CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5072

68th Legislature
2023 Regular Session

Passed by the Senate April 13, 2023
  Yeas 47 Nays 0

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5072** as passed by the Senate and the House of Representatives on the dates hereon set forth.

_____
President of the Senate

Passed by the House March 22, 2023
  Yeas 97 Nays 0

_____
                                                        Secretary

_____
Speaker of the House of Representatives

Approved   FILED

_____   **Secretary of State**
Governor of the State of Washington   **State of Washington**

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington   **68th Legislature**   **2023 Regular Session**

By Senate Early Learning & K-12 Education (originally sponsored by Senators Nobles, Wellman, Hunt, Keiser, Kuderer, Liias, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 01/26/23.

1   AN ACT Relating to advancing equity in programs for highly
2   capable students; amending RCW 28A.185.020, 28A.185.030, 28A.185.050,
3   and 28A.300.042; adding a new section to chapter 28A.185 RCW; and
4   creating a new section.

5   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6   NEW SECTION. **Sec. 1.** (1) The legislature finds that, for highly
7   capable students, access to accelerated learning and enhanced
8   instruction is access to a basic education. The legislature has
9   directed school districts to prioritize equitable identification of
10   low-income students for participation in highly capable programs and
11   services. The research literature strongly supports using universal
12   screening and multiple criteria to equitably identify students for
13   highly capable programs. There are multiple approaches to
14   implementing universal screening and the use of multiple criteria.
15   The legislature intends all school districts to use best practices
16   and does not intend to prescribe a single method.
17   (2) The legislature further intends to allocate state funding for
18   the highly capable program based on five percent of each school
19   district's student population. The legislature does not intend to
20   limit highly capable services to five percent of the student

1   population. School districts may identify and serve more than five
2   percent of their students for highly capable programs and services.

3   **Sec. 2.**   RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each
4   amended to read as follows:
5   ((~~(1) The legislature finds that, for highly capable students,~~
6   ~~access to accelerated learning and enhanced instruction is access to~~
7   ~~a basic education. There are multiple definitions of highly capable,~~
8   ~~from intellectual to academic to artistic. The research literature~~
9   ~~strongly supports using multiple criteria to identify highly capable~~
10   ~~students, and therefore, the legislature does not intend to prescribe~~
11   ~~a single method. Instead, the legislature intends to allocate funding~~
12   ~~based on 5.0 percent of each school district's population and~~
13   ~~authorize school districts to identify through the use of multiple,~~
14   ~~objective criteria those students most highly capable and eligible to~~
15   ~~receive accelerated learning and enhanced instruction in the program~~
16   ~~offered by the district.~~)) District practices for identifying ((~~the~~
17   ~~most~~)) highly capable students must prioritize equitable
18   identification of low-income students. Access to accelerated learning
19   and enhanced instruction through the program for highly capable
20   students does not constitute an individual entitlement for any
21   particular student.
22   ((~~(2) Supplementary funds provided by the state for the program~~
23   ~~for highly capable students under RCW 28A.150.260 shall be~~
24   ~~categorical funding to provide services to highly capable students as~~
25   ~~determined by a school district under RCW 28A.185.030.~~))

26   <u>NEW SECTION.</u> **Sec. 3.**   A new section is added to chapter 28A.185
27   RCW to read as follows:
28   (1) Other basic education funding can be used alongside
29   categorical funding to identify students and provide programs and
30   services for highly capable students.
31   (2) Each school district must conduct universal screenings in
32   accordance with RCW 28A.185.030 to find students who may qualify for
33   potential highly capable program placement.

34   **Sec. 4.**   RCW 28A.185.030 and 2009 c 380 s 4 are each amended to
35   read as follows:
36   ((~~Local school~~)) <u>(1) School</u> districts may establish and operate,
37   either separately or jointly, programs for highly capable students.

