

# SENATE BILL REPORT

## SB 5031

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As Amended by House, April 11, 2023

**Title:** An act relating to safety net award distributions for students receiving special education services outside of the state of Washington.

**Brief Description:** Concerning safety net award distributions.

**Sponsors:** Senators Wellman, Braun, Dhingra, Hunt, Kuderer, Nguyen, Nobles and Wilson, C..

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/19/23, 1/25/23 [DP].

**Floor Activity:** Passed Senate: 2/27/23, 48-0.

Passed House: 4/11/23, 57-40.

**Brief Summary of Bill**

- Requires the Office of the Superintendent of Public Instruction to distribute safety net awards on a quarterly basis for high-cost students served by nonpublic agencies located outside of Washington, provided certain criteria are met.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

**Staff:** Alexandra Fairfortune (786-7416)

**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

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district's base allocation for students enrolled in K-12 special education by an excess cost multiplier of either:

- 1.0075 for students receiving special education and reported to be in the general education setting for 80 percent or more of the school day; or
- 0.995 for students receiving special education and reported to be in the general education setting for less than 80 percent of the school day.

Safety Net Funding. Beyond these allocations, the Safety Net Oversight Committee, appointed by the Superintendent of Public Instruction, may award 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 it is maximizing its eligibility for all related state and federal revenues. The Safety Net Oversight Committee may award safety net funding to applicants for high-need individuals and for community characteristics that draw a large number of students eligible for special education. A high-need individual is eligible for a safety net award if the student's IEP costs exceed 2.3 times the average per-pupil expenditure as defined in federal law.

Nonpublic Agencies. If a student's special education needs cannot be met by their resident school district, the district may contract with an approved nonpublic agency (NPA) to provide a program of special education and related services. NPAs must be approved by the Office of the Superintendent of Public Instruction and may re-apply for approval every three years. Each out-of-state NPA must provide documentation that it has been approved to provide special education related services by the state in which the NPA is located—home state. In the event the home state does not have a formal approval process, or there is a basis for the NPA not obtaining home state approval, the NPA must meet the Washington State approval requirements established in state rule.

**Summary of Bill:** Beginning in the 2023-24 school year, the Office of the Superintendent of Public Instruction must distribute safety net awards to school districts on a quarterly basis if the following criteria are met:

- the safety net award is provided for a high-cost student that receives special education services from an approved nonpublic agency located outside of Washington;
- the school district successfully applied for and received a safety net award for the high-cost student in a prior school year, and the student's placement has not changed since that safety net award was granted; and
- the school district meets all other safety net award eligibility requirements as determined by the Safety Net Oversight Committee.

**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: Our state is committed to serving our student needs, including residential facilities when necessary. Safety net reimbursement takes place at the end of the year, creating a burden for school districts to cover an entire year without reimbursement, especially in smaller and rural districts. This burden can greatly impact the districts' ability to fund services for all students. Access to safety net reimbursements should be available for all qualifying districts and payment provided when needed.

OTHER: There are additional changes to the safety net that need to be considered to improve access. The current high-need student threshold is \$37,000 and increasing at a rapid pace due to regionalization factors. 200 districts receive no regionalization and this creates inequitable access for lower regionalization districts. There should be a tiered threshold for safety net eligibility. Districts have to do a complex application every year and this process should be simplified and streamlined.

**Persons Testifying:** PRO: Senator Lisa Wellman, Prime Sponsor; Tim Merlino, ESD 112; Sue Ann Bube, School Alliance; Tania May, Office of Superintendent of Public Instruction.

OTHER: Mark Stuart, Lake Washington School District.

**Persons Signed In To Testify But Not Testifying:** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Requires that the school district receiving quarterly safety net awards for a nonpublic out-of-state high-need student have fewer than 2000 annual full-time equivalent enrolled students.