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**HOUSE BILL 1310**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Representatives Pollet, Couture, Reeves, Rude, Callan, Davis, Ryu, Rule, Klicker, Alvarado, Street, Waters, Simmons, Berry, Griffey, Reed, Paul, Salahuddin, Low, Macri, Bergquist, Nance, Doglio, Timmons, and Scott; by request of Superintendent of Public Instruction

Read first time 01/15/25. Referred to Committee on Appropriations.

1 AN ACT Relating to special education funding; amending RCW  
2 28A.150.390, 28A.150.560, and 28A.150.392; adding a new section to  
3 chapter 28A.155 RCW; creating a new section; and providing an  
4 effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that students  
7 receiving special education services are entitled, under both federal  
8 and state law, to a free appropriate public education that enables  
9 their full participation. Furthermore, special education is fully  
10 part of the state's statutory program of basic education that is  
11 deemed by the legislature to implement Article IX, section 1 of the  
12 state Constitution.

13 The legislature recognizes that a cap or enrollment limit on the  
14 number of students receiving special education services that generate  
15 state special education funding is not consistent with the state's  
16 duty to provide a free appropriate public education. An enrollment  
17 limit that fails to provide equity for all students with disabilities  
18 affects all students in public schools.

19 The legislature recognizes that it has made significant  
20 investments in special education funding in recent years, including

1 increasing the special education enrollment cap and increases to the  
2 funding multipliers.

3 The legislature finds that even with the previous investments in  
4 special education funding, school districts' expenses to provide  
5 services often far exceed state funding, creating an inequitable  
6 situation for school districts and students. The legislature supports  
7 a system of funding that does not require school districts to  
8 generate local funding to meet their obligation to provide special  
9 education services.

10 The legislature further finds that along with reliable and  
11 sufficient state funding, receiving special education services in the  
12 least restrictive environment possible is crucial to student success.  
13 A recent large scale study found that students who spend at least 80  
14 percent of their day in a general education setting improved their  
15 reading scores by 24 points and math scores by 18 points compared to  
16 peers with similar disabilities in less inclusive settings.

17 The legislature, therefore, intends to continue making progress  
18 towards fully funding special education services by eliminating the  
19 cap entirely, lowering the threshold to access special education  
20 safety net funds, and increasing the tiered special education  
21 multipliers, thereby giving every school district a funding increase.

22 The legislature further intends to strengthen statewide efforts  
23 to support inclusion, monitor and reduce disproportionality, and  
24 support school districts in implementing a program of special  
25 education that meets the needs of students and families across the  
26 state.

27 **Sec. 2.** RCW 28A.150.390 and 2024 c 229 s 1 are each amended to  
28 read as follows:

29 (1) The superintendent of public instruction shall submit to each  
30 regular session of the legislature during an odd-numbered year a  
31 programmed budget request for special education programs for students  
32 with disabilities. Funding for programs operated by local school  
33 districts shall be on an excess cost basis from appropriations  
34 provided by the legislature for special education programs for  
35 students with disabilities and shall take account of state funds  
36 accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and  
37 28A.150.415.

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

1 (a) A district's annual average head count enrollment of students  
2 ages three and four and those five year olds not yet enrolled in  
3 kindergarten who are eligible for and receiving special education,  
4 multiplied by the district's base allocation per full-time equivalent  
5 student, multiplied by ~~((1.2))~~ 1.6381;

6 ~~(b) ((i) Subject to the limitation in (b) (ii) of this subsection~~  
7 ~~(2), a) A~~ district's annual average enrollment of resident students  
8 who are eligible for and receiving special education, excluding  
9 students ages three and four and those five year olds not yet  
10 enrolled in kindergarten, multiplied by the district's base  
11 allocation per full-time equivalent student, multiplied by the  
12 special education cost multiplier rate of either:

13 ~~((A) Beginning in the 2020-21 school year, either:~~

14 ~~(I) 1.0075 for students eligible for and receiving special~~  
15 ~~education and reported to be in the general education setting for 80~~  
16 ~~percent or more of the school day; or~~

17 ~~(II) 0.995 for students eligible for and receiving special~~  
18 ~~education and reported to be in the general education setting for~~  
19 ~~less than 80 percent of the school day;~~

20 ~~(B) Beginning in the 2023-24 school year, either:~~

21 ~~(I) 1.12)) (i) 1.5289~~ for students eligible for and receiving  
22 special education and reported to be in the general education setting  
23 for 80 percent or more of the school day; or

24 ~~((II) 1.06)) (ii) 1.447~~ for students eligible for and receiving  
25 special education and reported to be in the general education setting  
26 for less than 80 percent of the school day.

27 ~~((ii) If the enrollment percent exceeds 16 percent, the excess~~  
28 ~~cost allocation calculated under (b) (i) of this subsection must be~~  
29 ~~adjusted by multiplying the allocation by 16 percent divided by the~~  
30 ~~enrollment percent.))~~

31 (3) The superintendent of public instruction may reserve amounts  
32 up to .005 of the funding generated under subsection (2) of this  
33 section to use for statewide special education activities outlined in  
34 section 3 of this act.

