

**E2SSB 5091** - H COMM AMD  
By Committee on Appropriations

ADOPTED AND ENGROSSED 4/27/19

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 provide immediate relief to school  
20 district special education programs by enhancing the supplemental  
21 funding school districts receive for every student in the program of  
22 special education and to provide easier access to the safety net when  
23 those base funds are not adequate.

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

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

30 (b) If the federal safety net awards based on the federal  
31 eligibility threshold exceed the federal appropriation in any fiscal

1 year, then the superintendent shall expend all available federal  
2 discretionary funds necessary to meet this need.

3 (2) Safety net funds shall be awarded by the state safety net  
4 oversight committee subject to the following conditions and  
5 limitations:

6 (a) The committee shall award additional funds for districts that  
7 can convincingly demonstrate that all legitimate expenditures for  
8 special education exceed all available revenues from state funding  
9 formulas.

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

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

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

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

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

35 (g) The committee shall then consider the extraordinary high cost  
36 needs of one or more individual students eligible for and receiving  
37 special education (~~(students)~~) served in residential schools as  
38 defined in RCW 28A.190.020, programs for juveniles under the  
39 department of corrections, and programs for juveniles operated by

1 city and county jails to the extent they are providing a secondary  
2 program of education (~~for students enrolled in special education~~)).

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

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

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

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

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

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

3 (a) One staff member from the office of the superintendent of  
4 public instruction;

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

7 (c) One or more representatives from school districts or  
8 educational service districts knowledgeable of special education  
9 programs and funding.

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

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

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

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

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

24 and

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

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

1 be included in per-pupil calculations, such as special education, for  
2 programs funded on a per-pupil basis.

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

6 ~~((3))~~ (4) The professional learning days must meet the  
7 definitions and standards provided in RCW 28A.415.430, 28A.415.432,  
8 and 28A.415.434.

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

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

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

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

27 (b)(i) Subject to the limitation in (b)(ii) of this subsection  
28 (2), a district's annual average ((full-time equivalent basic  
29 education)) enrollment((, multiplied by the district's funded  
30 enrollment percent)) of resident students who are eligible for and  
31 receiving special education, excluding students ages birth through  
32 four and those five year olds not yet enrolled in kindergarten,  
33 multiplied by the district's base allocation per full-time equivalent  
34 student, multiplied by ((0.9609)) the special education cost  
35 multiplier rate of:

36 (A) In the 2019-20 school year, 0.995 for students eligible for  
37 and receiving special education.

38 (B) Beginning in the 2020-21 school year, either:

1 (I) 1.0075 for students eligible for and receiving special  
2 education and reported to be in the general education setting for  
3 eighty percent or more of the school day; or

4 (II) 0.995 for students eligible for and receiving special  
5 education and reported to be in the general education setting for  
6 less than eighty percent of the school day.

7 (ii) If the enrollment percent exceeds thirteen and five-tenths  
8 percent, the excess cost allocation calculated under (b)(i) of this  
9 subsection must be adjusted by multiplying the allocation by thirteen  
10 and five-tenths percent divided by the enrollment percent.

11 (3) As used in this section:

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

17 (b) "Basic education enrollment" means enrollment of resident  
18 students including nonresident students enrolled under RCW  
19 28A.225.225 and students from nonhigh districts enrolled under RCW  
20 28A.225.210 and excluding students residing in another district  
21 enrolled as part of an interdistrict cooperative program under RCW  
22 28A.225.250.

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

30 (~~(d) "Funded enrollment percent" means the lesser of the~~  
31 ~~district's actual enrollment percent or thirteen and five-tenths~~  
32 ~~percent.~~)

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

35 (1) Beginning with the 2019-20 school year, to ensure that school  
36 district local revenues are used solely for purposes of enriching the  
37 state's statutory program of basic education, the state auditor's  
38 regular financial audits of school districts must include a review of  
39 the expenditure of school district local revenues for compliance with

1 RCW 28A.150.276, including the spending plan approved by the  
2 superintendent of public instruction under RCW 28A.505.240 and its  
3 implementation, and any supplemental contracts entered into under RCW  
4 28A.400.200.

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

11 (3) The use of the state allocation provided for professional  
12 learning under RCW 28A.150.415 must be audited as part of the regular  
13 financial audits of school districts by the state auditor's office to  
14 ensure compliance with the limitations and conditions of RCW  
15 28A.150.415.

16 (4) (a) The state auditor must conduct a financial or  
17 accountability audit of each school district by June 1, 2020, for the  
18 2018-19 school year to include a review of the following:

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

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

23 (b) Special education data reported for each school district  
24 through the audits under this subsection must be compiled and  
25 submitted to the education committees of the legislature by December  
26 1, 2020.

27 NEW SECTION. Sec. 6. Section 5 of this act expires December 1,  
28 2021."

29 Correct the title.

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