

SENATE BILL REPORT

SB 5532

As of February 18, 2019

Title: An act relating to special education.

Brief Description: Concerning special education.

Sponsors: Senators Braun, Rolfes, Fortunato, Wagoner and Zeiger.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/08/19.

Brief Summary of Bill

- Requires professional development and teacher preparation programs to address certain special education topics.
- Requires educational service districts to provide special education advocates to serve as resources for children with disabilities and their families.
- Requires school districts to convene an ongoing special education advisory committee to advise the district of special education needs.
- Requires a representative from the Division of Vocational Rehabilitation to attend all individualized education program meetings after a student turns sixteen.
- Allows the special education funded enrollment percent for small school districts to exceed 13.5 percent.
- Requires the state allocation for the special education safety net to be at least 5 percent of the total special education excess costs allocated to school districts for enrolled students, and must be specified in the legislative budget.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Alex Fairfortune (786-7416)

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.

Background: Least Restrictive Environment. Approximately 14,000 students in Washington receive special education services. Under federal law, districts are required to provide these services in the least restrictive environment, which is the setting closest to the general education classroom still allowing a student access to an appropriate education from which they can benefit. The continuum of placement options available includes general education classes with or without support services, a combination of general education and special education classes, self-contained special education classes, home instruction, and residential care or treatment facilities.

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. Beyond these allocations, the Office of the Superintendent of Public Instruction (OSPI) may provide safety net funding if a district can convincingly demonstrate all legitimate expenditures for special education exceed all available revenues from state funding formulas, and 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.

Transition Planning. A student's special education program is required to begin planning for a student's high school graduation and adulthood beginning when the student turns sixteen years old. Transition planning consists of conducting assessments to identify student interests and needs, developing appropriate postsecondary goals, identifying and coordinating transition services, and writing individualized education program (IEP) goals to support post-secondary plans.

Washington Achieving a Better Life Experience Program. Anyone living in Washington who developed a qualifying disability before the age of 26 is eligible to open a Washington Achieving a Better Life Experience (ABLE) Account. ABLE accounts allow people with disabilities to save and invest up to \$15,000 a year to use towards eligible expenses without affecting Supplemental Security Income and other benefits. The account's growth is tax free.

Summary of Bill: Professional Development and Teacher Preparation. Each school district must provide professional development on topics of special education to all certificated and instructional staff, principals, and counselors. For certificated instructional staff teaching students with disabilities in a general education classroom, the professional development must be job-embedded. Professional development and teacher preparation programs must address topics such as how to recognize students needing services, why students need services, and best practices in special education.

Special Education Advocates. Each educational service district (ESD) must provide or contract for special education advocates to serve as a resource for children with disabilities and their families. Advocates must also advocate on behalf of the child for a free and appropriate public education and assist parents and children with IEP meetings.

Local Special Education Advisory Committees. Each school district must convene an ongoing special education advisory committee (committee) to serve as a partner with the

school district to provide effective special education programming. The purpose of the committee is to increase parental and family involvement by providing a forum for parents, families, and the community to ask questions, propose solutions, and provide feedback about the special education program at their school.

The committee members must be appointed by the school board of directors, with a majority of members who are individuals with disabilities or parents of children with disabilities. The committee must also include one teacher, and may include school or district personnel serving in a consulting role. Committee meetings must be held at least four times each school year and be open to the public, and committee information must be posted on the school district website.

The committee must fulfill the following duties:

- advise the school district about education needs of children with disabilities;
- develop priorities and strategies to meet those needs;
- facilitate partnerships with community employers to provide transition services;
- facilitate trainings by consultants at least twice each year to teach advocacy skills to families and individuals with disabilities;
- submit reports and recommendations to the district superintendent regarding educating children with disabilities;
- assist the school district in interpreting plans to the community for meeting educational and transitional service needs for students with disabilities; and
- review school district policies and procedures for special education services prior to submission to the district board of directors.

Reporting Requirements. Beginning November 15, 2019, and every year thereafter, each school district must report least restrictive environment data to OSPI for eligible students with disabilities between the ages of three and twenty-one. The report must include data on the percentage of time students spend in general education classrooms and in specialized programs, to align with federal reporting requirements. The data must be published on the OSPI website and submitted to the education committees of the Legislature by December 15th of each year, beginning in 2019.

Any district who exceeds performance goals and measurements for statewide indicators of educational system health for special education students must be recognized in the next published report and receive an award developed by OSPI and the State Board of Education.

Transition Planning. Beginning when a student turns sixteen and continuing until the student is twenty-one or graduates from high school, whichever occurs first, a representative from the Division of Vocational Rehabilitation must attend all IEP meetings to assist with transition planning. When discussing postschool planning, students with disabilities and their parents must be provided with information about Washington ABLE accounts.

Funding. School districts with enrollments under one thousand students must receive funding based on their actual special education enrollment percentage if it is above 13.5 percent, rather than being capped at 13.5 percent.

The state allocation for the special education safety net must be at least 5 percent of the total special education excess costs allocated to school districts for enrolled students, and must be specified in the legislative budget.

School districts are encouraged to participate in cooperative programs with other school districts or with ESDs to provide special education services to students. Each special education cooperative must apply for program approval from OSPI prior to 2020-21, and every five years after.

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: PRO: This has been worked on with help from special education parents throughout the interim. Washington does not do well compared to other states around the country when it comes to special education. Inclusion is in the bottom ten and graduation rates are the third lowest. The most important parts to address are not the fiscal parts but rather the policy parts. Advocates are important for parents who can not attend or do not feel comfortable. Advisory committees are relatively inexpensive but give special education parents and children a voice within the district and provide a healthy feedback mechanism. The reporting requirements are duplicative of what districts already do but it is important to have a measure we can look at to see where efforts are making a difference. In small schools one or two kids can make a big difference in special education spending costs, so waiving the 13.5 percent funding cap will help. The 5 percent safety net requirement can be dialed as needed, but if the safety net grows with the budget it will have a better chance of not falling short.

OTHER: General education prep programs already address special education. Embedded professional development costs lots of money and takes lots of time. The advisory committee is a good idea but there are concerns about how they will be staffed and where they will be held. Requiring educational service districts to employ or contract for special education advocates potentially brings forth issues like unauthorized practice of law, and it reduces the capacity for families to develop their own advocacy skills. The Department of Vocational Rehabilitation does not have the capacity to attend all IEP meetings. Hopefully the 13.5 percent cap removal will apply to all districts some day.

Persons Testifying: PRO: Senator John Braun, Prime Sponsor; Beth Sigall, citizen; Susan Cobb, citizen; Virginia Barry, Stand for Children; Jana Parker, Equal Right to Representation in Education.

OTHER: Lucinda Young, Washington Education Association; Jim Kowalkowski, Davae Nport School District, Superintendent; Bob Cooper, Washington Association of Colleges for Teacher Education; Jen Cole, Director, Parent Training and Information PAVE.

Persons Signed In To Testify But Not Testifying: OTHER: Jessica Vavrus, Washington State School Directors' Association.