35 (4) As used in this section((

36 ~~(a) "Base))~~, "base allocation" means the total state allocation  
37 to all schools in the district generated by the distribution formula  
38 under RCW 28A.150.260 (4) (a), (5), (6), and (8) and the allocation  
39 under RCW 28A.150.415, to be divided by the district's full-time  
40 equivalent enrollment.

1       ~~((b) "Basic education enrollment" means enrollment of resident~~  
2 ~~students including nonresident students enrolled under RCW~~  
3 ~~28A.225.225 and students from nonhigh districts enrolled under RCW~~  
4 ~~28A.225.210 and excluding students residing in another district~~  
5 ~~enrolled as part of an interdistrict cooperative program under RCW~~  
6 ~~28A.225.250.~~

7       ~~(c) "Enrollment percent" means the district's resident annual~~  
8 ~~average enrollment of students who are eligible for and receiving~~  
9 ~~special education, excluding students ages three and four and those~~  
10 ~~five year olds not yet enrolled in kindergarten and students enrolled~~  
11 ~~in institutional education programs, as a percent of the district's~~  
12 ~~annual average full-time equivalent basic education enrollment.)~~

13       NEW SECTION.   **Sec. 3.** A new section is added to chapter 28A.155  
14 RCW to read as follows:

15       (1) The superintendent of public instruction shall engage in  
16 statewide special education activities to support students receiving  
17 special education services.

18       (a) The statewide activities must include:

19       (i) Annually reviewing data from local education agencies,  
20 including the percentage of students receiving special education  
21 services, to ensure there is not a disproportionate identification of  
22 students, as defined by the superintendent of public instruction in  
23 accordance with federal requirements of the individuals with  
24 disabilities education act, 20 U.S.C. Sec. 1400; and

25       (ii) Providing technical assistance to school districts with  
26 disproportionate data.

27       (b) The statewide activities may include:

28       (i) Providing professional development in inclusionary practices  
29 to local education agencies, schools, and community partners in  
30 promoting inclusionary teaching practices within a multitiered system  
31 of supports framework to help safeguard against over-identification  
32 and other issues related to disproportionality;

33       (ii) Maintaining common templates and resources including a  
34 statewide tool for individualized education programs.

35       (2) The superintendent of public instruction shall annually  
36 report to the education committees of the legislature, in accordance  
37 with RCW 43.01.036, by December 1st on the statewide activities  
38 funded under RCW 28A.150.390(3). The 2025 and 2026 annual reports  
39 must include an update on the impact of removing the cap on the

1 special education enrollment percentage, including the impact on  
2 safety net needs.

3 **Sec. 4.** RCW 28A.150.560 and 2023 c 417 s 6 are each amended to  
4 read as follows:

5 (1) It is the policy of the state that for purposes of state  
6 funding allocations, students eligible for and receiving special  
7 education generate the full basic education allocation under RCW  
8 28A.150.260 and, as a class, are to receive the benefits of this  
9 allocation for the entire school day, as defined in RCW 28A.150.203,  
10 whether the student is placed in the general education setting or  
11 another setting.

12 (2) The superintendent of public instruction shall develop an  
13 allocation and cost accounting methodology that ensures state general  
14 apportionment funding for students who receive their basic education  
15 services primarily in an alternative classroom or setting are  
16 prorated and allocated to the special education program and accounted  
17 for before calculating special education excess costs. The proration  
18 and allocation of general apportionment funding allocated to the  
19 special education program may not be based on an individual  
20 district's least restrictive environment percentage. A uniform  
21 percentage of general apportionment funding for special education  
22 students may be adopted by the superintendent of public instruction  
23 for proration and allocation.

24 (3) Nothing in this section requires districts to provide  
25 services in a manner inconsistent with the student's individualized  
26 education program or other than in the least restrictive environment  
27 as determined by the individualized education program team.

28 ~~((3))~~ (4) The superintendent of public instruction shall  
29 provide the legislature with an accounting of prorated general  
30 apportionment allocations provided to special education programs  
31 broken down by school district by January 1, 2024, and then every  
32 January 1st of odd-numbered years thereafter.

33 **Sec. 5.** RCW 28A.150.392 and 2024 c 127 s 2 are each amended to  
34 read as follows:

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

1 (b) If the federal safety net awards based on the federal  
2 eligibility threshold exceed the federal appropriation in any fiscal  
3 year, then the superintendent shall expend all available federal  
4 discretionary funds necessary to meet this need.

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

8 (a) The committee shall award additional funds for districts that  
9 can convincingly demonstrate that all legitimate expenditures for  
10 special education exceed all available revenues from state funding  
11 formulas. When determining award eligibility and amounts ~~((+))~~, the  
12 committee shall limit its review to relevant documentation that  
13 illustrates adherence to award criteria. The committee shall not make  
14 determinations regarding the content of individualized education  
15 programs beyond confirming documented and quantified services and  
16 evidence of corresponding expenditures for which a school district  
17 seeks reimbursement.

