programs under chapters 28A.190, 28A.193, and
13 28A.194 RCW, multiplied by the district's base allocation per full-
14 time equivalent student, multiplied by 1.00.

15 (3) As used in this section:

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

21 (b) "Basic education enrollment" means enrollment of resident
22 students including nonresident students enrolled under RCW
23 28A.225.225 and students from nonhigh districts enrolled under RCW
24 28A.225.210 and excluding students residing in another district
25 enrolled as part of an interdistrict cooperative program under RCW
26 28A.225.250.

27 (c) "Enrollment percent" means the district's resident (~~special~~
28 ~~education~~) annual average enrollment of students who are eligible
29 for and receiving special education, excluding students ages birth
30 through four and those five year olds not yet enrolled in
31 kindergarten and students enrolled in institutional education
32 programs, as a percent of the district's annual average full-time
33 equivalent basic education enrollment.

34 (d) "Funded enrollment percent" means the lesser of the
35 district's actual enrollment percent or thirteen and five-tenths
36 percent.

37 (4) School districts must distribute the allocation provided
38 under subsection (2)(c) of this section to the institutional
39 education program that generated the funding.

1 **Sec. 6.** RCW 43.09.2856 and 2018 c 266 s 406 are each amended to
2 read as follows:

3 (1) Beginning with the 2019-20 school year, to ensure that school
4 district local revenues are used solely for purposes of enriching the
5 state's statutory program of basic education, the state auditor's
6 regular financial audits of school districts must include a review of
7 the expenditure of school district local revenues for compliance with
8 RCW 28A.150.276, including the spending plan approved by the
9 superintendent of public instruction under RCW 28A.505.240 and its
10 implementation, and any supplemental contracts entered into under RCW
11 28A.400.200.

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

18 (3) The use of the state allocation provided for professional
19 learning under RCW 28A.150.415 must be audited as part of the regular
20 financial audits of school districts by the state auditor's office to
21 ensure compliance with the limitations and conditions of RCW
22 28A.150.415.

23 (4) (a) The state auditor must conduct a financial or
24 accountability audit of each school district by June 1, 2020, for the
25 2018-19 school year to include a review of the following:

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

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

30 (b) Special education data reported for each school district
31 through the audits under this subsection must be compiled and
32 submitted to the education committees of the legislature by December
33 1, 2020.

34 NEW SECTION. **Sec. 7.** Section 6 of this act expires December 1,
35 2021."

36 Correct the title.

EFFECT: Changes references to "students with disabilities" and "special education enrollment" to "students eligible for and receiving special education." Makes nonsubstantive changes, for example, moves language allowing federal special education allocations to be used to deliver professional development to certain staff from the statute that describes funding for professional learning days to a new section.

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