Such authority shall include the right to employ and pay special
instructors and to operate such programs jointly with a public
institution of higher education. ((~~Local school~~))

(2) School districts ((~~which~~)) that establish and operate
programs for highly capable students shall adopt identification
procedures and provide educational opportunities as follows:

((~~(1)~~)) (a) In accordance with rules adopted by the
superintendent of public instruction, school districts shall
implement procedures for ((~~nomination~~)) referral, screening,
assessment ((~~and selection~~)), identification, and placement of
((~~their most~~)) highly capable students. ((~~Nominations shall be based~~
~~upon data from~~))

(i) Referrals must be available for all grade levels not being
universally screened, and may be submitted by teachers, other staff,
parents, students, and members of the community.

(ii) Each school district must select a grade level to implement
universal screening procedures for each student. Universal screening
must occur once in or before second grade, and again in or before
sixth grade. The purpose of universal screening is to include
students who traditionally are not referred for highly capable
programs and services. Students discovered during universal screening
may need further assessment to determine whether the student is
eligible for placement in a program for highly capable students.
Districts must consider at least two student data points during
universal screening, which may include previously administered
standardized, classroom-based, performance, cognitive, or achievement
assessments, or research-based behavior ratings scales. There is no
requirement to administer a new assessment for the purpose of
universal screening, however districts may do so if they desire.

(iii) Assessments ((~~shall~~)) for highly capable program services
must be based upon a review of each student's capability as shown by
multiple criteria intended to reveal, from a wide variety of sources
and data, each student's unique needs and capabilities. Any
screenings or additional assessments must be conducted within the
school day and at the school the student attends, except that school
districts, on a case-by-case basis and with the consent of the parent
or guardian, may offer a student screenings or additional assessment
opportunities during the summer, outside of school hours, or at an
alternative site.

1   ((Selection)) (iv) Identification and placement decisions shall
2   be made by a ((broadly based committee of professionals,))
3   multidisciplinary selection committee after consideration of the
4   results of the ((multiple criteria assessment)) universal screening,
5   any further assessment, and any available district data. Students
6   identified pursuant to procedures outlined in this section must be
7   provided, to the extent feasible, an educational opportunity that
8   takes into account each student's unique needs and capabilities, and
9   the limits of the resources and program options available to the
10   district, including those options that can be developed or provided
11   using funds allocated by the superintendent of public instruction for
12   this specific purpose.
13   (b) In addition to the criteria listed in (a) of this subsection,
14   district practices for identifying highly capable students must seek
15   to expand access to accelerated learning and enhanced instruction at
16   elementary and secondary schools and advance equitable enrollment
17   practices so that all students, especially students from historically
18   underrepresented and low-income groups, who are ready to engage in
19   more rigorous coursework can benefit from accelerated learning and
20   enhanced instruction.
21   ((+(2)+)) (3) When a student, who is a child of a military family
22   in transition, has been assessed or enrolled as highly capable by a
23   sending school, the receiving school shall initially honor placement
24   of the student into a like program.
25   (a) The receiving school shall determine whether the district's
26   program is a like program when compared to the sending school's
27   program; and
28   (b) The receiving school may conduct subsequent assessments to
29   determine appropriate placement and continued enrollment in the
30   program.
31   (((3) Students selected pursuant to procedures outlined in this
32   section shall be provided, to the extent feasible, an educational
33   opportunity which takes into account each student's unique needs and
34   capabilities and the limits of the resources and program options
35   available to the district, including those options which can be
36   developed or provided by using funds allocated by the superintendent
37   of public instruction for that purpose.))
38   (4) ((The)) For a student who is a child of a military family in
39   transition, the definitions in Article II of RCW 28A.705.010 apply to
40   subsection ((+(2)+)) (3) of this section.

Sec. 5. RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data ((and)), other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) Beginning November 1, 2023, and annually thereafter, the superintendent of public instruction must make data publicly available that includes a comparison of the race, ethnicity, and low-income status of highly capable students compared to the same demographic groups in the general student population of each school district. Reporting must also include comparisons for students who are English language learners, have an individualized education program, have a 504 plan, are covered by provisions of the McKinney-Vento homeless assistance act, or are highly mobile.