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

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

23 (d) In the determination of need, the committee shall require  
24 that districts demonstrate that they are maximizing their eligibility  
25 for all state revenues related to services for students eligible for  
26 special education and all federal revenues from federal impact aid,  
27 medicaid, and the individuals with disabilities education act-Part B  
28 and appropriate special projects. Awards associated with (e) ~~((and~~  
29 ~~(f))~~) of this subsection shall not exceed the total of a district's  
30 specific determination of need.

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

36 ~~((Using criteria developed by the committee, the committee~~  
37 ~~shall then consider extraordinary costs associated with communities~~  
38 ~~that draw a larger number of families with children in need of~~  
39 ~~special education services, which may include consideration of~~  
40 ~~proximity to group homes, military bases, and regional hospitals.~~

1 ~~Safety net awards under this subsection (2)(f) shall be adjusted to~~  
2 ~~reflect amounts awarded under (e) of this subsection.~~

3 ~~(g))~~ The committee shall then consider the extraordinary high  
4 cost needs of one or more individual students eligible for and  
5 receiving special education served in residential schools, programs  
6 for juveniles under the department of corrections, and programs for  
7 juveniles operated by city and county jails to the extent they are  
8 providing a secondary program of education.

9 ~~((h))~~ (g) The maximum allowable indirect cost for calculating  
10 safety net eligibility may not exceed the federal restricted indirect  
11 cost rate for the district plus one percent.

12 ~~((i))~~ (h) Safety net awards shall be adjusted based on the  
13 percent of potential medicaid eligible students billed as calculated  
14 by the superintendent of public instruction in accordance with  
15 chapter 318, Laws of 1999.

16 ~~((j))~~ (i) Safety net awards must be adjusted for any unresolved  
17 audit findings or exceptions related to special education funding.  
18 Safety net awards may only be adjusted for errors in safety net  
19 applications or individualized education programs that materially  
20 affect the demonstration of need.

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

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

9 (b) By December 1, 2024, the office of the superintendent of  
10 public instruction must develop a survey requesting specific feedback  
11 on the safety net application process from school districts with  
12 3,000 or fewer students. The survey must include, at a minimum,  
13 questions regarding the average amount of time school district staff  
14 spend gathering safety net application data, filling out application  
15 forms, and correcting application deficiencies. The survey must also  
16 include questions to help identify which application components are  
17 the most challenging and time consuming for school districts to  
18 complete. By December 1, 2025, the office of the superintendent of  
19 public instruction must use this feedback to implement a simplified,  
20 standardized safety net application for all school districts that  
21 reduces barriers to safety net funding.

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

24 (a) One staff member from the office of the superintendent of  
25 public instruction;

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

28 (c) One or more representatives from school districts or  
29 educational service districts knowledgeable of special education  
30 programs and funding.

31 (6) ~~((a))~~ Beginning in the 2025-26 school year, the office of  
32 the superintendent of public instruction must distribute safety net  
33 awards to school districts on a quarterly basis if the following  
34 criteria are met:

35 (a) The safety net award is provided for a high-cost student who  
36 receives special education services from an approved nonpublic agency  
37 located outside of the state of Washington;

38 (b) The school district successfully applied for and received a  
39 safety net award for the high-cost student in a prior school year and



1 the student's placement has not changed since that safety net award  
2 was granted; and

3 (c) The school district meets all other safety net award  
4 eligibility requirements as determined by the safety net oversight  
5 committee.

6 (7) Beginning in the ((2019-20)) 2025-26 school year, a high-need  
7 student is eligible for safety net awards from state funding under  
8 subsection (2)(e) and ((-g)) (f) of this section if the student's  
9 individualized education program costs exceed ((two-and-three-  
10 tenths)) 1.5 times the average per-pupil expenditure as defined in  
11 Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015((-

12 ~~(b) Beginning in the 2023-24 school year, a high-need student is~~  
13 ~~eligible for safety net awards from state funding under subsection~~  
14 ~~(2)(e) and (g) of this section if the student's individualized~~  
15 ~~education program costs exceed:~~

16 ~~(i) 2 times the average per-pupil expenditure, for school~~  
17 ~~districts with fewer than 1,000 full-time equivalent students;~~

18 ~~(ii) 2.2 times the average per-pupil expenditure, for school~~  
19 ~~districts with 1,000 or more full-time equivalent students.~~

20 ~~(c) For purposes of (b) of this subsection, "average per-pupil~~  
21 ~~expenditure" has the same meaning as in 20 U.S.C. Sec. 7801, the~~  
22 ~~every student succeeds act of 2015, and excludes)), excluding safety~~  
23 ~~net funding provided in this section.~~

24 NEW SECTION. Sec. 6. This act takes effect September 1, 2025.

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