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**SENATE BILL 5532**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Braun, Rolfes, Fortunato, Wagoner, and Zeiger

AN ACT Relating to special education; amending RCW 28B.10.032, 28A.155.090, 28A.150.550, 28A.155.220, 28A.150.390, and 28A.150.392; adding a new section to chapter 28A.415 RCW; adding a new section to chapter 28A.310 RCW; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.155 RCW; and creating a new section.

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

**PART I**

**INTENT**

NEW SECTION. **Sec.**  (1) The state of Washington stands at a critical juncture in the education of students with disabilities. For too long special education in our state has languished with a piecemeal approach in both funding and practice.

(2) When compared to other states, including those with comparable funding, students with disabilities in Washington lag behind their peers. Washington ranks near the bottom nationally for inclusion of students with disabilities. Only seven states having a lower percentage of students spending eighty percent or more of their day in the general education classroom. The numbers are even more stark for students with intellectual disabilities, where only five percent of students in Washington spend a majority of the day in regular classrooms. Only two states have inclusion rates that are worse.

(3) Washington does not fare much better when it comes to other basic indicators of success. Thirty-four percent of students with disabilities dropped out of school in 2017; only two other states reported worse dropout rates. Only fifty-eight percent of students receiving special education services earned their diploma in 2016. That puts Washington in the bottom thirteen in the nation.

(4) To ensure students with disabilities receive an education that prepares them for a meaningful and productive life, this act will focus on:

(a) Professional development for teachers to support best practices in special education;

(b) Providing advocacy support for families to help navigate the special education system;

(c) Establishing local special education advisory committees to better engage families and recognize the valuable role they play;

(d) Improving transition planning to support education and training after high school; and

(e) Revising funding formulas to better align to actual costs, and supporting cooperative efforts to provide services across districts.

(5) With this act, the state of Washington will advance expectations and lay a foundation that commits to ensuring every child with a disability has an opportunity to live a full, meaningful, and productive life.

**PART II**

**PROFESSIONAL DEVELOPMENT AND TEACHER PREPARATION COURSES**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.415 RCW to read as follows:

(1) Each school district must provide professional development regarding special education that includes, but is not limited to, the following:

(a) Why some students with disabilities need special education or related services;

(b) How to recognize students with disabilities who may qualify for special education or related services; and

(c) Best practices for providing the following:

(i) For students with disabilities eligible for special education, access to the general education curriculum to obtain a diploma;

(ii) The opportunity for students with disabilities eligible for special education to participate in both school and work-based learning;

(iii) Inclusion of the classroom teacher in the development of the individualized education program;

(iv) How classroom teachers can provide special education in the general education classroom;

(v) A culture of high expectations for students with disabilities;

(vi) Effective and efficient classroom management; and

(vii) Appropriate transition services for students with disabilities eligible for special education, including collaborating with local community employers.

(2)(a) The professional development provided under this section must include all certificated and classified instructional staff, principals, and counselors, and may include other school and school district staff.

(b) For certificated instructional staff teaching students with disabilities in a general education classroom, the professional development provided under this section must be job-embedded as defined in RCW 28A.415.434.

**Sec.**  RCW 28B.10.032 and 1987 c 525 s 233 are each amended to read as follows:

(1) The state's public and private institutions of higher education offering teacher preparation programs and school districts are encouraged to explore ways to facilitate faculty exchanges, and other cooperative arrangements, to generate increased awareness and understanding by higher education faculty of the common school teaching experience and increased awareness and understanding by common school faculty of the teacher preparation programs.

(2) Each teacher preparation program shall include mandatory coursework on special education and related services that includes, but is not limited to, the following:

(a) Why some students with disabilities need special education or related services;

(b) How to recognize students with disabilities who may qualify for special education or related services;

(c) Best practices for providing the following:

(i) For students with disabilities eligible for special education, access to the general education curriculum to obtain a diploma;

(ii) The opportunity for students with disabilities eligible for special education to participate in both school and work-based learning;

(iii) Inclusion of the classroom teacher in the development of the individualized education program;

(iv) How classroom teachers can provide special education in the general education classroom;

(v) A culture of high expectations for students with disabilities;

(vi) Effective and efficient classroom management; and

(vii) Appropriate transition services, including collaborating with local community employers.

**PART III**

**ADVOCATE FOR THE CHILD**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.310 RCW to read as follows:

(1) Each educational service district shall provide or contract, or both, for special education advocates.