(5) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

Sec. 6. RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

1   (1) ((Beginning with the 2017-18 school year, and using the
 2 phase-in provided in subsection (2) of this section, the)) The
 3 superintendent of public instruction must collect and school
 4 districts must submit all student-level data using the United States
 5 department of education 2007 race and ethnicity reporting guidelines,
 6 including the subracial and subethnic categories within those
 7 guidelines, with the following modifications:
 8   (a) Further disaggregation of the Black category to differentiate
 9 students of African origin and students native to the United States
10 with African ancestors;
11   (b) Further disaggregation of countries of origin for Asian
12 students;
13   (c) Further disaggregation of the White category to include
14 subethnic categories for Eastern European nationalities that have
15 significant populations in Washington; and
16   (d) For students who report as multiracial, collection of their
17 racial and ethnic combination of categories.
18   (2) Beginning with the 2017-18 school year, school districts
19 shall collect student-level data as provided in subsection (1) of
20 this section for all newly enrolled students, including transfer
21 students. When the students enroll in a different school within the
22 district, school districts shall resurvey the newly enrolled students
23 for whom subracial and subethnic categories were not previously
24 collected. School districts may resurvey other students.
25   (3) All student data-related reports required of the
26 superintendent of public instruction in this title must be
27 disaggregated by at least the following subgroups of students: White,
28 Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific
29 Islander/Hawaiian Native, low income, highly capable, transitional
30 bilingual, migrant, special education, and students covered by
31 section 504 of the federal rehabilitation act of 1973, as amended (29
32 U.S.C. Sec. 794).
33   (4) All student data-related reports prepared by the
34 superintendent of public instruction regarding student suspensions
35 and expulsions as required under this title are subject to
36 disaggregation by subgroups including:
37   (a) Gender;
38   (b) Foster care;
39   (c) Homeless, if known;
40   (d) School district;

1 (e) School;

2 (f) Grade level;

3 (g) Behavior infraction code, including:

4 (i) Bullying;

5 (ii) Tobacco;

6 (iii) Alcohol;

7 (iv) Illicit drug;

8 (v) Fighting without major injury;

9 (vi) Violence without major injury;

10 (vii) Violence with major injury;

11 (viii) Possession of a weapon; and

12 (ix) Other behavior resulting from a short-term or long-term
13 suspension, expulsion, or interim alternative education setting
14 intervention;

15 (h) Intervention applied, including:

16 (i) Short-term suspension;

17 (ii) Long-term suspension;

18 (iii) Emergency expulsion;

19 (iv) Expulsion;

20 (v) Interim alternative education settings;

21 (vi) No intervention applied; and

22 (vii) Other intervention applied that is not described in this
23 subsection (4)(h);

24 (i) Number of days a student is suspended or expelled, to be
25 counted in half or full days; and

26 (j) Any other categories added at a future date by the data
27 governance group.

28 (5) All student data-related reports required of the
29 superintendent of public instruction regarding student suspensions
30 and expulsions as required in RCW 28A.300.046 are subject to cross-
31 tabulation at a minimum by the following:

32 (a) School and district;

33 (b) Race, low income, highly capable, special education,
34 transitional bilingual, migrant, foster care, homeless, students
35 covered by section 504 of the federal rehabilitation act of 1973, as
36 amended (29 U.S.C. Sec. 794), and categories to be added in the
37 future;

38 (c) Behavior infraction code; and

39 (d) Intervention applied.

1   (6) The K-12 data governance group shall develop the data
2 protocols and guidance for school districts in the collection of data
3 as required under this section, and the office of the superintendent
4 of public instruction shall modify the statewide student data system
5 as needed. The office of the superintendent of public instruction
6 shall also incorporate training for school staff on best practices
7 for collection of data ((on student race and ethnicity)) under this
8 section in other training or professional development related to data
9 provided by the office.

--- **END** ---