

SENATE BILL REPORT

E2SSB 5091

As Amended by House, April 27, 2019

Title: An act relating to state and federal special education funding.

Brief Description: Concerning state and federal special education funding.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wellman, Conway, Darneille, Wilson, C., Kuderer and Takko).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/23/19, 2/18/19 [DPS-WM, w/oRec].

Ways & Means: 2/20/19, 2/28/19 [DP2S].

Floor Activity:

Passed Senate: 3/09/19, 46-0; 3/09/19, 46-0.

Passed House: 4/27/19, 97-0.

Brief Summary of Engrossed Second Substitute Bill

- Increases the special education excess cost multiplier for enrolled students from 0.9609 to 1.00.
- Provides that special education excess cost allocations must include allocations for students with disabilities in institutional education programs.
- Removes federal funding from the special education safety net in 2020 and makes changes to safety net eligibility thresholds.
- Allows federal special education allocations to be used for professional development of staff who provide special education services and supports.
- Requires the state auditor to review special education data during audits of districts in the 2018-2019 school year, including special education revenues and expenditures, and report the information to the Legislature by December 1, 2020.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: That Substitute Senate Bill No. 5091 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Holy, Hunt, McCoy, Mullet, Pedersen, Salomon and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Alex Fairfortune (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5091 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Jeffrey Naas (786-7708)

Background: Special Education Funding. The state allocates funding for a program of special education for students with disabilities. Special education is funded on an excess cost formula for up to 13.5 percent of a district's students. This formula multiplies the district's base allocation for students enrolled in special education by an excess cost multiplier of 0.9609.

Safety Net Funding. Beyond these allocations, the Office of the Superintendent of Public Instruction (OSPI) may provide safety net funding if a district can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas, and that it is maximizing its eligibility for all related state and federal revenues. Districts must expend at least three times the statewide average per-pupil expenditure as a cost threshold prior to being able to receive federal safety net awards.

Professional Learning Days. State law defines professional learning as a comprehensive, sustained, job-embedded, and collaborative approach to improving teachers' and principals' effectiveness in raising student achievement. Beginning with the 2018-2019 school year, the Legislature must begin phasing in funding for professional learning days for certificated instructional staff, beginning with a minimum of one professional learning day in 2018-19, two professional learning days in 2019-20, and three professional learning days in 2020-21.

Summary of Engrossed Second Substitute Bill: Special Education Excess Cost Multiplier. The special education excess cost multiplier for enrolled students is increased from 0.9609 to 1.00. Special education excess cost allocations must include allocations for students with disabilities in institutional education programs, with a multiplier of 1.00. Allocations for students in institutional education programs must be distributed to the institutional program

that generated the funding. Students enrolled in institutional education programs are excluded from a school district's enrollment percent.

Safety Net Funding. Federal funding is removed from the special education safety net in 2020, eliminating the federal expenditure ratio requirement that districts expend three times the statewide average per pupil to qualify for safety net awards. A state expenditure requirement that is less than the federal expenditure requirement may be established in the state operating budget.

A district must demonstrate that its expenditures for special education exceed all available revenues from basic education funding formulas before being eligible for safety net awards, rather than state funding formulas generally.

Beginning in the 2019-20 school year, prior safety net funding cannot be considered when calculating the prior year's aggregate expenditures used to determine the per-pupil expenditures for the safety net threshold.

Language referring to special education students is changed to students with disabilities.

Professional Learning Days. OSPI must calculate each school district's professional learning allocation separately from the minimum state allocation for salaries and associated fringe benefits. The allocation must be equal to the proportional increase in professional learning days required by statute. For programs funded on a per-student basis, professional learning allocations must be included in per-pupil calculations. Federal special education allocations may be used to provide professional development to classified and certificated staff who provide educational services and supports to students with a disability.

Audits. The state auditor is required to review special education data during audits of districts in the 2018-2019 school year. The following information must be reviewed:

- special education revenues and the sources of those revenues; and
- special education expenditures and the object of those expenditures.

The state auditor is required to compile and submit the data reported under the audits to the Legislature by December 1, 2020.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Currently districts are paying many of their special education costs with local levies, which is an encroachment on local levies for basic education. In one small school district there are two students who receive special education services at a cost of \$20,000 per

student. The current safety net threshold is \$28,000, so the small district does not receive compensation. Removing the federal dollars would allow districts to be compensated. All local education agencies should have equitable access to special education funding and this will help with that. Care must be taken in implementing the unknown threshold.

OTHER: While the removal of federal funds is well supported, there is a concern that it will result in just moving the federal money from student services into professional development.

Persons Testifying (Early Learning & K-12 Education): PRO: Dr. Becky Clifford, Everett Public Schools; Kate Davis, CFO, Highline Public Schools; Julia Warth, League of Education Voters; Rosalind Medina, Tacoma School District; Charlie Brown, Carbonado School District; Melissa Gombosky, Vancouver and Evergreen School Districts; Rebecca Vaux, Washington's Paramount Duty.

OTHER: Nancy Chamberlain, Washington State PTA.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): PRO: Jennifer Ziegler, School Alliance; Kaaren Heikes, Washington State Board of Education; Jessica Vavrus, Washington State School Directors' Association; JoLynn Berge, Seattle Public Schools.

OTHER: Lorrell Noahr, Washington Education Association.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We think this bill and SB 5736 are a kind of a package deal, but even if special education was in fact fully funded there is still a special education gap in many districts that have needs above the 13.5 percent cap that's currently in place. Our one concern is that with the removal of federal funds that the account be made whole with state funds so that there is not an overall reduction in funds. We think it is important to pull the federal funding out of the safety net so that school districts can cover some of the additional cost overruns.

OTHER: The threshold of what a school district must pay before receiving state support is unknown in this bill. There is lack of identified funding since the threshold is not identified. The bill states that a multiplier may be identified in the omnibus appropriations bill. Without knowing the specific multiplier we cannot fully support this.

Persons Testifying (Ways & Means): PRO: Senator Lisa Wellman, Prime Sponsor; Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Julia Warth, League of Education Voters; Charlie Brown, Tacoma, Federal Way, Bethel, Franklin Pierce School Districts.

OTHER: Lorrell Noahr, Washington Education Association; JoLynn Berge, Assistant Supt Business and Finance, Seattle Public Schools; Kate Davis, CFO, Highline Public Schools.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Reinstates language allowing federal funds to be used for the special education safety net.
- Changes the threshold under which a high need student's IEP program costs are eligible for safety net awards to 2.3 times the average per-pupil expenditure.
- Changes the multiplier to 0.995 for the 2019-20 school year.
- Creates a tiered multiplier beginning in the 2020-21 school year as follows:
 - 0.995 for students in general education for less than 80 percent of the school day;
 - 1.0075 for students in general education for 80 percent or more of the school day.
- Removes the special education multiplier for institutions.