(2) The role of a special education advocate is to:

(a) Serve as a resource for a child with disabilities who is eligible for special education due to the disability and the child's parents and family;

(b) Advocate on behalf of the child for a free and appropriate public education from the public school system that emphasizes special education and related services that are:

(i) Provided in the least restrictive environment;

(ii) Designed to meet the child's unique needs;

(iii) Appropriately ambitious and reasonably calculated to enable a child to make progress in light of the child's circumstances; and

(iv) Addressing the child's further education, employment, and independent living goals; and

(c) Assist parents with any one or more of the following:

(i) Preparing for a meeting to develop or update their child's individualized education program;

(ii) Attending the individualized education program meetings to help present the parents' concerns, negotiate components that meet the parents' goals and requests, or otherwise assist with the understanding and navigation of the process;

(iii) Attending an individual education program meeting on behalf of the child to assist in writing an appropriate program when a parent opts out or otherwise cannot attend the meeting.

**PART IV**

**LOCAL SPECIAL EDUCATION ADVISORY COMMITTEES**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) Each school district shall convene an ongoing special education advisory committee. The purposes of the committee are to:

(a) Increase parental and family involvement by providing a forum for parents, families, and the community to ask questions, propose solutions, and otherwise give feedback on the special education program in their schools; and

(b) Be a partner with the school district in its efforts to provide effective special education programming for eligible students with disabilities.

(2) The committee shall be appointed by the school board of directors and shall advise the school board through the school district superintendent.

(3) At a minimum, a majority of the committee members must be parents of children with disabilities or individuals with disabilities. The committee must also include one teacher member. Additional school or school district personnel shall serve only as consultants to the committee.

(4) The committee has the following duties:

(a) Advise the school district of needs in the education of children with disabilities;

(b) Participate in the development of priorities and strategies for meeting the identified needs of children with disabilities;

(c) Facilitate partnerships with community employers to provide appropriate transition services;

(d) Facilitate trainings by experienced outside consultants not employed by the school district, at least two times per school year to families of children with disabilities to teach families how to advocate for their child and to teach students with disabilities how to self-advocate;

(e) Submit periodic reports and recommendations to the school district superintendent for transmission to the school district board of directors regarding the education of children with disabilities;

(f) Assist the school district in interpreting plans to the community for meeting the special needs of children with disabilities for educational and transition services; and

(g) Review the school district proposed policies and procedures for the provision of special education and related services prior to submission to the school district board of directors.

(5) Committee meetings must be held at least four times in a school year and shall be open to the public.

(6) The school district must post on its web site: The names of the committee members; the committee meeting schedule and agendas; and information on the process for interested parties to express their views to the committee.

**PART V**

**REPORTING/RECOGNITION**

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) Beginning November 15, 2019, and every November 15th thereafter, each school district shall annually report to the superintendent of public instruction the following least restrictive environment data for students with disabilities who are eligible for special education and are between three and twenty-one years old.

(2) The report required under subsection (1) of this section must include at least the following:

(a) The number of students who spend eighty to one hundred percent of the school day in a general education class. These student may receive supports and services including, but not limited to, a tutor or aide, assistive technology, related services, or other accommodations, provided within the general education classroom, or outside of the general education classroom for no more than twenty percent of the regular school day.

(b) The number of students who spend forty to seventy-nine percent of the school day in a general education classroom. These students receive individual or small-group instruction in a special education resource room or are pulled out of the general education classroom for some services for no more than sixty percent of the regular school day.

(c) The number of students who spend zero to thirty-nine percent of the school day in a general education classroom. These students receive specialized instruction with students in a self-contained classroom for no less than sixty-one percent of the regular school day.

(d) The number of students who attend specialized programs inside or outside of the resident school district, including private schools, residential programs, detention and correctional facilities, and hospital programs.

**Sec.**  RCW 28A.155.090 and 2007 c 115 s 11 are each amended to read as follows:

The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabling conditions, to:

(1) Assist school districts in the formation of programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who is eligible for but not receiving special educational services for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to students with disabilities;

(6) Consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, and part B of the federal individuals with disabilities education improvement act, administer administrative hearings and other procedures to ensure procedural safeguards of children with disabilities; ((~~and~~))

(7) Make rules for the school district reporting required under section 501 of this act that align as much as possible with the federal individuals with disabilities education act, part B, reporting requirements on the same least restrictive environment data;

(8) Annually compile and report by school district the least restrictive environment data required under section 501 of this act. The report must be posted on the web site of the office of the superintendent of public instruction and submitted to the education committees of the house of representatives and the senate beginning December 15th, 2019, and every December 15th thereafter; and

(9) Promulgate such rules as are necessary to implement part B of the federal individuals with disabilities education improvement act or other federal law providing for special education services for children with disabilities and the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160 and to ensure appropriate access to and participation in the general education curriculum and participation in statewide assessments for all students with disabilities.

**Sec.**  RCW 28A.150.550 and 2013 c 282 s 2 are each amended to read as follows:

(1) The following statewide indicators of educational system health are established:

(a) The percentage of students demonstrating the characteristics of entering kindergartners in all six areas identified by the Washington kindergarten inventory of developing skills administered in accordance with RCW 28A.655.080;

(b) The percentage of students meeting the standard on the fourth grade statewide reading assessment administered in accordance with RCW 28A.655.070;

(c) The percentage of students meeting the standard on the eighth grade statewide mathematics assessment administered in accordance with RCW 28A.655.070;

(d) The four-year cohort high school graduation rate;

(e) The percentage of high school graduates who during the second quarter after graduation are either enrolled in postsecondary education or training or are employed, and the percentage during the fourth quarter after graduation who are either enrolled in postsecondary education or training or are employed; and

(f) The percentage of students enrolled in precollege or remedial courses in college.

(2) The statewide indicators established in subsection (1) of this section shall be disaggregated as provided under RCW 28A.300.042.

(3) The state board of education, with assistance from the office of the superintendent of public instruction, the workforce training and education coordinating board, the educational opportunity gap oversight and accountability committee, and the student achievement council, shall establish a process for identifying realistic but challenging system‑wide performance goals and measurements, if necessary, for each of the indicators established in subsection (1) of this section, including for subcategories of students as provided under subsection (2) of this section. The performance goal for each indicator must be set on a biennial basis, and may only be adjusted upward.

(4) The state board of education, the office of the superintendent of public instruction, and the student achievement council shall each align their strategic planning and education reform efforts with the statewide indicators and performance goals established under this section.

(5)(a) The state board of education, with assistance from the office of the superintendent of public instruction, the workforce training and education coordinating board, the educational opportunity gap oversight and accountability committee, and the student achievement council, shall submit a report on the status of each indicator in subsection (1) of this section and recommend revised performance goals and measurements, if necessary, by December 1st of each even‑numbered year, except that the initial report establishing baseline values and initial goals shall be delivered to the education committees of the legislature by December 1, 2013.

(b) If the educational system is not on target to meet the performance goals on any individual indicator, the report must recommend evidence-based reforms intended to improve student achievement in that area.

(c) To the extent data is available, the performance goals for each indicator must be compared with national data in order to identify whether Washington student achievement results are within the top ten percent nationally or are comparable to results in peer states with similar characteristics as Washington. If comparison data show that Washington students are falling behind national peers on any indicator, the report must recommend evidence-based reforms targeted at addressing the indicator in question.

(6) Any school district that meets or exceeds any system-wide performance goals or measurements established under subsection (3) of this section for students with disabilities must be recognized in the next report required under subsection (5) of this section. Additionally, these school districts must receive a recognition award as determined under section 504 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.305 RCW to read as follows:

The state board of education in collaboration with the office of the superintendent of public instruction shall decide upon the details of the recognition award for school districts under RCW 28A.150.550(6). The award may be a banner, ribbon, medal, trophy, plaque, or other type of award. The school district shall receive enough of the awards for each individual school in the school district to display the award in the school.

**PART VI**

**TRANSITION PLANNING**

**Sec.**  RCW 28A.155.220 and 2015 c 217 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) Beginning when a student reaches the age of sixteen and continuing until the student reaches the age of twenty-one, or through high school graduation, whichever occurs first, a representative from the division of vocational rehabilitation in the department of social and health services must attend all individualized education program meetings to assist students with transition planning.

(f) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student. During this discussion, students and parents must be provided with information about the Washington achieving a better life experience program, including information on eligibility, benefits, and Washington achieving a better life experience program account creation.

((~~(f)~~)) (g) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

((~~(g)~~)) (h) A student with disabilities who has a high school and beyond plan may use the plan to comply with the transition plan required under this subsection (2).

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

**PART VII**

**FUNDING**

**Sec.**  RCW 28A.150.390 and 2018 c 266 s 102 are each amended to read as follows:

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

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

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9609.

(3) As used in this section:

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

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

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means:

(i) The lesser of the district's actual enrollment percent or thirteen and five-tenths percent; or

(ii) For school districts with a student enrollment under one thousand students, the actual enrollment percent, if above thirteen and five-tenths percent.

**Sec.**  RCW 28A.150.392 and 2018 c 266 s 106 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390. The state allocation for the special education safety net shall be specified in the omnibus appropriations act but must be at least five percent of the total allocated to school districts under RCW 28A.150.390(2)(b).

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

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

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

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

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

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

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

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual special education students served in residential schools as defined in RCW 28A.190.020, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a program of education for students enrolled in special education.

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

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

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

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

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

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

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

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

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

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

(1) School districts are encouraged to participate in the establishment or continuation of existing cooperative programs between or among school districts, or educational service districts and school districts, to provide special education and services to eligible students with disabilities.

(2) Prior to the 2020-21 school year and every five years thereafter, each special education cooperative must apply for approval of the program by the superintendent of public instruction.

**--- END ---**